

## **Health and Social Services Committee**

**HSS(2)-03-05(p.2)**

**Date: Wednesday 22 June 2005**

**Venue: Committee Room 2, National Assembly for Wales**

**Title: The National Health Service (Charges for Drugs and Appliances) Regulations 2005**

### **Purpose**

The Committee is invited to consider changes to the NHS (Charges for Drugs and Appliances) Regulations.

### **Summary**

The Health and Social Services Committee have requested the opportunity to scrutinise these Regulations.

The intended effect of this Instrument is to ensure that the reduced prescription charge (and eventually the exemption of all patients from prescription charges) will only apply to prescriptions written on a Welsh prescription form. It will also allow a further reduction in the prescription charge from £4 to £3 in April 2006. The cost of annual pre-payment certificates will reduce from £57.46 to £43.09, and four monthly ones from £20.93 to £15.69.

The Order will also allow patients who are exempt from charges on age grounds, and whose age is printed on the prescription form, not to sign the declaration on the reverse of the form in order to qualify for their exemption. In addition it will allow prisoners to be added to the list of patients exempt from prescription charges when devolution of commissioning takes place and they become NHS patients from April 2006.

### **Background**

The National Assembly for Wales froze prescription charges at £6 per item in April 2001, and following a manifesto commitment has been working towards the abolition of prescription charges since 2003. A reduction of £1 was achieved in October 2004 and a further £1 in April 2005. This Order would reduce charges still further from £4 to £3 with effect from April 2006. The cost of pre-payment certificates will also be proportionately reduced. The total abolition of the charge will be achieved with a further Statutory Instrument at a later date with effect from April 2007.

This Instrument will restrict the benefit of these reductions, (and ultimately prescriptions free of charge) to patients holding a Welsh prescription form (WP10) These forms will only be available to prescribers registered with a Welsh Local Health Board (LHB) or Welsh NHS Trust, and the Welsh charge will only be applied in a pharmacy contracted to a Welsh LHB . Forms issued by other administrations will be subject to the charges applicable in that administration, even if dispensed in a pharmacy contracted to a Welsh LHB; i.e. an English FP10 will attract the same charge in Wales as it does in England, currently £6.50.

A WP10 dispensed in an English pharmacy will also be subject to the English charge as they are now, since Welsh Regulations have no application with English contractors. Pre-payment certificates will continue to be valid throughout the various administrations, regardless of where they were purchased.

This Instrument will mean that patients whose age is printed on the WP10 and who are exempt from charge on age grounds will no longer be required to sign the declaration on the reverse of the form. This change has already come into force in England and saves time in the pharmacy, as well as at the pricing stage. The change would only apply to those patients whose ages were printed on the form, and not those on which it had been hand written.

If devolution of commissioning goes ahead as planned, then prisoners will become NHS patients from April 2006 onwards. When this happens they will be faced with paying for their prescriptions unless they satisfy any of the exemption criteria which already exist. Otherwise they would be able to apply for help under the Low Income Scheme. However, some of them may only partially qualify because their board and lodge is provided and they receive pocket money at various rates. Department of Health (DH) is not intending to amend the Low Income Scheme to take account of this, but instead they propose to exempt all prisoners automatically. Putting systems in place to assess Welsh prisoners would be time consuming and costly, especially considering that prescription charges will only exist in Wales until April 2007. For this reason this Order will add 'prisoners' to the list of exemptions on the reverse of the WP10 with effect from April 2006. Prisoners will continue to receive the same benefits as before, but by a different means.

## **Compliance**

The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 Section 120);
- be compatible with the Assembly's scheme for sustainable development (Section 121);
- be compatible with Community law (Section 106);
- be compatible with the Assembly's human rights legislation (Section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (Section 108).

## **Financial Implications**

The cost of implementing these Regulations is estimated to be £5.37m for 2006-07. This is additional to the cost in 2006-07 of funding the reductions in prescription charges introduced in 2004 and 2005. The total cost in 2006-07 of funding the reductions in the prescription charges implemented by this and the earlier Statutory Instruments (The National Health Service (Charges for Drugs and Appliances) (Wales) (Amendment) Regulations 2004 (SI 2004 No. 1605 (W.164))) and (The National Health Service (Charges for Drugs and Appliances) (Wales) (Amendment) Regulations 2005 (SI 2005/ 427 (W.44))) is estimated to be £16.1 million. These figures are calculated on the basis of an annual income from prescription charges during 2002-03 of £32.2m. The Welsh Assembly Government has given a commitment in "Wales: A Better Country" to remove all prescription charges by April 2007. This is the next stage in that process; the first and second reduction having taken place in October 2004 and April 2005.

