

1989 No. 419

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Charges for Drugs and Appliances) Regulations 1989

<i>Made</i>	- - - -	<i>9th March 1989</i>
<i>Laid before Parliament</i>		<i>10th March 1989</i>
<i>Coming into force</i>	-	<i>1st April 1989</i>

The Secretary of State for Health, in exercise of powers conferred by sections 41, 42, 77, 83 and 83A of, and paragraph 1 of Schedule 12 to, the National Health Service Act 1977(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:-

Citation and commencement

1. These Regulations may be cited as the National Health Service (Charges for Drugs and Appliances) Regulations 1989 and shall come into force on 1st April 1989.

Interpretation

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

“the Act” means the National Health Service Act 1977;

“accepted disablement” means physical or mental injury or disease which is accepted by the Secretary of State as attributable to or aggravated by service in the armed forces of the Crown or such other service as he may determine;

“appliance” means a listed appliance within the meaning of section 41 of the Act but does not include a contraceptive appliance;

“chemist” includes any person, other than a doctor, providing pharmaceutical services;

“Committee” means Family Practitioner Committee;

“doctor” means a registered medical practitioner;

“drugs” includes medicines, but does not include contraceptive substances;

“elastic hosiery” means an above-knee, below-knee or thigh stocking;

“exemption” means any remission granted under these regulations from charges payable under these regulations;

“exemption certificate” has the meaning assigned to it by regulation 7(1);

“medical list” means the list of doctors prepared under regulation 4(1) of the Medical Services Regulations;

(a) 1977 c.49; see section 128 for the definitions of “prescribed” and “regulations”; section 41 was amended by the Health Services Act 1980 (c.53), section 20(1) and modified by S.I. 1985/39, Article 7(13); section 42 was substituted by the National Health Service (Amendment) Act 1986 (c.66), section 3(1) and amended by S.I. 1987/2202, Article 4; section 83A was inserted by the Society Security Act 1988 (c.7), section 14(1).

“the Medical Services Regulations” means the National Health Service (General Medical and Pharmaceutical Services) Regulations 1974(a);

“oxygen concentrator” and “oxygen concentrator services” have the meanings assigned to them by regulation 26D of the Medical Services Regulations(b);

“patient” means—

- (a) any person for whose treatment a doctor is responsible under his terms of service;
- (b) any person who applies to a chemist for the provision of pharmaceutical services including a person who applies on behalf of another person; or
- (c) a person who pays or undertakes to pay on behalf of another person a charge for which these regulations provide;

“pre-payment certificate” has the meaning assigned to it by regulation 8(1);

“prescription form” means a form on which the provision of pharmaceutical services may be ordered by—

- (a) a doctor in pursuance of a health authority’s functions; or
- (b) a doctor or dental practitioner under the provisions of their terms of service,

and which contains on its reverse side a form of declaration of entitlement to exemption;

“terms of service” in relation to doctors and chemists has the meaning assigned to it in regulation 2(1) of the Medical Services Regulations and in relation to dental practitioners the meaning assigned to it in regulation 2(1) of the National Health Service (General Dental Services) Regulations 1973(c);

“the Travelling Expenses and Remission of Charges Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(d);

“treatment” includes examination and diagnosis.

(2) For the purposes of these Regulations the supply against an order on one prescription form—

- (a) of quantities of the same drug in more than one container shall be treated as the supply of only one quantity of a drug;
- (b) of more than one appliance of the same type, except in the case of elastic hosiery and tights, or of two or more component parts of the same appliance shall be treated as the supply of only one appliance.

(3) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation in, or Schedule to, these Regulations which bears that number, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

Supply of drugs and appliances by chemists

3.—(1) A chemist who provides pharmaceutical services to a patient shall, subject to paragraph (2), make and recover from that patient—

- (a) in respect of an item of elastic hosiery a charge of £2.80, that is to say a charge of £5.60, per pair;
- (b) in respect of an oxygen concentrator, a charge of £2.80 for each month in which the chemist provides any oxygen concentrator services;
- (c) in respect of the supply of each other appliance and of each quantity of a drug, a charge of £2.80.

