
STATUTORY INSTRUMENTS

1988 No. 546

The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988

Citation and commencement

1. These Regulations may be cited as the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988 and shall come into force on 11th April 1988.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the National Health Service (Scotland) Act 1978;

“appropriate office” means an office of the Department of Health and Social Security;

“capital limit” means the amount prescribed for the purposes of section 22(6) of the Social Security Act 1986(1) as it applies to income support;

“claimant” means a person who makes a claim for remission, payment or repayment in accordance with regulation 7 or 8;

“date of claim” means the date on which a claim is received in an appropriate office;

“family” has the meaning assigned to it by section 20(11) of the Social Security Act 1986 as it applies to income support(2) except in regulation 4(d) where it has the meaning assigned to it by section 20(11) of that Act as it applies to family credit(3);

“family credit” means family credit under Part II of the Social Security Act 1986;

“income support” means income support under Part II of the Social Security Act 1986 and includes personal expenses addition, special transitional addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations 1987(4);

“relevant charges” and “relevant travelling expenses” have the meanings prescribed by regulation 3(1);

“Secretary of State” means the Secretary of State for Social Services;

“trade dispute” has the same meaning as in the Social Security Act 1975(5);

“week” means a period of 7 days beginning at midnight between Saturday and Sunday.

(2) In these Regulations any reference to an instrument made under the Social Security Act 1986 is to be construed as a reference to that instrument as it has effect on the making of these Regulations and as amended subsequently.

(3) In these Regulations, unless the context otherwise requires, a reference to a numbered regulation or Schedule is a reference to the regulation in, or Schedule to, these Regulations bearing

(1) 1986 c. 50; regulation 45 of the Income Support (General) Regulations 1987 (S.I.1987/1967) has prescribed the amount of £6,000 as the capital limit.

(2) See S.I. 1987/1967, regulations 14 to 16.

(3) See S.I. 1987/1973, regulations 6 to 9.

(4) S.I. 1987/1969

(5) 1975 c. 14; see section 19(2)(b).

that number, and a reference in a regulation or Schedule to a numbered paragraph is a reference to the paragraph in that regulation or Schedule bearing that number.

Entitlement to full remission and payment

3.—(1) Any person of a description prescribed by regulation 4 is entitled, in accordance with the following provisions of these Regulations, to the remission of the whole amount of any charges referred to in paragraph (2) which would otherwise be payable by him (“relevant charges”), and to payment of the whole amount of the travelling expenses including, where applicable, the whole amount of the overnight accommodation expenses, referred to in paragraphs (3), (4) and (5) (“relevant travelling expenses”).

(2) Paragraph (1) applies to the following charges:—

- (a) charges for drugs, medicines, appliances and pharmaceutical services payable in pursuance of section 69(1) of the Act⁽⁶⁾;
- (b) charges for dental appliances and dental treatment payable in pursuance of section 70(1) or section 71(1) of the Act⁽⁷⁾.

(3) Paragraph (1) applies in the case of travelling expenses necessarily incurred or to be incurred by a person in attending a hospital for the purpose of availing himself of services provided under the care of a hospital consultant in pursuance of the Act, and includes the travelling expenses of a companion in a case where it is necessary on medical grounds that that person should be accompanied.

(4) Paragraph (1) applies in the case of overnight accommodation expenses necessarily incurred in obtaining such accommodation for the purpose of paragraph (3) by a person whose travelling expenses are payable by virtue of that paragraph, and includes the overnight accommodation expenses of a companion whose travelling expenses are likewise payable.

(5) The travelling expenses, including as applicable overnight accommodation expenses, to be taken into account for the purposes of paragraphs (3) and (4) are to be the costs of travelling by the cheapest means of transport and of overnight accommodation in the cheapest facilities reasonably available.

Description of persons entitled to full remission and payment

4. Regulation 3(1) applies to any person who, at the time when the relevant charge is made or when the relevant travelling expenses are incurred, is—

- (a) a person who is in receipt of income support, or
- (b) a member of the same family as a person who is in receipt of income support, or
- (c) a person who is in receipt of family credit, or
- (d) a member of the same family as a person who is in receipt of family credit, or
- (e) a person whose requirements equal or exceed his income resources and whose capital resources do not exceed the capital limit, or
- (f) a member of the same family as a person described in paragraph (e) of this regulation.

