1986 No. 164

HEALTH AND PERSONAL SOCIAL SERVICES

Payments for Optical Appliances Regulations (Northern Ireland) 1986

Made . . . . . *25th June 1986*

Coming into operation . . . *1st July 1986*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 62(2), 98, 106 and 107(6) of and Schedule 15 to, the Health and Personal Social Services (Northern Ireland) Order 1972(**a**) and Article 18(1) of the Health and Social Security (Northern Ireland) Order 1984(**b**) and of all other powers enabling it in that behalf, with the approval of the Department of Finance and Personnel(**c**), and after consultation with such organisations as appeared to the Department to be representative of medical practitioners practising as ophthalmic medical practitioners, ophthalmic opticians and dispensing opticians as required by Article 62(3) of the said 1972 Order, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Payments for Optical Appliances Regulations (Northern Ireland) 1986 and shall come into operation on 1st July 1986.

(2) In these regulations, unless the context otherwise requires—

"Board" means a Health and Social Services Board established under Article 16 of the Order for any area;

"child" means a person who is under the age of 16 years;

"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 lenticular lens;

"contribution assessment" means a document issued by the Department showing whether or not there is a patient's contribution and, if there is, its amount;

"eligible person" has the meaning assigned to it by regulation 2(2) to (4);

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

"minimum complex appliance payment" means in relation to an optical appliance the amount specified as such for the appliance in paragraph 2 of Part II of Schedule 1;

(**a**) S.I. 1972/1265 (N.I. 14)
(**b**) S.I. 1984/1158 (N.I. 8)
(**c**) Formerly Department of Finance: *see* S.I. 1982/338 (N.I. 6) Art. 3

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

"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 under the Order;

"patient's contribution" means the amount of a contribution calculation in accordance with Schedule 2;

"qualifying full-time education" means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Department and "recognised educational establishment" means an establishment recognised by the Department as being, or as comparable to, a school, college or university;

"redemption value" is to be construed in accordance with regulation 8;

"voucher" means a voucher form supplied

(*a*) where a sight test is carried out under the general ophthalmic services, by the Agency to persons providing those services;

(*b*) where a sight test is carried out by a Board, by the Board,

for the purpose of enabling a payment to be made under these regulations.

(3) For the purposes of Part I of Schedule 1—

(*a*) where an optical appliance has lenses described in different paragraphs in column 1 of Part I 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*) a monocle shall be treated as though it were glasses.

Eligibility for payment of costs of optical appliances

2.—(1) A payment shall be made as provided for by these regulations to meet, or to contribute towards, the cost incurred (whether by way of charge under the Order or otherwise) for the supply of an optical appliance for which a prescription has been given in consequence of a testing of sight under the Order for an eligible person.

(2) For the purposes of these regulations an eligible person is a person who at the time of supply of the optical appliance is any of the following:—

(*a*) a child;

(*b*) a person who is under the age of 19 years and receiving qualifying full-time education;

(*c*) a person whose resources are treated, in accordance with paragraph (3), as being less than his requirements;

(*d*) a person entitled to welfare milk under regulation 4 of the Welfare Foods Regulations (Northern Ireland) 1981(**b**) or to welfare food under regulation 5 of those regulations;

(*e*) a person to whom the Department has issued an exemption certificate pursuant to regulation 15(1)(*f*)(ii) of the Health and Personal Social Services (Charges for Drugs and Appliances) Regulations (Northern Ireland) 1973(**c**) (exemption from prescription charge on low income grounds);

(**a**) S.R. 1986 No. 163
(**b**) S.R. 1981 No. 159
(**c**) S.R. & O. (N.I.) 1973 No. 419

(*f*) a person for whom a prescription is issued for a complex appliance.

(3) A person's resources shall be treated as being less than his requirements if—

(*a*) he is in receipt of a supplementary pension or allowance under the Supplementary Benefits (Northern Ireland) Order 1977(**a**) or his requirements fall under that Order to be aggregated with, and treated as, those of a person in receipt of such a pension or allowance;

(*b*) he is a member of a family for which a family income supplement under the Family Income Supplements Act (Northern Ireland) 1971(**b**) has been determined as payable; or

(*c*) his patient's contribution is less than the face value of a voucher issued to him under these regulations.

(4) For the purposes of regulation 4 and other provisions of these regulations as they apply to payments where the testing of sight was by a Board, a person is also an eligible person if, because of the frequency with which the condition of his eyes changes, he is considered by the Board to be non-tolerant of his existing optical appliance.

Issue of vouchers in connection with general ophthalmic services

3.—(1) A person making an application for a testing of sight pursuant to regulation 15 of the Ophthalmic Services Regulations who considers that he may be an eligible person and wishes a payment to be made under these regulations in his case shall indicate to the ophthalmic medical practitioner or optician to whom the application is made that he may be an eligible person.

(2) An ophthalmic medical practitioner or optician who, following a testing of sight under the Ophthalmic Services Regulations, issues a prescription for an optical appliance to a patient—

(*a*) who has indicated that he may be an eligible person; or

(*b*) whose prescription is for a complex appliance,

shall, in the circumstances described in paragraph (4) but subject to paragraph (5), issue to the patient a voucher relating to the optical appliance prescribed.

(3) The ophthalmic medical practitioner or optician issuing the voucher shall sign it and shall—

(*a*) mark on it the letter code specified in column 2 of Part I of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Part;

(*b*) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's age, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher.

