STATUTORY INSTRUMENTS

1980 No. 1503

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (Charges for Drugs and Appliances) Regulations 1980

Made - - - -	*10th October* 1980
Laid before Parliament	*27th October* 1980
Coming into Operation	*1st December* 1980

The Secretary of State for Social Services, in exercise of the powers conferred on him by sections 29, 35, 41(**a**), 42, 77 and 83 of and paragraphs 1 and 4 of Schedule 12 to the National Health Service Act 1977(**b**) 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 1980 and shall come into operation on 1st December 1980.

Interpretation

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

"the Act" means the National Health Service Act 1977;

"accepted disablement" means physical or mental injury or disease which is accepted by the Secretary of State as attributable to or aggravated by service in the armed forces of the Crown or such other service as he may determine;

"appliance" means an appliance, other than a contraceptive appliance, which is a listed appliance within the meaning of section 41 of the Act;

"Authority" means a Regional Health Authority, an Area Health Authority, a District Health Authority, or a preserved Board(**c**);

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

"Committee" means Family Practitioner Committee;

"the Dental Services Regulations" means the National Health Service (General Dental Services) Regulations 1973(**d**);

"dentist" means a registered dental practitioner;

(**a**) Section 41 was amended by section 20(1) of the Health Services Act 1980 (c. 53).
(**b**) 1977 c. 49.
(**c**) *See* section 15(6) of the National Health Service Reorganisation Act 1973 (c. 32).
(**d**) S.I. 1973/1468, amended by S.I. 1974/53 and S.I. 1980/986.

"dependant" has the meaning assigned to it by regulation 2(1) of the Supplementary Benefit (Resources) Regulations 1980(**a**);

"doctor" means a fully registered medical practitioner;

"drugs" includes medicines, but does not include contraceptive substances;

"exemption" means any remission granted under or by virtue of these regulations;

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

"family" has the meaning assigned to it by section 1(1) of the Family Income Supplements Act 1970(**b**);

"medical list" has the meaning assigned to it by regulation 2(1) of the Medical Services Regulations;

"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 Act otherwise than under Part II of the Act and who is not for the purpose of receiving that treatment resident in a hospital;

"partner" has the meaning assigned to it by regulation 2(1) of the Supplementary Benefit (Resources) Regulations 1980;

"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; and includes a person who so applies to a chemist on behalf of a patient and a person who pays or undertakes to pay on behalf of a patient the charges for which these regulations provide;

"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;

"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.

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

(3) Unless the context otherwise requires, any reference in these regulations to a numbered regulation or Schedule is a reference to the regulation in, or, as the case may be, the Schedule to, these regulations which bears that number, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(**a**) S.I. 1980/1300. (**b**) 1970 c. 55.
(**c**) S.I. 1974/160, amended by S.I. 1975/719 and S.I. 1976/690.

Supply of drugs and appliances by chemists

3.—(1) A chemist who provides pharmaceutical services to a patient shall, subject to these regulations, make and recover from the patient—

(*a*) in respect of an appliance specified in column (1) of Schedule 1, the charge 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, a charge of £1.00;

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 patient is resident in 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 payment of such charge, that patient has affixed to the prescription form postage stamps to the value of the extent of his liability under paragraph (1)(*a*) or (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 first paid by the patient the charge prescribed by paragraph (1)(*a*) or (1)(*b*) or the exceptions set out in paragraph (1)(i), (1)(ii) or (1)(iii) are applicable.

(3) A chemist who makes and recovers a charge under paragraph (1) shall, if so required by the patient, give him a receipt for the amount received on a form provided for the purpose by the Committee.

(4) Any sum which a Committee is under a duty to pay or cause to be paid to a person in respect of the provision by him of pharmaceutical services other than such provision to which paragraph (1)(i), (ii) or (iii) applies, shall be reduced by the sum of £1.00 in respect of each quantity of a drug supplied and by the sum of £1.00 or, as the case may require, the amount specified in column (2) of Schedule 1 in respect of each appliance supplied as part of such services.

Supply of drugs and appliances by doctors

4.—(1) A doctor who supplies drugs or appliances to a patient, not being a supply needed for immediate treatment of that patient before a supply can be obtained otherwise, shall make and recover from that patient—

(*a*) in respect of the supply of an appliance specified in column (1) of Schedule 1, the charge 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, a charge of £1.00;

unless—

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

(ii) the drugs or appliances are so supplied 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 his patients.

(2) A doctor shall be under no obligation to supply drugs or appliances in respect of which he is required by the provisions of paragraph (1) to make and recover a charge, unless he is first paid by the patient the charge prescribed by paragraph (1)(*a*) or (1)(*b*) or the exemptions specified in paragraph (1)(i) or (1)(ii) are applicable.

