

1983 No. 1015

SOCIAL SECURITY

**The Social Security (Attendance Allowance) Amendment
Regulations 1983**

<i>Made - - - -</i>	15th July 1983
<i>Laid before Parliament</i>	18th July 1983
<i>Coming into Operation</i>	8th August 1983

The Secretary of State for Social Services, in exercise of the powers conferred on him by sections 35, 81(1) and 85(1) of the Social Security Act 1975(a) and of all other powers enabling him in that behalf, hereby makes the following regulations which relate only to matters which, in accordance with that Act, have been referred to the Attendance Allowance Board and which accordingly, by virtue of section 10(2) of, and paragraph 12(3) of Part II of Schedule 3 to, the Social Security Act 1980(b) are not subject to the requirement for prior reference to the Social Security Advisory Committee.

Citation commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Attendance Allowance) Amendment Regulations 1983 and shall come into operation on 8th August 1983.

(2) In these regulations—

“the principal regulations” means the Social Security (Attendance Allowance) (No. 2) Regulations 1975(c), and

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1979(d).

Amendment of the principal regulations

2.—(1) In regulation 5 of the principal regulations (circumstances in which attendance allowance may be paid to adults in hospital and certain other accommodation) after paragraph (2) there is inserted—

(a) 1975 c. 14; section 35 was amended by section 129 of, and paragraph 63 of Schedule 15 to, the National Health Service Act 1977 (c. 49), section 2 of the Social Security Act 1979 (c. 18) and sections 2 and 21 of, and paragraph 8 of Part II of Schedule 1 to, the Social Security Act 1980 (c. 30).

(b) 1980 c. 30.

(c) S.I. 1975/598; relevant amending instruments are S.I. 1977/342, 417 and 1979/1684.

(d) S.I. 1979/628; the relevant amending instrument is S.I. 1980/1136.

“(3) Where a child who was resident in accommodation to which regulation 7(1) refers (children in hospital and certain other accommodation) attains the age of 16, the periods to which this regulation applies shall include any periods to which regulation 7(1) and (2) formerly applied, provided that the final period to which regulation 7(1) or (2) applied and the first period to which either regulation 3 or 4 applies are not separated by more than 28 days.”.

(2) In regulation 7 of the principal regulations (children in hospital and certain other accommodation) for paragraph (2) there shall be substituted—

“(2) Where any person was entitled to attendance allowance in respect of a child for the period immediately before that child entered any accommodation mentioned in sub-paragraph (1)(a) or (1)(b) or that child commenced to undergo any treatment mentioned in sub-paragraph (1)(c) as the case may be, those sub-paragraphs shall not apply to the first 4 weeks of any period during which the child is in such accommodation or is undergoing such treatment, so however for the purposes of this paragraph—

- (a) 2 or more distinct periods separated by an interval not exceeding 28 days, or by 2 or more such intervals, shall be treated as a continuous period equal in duration to the total of such distinct periods and ending on the last day of the later or last such period;
- (b) any period or periods to which sub-paragraph (1)(a), (1)(b) or (1)(c) refers shall be taken into account and aggregated with any other period to which the other sub-paragraphs refer.”.

Amendment of the Claims and Payments Regulations

3.—(1) This regulation shall amend the Claims and Payments Regulations.

(2) In regulation 16 (time and manner of payment of certain pensions and allowances)—

- (a) in paragraph (10) after the words “by the Act” shall be inserted the words “except regulation 18 below,”;
- (b) in paragraph (11) at the end there shall be added “except in a case to which regulation 18 below applies.”.

(3) For regulation 18 (attendance allowance payable at a daily rate between periods where no allowance is payable) there shall be substituted—

“Circumstances in which attendance allowance is to be paid at a daily rate

18.—(1) Attendance allowance shall be paid in respect of any person for any day falling within a period to which paragraph (2) below applies at the daily rate (which shall be equal to $\frac{1}{7}$ th of the weekly rate) and attendance allowance payable in pursuance of this regulation shall be paid weekly or as the Secretary of State may direct in any case.

(2) This paragraph applies to any period which—

- (a) begins on the day immediately following the last day of a period during which a person was living in hospital or other accommodation specified

in regulation 3, 4, or 7(1) of the Social Security (Attendance Allowance) (No. 2) Regulations 1975; and

(b) ends—

- (i) if the first day of the period was a day of payment, at midnight on the day preceding the 13th following day of payment, or
- (ii) if that day was not a day of payment, at midnight on the day preceding the 14th following day of payment, or
- (iii) if earlier, on the day immediately preceding the day on which regulation 3, 4, 5, 7(1) or 7(2) next applies to his case;

if on the first day of the period it is expected that, before the expiry of the period of 13 weeks beginning with that day, he will return to hospital or other accommodation to which regulation 3, 4, 5 or 7 applies.

(3) In this regulation “day of payment” means the appropriate day of the week for the payment of attendance allowance to the person concerned determined in accordance with regulation 16(7) of these regulations.”

Signed by authority of the Secretary of State for Social Services.

Rhodes Boyson,
Minister of State,
Department of Health and Social Security.

15th July 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Social Security (Attendance Allowance) (No. 2) Regulations 1975 (the principal regulations) and, as respects attendance allowance only, the Social Security (Claims and Payments) Regulations 1979 (the Claims and Payments regulations).

Regulation 5 of the principal regulations, which provides that attendance allowance remains payable for the first 4 weeks during which a person over 16 is undergoing treatment in hospital or is resident in certain other accommodation where the cost is borne or may be borne out of public or local funds, is amended so that periods spent in similar accommodation before that person reaches 16 are to be taken into account for the purposes of the regulation.

Regulation 7 of the principal regulations is amended so that attendance allowance will be payable, as it is for adults, for the first 4 weeks during which a child is living in accommodation to which the enactments mentioned in the Schedule to the principal regulations refer.

A new regulation 18 is substituted in the Claims and Payments Regulations which specifies the circumstances in which attendance allowance will be paid at a daily rate instead of a weekly rate during an interval between two periods when a person is in hospital or certain other accommodation.

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