WELSH STATUTORY INSTRUMENTS

2007 No. 1104 (W.116)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007

Made - - - -	*27 March 2007*
Coming into force - -	*1 April 2007*

The National Assembly for Wales, in exercise of the powers conferred by sections 130, 131, and 203(9) and (10) of the National Health Service (Wales) Act 2006(**1**) hereby makes the following Regulations:

PART 1

GENERAL AND INTRODUCTION

Title, commencement and application

1.—(1) The title of these Regulations is the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 and they come into force on 1 April 2007.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

"the Act" ("y Ddeddf") means the National Health Service Act (Wales) 2006;

(**1**) The National Health Service (Wales) Act 2006 (c. 42) ("the 2006 Act") is a consolidation Act which repeals and re-enacts in its entirety the National Health Service Act 1977 (c. 49) ("the 1977 Act") and incorporates some of the provisions from the NHS and Community Care Act 1990, the Health Act 1999, the Health and Social Care Act 2001, the NHS Reform and Health Care Professions Act 2002, the Health and Social Care (Community Health and Standards) Act 2003 and the Health Act 2006.
Sections 130 and 131 of the 2006 are equivalent to section 83A of the 1977 Act.
Section 203(9) and (10) of the 2006 Act are equivalent to section 126(4) of the 1977 Act.
The references to "Welsh Ministers" in the 2006 Act are treated as referring to the National Assembly for Wales as constituted by the Government of Wales Act 1998 (c. 38) in accordance with the modifications contained in the National Health Service (Consequential Provisions) Act 2006 (c. 43), section 5 and Schedule 3, paragraph 10.
References to and functions of the National Assembly for Wales will transfer to Welsh Ministers immediately after the end of the "initial period" (as defined in section 161(5) in accordance with sections 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

"abroad" ("dros y môr") means any place outside the United Kingdom;

"annuity contract" ("contract blwydd-dal.") means a contract that provides for periodic payments starting from a stated or contingent date and continuing for a fixed period or for the life of the annuity;

"capital limit" ("terfyn cyfalaf") —

(a) in the case of a person who lives permanently in a care home or in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948(**2**) is the amount prescribed in regulations made under section 22(5) of that Act, and

(b) in the case of any other person, means the amount prescribed for the purposes of section 134(1) of the Social Security Contribution and Benefits Act 1992(**3**);

"care home" ("cartref gofal") has the meaning given in section 3 of the Care Standards Act 2000(**4**);

"child" ("plentyn") means a person under the age of 16;

"child tax credit" ("credyd treth plentyn") means a child tax credit under section 8 of the Tax Credits Act 2002(**5**);

"claimant" ("ceisydd") means a person who makes a claim for remission, payment or repayment in accordance with regulation 7 or 10;

"the Charges Regulations" ("y Rheoliadau Ffioedd") means the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007(**6**);

"couple" ("pâr) has the meaning given in section 137 of the Social Security Contributions and Benefits Act 1992;

"course of treatment" ("cwrs o driniaeth") has the meaning given to it in regulation 2 (1) of the National Health Service (Dental Charges) (Wales) Regulations 2006(**7**);

"date of the claim" ("dyddiad y cais") means the date on which a claim made under regulation 7 or 10 is received by the National Assembly for Wales;

"dependent child or young person" ("plentyn neu berson ifanc dibynnol") means any child or young person who is treated as the responsibility of the claimant or the claimant's partner, where that child or young person is a member of the claimant's household;

"disability element" ("elfen anabledd") means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002;

"earnings" ("enillion") has the meaning given in regulations 35 and 37 of the Income Support Regulations;

"family" ("teulu") has the meaning given by section 137(1) of the Social Security Contributions and Benefits Act 1992 as it applies to income support, except that—

(a) in regulation 5(1)(d), in relation to a person who is receiving income based jobseeker's allowance it has the meaning given in section 35 of the Jobseeker's Act 1995(**8**),

(b) in regulations 5(1)(e) and 8(2) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(**9**), and

