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STATUTORY INSTRUMENTS

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**1989 No. 392**

**The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1989**

**PART IV**

**PAYMENTS FOR COST OF SUPPLY OF OPTICAL APPLIANCES**

**Eligibility—supply of optical appliances**

**8.—(1)** A payment shall be made as provided for by this Part of these Regulations to meet, or to contribute towards, the cost incurred (whether by way of charge under the Act or otherwise) for the supply of an optical appliance for which a prescription has been given in consequence of a testing of sight of an eligible person—

- (a) which took place under the Act; or
- (b) which took place otherwise than under the Act and within the Health Board area in which the person whose sight was tested normally resides.

(2) An eligible person is a person who at the time of the supply of the optical appliance is any of the following:—

- (a) a child;
  - (b) a person under the age of 19 years and receiving qualifying full-time education within the meaning of paragraph 7 of Schedule 12 to the Act<sup>(1)</sup>;
  - (c) a person whose resources are treated, in accordance with paragraph (3), as being less than his requirements;
  - (d) a person whose income resources, as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act, are equal to or exceed his requirements as so calculated but whose patient's contribution is nil or is less than the face value of a voucher issued to him under this Part of these Regulations and whose capital resources do not exceed the capital limit;
  - (e) a person to whom a prescription is issued for a complex appliance.
- (3) A person's resources shall be treated as being less than his requirements if—
- (a) he is in receipt of income support;
  - (b) he is a member of the same family as a person who is in receipt of income support;
  - (c) he is in receipt of family credit;
  - (d) he is a member of the same family as a person who is in receipt of family credit;
  - (e) his income resources as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act, are less

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<sup>(1)</sup> Paragraph 7 was substituted by the Health Services Act 1980 (c. 53), Schedule 5, Part II, paragraph 8.

than his requirements as so calculated and his capital resources as so calculated do not exceed the capital limit; or

(f) he is a member of the same family as a person described in paragraph (e) of this paragraph.

(4) In paragraph (3)(b) and (f) 'family' has the meaning assigned to it by section 20(11) of the Social Security Act 1986 as it applies to income support<sup>(2)</sup> and in paragraph 2(d) it has the meaning assigned to it by virtue of section 20(11) of that Act as it applies to family credit<sup>(3)</sup>.

(5) For the purposes of regulation 11 and other provisions of this Part of these Regulations as they apply to payments where the testing of sight was by or on behalf of a Health Board, a person is also an eligible person if, because of the frequency with which the condition of his eyes changes, he is considered by the Health Board to be non-tolerant of his existing optical appliance.

### **Issue of vouchers by ophthalmic medical practitioners and opticians**

9.—(1) A person making an application for a testing of sight pursuant to regulation 14 of the Ophthalmic Services Regulations who considers that he may be an eligible person and wishes a payment to be made under these Regulations in his case shall indicate to the ophthalmic medical practitioner or optician to whom the application is made that he may be an eligible person.

(2) An ophthalmic medical practitioner or optician who, following a testing of sight under the Ophthalmic Services Regulations, issues a prescription for an optical appliance to a patient—

- (a) who has indicated that he may be an eligible person; or
- (b) who (whether or not he has so indicated) is issued with a prescription for a complex appliance,

shall, in the circumstances described in paragraph (4) but subject to paragraph (5), issue to the patient a voucher relating to the optical appliance prescribed on the same occasion as he issues the prescription in accordance with paragraph 10(3) of Schedule 1 to the Ophthalmic Services Regulations.

(3) The ophthalmic medical practitioner or optician issuing the voucher shall sign it and shall—

- (a) mark on it the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Schedule;
- (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's age if under 19, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher.

(4) The circumstances referred to in paragraph (2) are where the ophthalmic medical practitioner or optician, having consulted any records which he has relating to the patient and made such enquiry of the patient as he considers relevant, is satisfied that—

- (a) the patient requires an optical appliance for the first time or an optical appliance pursuant to a prescription the particulars of which differ from those relating to his existing appliance; or
- (b) the patient requires an optical appliance because his existing optical appliance has been rendered unserviceable by fair wear and tear.

(5) Where a patient requires an optical appliance pursuant to a prescription the particulars of which differ from those relating to his existing appliance only because the patient is non-tolerant of that appliance, and has been so since it was supplied to him, no voucher shall be issued unless the Health Board responsible for the arrangements for the sight test, being satisfied that the prescription for that existing appliance was clinically correct, has authorised the issue of a voucher.

