STATUTORY INSTRUMENTS

1974 No. 285

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Charges for Drugs and Appliances) Regulations 1974

Made - - - -	*25th February* 1974
Laid before Parliament	*8th March* 1974
Coming into Operation	*1st April* 1974

The Secretary of State for Social Services in exercise of powers conferred by sections 33, 38 and 40 of the National Health Service Act 1946**(a)** (as amended by sections 14(2) and 16 of the National Health Service (Amendment) Act 1949**(b)** and section 42 of the National Health Service Reorganisation Act 1973**(c)**), sections 1 and 7(6) of the National Health Service Act 1952**(d)** (as amended by section 57 of and Schedule 4 to the National Health Service Reorganisation Act 1973), section 30 of the Health Services and Public Health Act 1968**(e)** (as amended by section 57 of and Schedule 4 to the National Health Service Reorganisation Act 1973) and now vested in him **(f)** and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the National Health Service (Charges for Drugs and Appliances) Regulations 1974 and shall come into operation on 1st April 1974.

Interpretation

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

"the Act" means the National Health Service Act 1946;

"the Act of 1952" means the National Health Service Act 1952;

"the Reorganisation Act" means the National Health Service Reorganisation Act 1973;

"appliance" means an appliance which is a listed appliance within the meaning of section 38(1) of the Act;

(a) 1946 c. 81.
(b) 1949 c. 93.
(c) 1973 c. 32.
(d) 1952 c. 25.
(e) 1968 c. 46.
(f) *See* Secretary of State for Social Services Order 1968 (S.I. 1968/1699;(1968 III, p. 4585)) Article 2.

"Authority" means as the case may require a Regional Health Authority, an Area Health Authority or any body specified in an order by the Secretary of State under section 15 of the Reorganisation Act; and in relation to a hospital not vested in the Secretary of State for Social Services with which arrangements have been made by an Authority for the provision of services under the Health Service Acts otherwise than under Part IV of the Act, shall mean that Authority;

"chemist" includes any person, other than a doctor, providing pharmaceutical services;

"Committee" means Family Practitioner Committee;

"dentist" means a registered dental practitioner;

"doctor" means a fully registered medical practitioner;

"drugs" includes medicines;

"enactment" includes a provision in a statutory instrument;

"exemption" means any remission granted under or by virtue of these regulations and "exempt" shall be construed accordingly;

"exemption certificate" means a certificate issued pursuant to these regulations authorising a person to claim exemption from charges payable under these regulations;

"the Dental Services Regulations" means the National Health Service (General Dental Services) Regulations 1973**(a)** as amended **(b)**;

"the Medical Services Regulations" means the National Health Service (General Medical and Pharmaceutical Services) Regulations 1974**(c)**;

"out-patient" means a person receiving treatment under the Health Service Acts otherwise than under Part IV of the Act and who is not for the purpose of receiving that treatment resident in a hospital;

"patient" means as the case may require any person for whose treatment a doctor is responsible under his terms of service or any person who applies to a chemist for the provision of pharmaceutical services;

"prescription form" means a form on which the provision of pharmaceutical services may be ordered by an Authority or by a doctor or dentist pursuant to the provisions of their terms of service, and which contains on its reverse side a form of declaration of entitlement to exemption under these regulations;

"terms of service" has the meaning respectively in respect of a doctor, a chemist or a dentist assigned to it in the Medical Services Regulations or the Dental Services Regulations;

"treatment" includes examination and diagnosis;

and any other expression to which a meaning is assigned by the Health Services Acts has the same meaning in these regulations.

(2) For the purpose of these regulations the supply of quantities of the same drug in more than one container on an order on one prescription form shall be deemed to be the supply of one quantity of a drug only and the supply on an order on one prescription form of more than one appliance of the same type or the supply on an order on one prescription form of two or more component parts of the same appliance shall be deemed to be the supply of one appliance, so however that any piece of elastic hosiery shall be deemed to be a separate appliance.

