

2009 No. 2607 (W. 210)

**NATIONAL HEALTH
SERVICE, WALES**

**The National Health Service (Free
Prescriptions and Charges for
Drugs and Appliances) (Wales)
(Amendment) Regulations 2009**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007 (“the principal Regulations”).

The principal Regulations abolished charges in respect of drugs and appliances supplied to patients registered with GPs in Wales, or registered with GPs in England and who hold a valid entitlement card. They also make provision for the payment of the making and recovery of charges in prescribed circumstances.

Notwithstanding the provision in the principal Regulations, these Regulations broaden the list of medical conditions which entitle a patient to apply for a certificate which exempts that patient from the requirement to pay a charge for the provision of drugs and appliances supplied under the National Health Service to include cancer, the effects of cancer and the effects of cancer treatment.

A certificate of exemption issued in accordance with the amendments made to the principal Regulations by regulations 3 and 4 entitles the patient to exemption from any requirement to pay charges for drugs and appliances which might otherwise be payable in accordance with the National Health Service (Charges for Drugs and Appliances) Regulations 2000 (“the Charges for Drugs and Appliances Regulations”).

They also make provision for the ability of patients who are resident in Wales and registered with a GP who is contracted with a Local Health Board to supply such services to seek reimbursement of charges for

drugs and appliances paid in accordance with the
Charges for Drugs and Appliances Regulations.

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The National Health Service (Free
Prescriptions and Charges for
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(Amendment) Regulations 2009

Made 24 September 2009

Laid before the National Assembly for Wales

28 September 2009

Coming into force 20 October 2009

The Welsh Ministers, in exercise of the powers conferred by sections 121, 130, 132 and 203(9) and (10) of the National Health Service (Wales) Act 2006⁽¹⁾, hereby make the following Regulations:

Title, commencement, application and interpretation

1.—(1) The title of these Regulations is the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) (Amendment) Regulations 2009 and they come into force on 20 October 2009.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations—

“the principal Regulations” (“*y prif Reoliadau*”) means the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007⁽²⁾.

⁽¹⁾ 2006 c.42.

⁽²⁾ S.I. 2007/121 (W.11), the relevant amending instrument is S.I. 2009/1175 (W.102).

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations (interpretation) insert in the appropriate place in the alphabetical order—

““the 2006 Act” (“*Deddf 2006*”) means the National Health Service (Wales) Act 2006(1);”.

Amendment of regulation 3 of the principal Regulations

3.—(1) Regulation 3 of the principal Regulations (supply of drugs and appliances by chemists) is amended in accordance with the following provisions of this regulation.

(2) For paragraph (10), substitute the following—

“(10) A chemist who makes and recovers a charge—

- (a) under paragraph (2) from or on behalf of a patient who is a person described in regulation 11A(1) must, if so required by the patient or the patient’s representative, provide a receipt for the amount received in the form approved by the Welsh Ministers;
- (b) under paragraph (2) or (5) from or on behalf of a patient who is not a person described in regulation 11A (1) must, if so required by the patient or the patient’s representative, provide a receipt for the amount received on the form provided for the purpose, which form must contain forms of declaration in support of an application for repayment and information as to whom an application for repayment should be made.”.

Amendment of regulation 4 of the principal Regulations

4.—(1) Regulation 4 of the principal Regulations (supply of drugs and appliances by doctors) is amended in accordance with the following provisions of this regulation.

(2) For paragraph (7), substitute the following—

“(7) A doctor who makes and recovers a charge under paragraph (2)—

- (a) from or on behalf of a patient who is a person described in regulation 11A(1) must, if so required by the patient or the patient’s representative, provide a receipt for the amount received in the form approved by the Welsh Ministers;

(1) 2006 c.42.

- (b) from or on behalf of a patient who is not a person described in regulation 11A(1) must, if so required by the patient or the patient's representative, provide a receipt for the amount received on the form provided for the purpose, which form must contain forms of declaration in support of an application for repayment and information as to whom an application for repayment should be made.”.

Amendment of regulation 8 of the principal Regulations

5. In regulation 8 of the principal Regulations (exemptions), after paragraph (1)(e) insert the following—

“(ea) a person with a valid exemption certificate issued by a Local Health Board on the ground that the person is undergoing treatment for—

- (i) cancer;
- (ii) the effects of cancer, or
- (iii) the effects of cancer treatment,

where the certificate is used in respect of drugs or appliances which are supplied on or after 1 November 2009.

(eb) a person with a valid exemption certificate issued on any of the grounds in sub-paragraph (ea) under equivalent arrangements which have effect in England, Scotland or Northern Ireland where the certificate is used in respect of drugs or appliances which are supplied on or after 1 November 2009.”.

Amendment of regulation 9 of the principal Regulations

6.—(1) Regulation 9 of the principal Regulations (certificates of exemption – application and issue) is amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

- (a) after sub-paragraph (c), insert the following—
“ ;
(d) he or she is a person undergoing treatment as specified in regulation 8(1)(ea)”; and
- (b) for the words “under sub-paragraph (a) or (b)”, substitute “under sub-paragraph (a), (b) or (d)”.

(3) In paragraph (3) for the words “under paragraph (1)(b)”, substitute “under paragraph (1)(b) or (1)(d)”.

Insertion of regulation 11A into the principal Regulations

7.—(1) After regulation 11 (entitlement cards) insert the following—

“Repayment of certain charges paid under the Charges Regulations 2000

11A.—(1) Where a charge has been paid under the Charges Regulations 2000, whether or not in accordance with these Regulations, by or on behalf of a person who is, at the time the charge was paid, a person who—

- (a) is resident in Wales; and
- (b) receives primary medical services under Part 4 of the 2006 Act from a provider who is contracted to provide such services with a Local Health Board,

an application for the repayment of that charge may be made in accordance with paragraph (2).

(2) An application for repayment made by or on behalf of a person described in paragraph (1) must—

- (a) be made in such form and manner as the Welsh Ministers may determine;
- (b) be made within 3 months from the date on which the charge was paid, or within such period as the Welsh Ministers may, for good cause, allow; and
- (c) be accompanied by the receipt for the charge paid and a declaration that the person was, at the time the charge was paid, a person described in paragraph (1).”.

Edwina Hart

Minister for Health and Social Services, one of the Welsh Ministers

24 September 2009