Persons entitled to remission in part or payment in part

5.—(1) A person who is not of a description prescribed by regulation 4 and whose capital resources do not exceed the capital limit is entitled, in accordance with the following provisions of these Regulations, to the remission of part of any relevant charges or, as the case may be, payment

⁽⁶⁾ See S.I. 1980/1674; the latest amending instrument is S.I. 1988/365.

⁽⁷⁾ See S.I. 1988/464.

of part of any relevant travelling expenses if at the time when the relevant charge is made or when the travelling expenses are incurred he is—

- (a) a person whose income resources exceed his requirements by less than a third of the relevant charge or, as the case may be, by less than the relevant travelling expenses, or
- (b) a member of the same family as a person described in sub-paragraph (a) of this paragraph.

(2) This regulation applies only in respect of charges for wigs, fabric supports and surgical brassieres payable in pursuance of section 69(1) of the Act (supplied otherwise than under Part II of the Act), charges for dental appliances and dental treatment payable in pursuance of section 70(1) or section 71(1) of the Act, and any relevant travelling expenses.

(3) The amount of any relevant charge which a person is entitled by paragraph (1) to have remitted is the difference between the relevant charge and 3 times the amount by which his income resources exceed his requirements.

(4) The amount of the relevant charge for the purposes of paragraph (3) is—

- (a) in the case of a charge under section 69(1) of the Act for the supply of an appliance, the charge made for that appliance;
- (b) in the case of a charge for dental treatment or for the supply of a dental appliance under Part II of the Act (general dental services), the charge made for one course of treatment, including any charge made for a dental appliance supplied in that course of treatment;
- (c) in the case of a charge for the supply of a dental appliance supplied otherwise than under Part II of the Act, the charge made for that appliance.

(5) The amount of the relevant travelling expenses which a person is entitled by paragraph (1) to be paid is the difference between the relevant travelling expenses incurred in any week and the amount by which his income resources exceed his requirements.

Calculation of resources and requirements

6.—(1) Where it is necessary that the resources and requirements of a person, and the relationship between them, should be calculated for the purposes of these Regulations, they shall be calculated by the Secretary of State according to the provisions of this regulation and Schedule 1.

(2) For the purposes of paragraph (1), the resources and requirements of a person shall be calculated—

- (a) in the case of a claim made under regulation 7(1), by reference to his resources and requirements at the date of claim;
- (b) in the case of a claim made under regulation 8(1), by reference to his resources and requirements at the date when he paid the relevant charge or travelling expenses.

(3) Unless any provision referred to in Schedule 1 specifies to the contrary, where a claimant is a member of a family, the resources of the other members of his family shall be calculated or estimated in the same manner as those of the claimant and shall be taken into account as if they were his resources; and in calculating his requirements, the requirements of the other members of his family shall be taken into account according to the provisions of Schedule 1.

(4) In a case to which paragraph (3) applies, unless the context otherwise requires, any reference to a “claimant” in Schedule 1 or in the provisions referred to in that Schedule shall be construed as including the other members of his family.

(5) In a case where the earnings of any person are to be calculated for the purpose of this regulation and those earnings have been affected by a trade dispute, the earnings to be taken into account shall be the earnings which that person would have received if there had been no trade dispute.

Claims for remission or payment

7.—(1) A person who is within a description prescribed by regulation 4(e) or (f) or 5(1) and who wishes to claim his entitlement under regulation 3(1) or 5(1) (full or partial remission of relevant charges or payment of relevant travelling expenses) shall make a claim to the Secretary of State on a form provided by or on behalf of the Secretary of State for that purpose and shall send or deliver that form to an appropriate office.

(2) A claimant shall produce in support of his claim such evidence as the Secretary of State may reasonably require.

(3) The Secretary of State may treat any claim under paragraph (1) as a claim to entitlement in respect of all the relevant charges and relevant travelling expenses and shall calculate the resources and requirements of the claimant according to the provisions of regulation 6 and Schedule 1.