(a) S.I. 1973/1468 (1973 II, p. 4445). **(b)** S.I. 1974/53 (1974 I, p. 193).
(c) S.I. 1974/160 (1974 I, p. 490)

(3) Unless the context otherwise requires, references in these regulations to an enactment shall be construed as references to that enactment as amended by any subsequent enactment.

(4) References in any other regulations to the regulations revoked by these regulations or to any provision thereof shall be construed as references to these regulations and to the corresponding provisions hereof, as the case may be.

(5) Unless the context otherwise requires, any reference in these regulations to a numbered regulation is a reference to the regulation bearing that number in these regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(6) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889**(a)** shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

Supply of drugs and appliances by chemists

3.—(1) Subject to these regulations, any patient provided with pharmaceutical services shall be liable to pay to the chemist—

(*a*) in respect of an appliance specified in column 1 of the Schedule to these regulations, the sum specified in column 2 thereof in respect of that appliance; and

(*b*) in any other case, in respect of the supply of each quantity of a drug and each appliance not so specified, the sum of 20p;

unless—

(i) a declaration of entitlement to exemption on the prescription form is duly completed by or on behalf of the patient; or

(ii) the services are supplied in respect of a school or institution the name of which is inserted on the prescription form by a doctor pursuant to his terms of service; or

(iii) where a Committee has authorised a chemist to accept postage stamps in satisfaction of such payment, that patient has affixed to the prescription form postage stamps to the value of the extent of his liability under paragraphs (1)(*a*) and (1)(*b*).

(2) A chemist, notwithstanding the provisions of his terms of service, shall be under no obligation to provide pharmaceutical services in respect of an order on a prescription form unless he is paid by or on behalf of the patient the sum prescribed by paragraphs (1)(*a*) and (1)(*b*) or the exceptions set out in paragraphs (1)(i), (1)(ii) or (1)(iii) are applicable.

(3) A chemist to whom a payment in accordance with paragraph (1) is made shall, if asked to do so at the time, give for the sum received a receipt on a form provided for the purpose by the Committee and which contains forms of declaration in support of an application for repayment.

(a) 1889 c. 63.

(4) Subject to these regulations, sums which a Committee are under a duty to pay or cause to be paid to a person in respect of the provision by him of pharmaceutical services shall be reduced by the sum of 20p in respect of each quantity of a drug supplied and by the sum of 20p, or as the case may require, the sum specified in column 2 of the Schedule to these regulations in respect of each appliance supplied as part of such services except to persons to whom the exceptions set out in paragraphs (1)(i), (1)(ii) and (1)(iii) apply.

Supply of drugs and appliances by doctors

4.—(1) Subject to these regulations, any person to whom a doctor supplies drugs or appliances pursuant to the provisions of the Medical Services Regulations or of his terms of service, not being a supply needed for immediate treatment of a patient before a supply can be obtained otherwise, shall be liable to pay to the doctor—

(*a*) in respect of an appliance specified in column 1 of the Schedule to these regulations, the sum specified in column 2 thereof in respect of that appliance; and

(*b*) in any other case, in respect of the supply of each quantity of a drug and each appliance not so specified, the sum of 20p;

unless—

(i) the patient or a person on his behalf declares that he is entitled to exemption; or

(ii) he is so supplied with drugs or dressings in respect of two or more persons in a school or institution in which at least 20 persons are normally resident of whom at least 10 are persons for whose treatment the doctor is responsible under his terms of service.

(2) A doctor, notwithstanding the provisions of his terms of service, shall be under no obligation to supply drugs or appliances to a patient unless he is paid by or on behalf of the patient the sum prescribed by paragraph (1)(*a*) and (1)(*b*) or the exceptions specified in paragraph (1)(i) or (1)(ii) are applicable.

(3) (*a*) A doctor shall collect the charges payable to him pursuant to the provisions of paragraph (1) and shall as soon as practicable after the end of each month send to the Committee a sum of money equal to the total of such charges collected by him during that month.

