STATUTORY RULES OF NORTHERN IRELAND

1997 No. 191

HEALTH AND PERSONAL SOCIAL SERVICES

Optical Charges and Payments Regulations (Northern Ireland) 1997

Made - - - -	*28th March 1997*
Coming into operation	*1st April 1997*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 62, 98, 106 and 107(6) of, and Schedule 15 to, the Health and Personal Social Services (Northern Ireland) Order 1972(**1**) and of all other powers enabling it in that behalf, with the approval of the Department of Finance and Personnel, and after consultation with such organisations as appeared to the Department to be representative of medical practitioners practising as ophthalmic medical practitioners and of ophthalmic opticians, as required by Article 62(3) of the said Order, hereby makes the following Regulations:

Part I

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Health and Personal Social Services (Optical Charges and Payments) Regulations (Northern Ireland) 1997 and shall come into operation on 1st April 1997.

(2) In these Regulations—

"the Agency" means the Northern Ireland Central Services Agency for the Health and Social Services established under Article 26 of the Order;

(**1**) S.I. 1972/1265 (N.I. 14); Article 62(1) was amended by Article 3(1)(*a*) of the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and Article 8(1) of the Health and Medicines (Northern Ireland) Order 1988 (S.I. 1988/2249 (N.I. 24)); Article 62(2) was amended by Article 3(1)(*b*) of, and paragraph 1 of Schedule 1 and Schedule 6 to S.I. 1984/1158 (N.I. 8) and Part I of Schedule 5 to the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)); Article 98 was amended by Part II of Schedule 5 to S.I. 1991/194 (N.I. 1); Schedule 15 was amended by Article 3(2) of and paragraph 3 of Schedule 1 to, and Article 17 of and Schedule 6 to S.I. 1984/1158 (N.I. 8); Article 8(4) and (5) of S.I. 1988/2249 (N.I. 24); Article 14(2) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)) and Article 34 of and Part II of Schedule 5 to, S.I. 1991/194 (N.I. 1)

"capital limit" means the amount prescribed for the purposes of Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**2**) as it applies to income support;

"complex appliance" means an optical appliance at least one lens of which—

(a) has a power in any one meridian of plus or minus 10 or more dioptres or

(b) is a prism-controlled bifocal lens;

"disability working allowance" means disability working allowance under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"eligible person" is to be construed—

(a) for the purposes of Part III, in accordance with regulation 3(2);

(b) for the purposes of Parts IV and V, in accordance with regulation 8(2) to (5);

"face value" means, in relation to a voucher on which is marked a letter code specified in column 2 of Schedule 1, the amount specified in relation to it in column 3 of that Schedule, plus the amount of any increase provided for by paragraph 1 of Schedule 2;

"family credit" means family credit under Part VII of the Social Security Contribution and Benefits (Northern Ireland) Act 1992;

"health service sight test fee" means, in relation to a testing of sight carried out either by an ophthalmic medical practitioner or by an optician—

(a) at a place where the patient normally resides, an amount of £37·83; or

(b) in any other case, an amount of £13·71;

"an income-based jobseeker's allowance" has the meaning given to it by Article 3(4) of the Jobseekers (Northern Ireland) Order 1995(**3**);

"income support" means income support under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;

"minimum complex appliance payment" means, in relation to an optical appliance, the amount specified as such for the appliance in paragraph 2 of Schedule 2;

"notice of entitlement" means a notice issued under regulation 7 of the Remission Regulations for the purposes of remission of charges under the Order;

"ophthalmic list" means a list, prepared and published pursuant to Regulations made under Article 62 of the Order of medical practitioners and opticians who undertake to provide general ophthalmic services(**4**);

"Ophthalmic Services Regulations" means the General Ophthalmic Services Regulations (Northern Ireland) 1986(**5**);

"optician" means an ophthalmic optician;

"Order" means the Health and Personal Social Services (Northern Ireland) Order 1972;