(2) No charge shall be made and recovered under paragraph (1) where—

- (a) there is exemption under regulation 6 and a declaration of entitlement to exemption on the prescription form is duly completed by or on behalf of the patient;

(a) S.I. 1974/160, relevant amending instruments are S.I. 1975/719, 1982/1283, 1985/39 and 1053.

(b) See S.I. 1985/955, regulation 2(5).

(c) S.I. 1973/1468, to which there are amendments not relevant to these Regulations.

(d) S.I. 1988/551.

- (b) there is entitlement to remission of the charge under regulation 3 of the Travelling Expenses and Remission of Charges Regulations;
- (c) the patient is resident in a school or institution the name of which is inserted on the prescription form by a doctor under his terms of service; or
- (d) a chemist provides oxygen concentrator services to a patient in a month and a charge is already required to be made under these Regulations to that patient, whether by that or another chemist, in respect of another oxygen concentrator for that month or such charge would be required to be made but for any exemption.

(3) For the purposes of this regulation, where a drug ordered on a single prescription form is supplied by instalments, the charge of £2.80 payable for that drug shall be payable upon the supply of the first instalment.

(4) A chemist, notwithstanding the provisions of his terms of service, shall be under no obligation to provide pharmaceutical services in respect of an order on a prescription form unless he is first paid by the patient any charge required to be made and recovered by paragraph (1) in respect of that order.

(5) A chemist who makes and recovers a charge under paragraph (1) shall, if so required by the patient, give him a receipt for the amount received on a form provided for the purpose by the Committee which shall contain forms of declaration in support of an application for repayment and information as to whom an application for repayment shall be made.

(6) Any sum which would otherwise be payable by a Committee to a chemist in respect of the provision by him of pharmaceutical services shall be reduced by the amount of any charges which are required to be made and recovered by the preceding provisions of this regulation.

Supply of drugs and appliances by doctors

4.—(1) A doctor who provides pharmaceutical services to a patient shall, subject to paragraph (2), make and recover from that patient—

- (a) in respect of the supply of an item of elastic hosiery a charge of £2.80, that is to say a charge of £5.60 per pair;
- (b) in respect of the supply of each other appliance and of each quantity of a drug, a charge of £2.80.

(2) No charge shall be made and recovered under paragraph (1) where—

- (a) there is exemption under regulation 6 and the patient or a person on his behalf declares, in writing if the doctor so requires, that he is entitled to exemption;
- (b) there is entitlement to remission of the charge under regulation 3 of the Travelling Expenses and Remission of Charges Regulations; or
- (c) the drugs or appliances are supplied in respect of two or more persons in a school or institution in which at least 20 persons are normally resident of whom at least 10 are his patients.

(3) For the purposes of this regulation, where a drug ordered on a single prescription form is supplied by instalments, the charge of £2.80 payable for that drug shall be payable upon the supply of the first instalment.

(4) A doctor shall, notwithstanding the provisions of his terms of service, be under no obligation to provide pharmaceutical services for which a charge is required to be made and recovered by paragraph (1) unless he is first paid the amount of that charge by the patient.

(5) A doctor who makes and recovers a charge under paragraph (1) shall, if so required by the patient, give him a receipt for the amount received on a form provided for the purpose by the Committee which shall contain forms of declaration in support of an application for repayment and information as to whom an application for repayment shall be made.

(6) A doctor shall as soon as practicable after the end of each month send a sum of money, equal to the total of the charges required to be made and recovered by him under

paragraph (1) during that month, to the Committee on whose medical list he is included, or, if he is included on more than one medical list, to the Committee which, under the provisions of the Statement published under regulation 24 of the Medical Services Regulations, pays him for the provision of general medical services on behalf of all the Committees concerned.

(7) Nothing in this regulation shall authorise the payment of a charge where the drug or appliance supplied either—

- (a) is needed for immediate treatment and no order for the drug or appliance is made on a prescription form; or
- (b) is administered or applied to the patient by the doctor personally.