(*b*) In this paragraph, the reference to the Committee is a reference to the Committee on whose medical list the doctor is included, or, if he is included on more than one medical list, the Committee which is, pursuant to the provisions of the Statement published under regulation 24 of the Medical Services Regulations, the responsible Committee for the purpose of making or causing to be made payments to him for the provision of general medical services.

(4) A doctor to whom a payment in accordance with the provisions of paragraph (1) is made shall, if asked to do so at the time, give for the sum received a receipt on a form provided for the purpose by the Committee and which contains forms of declaration in support of an application for repayment.

Supply of drugs and appliances to out-patients

5.—(1) Subject to section 1(2) of the Act of 1952 (which provides certain exemptions from the charges which may be imposed under that section) and to these regulations, any out-patient who for the purposes of his treatment is supplied at a hospital with drugs (otherwise than for administration in the hospital) or such appliances as are specified in column 1 of the Schedule to these regulations, shall be liable to pay to the Authority—

(*a*) in respect of such an appliance the sum specified in column 2 of the said Schedule in respect of that appliance; and

(*b*) in respect of the supply of each quantity of a drug, the sum of 20p.

(2) Subject as aforesaid where an out-patient is for the purposes of his treatment provided by an Authority with a prescription form for the purpose of enabling him to obtain drugs and appliances from a chemist, the provisions of regulation 3(1), (2) and (3) shall apply to the supply thereof by that chemist.

(3) For the purposes of this regulation only one sum in respect of each quantity of a drug supplied by a hospital or by a chemist on an order on one prescription form shall be payable notwithstanding that such quantity is by order of the prescriber to be supplied on more than one day during a period of 14 days.

(4) The amount payable under any agreement or arrangement, whether made before or after the coming into operation of these regulations, by an Authority or by a Committee on behalf of an Authority, to a chemist for the supply of drugs and appliances to out-patients shall be reduced by the total of the payments received or recoverable by him under this regulation in respect of drugs and appliances supplied by him on behalf of that Authority.

(5) No exemption under the Act of 1952 or under these regulations shall be granted by an Authority, unless the person claiming exemption from the liability to make any payment under this regulation provides such evidence as that Authority may reasonably require that he is entitled to such exemption.

(6) An Authority to whom a payment in accordance with this regulation is made shall if asked to do so at the time, give for the sum received a receipt on a form which contains forms of declaration in support of an application for repayment.

Exemptions

6.—(1) Subject to the following provisions of this regulation no charge shall be payable under these regulations by—

(*a*) a person who has not attained the age of 15 years; or

(*b*) a person who has attained the age of 65 years; or

(*c*) a woman to whom a Committee has issued an exemption certificate on the ground that she is an expectant mother or a mother whose child is less than one year of age; or

(*d*) a person to whom a Committee has issued an exemption certificate on the ground that he is suffering from one or more of the following conditions:—

(i) permanent fistula (including caecostomy, colostomy, or ileostomy) requiring continuous surgical dressing or an appliance;

(ii) the following endocrine disorders for which specific substitution therapy is essential:—

diabetes mellitus,

myxoedema,

hypoparathyroidism,

hypopituitarism,

Addison's disease and other forms of hypoadrenalism,

myasthenia gravis;

(iii) epilepsy requiring continuous anti-convulsive therapy;

(iv) a continuing physical disability which prevents the patient from leaving his residence except with the help of another person; or

(*e*) a person to whom the Secretary of State has issued a certificate in respect of prescriptions for treatment of an accepted war disablement, or, as the case may be, an accepted service disablement, but only in respect of prescriptions to which the certificate relates; or

(*f*) a person to whom a pre-payment certificate has been granted pursuant to the provisions of regulation 8, during such period as is specified therein as being its period of validity; or

(*g*) a person who is a member of a family in respect of which the Secretary of State has issued an exemption certificate on the ground that it is in receipt of a family income supplement under the Family Income Supplements Act 1970**(a)**; or

(*h*) a person, and any dependant of that person, for whom the Secretary of State has issued an exemption certificate on the ground that he is receiving a supplementary pension or supplementary allowance under the Ministry of Social Security Act 1966**(b)**; or

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(a) 1970 c. 55.
(b) 1966 c. 20 which by virtue of section 99(18) of the Social Security Act 1973(c. 38) may also be cited as the Supplementary Benefit Act 1966.