(**2**) 1948 c. 29.
(**3**) 1992 c. 4. The relevant Regulations are the Income Support (General) Regulations 1987 S.I. 1987/1967.
(**4**) 2000 c. 14.
(**5**) 2002 c. 21.
(**6**) S.I. 2007/121 (W.11).
(**7**) S.I.2006/491 (W.60)
(**8**) 1995 c. 18
(**9**) S.I. 2002/2006

(c) where a claim has been made for support under Part VI of the Immigration and Asylum Act 1999(5-), it means the asylum-seeker who has made that claim and any dependent, as defined in section 94 of that Act, whom he or she has included in that claim, and the references to "family" in regulations 5(2)(c) and 8(1), (3) and (7) should be construed accordingly;

"full rate" ("cyfradd lawn") means the rate determined under section 26(2) of the National Assistance Act 1948;

"full time student" ("myfyriwr amser-llawn") has the meaning given in regulation 61 of the Income Support Regulations;

"health care professional" ("proffesiynolyn gofal iechyd") means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(**10**);

"household" ("aelwyd") means—

(a) a group of people who have a common address as their only or main residence and who either share one meal a day or share the living accommodation at that residence; or

(b) the only or main residence of a single person who does not share either one meal a day or the living accommodation at that residence with another person;

"income-based jobseeker's allowance" ("lwfans ceisio gwaith yn seiliedig ar incwm") has the meaning given to it by section 1(4) of the Jobseeker's Act 1995;

"income support" ("cymhorthdal incwm") means income support under Part VII of the Social Security Contributions and Benefits Act 1992, and includes personal expenses addition, special transition addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations 1987(**11**);

"the Income Support Regulations" ("Rheoliadau Cymhorthdal Incwm") means the Income Support (General) Regulations 1987(**12**);

"NHS charge" ("ffi GIF") has the meaning given in regulation 4;

"NHS contract" ("contract GIG") has the meaning given in section 7(1) of the Act;

"NHS travelling expenses" ("treuliau teithio GIG") and "NHS foreign travelling expenses"("treuliau teithio tramor GIG") have the meanings given in regulation 3;

"NHS trust" ("ymddiriedolaeth GIG") has the meaning given in section 18 of the Act;

"occupational pension scheme" ("cynllun pensiwn galwedigaehthol") has the meaning given by section 1 of the Pension Schemes Act (**13**);

"partner" ("partner") means where a claimant—

(a) is a member of a couple, the other member of that couple,

(b) is married polygamously to two or more members of his or her household, any such member;

"pension credit guarantee" ("gwarant credyd pensiwn") must be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002(**14**);

"pension credit savings credit" ("credyd cynilion credyd pensiwn") must be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;

"personal pension scheme" ("cynllun pensiwn personol") means a personal pension scheme—

(**10**) 1999 c. 33
(**11**) 2002 c. 17
(**12**) S.I. 1987/1969
(**13**) S.I. 1987/1967
(**14**) 1993 c. 48.

(a) as defined in section 1 of the Pension Schemes Act 1993; or

(b) as defined in section 1 of the Pension Schemes (Northern Ireland) Act 1993(**15**);

"port" ("porthladd") includes an airport, ferry port or international train station in Great Britain from which an international journey begins;

"provider" ("darparwr") means the provider of any services mentioned in regulation 3(1)(a);

"relevant date" ("dyddiad perthnasol") means—

(a) in the case of a claim under regulation 7, the date of the claim; and

(b) in the case of claim under regulation 10(2), the date when the NHS charge or NHS travelling expenses were paid;

"relevant income" ("incwm perthnasol") has the meaning given in section 7(2) of the Tax Credits Act 2002;

"relevant primary dental services" ("gwasanaethau deintyddol sylfaenol perthnasol") has the meaning given to it in regulation 2(1) of the National Health Service (Dental Charges) (Wales) Regulations 2006;