"patient" means a person whose sight has been tested whether under the Order or otherwise;

"patient's contribution" is to be construed as follows—

(a) for the purposes of Parts III, IV and V, where a patient's resources are less than his requirements, the contribution shall be nil;

(**2**) 1992 c. 7; the capital limit is prescribed for the purposes of income support in regulation 45 of S.R. 1987 No. 459. Whilst £8,000 is applicable in most cases, there is a limit of £16,000 in certain cases prescribed in regulation 53(1B). Regulation 45 was substituted by regulation 11(1)(*a*) of S.R. 1996 No. 93 and regulation 53(1B) was inserted by regulation 11(1)(*b*)(ii) of S.R. 1996 No. 93

(**3**) S.I. 1995/2705 (N.I. 15)

(**4**) *See*S.R. 1986 No. 163, regulation 8

(**5**) S.R. 1986 No. 163

(b) for the purposes of Part III, where the patient's resources exceed his requirements, the contribution shall be an amount equal to that excess;

(c) for the purposes of Parts IV and V, where the patient's resources exceed his requirements, the contribution shall be an amount equal to twice that excess;

"patient's resources" means a person's resources as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations;

"redemption value" is to be construed—

(a) for the purposes of Part III, in accordance with regulation 7;

(b) for the purposes of Part IV, in accordance with regulation 15;

(c) for the purposes of Part V, in accordance with regulation 20;

"the 1989 Regulations" means the Optical Charges and Payments Regulations (Northern Ireland) 1989(**6**);

"the Remission Regulations" means the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989(**7**);

"replacement" does not include the replacement of an optical appliance rendered unserviceable by fair wear and tear;

"small glasses" means glasses the lens apertures of which have datum centres not more than 56 millimetres apart; and for this purpose "datum centre" is to be construed in accordance with Part I of British Standard 3521/91 (Glossary of Terms relating to Ophthalmic Lenses) published by the British Standard Institution as effective immediately before 28th March 1997;

"supplier" includes a person replacing or repairing an optical appliance;

"supply" includes the replacement of an optical appliance rendered unserviceable by fair wear and tear;

"voucher" for the purposes of enabling a payment to be made under these Regulations, means —

(a) in Part III, a voucher form supplied to those whose names are included in the ophthalmic list by the Agency;

(b) in Part IV, a voucher form supplied—

(i) where a testing of sight is carried out otherwise than by an HSS trust, by the Agency to the person who carries it out,

(ii) where a testing of sight is carried out by an HSS trust, by that HSS trust;

(c) in Part V, a voucher form supplied to a supplier, by the Agency.

(3) For the purposes of Schedule 1—

(a) where an optical appliance has lenses described in different paragraphs in column 1 of Schedule 1, the face value of a voucher for the appliance shall be determined according to whichever lens would provide the greater face value; and

(b) where an optical appliance has a bifocal lens, the power of the lens shall be determined according to the power of that segment of the lens designed to correct a defect in distant sight; and

(c) a monocle shall be treated as though it were glasses.

(**6**) S.R. 1989 No. 114
(**7**) S.R. 1989 No. 348

Part II

Charges

Charges for optical appliances supplied by an HSS trust

2.—(1) A charge of such sum as is provided by this regulation shall be made and recovered in accordance with paragraph (2) in respect of the supply of an optical appliance by an HSS trust.

(2) Where a charge is payable by virtue of paragraph (1), an HSS trust, or other person on its behalf, that supplies or is to supply the optical appliance may—

(a) on arranging to supply the optical appliance, make the charge; and

(b) on supplying the optical appliance or having it available for supply, recover the charge from the patient (if it has not previously been paid).

(3) The charge for the supply of contact lenses shall be £39·80 for each contact lens supplied.

