STATUTORY RULES OF NORTHERN IRELAND

2007 No. 24

HEALTH SERVICES CHARGES

The Recovery of Health Services Charges (Reviews and Appeals) Regulations (Northern Ireland) 2007

Made - - - -	*17th January 2007*
Coming into operation	*12th February 2007*

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred on it by Articles 2, 8(1), (2) and (3), 9(7), 10(6) and 19(3) of the Recovery of Health Services Charges (Northern Ireland) Order 2006(**1**), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Recovery of Health Services Charges (Reviews and Appeals) Regulations (Northern Ireland) 2007 and shall come into operation on 12th February 2007.

(2) In these Regulations—

"appeal" means an appeal against a certificate or an appeal against a waiver decision;

"appeal against a certificate" means an appeal, under Article 9(1), against a certificate;

"appeal against a waiver decision" means an appeal, under Article 9(6), against a waiver decision;

"appeal tribunal" means an appeal tribunal constituted under Chapter 1 of Part II of the Social Security (Northern Ireland) Order 1998(**2**);

"certificate" means a certificate issued under Article 4;

"Commissioner" has the same meaning as in section 167(1) of the Social Security Administration (Northern Ireland) Act 1992(**3**);

"compensator" means a person to whom a certificate has been issued;

"Department" means the Department for Social Development;

"legally qualified panel member" has the meaning it has in regulation 1(2) of the Social Security Regulations;

(**1**) S.I.2006/1944 (N.I. 13) Article 2 is cited for the definition of "prescribed".
(**2**) S.I. 1998/1506 (N.I. 10)
(**3**) 1992 c. 8

"Social Security Regulations" means the Social Security and Child Support (Decisions and Appeals) Regulations (Northern Ireland) 1999(**4**);

"the Order" means the Recovery of Health Services Charges (Northern Ireland) Order 2006;

"waiver application" is to be construed in accordance with regulation 4(1).

(3) A reference in these Regulations to a numbered Article is a reference to that Article of the Order.

Review of certificates

2.—(1) For the purposes of Article 8(1), notification of an order, judgement, minute or document referred to in that Article is to be given to the Department by the compensator sending to it—

(a) a copy of the order, judgement, minute or document concerned; and

(b) particulars of the proportion by which the damages payable in respect of the claim are to be reduced to reflect the injured person's share in the responsibility for the injury in question.

(2) The Department must review a certificate relating to a claim which, after the certificate is issued, becomes a qualifying claim (as defined in Article 5(9)) if, not later than 3 months after the claim becomes a qualifying claim, the report containing the information required by regulation 3(1)(a) (production of report) of the Recovery of Health Services Charges (General) Regulations 2006(**5**) is sent by the compensator to the Department.

(3) Subject to paragraph (4), the Department may review a certificate where it is satisfied that—

(a) a mistake (whether in computation of the amount specified or otherwise) may have occurred in the preparation of the certificate;

(b) the amount specified in the certificate may be in excess of the amount due to the Department;

(c) incorrect or insufficient information may have been supplied to the Department by the person to whom the certificate was issued and, in consequence, the amount specified in the certificate was less than it would have been had the information supplied been correct or sufficient; or

(d) a ground for an appeal against a certificate may be satisfied.

(4) An application for a review under Article 8(3) must be in writing on a form approved by the Department(**6**) and sent to it not later than 3 months after—

(a) the date on the certificate; or

(b) if later, the date on which the compensation payment was made.

Information to be provided on issue of a certificate

3.—(1) Where the Department issues a certificate to any person, it shall at the same time send the person a notice as to—

(a) the grounds on which the person may appeal against the certificate;

(b) the requirements under Article 9(2) that are to be satisfied before an appeal may be made; and

(c) the person's right under Article 9(4) to apply for the requirement in Article 9(2)(b) (payment of amount specified in certificate) to be waived.

(**4**) S.R.1999 No. 162; the relevant amending instruments are S.R. 1999 Nos. 242 and 408, S.R. 2000 No. 215, S.R. 2001 No. 23, S.R. 2002 No. 189 and S.R. 2005 No. 46

(**5**) S.R. 2006 No. 536

(**6**) Any form approved by the Department and referred to in these Regulations is obtainable from the Compensation Recovery Unit, Magnet House, 81-93 York Street, Belfast BT15 1SS.

