

## **EXPLANATORY MEMORANDUM TO**

### **THE NATIONAL HEALTH SERVICE (CHARGES, PAYMENTS AND REMISSION OF CHARGES) (UPRATING, MISCELLANEOUS AMENDMENTS AND TRANSITIONAL PROVISION) REGULATIONS 2015**

**2015 No. 417**

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

#### **2. Purpose of the instrument**

This instrument amends:

a) The National Health Service (Optical Charges and Payments) Regulations 2013 (SI 2013/461) (“the 2013 regulations”) provide for optical vouchers to be given to eligible members of the public to help with the cost of glasses or contact lenses and sets the level of that help.

b) The Primary Ophthalmic Services regulations 2008 (SI2008/1186) (“the POS Regulations”) makes provision for who is entitled to primary ophthalmic services sight tests.

c) The National Health Service (Dental Charges) Regulations 2005 (SI 2005/3477) (“the Dental Charges Regulations”) provide for the making and recovery of charges for the provision of dental treatment and the supply of dental appliances; and

d) The National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (SI2003/2382, as amended) (“the TERC Regulations”) make provision for England relating to people in receipt of state benefits or on low incomes being reimbursed for travel expenses incurred in obtaining certain NHS services and being exempt from paying certain NHS charges.

#### **3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

#### **4. Legislative Context**

4.1 The 2013 Regulations provide for optical vouchers to be given to eligible members of the public which can be redeemed against costs incurred for the supply, replacement or repair of optical appliances (glasses and contact lenses) and set the value of those vouchers. The amendments are to provide a routine uprating from 1 April 2015 to the value of optical vouchers and to extend entitlement to optical vouchers to those in receipt of Universal Credit under the Welfare Reform Act 2012 during the period 1 April 2015 to 31 October 2015.

4.2 The POS Regulations set the statutory framework for determining entitlement in England to free NHS sight tests. These amendments extend entitlement to free NHS sight tests to those in receipt of Universal Credit under the Welfare Reform Act 2012 during the period 1 April 2015 and 31 October 2015.

4.3 The Dental Charges Regulations include the charges for NHS dental and orthodontic treatment in England, which is provided under contracts known as general dental services contracts or personal dental services contracts. The charges are amended to provide a routine uprating of dental charges from 1 April 2015.

4.4 By virtue of the TERC Regulations, NHS patients in England who are in receipt of state benefit or on low incomes are effectively exempted from paying NHS charges and are provided with assistance with travel costs if they meet certain qualifying criteria. These amendments provide for those in receipt of Universal Credit under the Welfare Reform Act 2012 to be exempt from NHS charges and to be entitled to claim travel costs to receive NHS treatment on referral during the period 1 April 2015 and 31 October 2015.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- What is being done and why

### **Optical Charges and Payments**

7.1 The optical voucher values contained in the National Health Service (Optical Charges and Payments) Regulations 2014 are reviewed annually. Following careful consideration of the needs of patients and balancing that with the impact of a rise in voucher values on NHS costs and wider service affordability, Ministers have agreed to raise the value of optical vouchers.

7.2 This statutory instrument increases the value of optical vouchers for the 2015/16 financial year by an overall 1%.

### **Dental Charges**

7.3 Patient Charge Revenue helps the NHS meet the cost of providing NHS Dental services. It currently contributes approximately 20-25% of the gross cost of funding primary dental care services.

7.4 Dental charges are in four bands:

- Band 1 - courses of treatment involving diagnosis and prevention only – currently £18.50
- Band 1A – courses of treatment which only apply to patients receiving additional interim treatment from contractors participating in the Capitation and Quality Scheme 2 pilots (just over 90 contractors nationally). This charge is currently £18.50 in line with a Band 1 charge

- Band 2 - courses of treatment which include dental treatment – such as fillings and extractions – currently £50.50
- Band 3 - courses of treatment which include advanced dental work including appliances – currently £219.00

7.5 These charges are being increased by an overall 1.6% which is in line with spending assumptions for 2015/16 and balances the need to protect NHS funding against the impact of charges on personal incomes. The new charges will be £18.80 for a Band 1 course of treatment, £51.30 for a Band 2 course of treatment, and £222.50 for a Band 3 course of treatment. Band 1A courses of treatment will also be increased to £18.80 in line with the Band 1 charge.