Supply of drugs and appliances by health authorities

5.—(1) A health authority which supplies to a patient, for the purposes of his treatment, drugs otherwise than for administration at a hospital or appliances shall, subject to paragraph (2), make and recover from the patient—

- (a) in respect of an item of elastic hosiery a charge of £2.80, that is to say a charge of £5.60 per pair;
- (b) in respect of an appliance specified in column (1) of Schedule 1, the charge specified in relation to it in column (2) of that Schedule;
- (c) in respect of tights, a charge of £5.60;
- (d) in respect of the supply of each other appliance and of each quantity of a drug, a charge of £2.80.

(2) No charge shall be made and recovered under this regulation from a patient who is exempt—

- (a) under paragraph 1(1)(a) to (d) of Schedule 12 to the Act;
- (b) under regulation 6 and who provides such evidence of his exemption as the health authority may reasonably require; or
- (c) by reason of being entitled to remission under regulation 3 of the Travelling Expenses and Remission of Charges Regulations.

(3) For the purposes of this regulation, where a drug ordered on a single prescription form is supplied by instalments, the charge of £2.80 payable for that drug shall be payable upon the supply of the first instalment.

(4) A health authority which makes and recovers a charge under this regulation shall, if so required by the patient, give him a receipt for the amount received on a form which shall contain forms of declaration in support of an application for repayment and information as to whom an application for repayment shall be made.

Exemptions

6.—(1) No charge shall be payable under regulation 3 or regulation 4 by—

- (a) a person who is under 16 years of age;
- (b) a person who is under 19 years of age and is receiving qualifying full-time education within the meaning of paragraph 7 of Schedule 12 to the Act(a);
- (c) a man who has attained the age of 65 years or a woman who has attained the age of 60 years;
- (d) a woman with a valid exemption certificate issued by a Committee on the ground that she is an expectant mother or has within the last twelve months given birth to a live child or a child registrable as still-born under the Births and Deaths Registration Act 1953(b);
- (e) a person with a valid exemption certificate issued by a Committee on the ground that he is suffering from one or more of the following conditions—
 - (i) permanent fistula (including caecostomy, colostomy, laryngostomy or ileostomy) requiring continuous surgical dressing or an appliance;
 - (ii) the following disorders for which specific substitution therapy is essential—

(a) Paragraph 7 was substituted by the Health Services Act 1980 (c.53), Schedule 5, paragraph 4.

(b) 1953 c.20.

Addison's disease and other forms of hypoadrenalism,
diabetes insipidus and other forms of hypopituitarism,
diabetes mellitus,
hypoparathyroidism,
myasthenia gravis,
myxoedema;

(iii) epilepsy requiring continuous anti-convulsive therapy;

(iv) a continuing physical disability which prevents the patient from leaving his residence without the help of another person;

(f) a person with a valid exemption certificate issued by the Secretary of State in respect of the supply of drugs and appliances for the treatment of accepted disablement, but only in respect of those supplies to which the certificate relates;

(g) a person with a valid pre-payment certificate.

(2) No charge shall be payable under regulation 5—

(a) in respect of the supply of an appliance specified in column (1) of Schedule 1, by a person of a description specified in paragraph (1)(f);

(b) in respect of the supply of an appliance not so specified or of drugs, by a person of a description specified in any of sub-paragraphs (c) to (g) of paragraph (1).

(3) A charge referred to in column (1) of Schedule 1 shall, in the case of a person referred to in regulation 5 of the Travelling Expenses and Remission of Charges Regulations, be remitted to the extent specified in that regulation.

(4) An exemption by reference to age or the validity of an exemption certificate shall be determined by reference to the age or validity on the day on which—

(a) in the case of pharmaceutical services provided by a chemist, the order for drugs or appliances is presented for dispensing;

(b) in any other case, the drugs or appliances are supplied.

(5) Where a claim to exemption has been made but is not substantiated and in consequence of that claim a chemist, a doctor or a health authority has not recovered a charge in respect of the supply of any drugs or appliances, a Committee or that health authority shall recover such charge from the person concerned.