(*i*) a person, and any dependant of that person, for whom the Secretary of State has issued an exemption certificate on the ground that he has attained the age of 16 years and his requirements exceed his resources when calculated or estimated by the Secretary of State in accordance with the provisions of regulation 7.

(2) Where exemption is claimed in respect of a charge payable to a chemist under these regulations, a declaration of entitlement to exemption shall be duly completed by or on behalf of the claimant on the prescription form presented to the chemist.

(3) Where exemption is claimed in respect of a charge payable to a doctor under these regulations, a declaration of entitlement to exemption shall be made to that doctor; and the doctor if he so desires may require that declaration to be made in writing.

(4) (*a*) A person entitled to exemption under the provisions of paragraph (1)(*c*) or (1)(*d*) shall apply for an exemption certificate to the Committee on a form supplied for that purpose and the application shall be signed by or on behalf of the applicant.

(*b*) A Committee on being satisfied that an applicant is entitled to exemption pursuant to the provisions of paragraph (1)(*c*), shall issue an exemption certificate which shall have effect—

(i) in the case of an expectant mother, during pregnancy and during either the period of one year beginning with the expected date of confinement or the life of the child of that pregnancy, whichever is the shorter;

(ii) in the case of a mother whose child is less than one year of age, during the period ending with the attainment by that child of that age or the life of that child, whichever is the shorter.

(*c*) A Committee on being satisfied that an applicant not being a person entitled to exemption under the provisions of paragraph (1)(*a*) or (1)(*b*) is entitled to exemption pursuant to the provisions of paragraph (1)(*d*) shall issue to the applicant an exemption certificate which shall have effect for such period as they may determine.

(5) Where a claim to exemption has been made but is not substantiated and in consequence of that claim a chemist or doctor has not recovered a charge in respect of the supply of any drugs or appliances, a Committee shall be entitled to recover such charge from the person concerned.

(6) Where an exemption certificate is declared to be valid for a period or subject to conditions, it shall have effect for the purposes of this regulation only during that period or so long as those conditions are complied with; and any claim for exemption by reference to age or the validity of a certificate shall be determined by reference to age or validity on the day on which any order for drugs or appliances is presented for dispensing, or, as the case may be, drugs or appliances are supplied by a doctor or an Authority.

Calculation of resources and requirements

7.—(1) For the purposes of the grant of a certificate under the provisions of regulation 6(1)(*i*) the resources and requirements of a person shall be determined by the Secretary of State as if they fell to be determined in accordance with the provisions of paragraphs 3, 7, 8, 8A(1)(*a*), 8A(1)(*b*)(i), 8A(1)(*c*), 9, 10, 12, 13 and 15 to 23(1) and 24 to 29 of Schedule 2 to the Ministry of Social Security Act 1966 and as if—

(*a*) in sub-paragraph (*a*) of paragraph 23(1) (which relates to the calculation of weekly earnings) for the expression "£1·00" there were substituted the expression "£2·00"; and

(*b*) his requirements were deemed to include also—

(i) charges under these regulations plus the sum of 30p;

(ii) such amounts in respect of mortgage payments as the Secretary of State may allow;

(iii) subject to the provisions of paragraph (2), such amounts in respect of hire purchase transactions as the Secretary of State may allow; and

(iv) subject to the provisions of paragraph (2), such further amounts as the Secretary of State may in special circumstances allow.