### **Universal Credit**

7.6 The TERC Regulations, the POS Regulations and the 2013 Regulations are amended to extend income based exemption to those in receipt of Universal Credit.

7.7 The TERC Regulations and the POS Regulations provide for those in receipt of Universal Credit to be entitled to:

- Free NHS prescriptions
- Free NHS dental treatment
- Free wigs and fabric supports
- Assistance with the costs of travel to an NHS appointment on referral by a doctor, dentist or optician, and
- Free NHS sight tests.

7.8 The 2013 Regulations provide entitlement to NHS optical vouchers for those in receipt of Universal Credit.

7.9 These amendments will maintain the arrangements whereby all those in receipt of Universal Credit are entitled, as listed above, from 1 April 2015 to 31 October 2015.

### **Consolidation**

7.10 Further amendments are likely to be needed to the TERC Regulations as Universal Credit is rolled out further. The Department intends to consolidate the TERC Regulations in 2016/2017. The 2013 Regulations were consolidated in 2013 and plans to consolidate the Dental Charges Regulations and POS Regulations will be kept under review.

## **8. Consultation outcome**

8.1 The Department of Health is not required to consult on these regulations.

8.2 In relation to the level of optical voucher values. The Department requested information from the optical trade associations and the NHS Commissioning Board (NHS England) on any issues relating to the purchasing power of optical vouchers. Both provided views on the level of increase for 2015/16 which informed consideration alongside data on price movements.

## **9. Guidance**

9.1 NHS England and the optical profession will be advised of the new optical voucher values and the extension of entitlement to NHS optical vouchers and NHS sight tests for those in receipt of Universal Credit by way of a letter through the Department of Health website.

9.2 NHS England, the public and NHS dental contractors will be advised of the new charges and the extension of entitlement to exemption of dental charges for those in receipt of Universal Credit by way of a patient information leaflet, waiting room notices and through the Department of Health website.

9.3 Other relevant health care professionals and the public will be advised of the extension of arrangements for those included in the early stages of the roll-out of Universal Credit by way of the NHS Choices Website, and the Drug Tariff.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no negative impact on the public sector.

10.3 The optical voucher increases made by the Amendment Regulations are below the inflation rate (whether RPI or CPI measured at September 14) and do not therefore require an Impact Assessment.

10.4 NHS dental practices are exempt from the Small Firm Impact Test as they are considered part of the public sector due to their provision of primary dental services for the NHS. Public sector organisations are exempt under this test and as a result an Impact Assessment has not been prepared in respect of the increases in dental charges. There is minimal cost to the public sector as a result of these changes. The National Health Service Business Services Authority will need to amend their systems to reflect the increased level of the charges provided for in the Dental Charges Regulations.

An Impact Assessment has not been prepared for maintaining entitlements to those in receipt of Universal Credit.

## **11. Regulating small business**

11.1 The Regulations apply to small businesses, including firms employing up to 20 people. As these Regulations concern the provision of NHS primary care services in England on the basis of nationally determined terms of service, it is not possible to differentiate between contractors according to their operational turnover or size. This is to ensure the application of agreed nation-wide standards and practices in the provision of such services as part of the nationally determined contractual frameworks.

11.2 Assistance with NHS travel costs for those who meet the criteria set out in the TERC Regulations is provided by the NHS Business Services Authority; NHS Trusts or NHS Clinical Commissioning Groups, and as such there is no impact as these are not considered to be small businesses.

## **12. Monitoring & review**

12.1 As indicated above, the Department keeps under continuous review the operation of the Regulations amended by these Regulations, and to that end has regular discussions with interested parties including the NHS and the contractors' representatives.

12.2 The arrangements provided in these Regulations for Universal Credit will be reviewed prior to October 2015

## **13. Contact**

Derek Busby (Tel: 0207 210 5603 [derek.busby@dh.gsi.gov.uk](mailto:derek.busby@dh.gsi.gov.uk)) (increases to optical vouchers values and dental charges) and Gina Jones (Tel: 02079722954 [Gina.Jones@dh.gsi.gov.uk](mailto:Gina.Jones@dh.gsi.gov.uk)) (Universal Credit) can answer queries regarding this instrument.