Certificates of exemption—application and issue

7.—(1) A person who wishes to claim exemption under the provisions of regulation 6(1)(d), (e) or (f) shall apply for a certificate conferring exemption (in these Regulations referred to as an "exemption certificate") to the Committee in the case of an exemption under sub-paragraph (d) or (e) on a form supplied for that purpose by the Committee and in the case of an exemption under sub-paragraph (f) to an office of the Department of Social Security on a form supplied for that purpose by the Secretary of State.

(2) A Committee, on being satisfied that an applicant is entitled to exemption under paragraph (1)(d), shall issue an exemption certificate which shall be valid—

(a) in the case of an expectant mother until the end of her pregnancy and, where she gives birth to a live child or a child registrable as still-born under the Births and Deaths Registration Act 1953, until the end of the period of twelve months beginning with the expected date of confinement;

(b) in the case of a mother who has given birth to a child, until the end of the period of twelve months beginning with the date of birth of that child.

(3) A Committee, on being satisfied that an applicant, not being a person entitled to exemption under the provisions of regulation 6(1)(a), (b) or (c), is entitled to exemption under regulation 6(1)(e) shall issue to the applicant an exemption certificate which shall be valid for such period as it may determine.

(4) The Secretary of State, on being satisfied that an applicant is entitled to exemption under regulation 6(1)(f), shall issue to the applicant an exemption certificate which shall be valid for such period as he may determine.

Pre-payment certificates

8.—(1) Subject to the following provisions of this regulation, a Committee on payment of the relevant sum prescribed by paragraph (5) shall as soon as reasonably practicable grant a certificate (in these regulations referred to as a “pre-payment certificate”) to any person who duly completes and submits an application for it on a form provided for the purpose by the Committee.

(2) A pre-payment certificate shall be valid for a period of either four months or twelve months and an application for such a certificate shall indicate the period for which it is required to be valid.

(3) A pre-payment certificate which is granted confers on the person to whom it is granted exemption as provided by regulation 6 in respect of drugs and appliances supplied during the period for which it is valid.

(4) No pre-payment certificate shall be granted unless the application made for it is received less than one month before the date on which its period of validity is to begin.

(5) For the purposes of this regulation the prescribed sum shall be £14.50 for a pre-payment certificate valid for 4 months and £40.00 for a pre-payment certificate valid for 12 months.

(6) Where payment of a prescribed sum has been made under this regulation and, not more than one month after the date on which his certificate became valid, the person in respect of whom payment was made either becomes a person to whom any of the provisions of regulation 6(1)(b) to (f) applies, or dies, an application for repayment of that sum may be made, by or on behalf of that person or his estate, in accordance with paragraph (7).

(7) An application under paragraph (6) shall be made to the Committee which granted the certificate and shall be accompanied by the certificate (where granted) and a declaration in support of the claim, and the claim and any repayment shall be made in such manner and subject to such conditions as the Secretary of State may determine.

Repayment of charges

9.—(1) Where a charge has been paid under these Regulations by or on behalf of a person who was at the time of payment exempt from the requirement to pay that charge, an application for repayment of that charge may be made in accordance with paragraph (2) by or on behalf of that person.

(2) The application for repayment shall—

(a) be made to the person or body specified in the receipt which is given under regulation 3(5), 4(5) or 5(4) as being the person or body to whom application for repayment of charges is to be made;

(b) be made within such period of the supply of the drug or appliance, and in such form and manner, as the Secretary of State may determine for the applicant, any class of applicant or applicants generally;

(c) be accompanied by the receipt for the charge paid and a declaration as to the grounds of exemption.

(3) In the case of a charge under regulation 5 in respect of an appliance specified in column (1) of Schedule 1, the application shall be accompanied by the exemption certificate referred to in regulation 6(1)(f) and, if the patient was referred by a doctor to the health authority for treatment, either—

(a) a certificate from the doctor certifying that the treatment was for accepted disablement; or

(b) a statement that such a certificate was surrendered to the health authority on or before the supply of the appliance.

