STATUTORY INSTRUMENTS

2015 No. 1776

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Exemptions from Charges, Payments and Remission of Charges) (Amendment and Transitional Provision) Regulations 2015

Made - - - -	*1st October 2015*
Laid before Parliament	*15th October 2015*
Coming into force - -	*1st November 2015*

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 115(1)(a), (2)(c) and (3)(b), 176(1) and (2)(d), 180(1), (2)(b), (3)(b), (4) and (5), 181, 182, 183(a), 184(1) and (2), 272(7) and (8) of the National Health Service Act 2006(**1**):

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Exemptions from Charges, Payments and Remission of Charges) (Amendment and Transitional Provision) Regulations 2015 and come into force on 1st November 2015.

(2) In these Regulations—

"NHS charge" has the meaning given in regulation 4(1) of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(**2**) (remissible NHS charges);

"NHS travel expenses" has the meaning given in regulation 3(1) of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(**3**) (NHS travel expenses);

"ophthalmic practitioner" has the meaning given in regulation 1(2) of the National Health Service (Optical Charges and Payments) Regulations 2013(**4**) (interpretation);

(**1**) 2006 c.41. By virtue of section 271(1) of the 2006 Act, the powers conferred by these sections are exercisable by the Secretary of State only in relation to England. Section 115(1) was amended by paragraph 54 of Schedule 4 to the Health and Social Care Act 2012 (c.7) ("the 2012 Act"). Section 176 was amended by paragraph 94 of Schedule 4 to the 2012 Act. Section 180 was amended by section 205 of, and paragraph 96 of Schedule 4 to, the 2012 Act. Section 183(a) was substituted by S.I. 2010/915 and was amended by paragraph 98(2) of Schedule 4 to, the 2012 Act. *See* section 275(1) of the 2006 Act for the definitions of "prescribed" and "regulations" that are relevant to the powers being exercised.

(**2**) S.I. 2003/2382. Regulation 4 was amended by S.I. 2006/562.

(**3**) Regulation 3 was amended by S.I. 2008/571 and 1700 and 2013/475.

(**4**) S.I. 2013/461.

"sight test" is to be construed in accordance with section 36(2) of the Opticians Act 1989(**5**) (interpretation); and

"voucher" has the meaning given in regulation 1(2) of the National Health Service (Optical Charges and Payments) Regulations 2013.

Amendment to the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003

2.—(1) The National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 are amended in accordance with this regulation.

(2) In regulation 2(**6**) (interpretation), in the appropriate places insert—

""assessment period" means the assessment period for the purposes of universal credit as specified in regulation 21 of the Universal Credit Regulations 2013(**7**) (assessment periods);

"child element" means the child element of universal credit as specified in regulation 24(1) of the Universal Credit Regulations 2013 (the child element);

"earned income" means a person's earned income as defined by Chapter 2 of Part 6 of the Universal Credit Regulations 2013(**8**) (calculation of capital and income – earned income);

"LCW element" means the LCW element of universal credit as defined by regulation 27(1)(a) of the Universal Credit Regulations 2013 (award to include LCW and LCWRA elements);

"LCWRA element" means the LCWRA element of universal credit as defined by regulation 27(1)(b) of the Universal Credit Regulations 2013 (award to include LCW and LCWRA element)."

(3) In regulation 5(**9**) (entitlement to full remission and payment)—

(a) in paragraph (1), for sub-paragraph (f)(**10**) substitute—

"(f) that person is a relevant universal credit recipient."; and

(b) after paragraph (1), insert—

"(1A) For the purposes of paragraph (1)(f) "relevant universal credit recipient" means a person who is—

(a) receiving universal credit(**11**), either as a single person(**12**) or as a member of a couple(**13**), without—

(i) the child element,

(ii) the LCW element, or

(iii) the LCWRA element,

and either has no earned income or has earned income of £435.00 or less in the assessment period;

(**5**) 1989 c.44.
(**6**) Regulation 2 was amended by S.I. 2004/663, 2005/26, 578 and 2114, 2006/562, 2008/571 and 1697, 2013/475 and 2015/570 and 643.
(**7**) S.I. 2013/376. Regulation 21 was amended by S.I. 2014/2887 and 2015/1362.
(**8**) Chapter 2 of Part 6 was amended by S.I. 2012/822, 2013/1508, 2014/2888 and 3255 and 2015/67, 478 and 345.
(**9**) Regulation 5 was amended by S.I. 2004/663 and 936, 2006/562, 2008/1697, 2009/411, 2013/475 and 1600, 2014/418 and 2667 and 2015/417.
(**10**) Sub-paragraph (1)(f) was substituted by S.I. 2014/2667 and amended by S.I. 2015/417.
(**11**) "Universal credit" means universal credit under Part 1 of the Welfare Reform Act 2012 (c.5) (*see* regulation 2 of S.I. 2003/2382).
(**12**) "Single person" is to be construed in accordance with section 1(2)(a) of the Welfare Reform Act 2012 (universal credit) (*see* regulation 2 of S.I. 2003/2382).
(**13**) "Couple" has the meaning given in section 39 of the Welfare Reform Act 2012 (couples) (*see* regulation 2 of S.I. 2003/2382). Relevant amendments to section 39 were made by S.I. 2014/3229.

