
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and replace the National Health Service (Dental Charges) Regulations 1989 (“the 1989 Regulations”), as amended. They provide for the making and recovery of charges for the provision of dental treatment and the supply of dental appliances under the National Health Service Act 1977 (“the Act”) and reflect the new dental charging powers in section 79 of, and Schedule 12ZA to, the Act, which were inserted by section 183 of the Health and Social Care (Community Health and Standards) Act 2003 as a substitute for sections 78A, 79 and 79A, and for the paragraphs of Schedule 12 to the Act which dealt with dental charges.

The Regulations provide for charges for the following:—

- the provision of dental treatment, including urgent treatment and orthodontic treatment, and the supply of dental and orthodontic appliances by a provider of relevant primary dental services (regulation 3);
- the supply of dental appliances under the Act otherwise than by a provider of relevant primary dental services (regulation 3);
- the replacement, as part of relevant primary dental services, of a dental or orthodontic appliance lost or damaged by an act or omission of the patient (regulation 11 and Schedule 6).

Regulation 3(2) sets out a number of circumstances in which no charge may be made and recovered for the provision of dental treatment or the supply of dental appliances under the Act. Other circumstances in which no charge may be made for dental services under the Act are set out in Schedule 12ZA of the Act.

Regulation 4 sets out the applicable charges and the system for calculating those charges. Where a patient receives a course of treatment (which may include the supply of dental or orthodontic appliances) from a provider of relevant primary dental services, the charge that will be payable for that course of treatment, if none of the exemptions from charging apply, will be determined by examining in which of the Schedules to the Regulations each of the components of the course of treatment is listed. If any of the components of the course of treatment are listed in Schedule 3, a Band 3 charge of £189 will be payable. If any of the components of the course of treatment are listed in Schedule 2 and none of the components are listed in Schedule 3, a Band 2 charge of £42.40 will be payable. If all of the components of the course of treatment are listed in Schedule 1, a Band 1 charge of £15.50 will be payable.

Where a dental appliance is supplied under the Act otherwise than by a provider of relevant primary dental services and none of the exemptions from charging apply, a Band 3 charge will be payable. Where a patient receives an urgent course of treatment and each component of that course of treatment is listed in Schedule 4, a Band 1 charge will be payable.

Regulation 11 provides that where a patient receives a replacement dental or orthodontic appliance, the need for which it is determined in accordance with the procedure set out in Schedule 6 was brought about by an act or omission of the patient, the charge that will be payable for the replacement will be 30% of the Band 3 charge of £189 rounded down to the nearest 10 pence. The regulation does give the Secretary of State the power to reduce the charge or to determine that it shall not be payable in certain circumstances.

The Regulations provide that only one charge for a course of treatment may be made and recovered even if provided by more than one provider (regulation 5); for circumstances in which charges cannot be made and recovered for both treatment provided after a course of treatment is complete and for

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the repair or replacement of a restoration (regulation 6); for conditions for statutory exemptions from charges (regulation 7 and Schedule 5); for the procedure for making and recovering charges due under the Regulations (regulation 8); for the repayment of charges which have been paid where a person has the benefit of a statutory exemption but has not complied with the conditions in regulation 7 (regulation 10); for a reduction in the remuneration of a provider of relevant primary dental services by the amount of the charges payable under the Regulations and for a dental practitioner remunerated by either a Primary Care Trust, NHS trust or NHS foundation trust, which is providing relevant primary dental services itself, to account for, and pay to, the body by which he is remunerated the amount of the charges he has recovered from patients under these Regulations (regulation 12); and for the revocation of superseded Regulations on dental charges (Regulation 14 and Schedule 7).

Regulation 13 makes transitional provision for persons who, on or after 1 January 2006, are provided with a plan for treatment as part of the provision of general dental services or services under a pilot scheme and who receive part of that treatment prior to 1 April 2006 and part of that treatment after 1 April 2006. The provider calculates whether the overall charge for the treatment listed on the plan is lower if calculated in accordance with the 1989 Regulations or in accordance with these Regulations and the lower charge is payable. A similar calculation as to which of the charges is lower and, therefore, payable will also occur where an arrangement has been made for a dental appliance to be supplied on or after 1 January 2006 but that appliance is not supplied prior to 1 April 2006. Transitional provision is also made for a person who is provided with at least part of a course of occasional treatment, as part of the provision of general dental services, between 1 January 2006 and 1 April 2006, where a further part of the course of occasional treatment is provided on or after 1 April 2006, in circumstances where each and every treatment included in that course of occasional treatment is listed in Schedule 4 to these Regulations (Urgent Treatment under Band 1 Charge). In these circumstances, the provider will calculate whether the overall charge for the treatment received is lower if calculated as a course of occasional treatment in accordance with the 1989 Regulations or if calculated as an urgent course of treatment in accordance with these Regulations, and the lower charge is payable. The Directions referred to in paragraph (2)(b)(ii) of Regulation 13 which set out the requirements for a plan for treatment in relation to services under a pilot scheme are available from www.dh.gov.uk.

If a person has paid some or all of the charges due for treatment under the 1989 Regulations prior to 1 April 2006 and, using the above mentioned calculations, it is determined that the amount paid is in excess of the amount due under the transitional provisions, the provider must repay the excess amount paid to that person.

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service (Dental Charges) Regulations 2005.