"severe disability element" ("elfen anabledd difrifol") means the severe disability element of working tax credit as specified in section 11(6)(d) of the Tax Credits Act 2002 (maximum rate);

"single person" ("person sengl") means a person who does not have a partner and who is not responsible for, and who is not a member of the same household as, a child or young person;

"standard rate" ("cyfradd safonol") means the standard rate fixed in accordance with section 22(2) of the National Assistance Act 1948;

"State Pension Credit Regulations" ("Rheoliadau Credyd Pensiwn y Wladwriaeth") means the State Pension Credit Regulations 2002(**16**);

"trade dispute" ("anghydfod masnach") has the same meaning as in section 35(1) of the Jobseekers Act 1995;

"urgent course of treatment" ("cwrs o driniaeth frys") has the meaning given to it in regulation 2(1) of the National Health Service (Dental Charges) (Wales) Regulations 2006;

"week" ("wythnos") means a period of 7 days beginning with midnight between Saturday and Sunday;

"working tax credit" ("credyd treth gwaith") means working tax credit under the Tax Credits Act 2002;

"young person" ("person ifanc") has the meaning prescribed in regulation 14 of the Income Support Regulations.

NHS travelling expenses

3.—(1) In these Regulations "NHS travelling expenses" ("treuliau teithio GIG") means the travelling expenses which a person necessarily incurs—

(a) in attending—

(i) a health service hospital,

(ii) any other establishment managed by an NHS Trust or a Local Health Board, or

(iii) any other place in the United Kingdom,

(**15**) 2002 c. 16
(**16**) 1995 c. 49

for the provision of any services (except personal medical or personal dental services provided under Parts 4 and 5 of the Act) under the care of a consultant in accordance with Parts 1 and 2 of the Act; and

(b) in travelling to a port in Great Britain for the purpose of travelling abroad in order to receive services provided pursuant to arrangements made under section 10 of and paragraph 18 of Schedule 3 to the Act.

(2) In these Regulations "NHS foreign travelling expenses" ("treuliau teithio tramor GIG") means the travelling expenses which a person necessarily incurs in travelling abroad from a port in Great Britain in order to receive services pursuant to arrangements made under section 10 of and paragraph 18 of Schedule 3 to the Act.

(3) NHS travelling expenses and NHS foreign travelling expenses include the travelling expenses of a companion in a case where the person to whom services are provided is either—

(a) a child; or

(b) a person whose medical condition is such that, in the opinion of a doctor involved in the provision of the services or, where appropriate, another health care professional so involved, a companion is necessary.

(4) A person who wishes to rely on entitlement to NHS travelling expenses must—

(a) unless he or she is a person who by virtue of regulation 5(1) is not required to make such a claim, make a claim to entitlement under regulation 7; and

(b) make an application for payment of travelling expenses under regulation 9.

(5) The amount of any NHS travelling expenses to which a person is entitled under these Regulations—

(a) must be calculated by reference to the cost of travelling by the cheapest means of transport which is reasonable having regard to the person's age, medical condition and any other relevant circumstances; and

(b) where travel is by private car, may include a mileage allowance and car parking expenses.

(6) A person is entitled to payment of NHS foreign travelling expenses only where the health service body which made the arrangements for the provision of services abroad agrees the mode and cost of travel and the necessity or otherwise for a companion before the costs are incurred.

Remissible NHS charges

4.—(1) In these Regulations "NHS charge" ("ffi GIG.") means any charge which would otherwise be payable—

(a) in accordance with regulations made under section 121(1) and (2) of the Act, for the supply of drugs, medicines, appliances and pharmaceutical services;

(b) in accordance with regulations made under section 125 of the Act in respect of charges for relevant dental services.

(2) A person who wishes to rely on entitlement under these Regulations to remission of an NHS charge must—

(a) unless he or she is a person who, by virtue of regulation 5(1), is not required to make such a claim, make a claim to entitlement under regulation 7 or regulation 10; and

(b) provide any declaration or evidence of entitlement which is required under the Charges Regulations.