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(2) 1986 c. 50; see S.I. 1987/1967, regulations 14 to 16, as amended by S.I. 1988/663 and 1988/1445

(3) S.I. 1987/1973, regulations 6 to 9, as amended by S.I. 1988/660

(6) Unless regulation 10(4) applies, not more than one voucher shall be issued to a patient in respect of any one optical appliance prescribed.

(7) A person making an application to an ophthalmic medical practitioner or optician for a testing of sight otherwise than under general ophthalmic services who considers that he may be an eligible person by virtue of regulation 8(2)(d) and wishes a payment to be made under these Regulations in his case shall indicate to the ophthalmic medical practitioner or optician to whom the application is made that he may be an eligible person; and that practitioner or optician may, if he issues a prescription for an optical appliance, issue a voucher relating to it in accordance with paragraphs (2) to (6) as though the testing of sight were carried out and the prescription was issued under general ophthalmic services.

### **Issue of vouchers by Health Boards**

**10.**—(1) Subject to paragraph (2), a patient whose sight has been tested by an ophthalmic medical practitioner or optician otherwise than under the Act who considers that he may be an eligible person by virtue of regulation 8(2)(d) and wishes a payment to be made under these Regulations in his case may apply in writing for a voucher to the Health Board for the area in which his sight was tested.

(2) An application made under paragraph (1) shall—

- (a) state that the patient may be an eligible person by virtue of regulation 8(2)(d);
- (b) be accompanied by the prescription issued to the patient or a copy of it; and
- (c) be made within the period of one month beginning with the date of the testing of sight but before the patient arranges for the supply of his optical appliance.

(3) On an application made in accordance with paragraph (2) the responsible Board shall issue a voucher relating to the optical appliance prescribed and shall—

- (a) mark on it the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Schedule;
- (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's age if under 19, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher; and
- (c) return the patient any prescription that he may have submitted.

(4) Where, on an application by a patient within six months of a voucher having been issued to him under regulation 9(2) or (7), a Health Board is satisfied, having made such enquiries as it considers relevant, that the voucher has been lost or destroyed without having been presented to a supplier of optical appliances, it may issue to the patient a replacement voucher completed in accordance with regulation 9(3)(a) and (b), but with the date of issue of the voucher being that on which the replacement is issued.

### **Issue of vouchers by Health Boards in connection with the hospital eye service**

**11.**—(1) A person whose sight is tested by or on behalf of a Health Board who considers that he may be an eligible person and wishes a payment to be made under these Regulations in his case shall indicate to that Health Board that he may be an eligible person.

(2) Where, following a testing of sight, a prescription for an optical appliance is issued to a patient—

- (a) who has indicated that he may be an eligible person;
- (b) who (whether or not he has so indicated) is issued with a prescription for a complex appliance; or
- (c) who is an eligible person by virtue of regulation 8(5),

the Health Board by or on behalf of which the patient's sight was tested shall issue to the patient a voucher relating to the optical appliance prescribed.

- (3) The Health Board issuing the voucher shall—
- (a) mark on it the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Schedule;
  - (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's age if under 19, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher.

### **Use of vouchers for the supply of optical appliances**

**12.**—(1) Subject to paragraphs (4) and (5), a patient to whom a voucher, duly completed in accordance with regulation 9,10 or 11, has been issued may present it to a supplier who supplies or is to supply him with an optical appliance, provided that the arrangements for supply are made within six months of the date on which the voucher was issued.

(2) A supplier may accept the voucher in substitution for payment by the patient of an amount equal to its redemption value, being the whole or part of the cost incurred for the supply of an optical appliance.

(3) A voucher relating to glasses may be accepted in connection with the supply of contact lenses.

(4) Before presenting the voucher to the supplier the patient shall sign on the voucher—

- (a) a declaration in writing to the effect that he is an eligible person indicating the grounds of his eligibility;
- (b) an undertaking in writing to the effect that, if he is unable to show that he is an eligible person, he will pay to the responsible Board an amount equal to the voucher's redemption value.

(5) A patient who is an eligible person only by virtue of regulation 8(2)(d) or by virtue of his resources being treated in accordance with regulation 8(3)(e) or (f) as being less than his requirements shall—

- (a) before presenting the voucher to the supplier, apply to the Secretary of State for a notice of entitlement; and
- (b) on the same occasion as he presents the supplier with a voucher in accordance with paragraph (1), show a current notice of entitlement to the supplier and permit him to copy such details as may be required for the purposes of regulation 13(2)(c)(iii).