(4) The circumstances referred to in paragraph (2) are where the ophthalmic medical practitioner or optician, having consulted any records which he has relating to the patient and made such enquiry of the patient as he considers relevant, is satisfied that—

(*a*) the patient requires an optical appliance for the first time or an optical appliance to a prescription the particulars of which differ from those relating to his existing appliance; or

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(**a**) S.I., 1977/2156 (N.I. 27): provisions of the Supplementary Benefits (Northern Ireland) Order 1977, as amended by Article 7 of, and Part I of Schedule 2 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)), are set out in Part II of that Schedule

(**b**) 1971 c. 8 (N.I.)

(*b*) the patient requires an optical appliance because his existing optical appliance has been rendered unserviceable by fair wear and tear.

(5) Where a patient requires an optical appliance to a prescription the particulars of which differ from those relating to his existing appliance only because the patient is non-tolerant of that appliance, and has been so since it was supplied to him, no voucher shall be issued unless the Agency being satisfied that the prescription for that existing appliance was clinically correct, has authorised the issue of a voucher.

(6) Where, on an application by a patient within six months of a voucher having been issued to him under paragraph (2), the Agency is satisfied, having made such enquiries as it considers relevant, that the voucher has been lost or destroyed without having been presented to a supplier of optical appliances, it may issue to the patient a replacement voucher completed in accordance with paragraph (3)(*a*) and (*b*), but with the date of issue of the voucher being that on which the replacement is issued.

(7) Unless paragraph (6) applies, not more than one voucher shall be issued to a patient in respect of any one optical appliance prescribed.

Issue of vouchers by Health and Social Services Boards

4.—(1) A person whose sight is tested by a Board who considers that he may be an eligible person and wishes a payment to be made under these regulations in his case shall indicate to that Board that he may be an eligible person.

(2) A Board which, following a testing of sight, issues a prescription for an optical appliance to a patient—

(*a*) who has indicated that he may be an eligible person;

(*b*) whose prescription is for a complex appliance; or

(*c*) who is an eligible person by virtue of regulation 2(4),

shall issue to the patient a voucher relating to the optical appliance prescribed.

(3) The Board issuing the voucher shall—

(*a*) mark on it the letter code specified in column 2 of Part I of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Part;

(*b*) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's age, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher.

Use of voucher

5.—(1) Subject to paragraphs (3) to (5), a patient to whom a voucher, duly completed in accordance with regulation 3 or regulation 4, has been issued may present it to a supplier who supplies or is to supply him with an optical appliance, provided that the arrangements for supply are made within six months of the date on which the voucher was issued.

(2) A supplier may accept the voucher in substitution for payment by the patient of an amount equal to its redemption value, being the whole or part of the cost incurred for the supply of an optical appliance.

(3) Before presenting the voucher to the supplier the patient shall sign on the voucher—

(*a*) a declaration in writing to the effect that he is an eligible person, indicating the grounds of his eligibility;

(*b*) an undertaking in writing to the effect that, if he is unable to show that he is an eligible person, he will pay to the Agency an amount equal to the voucher's redemption value.

(4) A patient wishing to present to a supplier a voucher which has been issued only because he may be an eligible person by virtue of regulation 2(3)(*c*) shall, before presenting the voucher to the supplier apply to the Department for a contribution assessment.

(5) A patient to whom a contribution assessment is issued shall present it to the supplier at the same time as he presents him with a voucher in accordance with paragraph (1).

Payments to suppliers

6.—(1) The Agency shall, if the conditions specified in paragraph (2) are fulfilled, make a payment of a voucher's redemption value to a supplier who has accepted the voucher from a patient in accordance with regulation 5.

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

(*a*) the patient has signed the declaration and undertaking referred to in regulation 5(3) and acknowledged receipt on the voucher of the optical appliance supplied to him;

(*b*) the optical appliance is not sold or supplied in contravention of section 21(1) of the Opticians Act 1958(**a**);

(*c*) the supplier has—

(i) made and kept a written record of the supply and issued to the patient a receipt for any money received from the patient;

(ii) made a claim for a payment, on a duly completed voucher, to the Agency; and

(iii) sent to the Agency any contribution assessment presented to him under regulation 5(5).

Payments to patients in Health and Social Services Board cases

7.—(1) A payment may be made under this regulation to a patient who—

(*a*) has been issued by a Board with a voucher only because he may be an eligible person by virtue of regulation 2(3)(*c*); and

(*b*) incurs cost for the supply of an optical appliance without first having obtained a contribution assessment and without presenting his voucher to a supplier.

(2) A patient who wishes a payment to be made to him under this regulation shall—

(*a*) apply to the Department for a contribution assessment;

(*b*) sign the declaration and undertaking referred to in regulation 5(3);

(*c*) within six months of the date on which he was supplied with the optical appliance, apply to the Agency for a payment and send to the Agency—

(i) the voucher issued to him;

(ii) any contribution assessment issued to him;

(iii) evidence of the cost incurred for the supply of the optical appliance.

(3) On an application made in accordance with paragraph (2), the Agency shall, if satisfied—

(*a*) that the patient was an eligible person; and

(*b*) as to the cost incurred for the supply of the optical appliance,

make a payment to the patient of the voucher's redemption value.

(**a**) 1958 c. 32; section 21 was amended by the Health and Social Security Act 1984 (c. 48), section 1(1)