1989 No. 348

HEALTH AND PERSONAL SOCIAL SERVICES

Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989

Made	*22nd August 1989*
Coming into operation . .	*1st October 1989*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 45, 98, 106 and 107 of and paragraph 1(*b*) of Schedule 15 to the Health and Personal Social Services (Northern Ireland) Order 1972(**a**) and with the approval of the Department of Finance and Personnel(**b**) in so far as they relate to the remission of charges, and in conjunction with the Department of Finance and Personnel in so far as they relate to travelling expenses, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 1989 and shall come into operation on 1st October 1989.

Interpretation

2. In these regulations—

"appropriate office" means an office of the Department of Health and Social Services;

"capital limit" means the amount prescribed for the purposes of Article 23(6) of the Social Security (Northern Ireland) Order 1986(**c**) as it applies to income support;

"claimant" means a person who makes a claim for remission, payment or repayment in accordance with regulation 7 or 8;

"date of claim" means the date on which a claim is received in an appropriate office;

"family" has the meaning assigned to it by Article 21(11) of the Social Security (Northern Ireland) Order 1986 as it applies to income support(**d**) except in regulation 4(*d*) where it has the meaning assigned to it by Article 21(11) of that Order as it applies to family credit(**e**);

(**a**) S.I. 1972/1265 (N.I. 14). The relevant amending instrument is S.I. 1988/594 (N.I. 2)
(**b**) Formerly Department of Finance: *see* S.I. 1982/338 (N.I. 6) Art. 3
(**c**) S.I. 1986/1888 (N.I. 18); regulation 45 of the Income Support (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 459) has prescribed the amount of £6,000 as the capital limit
(**d**) *See* S.R. 1987 No. 459, regulations 14 to 16
(**e**) *See* S.R. 1987 No. 463, regulations 6 to 9

"family credit" means family credit under Part III of the Social Security (Northern Ireland) Order 1986;

"income support" means income support under Part III of the Social Security (Northern Ireland) Order 1986 and includes personal expenses addition, special transition addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations (Northern Ireland) 1987(**a**);

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

"relevant charges" and "relevant travelling expenses" have the meanings prescribed by regulation 3(1);

"trade dispute" has the same meaning as in the Social Security (Northern Ireland) Act 1975(**b**);

"week" means a period of 7 days beginning with midnight between Saturday and Sunday.

Entitlement to full remission and payment

3.—(1) Any person of a description prescribed by regulation 4 is entitled, in accordance with the following provisions, to the remission of the whole amount of any charges referred to in paragraph (2) which would otherwise be payable by him ("relevant charges") and payment of the whole amount of the travelling expenses referred to in paragraphs (3) to (5) ("relevant travelling expenses").

(2) Paragraph (1) applies to the following charges—

(*a*) charges for drugs, medicines, appliances and pharmaceutical services payable in pursuance of Article 98(2) of and Schedule 15 to the Order;

(*b*) charges for dental appliances and dental treatment payable in pursuance of Article 61 of and Schedule 15 to the Order.

(3) Paragraph (1) applies in the case of travelling expenses necessarily incurred or to be incurred by a person—

(*a*) in attending a hospital in Northern Ireland for the purpose of availing himself of services provided under the care of a hospital consultant in pursuance of the Order, including the travelling expenses of a companion in a case where it is necessary on medical grounds that that person should be accompanied; or

(*b*) who is a relative of a person transferred to Great Britain for the purpose of availing himself of accommodation or services arranged under the Order; or

(*c*) who is a relative of a person transferred to the Republic of Ireland for the purpose of availing himself of accommodation or services arranged under the Order; or

(*d*) who is a relative of a person ordinarily resident in Northern Ireland who requires hospital treatment while in the Republic of Ireland. In such cases travelling expenses will be payable only where:—

(**a**) S.R. 1987 No. 460
(**b**) 1975 c. 15; *see* section 19(2)(*b*)

(i) the patient has been certified by the medical officer in charge of his case to be dangerously ill; or

(ii) the patient, because of his medical condition cannot be transferred to a hospital in Northern Ireland and the medical officer in charge of the case certifies that the visit of the relative is necessary or expedient on medical grounds for the success of his treatment.

(4) The travelling expenses to be taken into account for the purposes of paragraph (3)(*a*) are to be the cost of travelling by the cheapest appropriate means of transport available.

(5) The travelling expenses to be taken into account for the purposes of paragraph (3)(*b*), (*c*) and (*d*), are to be the cost of travelling by the cheapest appropriate means of transport available, and may include overnight expenses necessarily incurred.

Description of persons entitled to full remission and payment

4.—(1) Subject to paragraph (2) regulation 3(1) applies to any person who, at the time when the relevant charge is made or when the relevant travelling expenses are incurred, is—

(*a*) a person who is in receipt of income support; or

(*b*) a member of the same family as a person who is in receipt of income support; or

(*c*) a person who is in receipt of family credit; or

(*d*) a member of the same family as a person who is in receipt of family credit; or

(*e*) a person whose requirements equal or exceed his income resources and whose capital resources do not exceed the capital limit; or

(*f*) a member of the same family as a person described in paragraph (*e*).

