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WELSH STATUTORY INSTRUMENTS

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**2001 No. 2359 (W. 196)**

**NATIONAL HEALTH SERVICE, WALES**

**The National Health Service (Charges for Drugs and Appliances) (Amendment) (Wales) Regulations 2001**

*Made* - - - - - *26th June 2001*

*Coming into force* - - - - - *1st July 2001*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 77, 83A and 126(4) of the National Health Service Act 1977(1) hereby makes the following Regulations:

**Citation, commencement, interpretation and application**

1.—(1) These Regulations may be cited as the National Health Service (Charges for Drugs and Appliances) Amendment (Wales) Regulations 2001, and shall come into force on 1st July 2001.

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

“the principal Regulations” (“y prif Reoliadau”) means the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001(2);

“National Assembly” (“Cynulliad Cenedlaethol”) means the National Assembly for Wales;

“the Travelling Expenses and Remission of Charges Regulations” (“Rheoliadau Treuliau Teithio a Pheidio â Chodi Tâl”) means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(3).

(3) These Regulations apply to Wales only.

**Amendment of regulation 10 of the principal Regulations**

2.—(1) Regulation 10 of the principal Regulations (pre-payment certificates) is amended in accordance with the following provisions.

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(1) 1977 c. 49. See section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 83A was amended by the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 6; by the 1990 Act, Schedule 9, paragraph 18(5); by the 1995 Act, Schedule 8, paragraph 40 and by article 2 of S.I.1998/2385. Section 126(4) was amended by the 1990 Act, section 65(2) and by the Health Act 1999 (c. 8) (“the 1999 Act”), Schedule 4, paragraph 37(6). The functions of the Secretary of State under the above-mentioned powers are transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672, article 2 and Schedule 1, as amended by section 66(5) of the 1999 Act.

(2) S.I.2001/1358 (W.86)

(3) S.I.1988/551 as amended by S.I.1989/394, 517 and 614, 1990/548, 918 and 1661, 1991/557, 1992/1104, 1993/608, 1995/642 and 3252, 1996/410, 1346 and 2362, 1997/748 and 2393, 1998/2417, 1999/767, 2507 and 2840, 2001/1397 (W.92).

- (2) In paragraph (6) for “paragraphs (7) and (8)” substitute “paragraphs (13) to (15)”.
- (3) For paragraphs (7) and (8) substitute the following paragraphs—
- “**(7)** Where payment of a prescribed sum has been made and where on or after 1st July 2001 the person in respect of whom the payment was made—
- (a) dies; or
  - (b) becomes resident in a hospital and thereafter either—
    - (i) dies; or
    - (ii) remains in hospital
 

during the relevant period as defined by paragraph (9) an application for a refund may be made, by or on behalf of that person or his or her estate, in accordance with paragraphs (13) — (15), in respect of each complete month following the date on which the person died or became resident in a hospital.
- (8)** The refund referred to in paragraph (7) shall be calculated as follows—
- (a) in the case of a pre-payment certificate valid for 4 months, one quarter of the prescribed sum paid for each complete month during which the pre-payment certificate is or was valid;
  - (b) in the case of a pre-payment certificate valid for 12 months one twelfth of the prescribed sum paid for each complete month during which the pre-payment certificate is or was valid;
- and for the purposes of these calculations “complete month” means a month beginning on the monthly anniversary of the date upon which the pre-payment certificate became valid and ending on the date immediately preceding that date in the following month.
- (9)** In paragraph (7) “the relevant period” means the period of validity of the pre-payment certificate excluding the month in respect of which an application for repayment under paragraph (6) may be made.
- (10)** Where payment of a prescribed sum in respect of a pre-payment certificate valid for 12 months has been made and where on or after 1st July 2001 and during the relevant period defined in paragraph (12), the person in respect of whom the payment was made—
- (a) becomes a person to whom any of the provisions of regulation 8(1)(b) to (e) applies; or
  - (b) becomes a person entitled to remission under regulation 3 of the Travelling Expenses and Remission of Charges Regulations 1988,
- an application for a refund may be made, by or on behalf of that person in accordance with paragraphs (13) to (15).
- (11)** The refund referred to in paragraph (10) shall be for the sum which is the difference between the prescribed sum paid and the sum that was prescribed for a pre-payment certificate valid for four months on the date that the prescribed sum was paid.
- (12)** In paragraph (10) “the relevant period” means the period of 3 months immediately following the month in respect of which an application under paragraph (6) may be made.
- (13)** Applications under this regulation shall be made to the Health Authority that received the prescribed sum 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 National Assembly may determine.
- (14)** Subject to paragraph (15) an application under this regulation shall be made where the person in respect of whom the payment of the prescribed sum was made—

- (a) dies or become resident in a hospital and thereafter dies, within 24 months of the date of his or her death; or
  - (b) has a pre-payment certificate valid for 4 months and becomes a person—
    - (i) to whom any of the provisions of regulation 8(1)(b) to (e) apply, or
    - (ii) entitled to remission under regulation 3 of the Travelling Expenses and Remission of Charges Regulations 1988within 4 months of the date on which the pre-payment certificate becomes valid; or
  - (c) has a pre-payment certificate valid for 12 months and becomes a person—
    - (i) to whom any of the provisions of regulation 8(1)(b) to (e) apply, or
    - (ii) entitled to remission under regulation 3 of the Travelling Expenses and Remission of Charges Regulations 1988within seven months of the date on which the pre-payment certificate became valid; or
  - (d) becomes resident in hospital and remains there until the expiry of a pre-payment certificate, within 3 months of the date of expiry.
- (15) Where an application under this regulation is made outside the time limits specified in paragraph (14) in respect of a death which occurs on or after 1st July 2001 or in respect of a person who becomes a person to whom paragraph 14(b) to (d) applies on or after 1st July 2001, the Health Authority shall accept it if the National Assembly is satisfied that the delay in submitting the application was for good cause.”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(4)

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly  
for Wales

26th June 2001

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001 (“the principal Regulations”), which provide for the making and recovery of charges for drugs and appliances supplied under the National Health Service Act 1977. Provision for dental charges and optical charges is made separately.

Regulation 2 amends regulation 10 of the principal Regulations (which makes provision for the purchase of pre-payment certificates for charges for drugs and appliances). The amendments extend the period during which a refund of the fee paid for a pre-payment certificate may be claimed on the death or admission to hospital as an in-patient of the holder to the number of complete months remaining unexpired at date of death or admission to hospital.

It also extends the period during which a refund may be claimed when the holder of a pre-payment certificate that is valid for 12 months becomes entitled to exemption from or remission of charges for drugs and appliances.

It specifies the time limits for making an application for a refund and makes provision for acceptance of such an application outside the specified time limits in cases where the National Assembly for Wales is satisfied that there was good cause for the delay in submitting the application.