(4) The Secretary of State shall make arrangements for the repayment of any charge paid under these Regulations by a person who is entitled to exemption.

Application

10. These Regulations shall apply only where drugs and appliances are supplied on or after 1st April 1989.

Revocations

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

Signed by authority of the Secretary of State for Health

D. Mellor
Minister of State,
Department of Health

9th March 1989.

SCHEDULE 1 CHARGES FOR FABRIC SUPPORTS AND WIGS

Regulation 5

(1) <i>Specified Appliance</i>	(2) <i>Specified Charge</i>
Surgical Brassiere	£12.00
Abdominal or Spinal Support	£16.00
Stock Modacrylic Wig	£24.00
Partial Human Hair Wig	£62.00
Full Bespoke Human Hair Wig	£97.00

SCHEDULE 2 REGULATIONS REVOKED

Regulation 12

(1) <i>Regulations revoked</i>	(2) <i>Reference</i>	(3) <i>Extent of revocation</i>
The National Health Service (Charges for Drugs and Appliances) Regulations 1980	S.I. 1980/1503	The whole Regulations
The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1981	S.I. 1981/1714	The whole Regulations
The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1983	S.I. 1983/306	The whole Regulations
The National Health Service (Charges for Drugs and Appliances) Amendment (No. 2) Regulations 1983	S.I. 1983/1165	The whole Regulations
The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1984	S.I. 1984/298	The whole Regulations
The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1985	S.I. 1985/326	The whole Regulations
The National Health Service (Charges for Drugs and Appliances) Amendment (No. 2) Regulations 1985	S.I. 1985/1671	The whole Regulations
The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1987	S.I. 1987/368	The whole Regulations
The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1988	S.I. 1988/427	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services and Charges for Drugs) Amendment Regulations 1988	S.I. 1988/866	Regulation 3

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations replace with amendments the Regulations providing for the making and recovery of charges for drugs and appliances (other than dental and optical appliances) supplied under the National Health Service Act 1977.

Accordingly, these Regulations provide for charges for drugs and appliances supplied by doctors and chemists providing pharmaceutical services (regulations 3 and 4) and by health authorities to patients who are not resident in hospital (regulation 5).

The Regulations provide in addition for—

the reduction of a chemist's remuneration by the amount of the charge recoverable under the Regulations (regulation 3(6));

a doctor providing pharmaceutical services to send each month a sum equal to the total of the charges recovered under the Regulations to the Family Practitioner Committee which pays him for the provision of general medical services (regulation 4(6));

the remission of charges (regulations 3(2), 4(2), 5(2) and 6);

the application for and the issue of exemption certificates (regulation 2(1) and 7);

the payment for certificates granting exemption from charges otherwise exigible under these Regulations (regulation 8);

the repayment of charges (regulation 9); and

the revocation of the superceded Regulations on charges for drugs and appliances (regulation 11).

The amendments increase the charge for items on prescription or supplied to out-patients, and the monthly charge in respect of an oxygen concentrate supplied by a chemist, from £2.60 to £2.80. The charge for elastic stockings is increased from £2.60 to £2.80 each and for tights from £5.20 to £5.60. The charges for wigs are increased from £90.00 to £97.00 (human hair wig), from £58.00 to £62.00 (partial human hair wig) and from £22.00 to £24.00 (modacrylic wig). The charge for fabric supports is increased from £15.00 to £16.00 and the charge for surgical brassieres is increased from £11.00 to £12.00. The sums prescribed for the grant of pre-payment certificates of exemption from charges are increased from £13.50 to £14.50 for a four month certificate and from £37.50 to £40.00 for a twelve month certificate.

The other amendments of substance are that there is no longer a provision enabling charges to be paid by means of postage stamps and there is no minimum period within which a claim for repayment of a charge wrongly paid has to be made.

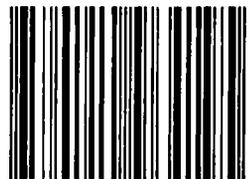
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