### **Payments to suppliers**

**13.**—(1) The Health Board shall, if the conditions specified in paragraph (2) are fulfilled, make a payment of a voucher's redemption value to a supplier who has accepted the voucher from a patient in accordance with regulation 12.

(2) The conditions referred to in paragraph (1) are that—

- (a) the patient has signed the declaration and undertaking referred to in regulation 12(4) and acknowledged receipt on the voucher of the optical appliance supplied to him;
- (b) the optical appliance is not sold or supplied in contravention of section 21(1) of the Opticians Act 1958(4);
- (c) the supplier has—

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(4) 1958 c. 32; section 21 was amended by the 1984 Act. section 1(1) and by the 1988 Act. section 13(6) and (7).

- (i) made and kept a written record of the supply and issued to the patient a receipt for any money received from the patient,
- (ii) made a claim for a payment on a duly completed voucher to the responsible Board, within the period of 3 months beginning with the date of supply of the optical appliance,
- (iii) where the patient has shown a notice of entitlement to him, informed the responsible Board of the amount of the patient's contribution, if any, and
- (iv) where the claim relates to a voucher the value of which is increased in accordance with paragraph 1(1)(e) of Schedule 3, certified that the glasses supplied were small glasses.

#### **Payments to patients in Health Board cases**

- 14.**—(1) A payment may be made under this regulation to a patient who
- (a) has been issued by a Health Board with a voucher only because he may be an eligible person by virtue of regulation 8(2)(d), or by virtue of his resources being treated in accordance with regulation 8(3)(e) or (f) as being less than his requirements; and
  - (b) incurs cost for the supply of an optical appliance without first having obtained a notice of entitlement and without presenting his voucher to a supplier.
- (2) A patient who wishes a payment to be made to him under this regulation shall—
- (a) apply to the Secretary of State for a notice of entitlement;
  - (b) sign the declaration and undertaking referred to in regulation 12(4);
  - (c) within the period of three months beginning with the date on which he was supplied with the optical appliance, apply to the responsible Board for a payment and send to that Board—
    - (i) the voucher issued to him,
    - (ii) a statement of the amount of his patient's contribution, if any, and
    - (iii) evidence of the cost incurred for the supply of the optical appliance.
- (3) On an application made in accordance with paragraph (2), the responsible Board shall, if satisfied—
- (a) that the patient was issued with a notice of entitlement;
  - (b) as to the amount of the patient's contribution; and
  - (c) as to the cost incurred for the supply of the optical appliance, make a payment to the patient of the voucher's redemption value.

#### **Redemption value of voucher—supply of optical appliances**

- 15.**—(1) Where an optical appliance was supplied otherwise than under the Act the redemption value of a voucher is, subject to paragraphs (3) to (5), the lesser of—
- (a) the full cost which would have been payable by the patient for the supply but for these Regulations;
  - (b) the face value of the voucher.
- (2) Where an optical appliance was supplied under the Act, the redemption value of a voucher is, subject to paragraphs (3) to (5), the lesser of—
- (a) the amount of the charge under section 70(1) of the Act which would have been payable by the patient for the supply but for these Regulations;

(b) the face value of the voucher.

(3) In relation to payments to be made because of a person's eligibility by virtue of regulation 8(2)(d), the amounts taken for the purposes of paragraph (1)(a) and (b) or paragraph (2)(a) and (b) shall, subject to paragraph (4), be reduced—

- (a) where no voucher was completed in accordance with Part III in respect of the testing of the patient's sight, by the amount of the patient's contribution;
- (b) where such a voucher was completed and for the purposes of regulation 7 the patient's contribution exceeded the lesser of the amounts specified in regulation 7(a) and (b), by the amount of the excess.

(4) If a reduction made under paragraph (3) in the case of a patient to whom a prescription was issued for a complex appliance would render the redemption value of the voucher less than the minimum complex appliance payment, that value shall be the minimum complex appliance payment.

(5) Where the patient was an eligible person only because a prescription was issued to him for a complex appliance, the redemption value of a voucher shall be the minimum complex appliance payment, except that where—

- (a) the appliance was supplied under the Act; and
- (b) in accordance with directions given pursuant to regulation 2(1), the amount of a charge made for the supply under section 70(1) of the Act would, but for any maximum charge specified in the directions, have exceeded by any amount the charge actually made,

the redemption value shall be reduced by the amount of the excess.