(3) A doctor shall as soon as practicable after the end of each month send a sum of money, equal to the total of the charges required to be made and recovered by him pursuant to the provisions of paragraph (1) during that month, to the Committee on whose medical list he is included, or, if he is included on more than one medical list, to the Committee which, pursuant to the provisions of the Statement published under regulation 24 of the Medical Services Regulations, causes payment to be made to him for the provision of general medical services on behalf of all the Committees concerned.

(4) A doctor who makes and recovers a charge under paragraph (1) shall, if so required by the patient, give him a receipt for the amount received on a form provided for the purpose by the Committee.

Supply of drugs and appliances to out-patients

5.—(1) An Authority which at a hospital supplies to an out-patient drugs (otherwise than for administration in the hospital) or appliances for the purposes of his treatment, shall make and recover from the out-patient—

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

(*b*) in respect of the supply of each quantity of a drug, and each appliance not so specified, a charge of £1.00.

(2) For the purposes of this regulation only one charge in respect of each quantity of a drug supplied by a hospital or by a chemist against 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.

(3) An Authority which makes and recovers a charge under this regulation shall, if so required by the patient, give him a receipt for the amount paid on a form which contains forms of declaration in support of an application for repayment.

Wigs and fabric supports

6.—(1) An Authority which, otherwise than under Part II of the Act, supplies to a patient for the purposes of his treatment an appliance of a description specified in column (1) of Schedule 2, shall make and recover from the patient a charge of the amount specified in column (2) thereof in respect of that appliance.

(2) An Authority which makes and recovers a charge under this regulation shall, if so required by the patient making the payment, give him a receipt for the amount paid.

(3) No charge under this regulation shall be payable by or on behalf of a patient to whom the Secretary of State has issued an exemption certificate in respect of treatment for accepted disablement, in respect of the supply of an appliance which he requires for the purpose of the treatment of that disablement.

(4) Where a patient has paid a charge which but for paragraph (3) would be authorised by paragraph (1), he may claim a refund of that charge by presenting to the Authority the receipt for it together with—

(*a*) the certificate mentioned in paragraph (3); and

(*b*) if the patient was referred by a doctor to the Authority for treatment, either—

(i) a certificate from the doctor certifying that it was for the accepted disablement; or

(ii) a statement that such a certificate was surrendered to the Authority on or before the supply of that appliance.

(5) The Authority, if satisfied by the evidence so produced that the charge to which the receipt relates was not properly payable, shall repay to the patient the amount of the charge and return any certificate to which paragraph (3) refers which he may have submitted.

Exemptions

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

(*a*) a person who has not attained the age of 16 years;

(*b*) a person being a man who has attained the age of 65 years, or being a woman who has attained the age of 60 years;

(*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;

(*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 disorders for which specific substitution therapy is essential:—

Addison's disease and other forms of hypoadrenalism,
diabetes insipidus and other forms of hypopituitarism,
diabetes mellitus,
hypoparathyroidism,
myasthenia gravis,
myxoedema;

(iii) epilepsy requiring continuous anti-convulsive therapy;

(iv) a continuing physical disability which prevents the patient from leaving his residence without the help of another person;

(*e*) a person to whom the Secretary of State has issued a certificate in respect of the supply of drugs and appliances for the treatment of accepted disablement, but only in respect of those supplies to which the certificate relates;

(*f*) a person to whom a certificate has been granted pursuant to regulations having effect under or by virtue of section 77(2) of the Act;

(*g*) a person who is a member of a family in respect of which a person is in receipt of a family income supplement under the Family Income Supplements Act 1970(**a**) in consequence whereof a certificate of exemption from charges for which these regulations provide has been issued to or in respect of that family;

(*h*) a person and any partner or dependant of a person who is receiving a supplementary pension or allowance under the Supplementary Benefits Act 1976(**b**) in consequence whereof a certificate of exemption from the charges for which these regulations provide has been issued to and in respect of any partner or dependants of that person;

(*i*) a person to 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 determined by the Secretary of State in accordance with the provisions of regulation 8 and any partner or dependant of that person.

(2) No exemption from a charge payable under these regulations shall be granted unless—

(*a*) in the case of a charge payable to a chemist, a declaration of entitlement to exemption on the prescription form presented to the chemist is duly completed by or on behalf of the person claiming exemption;

(*b*) in the case of a charge payable to a doctor, a declaration of entitlement to exemption, which shall be in writing if the doctor so requires, is made to that doctor;

(*c*) in the case of a charge payable to an Authority under regulation 5, the person claiming exemption provides such evidence as that Authority may reasonably require that he is entitled to such exemption.

(3) (*a*) A person who wishes to claim exemption pursuant to 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 by that Committee.

(*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 it may determine.

(4) Where a claim to exemption has been made but is not substantiated and in consequence of that claim a chemist, a doctor or an Authority has not recovered a charge in respect of the supply of any drugs or appliances, a

(**a**) 1970 c. 55.
(**b**) 1976 c. 71; the Act as amended (other than sections 31, 32, 35 and 36 and Schedules 4 and 6 to 8) is set out in Part II of Schedule 2 to the Social Security Act 1980 (c. 30).