(4) If the Secretary of State determines that the claimant and any member of his family are entitled to any remission of the relevant charges or any payment of the relevant travelling expenses, he shall issue a notice of entitlement to the claimant which shall be effective in respect of the claimant and any member of his family for the purposes of any remission of those charges, and any payment of those travelling expenses, to which they are entitled.

(5) A notice of entitlement issued under paragraph (4) shall indicate whether the claimant and any member of his family are entitled to full or partial remission or payment and, in the case of partial remission or payment, shall specify the amount of any relevant charge or relevant travelling expenses for which there is no entitlement to remission or payment.

(6) A notice of entitlement issued under paragraph (4) shall be effective for a period of 6 months from the date of claim, subject to its being superseded by any further notice issued as a result of a claim made in accordance with paragraph (8), and shall specify the dates of commencement and expiry of that period.

(7) Subject to paragraph (8), any change in the financial or other circumstances of a claimant, or of any member of his family, during the period for which a notice of entitlement has been issued shall not affect the validity of the notice of entitlement in respect of that period or, in the case of partial remission or payment, the amounts referred to in paragraph (5).

(8) A claimant who is issued with a notice of entitlement in a case of partial remission may make a further claim in accordance with paragraph (1) at any time during the period for which the notice of entitlement has been issued, if he considers that by reason of a change in his financial circumstances or those of any member of his family the amount referred to in paragraph (5) should be reduced.

Repayment

8.—(1) Subject to the following provisions of these Regulations, a person of a description prescribed by regulation 4 or 5(1) who pays any relevant charge or relevant travelling expenses without exercising his right under regulation 3(1) or 5(1) to remission or payment is entitled to be repaid whatever amount would otherwise have been remitted or paid.

(2) It is a condition of the entitlement to repayment under paragraph (1) of a person of any description that he makes a claim to the Secretary of State for repayment within one month after payment of the relevant charge or relevant travelling expenses and that he makes that claim on a form provided by or on behalf of the Secretary of State for that purpose for persons of that description.

(3) It is a further condition of entitlement to repayment under paragraph (1) that the claimant produces in support of his claim such evidence as the Secretary of State may reasonably require.

(4) If the Secretary of State is satisfied that a claimant is entitled to any repayment under paragraph (1) he shall cause a repayment to be made to him in such manner as appears to the Secretary of State to be appropriate in the circumstances of the particular case.

Transitional provisions

9.—(1) Where before 11th April 1988 a person has made a claim—

- (a) for the remission or repayment of any relevant charge in pursuance of the provisions of the National Health Service (Remission of Charges) (Scotland) Regulations 1974⁽⁸⁾ or the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 1980⁽⁹⁾, or
- (b) for the payment of any relevant travelling expenses in pursuance of the National Health Service (Expenses in attending Hospitals) (Scotland) Regulations 1974⁽¹⁰⁾,

and his claim has not been determined before that date, his claim shall be determined in accordance with the provisions of those Regulations.

(2) Where before 11th April 1988 a person has paid any relevant charge or relevant travelling expenses but has not made a claim for the repayment of that charge or those expenses before that date, he may make a claim for repayment in accordance with the provisions of the Regulations referred to in paragraph (1) within the time allowed by those provisions and his claim shall be determined in accordance with the provisions of those Regulations.

(3) Where before 11th April 1988 a person has been issued with any document by or on behalf of the Secretary of State which was effective for the purposes of the remission of any of the relevant charges in accordance with the Regulations referred to in paragraph (1)(a), in respect of a period or course of treatment which continues until a date after 11th April 1988, he shall continue to be entitled to remission in respect of that period or course of treatment in accordance with the provisions of those Regulations.

Revocations

10. The Regulations specified in column (1) of Schedule 2 are revoked to the extent specified in column (3) of that Schedule.

New St Andrew's House,
Edinburgh
18th March 1988

Michael B Forsyth
Parliamentary Under Secretary of State, Scottish
Office

⁽⁸⁾ S.I. 1974/1440.
⁽⁹⁾ S.I. 1980/1674.
⁽¹⁰⁾ S.I. 1974/486.