

EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (CHARGES AND PAYMENTS) (UPRATING, MISCELLANEOUS AMENDMENTS AND TRANSITIONAL PROVISION) REGULATIONS 2016

2016 No. 325

1. Introduction

1.1 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

2.1 This instrument amends:

- The National Health Service (Optical Charges and Payments) Regulations 2013 (SI 2013/461) (“the 2013 regulations”) which provides for optical vouchers and certain additional supplements to be issued to eligible members of the public, to help with the cost of glasses or contact lenses and sets the level of that help, to provide that the special facial characteristics supplement may be issued under general ophthalmic services contracts, and to increase the value of NHS optical vouchers, and
- The National Health Service (Charges for Drugs and Appliances) Regulations 2015 (SI 2015/570) (“the 2015 Regulations”) which provides for charges to be made and recovered for the supply of certain drugs, appliances, wigs and fabric supports, and provides for certain exemptions from charging in prescribed circumstances, to increase prescription and other charges payable under them.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 The 2013 Regulations provide for optical vouchers and certain supplements to be issued to eligible members of the public, following an NHS sight test, which can be redeemed against costs incurred for the supply, replacement or repair of optical appliances (glasses and contact lenses). This instrument provides for the special facial characteristics supplement, currently only available to patients seen within Hospital Eye Service Departments, to be issued in primary care by general ophthalmic services contractors. General ophthalmic services contractors provide NHS sight tests to eligible individuals. The instrument also amends those Regulations, which set the

value of optical vouchers and supplements, to provide for a routine uprating to the value of NHS optical vouchers and associated supplements from 1st April 2016.

- 4.2 The 2015 Regulations set out a scheme for charges for drugs and appliances and some other items supplied to NHS patients in England, and the arrangements for exemption from those charges. The instrument provides for a routine uprating of the amounts that are to be charged under those Regulations from 1st April 2016.

5. Extent and Territorial Application

- 5.1 This instrument extends to England.
5.2 This instrument applies to England only.

6. European Convention on Human Rights

- 6.1 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

Special Facial Characteristics Supplement

- 7.1 The 2013 Regulations provide for help with the cost of glasses for eligible individuals following an NHS sight test. This is provided through optical vouchers which relate to the prescription issued for the patient. Included within the help available is a supplementary payment made when the frames of the glasses have to be specially manufactured to take account of a person's facial characteristics and the additional costs incurred in adapting glasses. Patients who may potentially qualify for this supplement are individuals with Down's syndrome due to their facial features possibly necessitating an adaptation to spectacle frames.
- 7.2 At present the supplement is only available where a patient is being seen in a secondary care Hospital Eye Service Department and the supplement is issued by an NHS trust or NHS foundation trust. It was proposed by NHS England (NHSE) that this be changed and this instrument provides for this supplement to be issued by high street practices holding NHS General Ophthalmic Service's contracts, who provide primary ophthalmic services to patients, in addition to those issued by Hospital Eye Service Departments. The change is intended to make arrangements more convenient for patients and reduce pressure on secondary care eye departments by transferring work from secondary care into primary care where possible.

NHS Optical Voucher Values

- 7.3 The optical voucher values contained in the 2013 Regulations 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, the value of optical vouchers are being increased by 1%. The current new voucher values are in table 1 below.

Prescription Charges

- 7.4 The 2015 Regulations provide the amount of the charge for an NHS prescription item and certain other appliances supplied by the NHS, the circumstances in which the

charge shall, or shall not, be made and the patients who are exempt from prescription charges. The amendments made in this instrument increase the single prescription charge in respect of drugs and appliances by 20p, an increase of 2.4%. This increase, combined with the freezing of the fee payable for both the three and the twelve month prescription prepayment certificate, produces an overall increase in prescription charge revenue broadly in line with inflation (as defined by the forecast GDP deflator for 2016/17). This will help to maintain the contribution charges make to NHS funding, whilst providing protection for personal incomes where individuals may require a significant number of prescription items. The increase is in line with spending review assumptions. The charge for elastic hosiery will increase in line with the prescription charge.

Prescription prepayment certificates

7.5 Prescription prepayment certificates are available to everyone. Three month certificates can be purchased directly from some pharmacists. Three and twelve month certificates can be purchased from the NHS Business Services Authority, by phone, on line or by post. A twelve month prescription prepayment certificate is available to purchase in ten monthly direct debit instalments. Prescription prepayment certificates will save people money if they need more than three items in a three month period, or 13 items or more in a year. Certificate holders pay no further charge at the point of dispensing. There is no limit to the number of items the holder may obtain using the certificate. As indicated above the fee payable for these certificates is being frozen. The basic charge per item and the charges for prescription prepayment certificates are in table 2.

Wigs and Fabric Supports

7.6 Charges are made for these items when supplied by hospitals or by other bodies through contracts. Charges for these items will be increased by around 1.7%, balancing the need to protect NHS funding against the impact on personal incomes. The current and new charges are in table 3 below. This instrument makes transitional provision in respect of an order for supply given before this instrument comes into force.