(4) Subject to paragraphs (5) and (6) the charges for glasses shall be the aggregate of the following —

(a) an amount which represents the cost to the HSS trust, or other person on its behalf, of the purchase of the glasses or their components; and

(b) an amount which represents the cost to the HSS trust, or any other person on its behalf, of the dispensing of the lenses.

(5) Where the aggregate of—

(a) the element of the amount mentioned in paragraph (4)(*a*) which represents the cost of the lenses; and

(b) the amount mentioned in paragraph (4)(*b*) exceeds, in the case of glasses each lens of which is a single vision lens, £48·80 and, in any other case, £79·40, the charge for glasses shall be the aggregate of that £48·80, or, as the case may be, £79·40, and, except in a case to which paragraph (6) applies, the element of the amount mentioned in paragraph (4)(*a*) which represents the cost of the frames.

(6) Where any patient requires, on clinical grounds, a frame the cost of which is more than the cheapest frame in the range supplied by the HSS trust, or other person on its behalf, the element of the amount mentioned in paragraph (4)(*a)* which represents the cost of the frames shall not exceed the amount equal to the cost of that cheapest frame.

(7) This regulation shall not apply to the supply of optical appliances to a patient for the time being resident in a hospital.

Part III

Payments Towards Cost of Sight Tests

Eligibility — sight tests

3.—(1) A payment shall be made as provided for by this Part to contribute to the cost of a testing of sight which the Agency accepts as having been incurred by an eligible person.

(2) An eligible person is a person whose income resources, as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Order, exceed his requirements as so calculated, but whose patient's contribution does not exceed the sight test fee and whose capital resources as so calculated do not exceed the capital limit.

Completion and use of voucher — sight tests

4.—(1) A person who wishes a payment to be made by virtue of this regulation in his case shall—

(a) apply to the Department for a notice of entitlement;

(b) apply for his sight to be tested by an ophthalmic medical practitioner or optician whose name is included in the ophthalmic list;

(c) indicate to that practitioner or optician that he is an eligible person at the time of the application;

(d) show to him a current notice of entitlement and permit him to copy such details as may be required for the purposes of regulation 5(2)(*b*)(ii).

(2) The ophthalmic medical practitioner or optician may then duly complete the relevant parts of the voucher with the name and address of the patient, the patient's date of birth and the date of the testing of sight.

(3) The person whose sight is or is to be tested shall sign on the voucher a declaration in writing to the effect that he is an eligible person.

(4) The ophthalmic medical practitioner or optician may use the voucher as being in substitution for payment by the patient of an amount equal to its redemption value, being part of the cost incurred for the testing of sight.

Payments to sight testers

5.—(1) The Agency shall, if the conditions specified in paragraph (2) are fulfilled, make a payment of the voucher's redemption value to an ophthalmic medical practitioner or optician who has used a voucher in accordance with regulation 4(4).

(2) The conditions referred to in paragraph (1) are that—

(a) the patient has signed the declaration referred to in regulation 4(3);

(b) the ophthalmic medical practitioner or optician has—

(i) made a claim for a payment on a duly completed voucher to the Agency within the period of 3 months beginning with the date of the testing of sight, and

(ii) informed the Agency of the amount of the patient's contribution.

Payments to patients in respect of sight tests

6.—(1) A payment may be made by way of refund under this regulation by the Agency to an eligible person who incurs the cost of a testing of sight by an ophthalmic medical practitioner or optician whose name is included in the ophthalmic list, without a voucher being completed in accordance with regulation 4.

(2) A patient who wishes to receive a payment under this regulation must—

(a) make a claim to the Department for a payment within 3 months after payment of the sight test fee, or within such further period as the Department may for good cause allow, and that claim must be made on a form provided by or on behalf of the Department for that purpose; and

(b) produce such evidence as the Agency may reasonably require in support of the claim including the receipt for any fee paid for the testing of sight.

(3) Where the Department is satisfied that the patient is entitled to a refund under paragraph (1) it shall authorise in writing the refund of the amount in question to the patient by the Agency.