WELSH STATUTORY INSTRUMENTS

2003 No. 301 (W.43)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Optical Charges and Payments) (Amendment) (Wales) Regulations 2003

Made - - - - 13th February 2003

Coming into force - - 1st March 2003

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 38, 39, 78(1), 126(4), 127 and 128(1) of, and paragraphs 2 and 2A of Schedule 12 to 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 (Optical Charges and Payments) (Amendment) (Wales) Regulations 2003, and shall come into force on 1st March 2003.

(2) In these Regulations "the Principal Regulations" ("*y prif Reoliadau*") means the National Health Service (Optical Charges and Payments) Regulations 1997(**2**).

(3) These Regulations apply to Wales only.

(**1**) 1977 c. 49 ("the 1977 Act"); *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 38 was amended by the Health Services Act 1980 (c. 53) ("the 1980 Act"), section 1 and Schedule 1, paragraph 51; by the Health and Social Security Act 1984 (c. 48) ("the 1984 Act"), section 1(3); by S.I.1985/39, article 7(11); by the Health and Medicines Act 1988 (c. 49) ("the 1988 Act"), section 13(1); and by the Health Authorities Act 1995 (c. 17) ("the 1995 Act"), Schedule 1, paragraph 27.
Section 39 was extended by the 1988 Act, section 17; and amended by the 1980 Act, section 1 and Schedule 1, paragraph 52, by the 1984 Act, section 1(4) and Schedule 1, paragraph 1 and Schedule 8; by S.I.1985/39, article 7(12); and by the 1995 Act, Schedule 1, paragraph 28.
Section 126(4) was amended by the 1990 Act, section 65(2) and by the Heath Act 1999 (c. 8) ("the 1999 Act), Schedule 4, paragraph 37(6).
Paragraph 2(1) of Schedule 12 was substituted by the Health and Medicines Act 1988, Schedule 2, paragraph 8(1).
Paragraph 2A of Schedule 12 was inserted by the 1984 Act, Schedule 1, paragraph 3 and amended by section 13(2) and (3) of the 1988 Act.
The functions of the Secretary of State under sections 38, 39, 78(1),126(4), 127 and 128(1) of, and paragraphs 2 and 2A of Schedule 12 to, the 1977 Act were 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. 1997/818.

Amendment of regulation 9 of the principal Regulations

2. In regulation 9 of the principal Regulations (issue of vouchers by ophthalmic medical practitioners or opticians) —

(a) after paragraph (1B), insert the following paragraph—

"(1C) Where a patient has indicated—

(a) that he is an eligible person by virtue of regulation 8(2)(a) or (b); and

(b) that he requires an additional optical appliance of the same prescription because either—

(i) he is suffering from illness and as a consequence of that illness requires such an appliance, or

(ii) the issue of such an appliance is required as a result of his exceptional circumstances,

the ophthalmic medical practitioner or optician may issue to the patient, in accordance with paragraph (2) but subject to paragraph (5), a voucher relating to the optical appliance prescribed by the prescription.";

(b) for paragraph (5) substitute the following paragraph—

"(5) No voucher shall be issued as provided for by paragraph (1C) unless the responsible authority is satisfied, after making such enquiries as it considers relevant, that the patient's requirement for an additional optical appliance of the same prescription arose as a consequence of the patient's illness, or for such other reason that it accepts as being exceptional in the circumstances of the patient's case."

(c) after paragraph (5) insert the following paragraph—

"(6) Unless paragraph (1A), (1C) or regulation 11 applies, not more than one voucher shall be issued to a patient in respect of any one optical appliance prescribed.".

Amendment of regulation 12 of the principal Regulations

3. Regulation 12 of the principal Regulations (use of vouchers for supply of optical appliances) shall be amended—

(a) after sub-paragraph (b) of paragraph (4), insert the following sub-paragraph—

"(c) in a case where regulation 9(1C) applies, a declaration that an additional optical appliance of the same prescription is required either as a consequence of his illness, or as a result of his exceptional circumstances.";

(b) after paragraph (5) insert the following paragraph—

"(6) In a case where regulation 9(1C) applies, a supplier intending to use a voucher in accordance with paragraph (2) shall first submit it to the responsible authority so that it may be satisfied as to the requirement of an additional optical appliance and give its approval to the use of the voucher.".

Amendment of regulation 13 of the principal Regulations

4. In regulation 13 of the principal Regulations (payments to suppliers), after paragraph (2)(c)(iv) insert the following sub-paragraph—

"(v) where the claim relates to a voucher issued in accordance with regulation 9(1C), obtained any prior approval required by regulation 12(6).".