7.7 Table 1: Optical Voucher Values

	2015	2016	Increase
Voucher A	£38.70	£39.10	£0.40
Voucher B	£58.70	£59.30	£0.60
Voucher C	£86.00	£86.90	£0.90
Voucher D	£194.10	£196.00	£1.90
Voucher E	£66.80	£67.50	£0.70
Voucher F	£84.80	£85.60	£0.80
Voucher G	£110.10	£111.20	£1.10
Voucher H	£213.40	£215.50	£2.10
Voucher I	£198.80	£200.80	£2.00
Voucher J	£56.40	£57.00	£0.60

Table 2: Prescription Charges

	2015	2016	Increase
Cost of single item	£8.20	£8.40	£0.20
3-month	£29.10	£29.10	£0.00

12-month	£104.00	£104.00	£0.00
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Table 3: Wigs and Fabric Supports

	2015	2016	Increase
Surgical Brassiere	£27.45	£27.90	£0.45
Abdominal or spinal support	£41.50	£42.20	£0.70
Stock modacrylic wig	£67.75	£68.90	£1.15
Partial human hair wig	£179.45	£182.50	£3.05
Full bespoke human hair wig	£262.45	£266.90	£4.45

Consolidation

7.8 The 2013 Regulations were consolidated in 2013.

7.9 The 2015 Regulations were consolidated in 2015.

8. Consultation outcome

8.1 In relation to the special facial characteristics supplement, before putting forward proposals to the Department relating to proposed changes to the legislation in respect of the special facial characteristics supplement, NHSE consulted a number of organisations including the Down's Syndrome Association, Changing Faces, and Seeability, who all supported the proposed change. The Department of Health has also consulted the Optical Confederation (a representative body for optical businesses) on the provision in this instrument which extends the issuing of the special facial characteristics supplement to Primary Care. The Optical Confederation confirmed they welcomed the proposed amendments and had no comments.

8.2 The Department of Health is not required to consult on changes to the value of optical voucher values, but have requested information from the Optical Confederation and NHSE on any issues relating to the purchasing power of optical vouchers. Both organisations provided views on the proposed levels of increase which informed consideration of the changes made to these values, alongside data on price movements.

8.3 The Department of Health is not required to consult on the 2015 regulations.

9. Guidance

9.1 In relation to the Special Facial Characteristics Supplement, and the new optical voucher values, NHSE and the optical profession will be advised of the extension of this supplement and the voucher values by way of a letter through the gov.uk website. The Optical Confederation have also confirmed they will amend 'Making Accurate Claims' which is a guidance document for Optometrists and Ophthalmic Medical Practitioners providing NHS General Ophthalmic Services in England, to take into account the new arrangements for the issuing of the special facial characteristics supplement. Members of the public will be informed of the new optical vouchers values by way of patient information leaflets and the NHS Choices website.

9.2 In relation to charges for prescriptions and wigs and fabric supports, relevant health care professionals and the public will be advised of the increase to charges by way of patient information leaflets, the Drug Tariff, the NHS Choices website and the gov.uk website. The Department will request NHSE to provide notification via email bulletins for dissemination to staff.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 The impact on the public sector is minimal in relation to the amendments made to the 2013 Regulations which increase optical vouchers values.
- 10.3 NHS optical vouchers were first introduced in 1989 and the optical voucher increases made by this instrument place no new requirements on business and add no costs to their current activities. The Special Facial Characteristics provisions remove current restrictions on who can currently issue this voucher supplement.
- 10.4 Amendments to the 2015 Regulations will create a minimal cost to the public sector. To accommodate the increase to the single prescription charge the NHS Business Services Authority will need to amend their systems to reflect the increased level of the charge. Hospitals and other bodies supplying wigs and fabric supports will need to revise arrangements to reflect the new charges.
- 10.5 No impact assessment has been prepared for this instrument.
- 10.6 We have considered the impact of this instrument in relation to our Public Sector Equality Duty (PSED). The PSED is not simply limited to eliminating discrimination, harassment and victimisation, but also includes positive obligations to promote equality of opportunity and to foster good relations between those who are likely to suffer discrimination and those who are not. When making legislation, Ministers are obliged to have due regard to all aspects of this duty. We have not identified any specific equalities issues in respect of our PSED duty. We have also considered the impact of the Secretary of State's duties under the 2006 Act, for example, in relation to promoting autonomy and the improvement in the quality of services. Again, we do not consider that there are specific issues in respect of these duties.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 This instrument places no new requirements on small businesses, in respect of charges levied it merely changes the amount the patient pays or the value of the NHS optical voucher they receive.
- 11.3 We consulted with the Optical Confederation, the representative body for optical business, including small businesses, on the proposed changes to the legislation in respect of the special facial characteristics supplement. No mitigating actions have been taken in respect of small businesses. These Regulations concern the provision of NHS ophthalmic services in England on the basis of nationally determined terms of service, it is therefore not possible to differentiate between contractors according to their operational turnover or size. This is to ensure the application of agreed nationwide standards and practices in the provision of such services as part of the nationally determined contractual framework.

12. Monitoring & review

- 12.1 The Department keeps under continuous review the operation of the 2013 Regulations amended by this instrument, and to that end has regular discussions with interested parties including the NHS and the contractors' representatives.

12.2 Charges for drugs, appliances and other items supplied by the NHS under the 2015 Regulations are reviewed annually, to consider what if any change in the amounts of such charges should be made.

13. Contact

13.1 Derek Busby – NHS Optical Vouchers/Special Facial Characteristics supplement (0207 210 5603 derek.busby@dh.gsi.gov.uk) or Eleanor Shenton – Prescription Charges/Wigs and Fabric supports (0207 972 2923 eleanor.shenton@dh.gsi.gov.uk), both from the Department of Health, can answer queries regarding the instrument.