Waiver applications and appeals

4.—(1) An application under Article 9(4) for a waiver of the requirement in Article 9(2)(b) that payment of the amount specified in the certificate be made before making an appeal ("a waiver application") shall be sent to the Department with particulars of the exceptional financial hardship that would be caused by payment of the amount specified in the certificate.

(2) A waiver application shall be sent to the Department not later than—

(a) 3 months after—

(i) the date on the certificate, or

(ii) if later, the date on which the compensation payment was made; or

(b) if the compensator has been granted an extension of the time limit for an appeal against a certificate under regulation 7, one month after the date of that decision.

(3) Where the Department makes a waiver decision(**7**), the person who made the waiver application shall be—

(a) given notice of the decision; and

(b) if the waiver application is refused—

(i) given notice of his right of appeal against the decision under Article 9(6), and

(ii) informed that, if the notice of the decision does not include a statement of the reasons for the decision, he may, within one month of the date of notification of that decision, request that the Department provide him with a written statement of the reasons for the decision.

(4) An appeal against a waiver decision shall be in writing on a form approved by the Department and unless an application has been granted to extend the time for an appeal against a waiver decision under regulation 7, shall be sent to the Department not later than one month after the date of the waiver decision.

(5) An appeal against a waiver decision shall contain—

(a) the particulars required under regulation 5(4) in relation to the appeal against the certificate which it is proposed to bring; and

(b) particulars of the exceptional financial hardship that would be caused by payment of the amount specified in the certificate.

Appeals against certificates

5.—(1) Any appeal against a certificate shall be in writing on a form approved by the Department and, unless an application has been granted to extend the time for an appeal against a certificate under regulation 7, shall be sent to the Department—

(a) not later than 3 months after—

(i) the date on the certificate, or

(ii) if later, the date on which the compensation payment is made;

(b) where a certificate is confirmed following a review by the Department under Article 8, not later than 3 months after the date of that confirmation;

(c) where an agreement is made under which an earlier compensation payment is treated as having been made in final discharge of a claim made by or in respect of an injured person and arising out of the injury or death, not later than 3 months after the date of that agreement; or

(**7**) See Article 9(6) of the Order for the meaning of waiver decision

(d) where the compensator makes a waiver application, not later than one month after—

(i) the date of the waiver decision, or

(ii) if the compensator appeals against that decision, the date on which the appeal is decided or withdrawn.

(2) Where the points raised in an appeal against a certificate have not already been the subject of a review under Article 8 the Department, if it thinks it appropriate to do so, may treat an appeal against a certificate as an application for review under Article 8(3).

(3) Where the Department decides to treat an appeal against a certificate as an application for review under Article 8(3) it must advise the applicant that it has done so and—

(a) where the certificate is confirmed, notify the applicant of that decision; or

(b) otherwise issue a fresh certificate.

(4) Any appeal under this regulation shall contain the following particulars—

(a) the date of the certificate in relation to which the appeal is made;

(b) the ground under Article 9 to which the appeal relates; and

(c) a summary of the arguments relied on by the person making the appeal to support his contention that the certificate is wrong.

Appeals — General

6.—(1) Where an appeal is not made on the form approved for the time being, but is made in writing and contains all the particulars required under regulations 4(5) or 5(4), as the case may be, the Department may treat that appeal as duly made.

(2) Where it appears to the Department that an appeal does not contain all the particulars required under regulations 4(5) or 5(4), as the case may be, it may require the person making the appeal to provide such particulars as are not included.

(3) Where paragraph (2) applies, the Department may extend the time specified by regulations 4(4) or 5(1), as the case may be, for making the appeal by a period of not more than 14 days.

(4) Where further particulars are required under paragraph (2), they shall be sent to the Department within such a period as it may direct.

(5) Where a person is required under paragraph (2) to provide further particulars and does not do so within the period of time specified under paragraph (4)—

(a) the Department shall send a copy of the appeal together with any other relevant documents, to a legally qualified panel member; and

(b) that panel member shall determine whether the appeal is to be treated as duly made, and shall inform the appellant, and the Department of his decision.

(6) The date of an appeal shall be—

(a) the date on which all the particulars required under regulations 4(5) or 5(4), as the case may be, are received by the Department; or

(b) where a legally qualified panel member determines under paragraph (5)(b) that the appeal is to be treated as duly made, the date on which the appeal was received by the Department.

Extension of time for appealing

7.—(1) The time prescribed by regulations 4 and 5 for the making of an appeal may be extended, even though the time so prescribed may already have expired, on application by the compensator.