(2) (*a*) In determining what, if any, amount to include under paragraph (1)(*b*)(iii) or (1)(*b*)(iv), where an amount which falls to be included under paragraph 9 or 10 of the said Schedule is preceded by the symbols "(*b*)" or "(*c*)" an amount under the said paragraph (1)(*b*)(iii) or (1)(*b*)(iv) shall be allowed only to the extent that it exceeds the sums mentioned in paragraph 8A(2)(*b*)(i) and (ii) respectively of the said Schedule, subject to the provisions of sub-paragraph (3) of the said paragraph 8A;

(*b*) where by virtue of the said paragraph 3 the resources of the person would be aggregated with those of some other person, the requirements and resources of that other person, when calculated or estimated as aforesaid, shall be deemed to be the requirements and resources of the first mentioned person.

Pre-payment certificates

8.—(1) Subject to the following provisions of this regulation, a Committee on payment of the prescribed sum shall as soon as reasonably practicable grant a certificate (in these regulations referred to as a pre-payment certificate) to any person who duly completes and submits an application therefor on a form provided for the purpose.

(2) A pre-payment certificate shall confer on the person to whom it has been granted exemption from the charges otherwise exigible under these regulations in respect of the drugs and appliances including the appliances specified in the Schedule to these regulations supplied to him during such period as is specified in the certificate as being its period of validity.

(3) A pre-payment certificate shall be valid for a period of either six months or twelve months and an application for such a certificate shall indicate the period for which it is required to be valid and shall be accompanied by the prescribed sum.

(4) The payment of a prescribed sum under this regulation shall not be deemed to be the payment of a charge under these regulations.

(5) No certificate shall be issued under this regulation unless the application made therefor is received less than one month before the date on which its period of validity is to begin.

(6) For the purposes of this regulation the prescribed sum shall be £2·00 for a pre-payment certificate valid for 6 months and £3·50 for such a certificate valid for 12 months.

Repayments

9.—(1) Subject to these regulations, a person (whether or not eligible for exemption) shall be entitled to repayment of any charges paid by or in respect of him under these regulations, who was at the time the relevant charge was paid—

(*a*) any person entitled to exemption under regulation 6(1)(*a*) to (*f*); or

(*b*) a person who is a member of a family in receipt of a family income supplement under the Family Income Supplements Act 1970; or

(*c*) a person in receipt of a supplementary pension or supplementary allowance under the Ministry of Social Security Act 1966 or a dependant of such a person; or

(*d*) a person whose requirements exceed his resources when calculated or estimated in the manner specified in regulation 7 or a dependant of such a person.

(2) A claim for a repayment of charges paid under these regulations shall be accompanied by the appropriate receipt, and the appropriate declaration in support of the claim shall be duly completed and signed by or on behalf of the claimant and shall be submitted within such period as the Secretary of State may determine:

Provided that the Secretary of State may determine different periods for different claimants or categories of claimants, so however that the period shall in no case be less than one month from the date on which the charge was paid.

(3) Subject as aforesaid, any repayment under this regulation shall be made in such manner and subject to such conditions as the Secretary of State may determine.

Summary recovery of charges

10. Any charge which may be made or recovered under these regulations may, without prejudice to any other method of recovery, be recovered summarily as a civil debt.

Revocations

11. The National Health Service (Charges for Drugs and Appliances) Regulations 1968**(a)**, the National Health Service (Charges for Drugs and Appliances) (Amendment) Regulations 1968**(b)** and regulation 4 of and Schedule 1 to the National Health Service (Charges) Regulations 1971**(c)** are hereby revoked.

Keith Joseph,
Secretary of State for Social Services.

25th February 1974.

SCHEDULE

Charges for Elastic Hosiery

Column 1	*Column* 2
Anklet, kneecap or legging	each 25p
Above-knee stocking, below-knee stocking or thigh stocking	each 50p

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate with amendments the provisions for the making and recovery of charges for drugs and appliances. The principal amendments substitute the Family Practitioner Committee for the Executive Council.

(a) S.I. 1968/759 (1968 II, p. 2134). **(b)** S.I. 1968/1588 (1968 III, p. 4391).
(c) S.I. 1971/340 (1971 I, p. 1067).

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