(2) Regulation 3(3)(*b*) applies to any person who, at the time when the relevant travelling expenses are incurred, is—

(*a*) a person of a description prescribed in paragraph (1)(*c*), (*d*), (*e*) or (*f*); or

(*b*) a person of a description prescribed in paragraph (1)(*a*) or (*b*) who has been refused payment of travelling expenses from the social fund established under Part IV of the Social Security (Northern Ireland) Order 1986 because his total capital resources exceed the limit determined in accordance with Article 34(10) of that Order.

Persons entitled to remission in part or payment in part

5.—(1) A person who is not of a description prescribed by regulation 4 and whose capital resources do not exceed the capital limit is entitled, in accordance with the following provisions, to the remission of part of any relevant charges or, as the case may be, payment of part of any relevant travelling expenses if at the time when the relevant charge is made or when the travelling expenses are incurred he is—

(*a*) a person whose income resources exceed his requirements by less than a third of the relevant charge or, as the case may be, by less than the relevant travelling expenses; or

(*b*) a member of the same family as a person described in sub-paragraph (*a*).

(2) This regulation applies only in respect of charges for wigs, fabric supports and surgical brassieres payable in pursuance of Article 98(2) of and Schedule 15 to the Order, charges for dental appliances and dental treatment payable in pursuance of Article 61 of and Schedule 15 to the Order, and any relevant travelling expenses.

(3) The amount of any relevant charge which a person is entitled by paragraph (1) to have remitted is the difference between the relevant charge and 3 times the amount by which his income resources exceed his requirements.

(4) The amount of the relevant charge for the purposes of paragraph (3) is—

(*a*) in the case of a charge under Article 98(2) of and Schedule 15 to the Order for the supply of an appliance, the charge made for that appliance;

(*b*) in the case of a charge for dental treatment or for the supply of a dental appliance under Part VI of the Order (Arrangements for general dental services), the charge made for one course of treatment, including any charge made for a dental appliance supplied in that course of treatment;

(*c*) in the case of a charge for the supply of a dental appliance supplied otherwise than under Part VI of the Order, the charge made for that appliance.

(5) The amount of the relevant travelling expenses which a person is entitled by paragraph (1) to be paid is the difference between the relevant travelling expenses incurred in any week and the amount by which his income resources exceed his requirements.

Calculation of resources and requirements

6.—(1) Where it is necessary that the resources and requirements of a person, and the relationship between them, should be calculated for the purposes of these regulations, they shall be calculated by the Department according to the provisions of this regulation and Schedule 1.

(2) For the purposes of paragraph (1), the resources and requirements of a person shall be calculated—

(*a*) in the case of a claim made under regulation 7(1), by reference to his resources and requirements at the date of claim;

(*b*) in the case of a claim made under regulation 8(2), by reference to his resources and requirements at the date when he paid the relevant charge or travelling expenses.

(3) Unless any provision referred to in Schedule 1 specifies to the contrary, where a claimant is a member of a family, the resources of the other members of his family shall be calculated or estimated in the same manner as those of the claimant and shall be taken into account as if they were his resources; and in calculating his requirements, the requirements of the other members of his family shall be taken into account according to the provisions of Schedule 1.

(4) In a case to which paragraph (3) applies, any reference to a "claimant" in Schedule 1 or in the provisions referred to in that Schedule shall be construed as including the other members of his family.

(5) In a case where the earnings of any person are to be calculated for the purpose of this regulation and those earnings have been affected by a trade dispute, the earnings to be taken into account shall be the earnings which that person would have received if there had been no trade dispute.

Claims for remission or payment

7.—(1) A person who is within a description prescribed by regulation 4(1)(*e*) or (*f*) or 5(1) and who wishes to claim his entitlement under regulation 3(1) or 5(1) (full or partial remission of relevant charges or payment of relevant travelling expenses) shall make a claim to the Department on a form provided by or on behalf of the Department for that purpose and shall send or deliver that form to an appropriate office.

(2) A claimant shall produce in support of his claim such evidence as the Department may reasonably require.

(3) The Department may treat any claim under paragraph (1) as a claim to entitlement in respect of all the relevant charges and relevant travelling expenses and shall calculate the resources and requirements of the claimant according to the provisions of regulation 6 and Schedule 1.

(4) If the Department determines that the claimant and any member of his family are entitled to any remission of the relevant charges or any payment of the relevant travelling expenses, they shall issue a notice of entitlement to the claimant which shall be effective in respect of the claimant and any member of his family for the purposes of any remission of those charges, and any payment of those travelling expenses to which they are entitled.

(5) A notice of entitlement issued under paragraph (4) shall indicate whether the claimant and any member of his family are entitled to full or partial remission or payment and in the case of partial remission or payment shall specify the amount of any relevant charge or relevant travelling expenses for which there is no entitlement to remission or payment.

(6) A notice of entitlement issued under paragraph (4) shall be effective for a period of 6 months from the date of claim, subject to its being superseded by any further notice issued as a result of a claim made in accordance with paragraph (8), and shall specify the dates of commencement and expiry of that period.

(7) Subject to paragraph (8), any change in the financial or other circumstances of a claimant, or of any member of his family, during the period for which a notice of entitlement has been issued shall not affect the validity of the notice of entitlement in respect of that period or, in the case of partial remission or payment, the amounts referred to in paragraph (5).

(8) A claimant who is issued with a notice of entitlement in a case of partial remission may make a further claim in accordance with paragraph (1) at any time during the period for which the notice of entitlement has been issued, if he considers that by reason of a change in his financial circumstances or those of any member of his family the amounts referred to in paragraph (5) should be reduced.