(b) receiving universal credit, either as a single person or as a member of a couple, where the universal credit award includes one or more of—

(i) the child element,

(ii) the LCW element, or

(iii) the LCWRA element,

and either has no earned income or has earned income of £935.00 or less in the assessment period; or

(c) a child or qualifying young person(**14**) for whom a recipient referred to in sub-paragraph (b) is responsible (within the meaning of Part 1 of the Welfare Reform Act 2012(**15**) (universal credit) and regulations made thereunder).".

Amendment to the Primary Ophthalmic Services Regulations 2008

3. In regulation 3 of the Primary Ophthalmic Services Regulations 2008(**16**) (sight tests – eligibility)—

(a) in paragraph (2), for sub-paragraph (l)(**17**) substitute—

"(1) that person is a relevant universal credit recipient.";

(b) after paragraph (2), insert—

"(2A) For the purposes of paragraph (2)(l) "relevant universal credit recipient" means a person who is—

(a) receiving universal credit, either as a single person or as a member of a couple, without—

(i) the child element,

(ii) the LCW element, or

(iii) the LCWRA element,

and either has no earned income or has earned income of £435.00 or less in the assessment period;

(b) receiving universal credit, either as a single person or as a member of a couple, where the universal credit award includes one or more of—

(i) the child element,

(ii) the LCW element, or

(iii) the LCWRA element,

and either has no earned income or has earned income of £935.00 or less in the assessment period; or

(c) a qualifying young person for whom a recipient referred to in paragraph (b) is responsible (within the meaning of Part 1 of the Welfare Reform Act 2012 (universal credit) and regulations made thereunder).''; and

(c) in paragraph (4), for sub-paragraph (e)(**18**) substitute—

in sub-paragraph (l)—

(**14**) "Qualifying young person" has the meaning given in section 10(5) of the Welfare Reform Act 2012 (responsibility for children and young persons) (*see* regulation 2 of S.I. 2003/2382).
(**15**) 2012 c.5.
(**16**) S.I. 2008/1186. Regulation 3 was amended by S.I. 2008/2449, 2009/409, 2013/365 and 2555, 2014/418 and 2667 and 2015/417.
(**17**) Paragraph (2)(l) was inserted by S.I. 2014/2667 and amended by S.I. 2015/417.
(**18**) Paragraph (4)(e) was inserted by S.I. 2013/365.

"assessment period" means the assessment period for the purposes of universal credit as specified in regulation 21 of the Universal Credit Regulations 2013(**19**) (assessment periods);

"child element" means the child element of universal credit as specified in regulation 24(1) of the Universal Credit Regulations 2013 (the child element);

"couple" has the meaning given in section 39 of the Welfare Reform Act 2012(**20**) (couples);

"earned income" means a person's earned income as defined by Chapter 2 of Part 6 of the Universal Credit Regulations 2013(**21**) (calculation of capital and income – earned income);

"LCW element" means the LCW element of universal credit as defined by regulation 27(1)(a) of the Universal Credit Regulations 2013 (award to include LCW and LCWRA elements);

"LCWRA element" means the LCWRA element of universal credit as defined by regulation 27(1)(b) of the Universal Credit Regulations 2013 (award to include LCW and LCWRA elements);

"qualifying young person" has the meaning given in section 10(5) of the Welfare Reform Act 2012(**22**) (responsibility for children and young persons);

"single person" is to be construed in accordance with section 1(2)(a) of the Welfare Reform Act 2012 (universal credit); and

"universal credit" means universal credit under Part 1 of the Welfare Reform Act 2012 (universal credit).".

Amendment to the National Health Service (Optical Charges and Payments) Regulations 2013

4. In regulation 8 of the National Health Service (Optical Charges and Payments) Regulations 2013(**23**) (eligibility for a voucher – supply of optical appliances)—

(a) in paragraph (3), for sub-paragraph (j) substitute—

"(j) that person is a "relevant universal credit recipient.";

(b) after paragraph (3) insert—

"(3A) For the purposes of paragraph (3)(j) "relevant universal credit recipient" means a person who is—

(a) receiving universal credit, either as a single person or as a member of a couple, without—

(i) the child element,

(ii) the LCW element, or

(iii) the LCWRA element,

and either has no earned income or has earned income of £435.00 or less in the assessment period;

(**19**) S.I. 2013/376. Regulation 21 was amended by S.I. 2014/2887 and 2015/1362.
(**20**) Section 39 was amended by S.I. 2014/3229.
(**21**) S.I. 2013/461. Chapter 2 of Part 6 was amended by S.I. 2012/822, 2013/1508, 2014/2888 and 3255 and 2015/67, 478 and 345.
(**22**) In section 10(5), "qualifying young person" means a person of a prescribed description. The description of such a person is prescribed in regulation 5 of S.I. 2013/376.
(**23**) Regulation 8 has been amended by S.I. 2012/470, 2014/2667 and 2015/417 and 570.