Committee or that Authority shall recover such charge from the person concerned.

(5) Any claim to 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.

Determination of resources and requirements

8.—(1) A person who wishes to claim exemption pursuant to the provisions of regulation 7(1)(*i*) shall apply to the Secretary of State for the grant of a certificate for which that sub-paragraph provides.

(2) The resources and requirements of that person shall, subject to the following provisions of this regulation, be determined pursuant to the provisions of Schedule 1 to the Supplementary Benefits Act 1976 (provisions for determining right to and amount of supplementary benefits).

(3) The requirements and resources of that person for the purposes of the determination for which paragraph (2) provides shall be determined—

(*a*) as if sections 5 (power to require registration for employment), 6 (exclusion of certain employed persons and pupils), 8 (persons affected by trade disputes) and 10 (modification of right to supplementary allowance in certain cases) of and paragraphs 2(5) and 3(2)(*b*) of Schedule 1 to that Act did not apply,

(*b*) as if they included—

(i) the charges under these regulations,

(ii) the sum of £1.50,

(iii) such amount in respect of repayments of mortgage capital as is reasonable in the circumstances,

(iv) such amount in respect of life insurance premiums payable by and in respect of a policy on the life of that person as is reasonable in the circumstances,

(v) such amount in respect of hire purchase payments under a hire purchase agreement for such essential items as would be provided pursuant to the Supplementary Benefit (Single Payments) Regulations 1980(**a**) as if the person were in receipt of a supplementary pension or allowance under the Supplementary Benefits Act 1976 and as if paragraph 15(*d*) of Schedule 3 to the Supplementary Benefit (Requirements) Regulations 1980(**b**) did not apply.

(4) Where that person would after such determination be eligible for an award of a supplementary pension or allowance for the week in which his application is made, the Secretary of State shall grant the certificate for which regulation 7(1)(*i*) provides.

Pre-payment certificates

9.—(1) Subject to the following provisions of this regulation, a Committee on payment of the sum prescribed by paragraph (5) 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 by the Committee.

(**a**) S.I. 1980/985. (**b**) S.I. 1980/1299.

(2) A pre-payment certificate shall be valid for a period of either four months or twelve months and an application for such a certificate shall indicate the period for which it is required to be valid.

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

(4) 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 desired to begin.

(5) For the purposes of this regulation the prescribed sum shall be £5·50 for a pre-payment certificate valid for 4 months and £15·00 for such a certificate valid for 12 months.

Repayments

10.—(1) Where a charge has been paid under these regulations by or on behalf of a person who by virtue of regulation 7 was at the time of payment eligible for exemption from that charge, a claim for repayment of that charge may, subject to the provisions of this regulation, be made by or on behalf of that 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.

(3) The Secretary of State may determine different periods within which claims must be submitted 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.

(4) Subject to paragraph (2), any claim or 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

11. 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.

Application

12. These regulations shall apply only where drugs and appliances are supplied on or after 1st December 1980.

Revocations

13. The regulations specified in Schedule 3 are hereby revoked to the extent specified in column (3) of that Schedule.

Patrick Jenkin,
Secretary of State for Social Services.

10th October 1980.

Regulations 3, 4 and 5

SCHEDULE 1

CHARGES FOR ELASTIC HOSIERY

(1) *Specified Appliance*	(2) *Specified Charge*
Above-knee stocking, below-knee stocking or thigh stocking	£1·60 each (i.e. £3·20 per pair)

Regulation 6

SCHEDULE 2

CHARGES FOR FABRIC SUPPORT AND WIGS

(1) *Specified Appliance*	(2) *Specified Charge*
Fabric support (other than elastic hosiery)	£7·00
Stock wig	£9·50
Bespoke wig	£26·50

Regulation 12

SCHEDULE 3

REGULATIONS REVOKED

(1) S.I. Number	(2) Title	(3) Extent of Revocation
1974/285	The National Health Service (Charges for Drugs and Appliances) Regulations 1974	The whole regulations
1974/627	The National Health Service (Charges for Drugs and Appliances) (Amendment) Regulations 1974	The whole regulations
1975/718	The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1975	The whole regulations
1975/1688	The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1975	The whole regulations
1976/1821	The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1976	The whole regulations
1978/950	The National Health Service (Dental and Optical Charges) Regulations 1978	Regulation 11(1)(*a*) and Schedule 3
1979/681	The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1979	The whole regulations
1980/264	The National Health Service (Charges for Drugs and Appliances) Amendment Regulations 1980	The whole regulations

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 (other than dental or optical appliances) supplied under or by virtue of the National Health Service Act 1977 and formerly contained in the National Health Service (Charges for Drugs and Appliances) Regulations 1974, and in other Regulations. The principal amendments increase the charges specified for the supply of drugs and certain appliances, and increase the sums prescribed for the grant of pre-payment certificates of exemption from those charges.

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