The financial impact on the NHS of exempting prisoners from charges will be neutral, as the resources transferred from the Home Office already take account of the costs of these services, including any NHS patient contributions that prisons currently pay on prisoners' behalf .

Patients who are age exempt already do not pay the prescription charge so that there would be no further expense as a result of this change.

### **Cross Cutting Themes**

This Government is committed to Improving Health and Well Being in the context of 'Wales : A Better Country' and considers that the abolition of the prescription charge by the end of this Assembly will ensure that no patient decides not to collect items of medication on grounds of cost. This in turn should improve many patients' quality of life and reduce avoidable admittance to hospital.

### **Action for Subject Committee**

Scrutinise the National Health Service (Charges for Drugs and Appliances) Regulations 2005.

**Brian Gibbons**  
**Minister for Health and Social Services**

Contact Point: Paul Parker (CPCHSD)

**NATIONAL ASSEMBLY FOR WALES**

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STATUTORY INSTRUMENTS

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**NATIONAL HEALTH SERVICE,  
WALES**

**2005 NO. (W. )**

**The National Health Service (Charges  
for Drugs and Appliances) (Wales)  
(Amendment)(No. 2) Regulations  
2005**

**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001 (“the principal Regulations”) which provide for the making and recovery of charges for drugs and appliances supplied under the National Health Service 1977.

Regulation 2 and the Schedule reduce the charge for items on prescription supplied to patients from £4.00 to £3.00. The charge for elastic stockings is reduced from £4.00 to £3.00 (from £8.00 to £6.00 per pair) and that for tights from £8.00 to £6.00. The sums prescribed for the grant of pre-payment certificates are reduced from £20.93 to £15.69 for a four month certificate and from £57.46 to £43.09 for a twelve month certificate.

Amendments made by regulations 4 and 5 make provision for the application of the charges for the provision of pharmaceutical services that are prescribed by the principal Regulations only in relation to “Welsh prescriptions”, that is to those prescriptions that are both issued and dispensed in Wales. Charges for prescriptions that are issued under equivalent arrangements having effect in England, Scotland and Northern Ireland (“equivalent prescriptions”) will be applied at the rates prescribed by the NHS (Charges for Drugs and Appliances) Regulations 2000.

Regulation 6 removes the requirement that persons aged under 25 and 60 or over, who are exempt from paying charges under the principal Regulations by virtue of their age, and who have their date of birth set out on Welsh prescription forms, Welsh repeatable prescriptions, or their equivalents, must declare that they are exempt by

reason of their age when supplied with drugs or appliances by chemists under regulation 3 of the principal Regulations or by doctors under regulation 4 of the principal Regulations.

Regulation 7 inserts a new regulation into the principal Regulations which provides that prisoners in certain prisons will not be liable to pay any charges under the principal Regulations. Prisoners will only obtain free drugs and appliances while actually in prison and therefore will not be required to prove entitlement to exemption from paying the charges. This change is as a result of the transfer of responsibility for prison health care provision from the Home Office to Local Health Boards with effect from April 2006.

**2005 No. (W.)**

**NATIONAL HEALTH SERVICE,  
WALES**

**The National Health Service (Charges  
for Drugs and Appliances) (Wales)  
(Amendment) (No.2) Regulations  
2005**

*Made*

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*Coming into force, except*

*for regulations 2 and 7*

*1 August 2005*

*Regulations 2 and 7*

*1 April 2006*

The National Assembly for Wales in exercise of the powers conferred by sections 77, 83, 83A and 126(4) of and paragraph 1 of Schedule 12 to the National Health Service Act 1977<sup>(1)</sup> hereby makes the following Regulations:

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(1) 1977 c.49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 83 was amended by the Health Authorities Act 1995 (c.17) (“the 1995 Act”), section 1 and Schedule 1, paragraph 39 and by S.I.2000/90, article 3(1) and Schedule 1, paragraph 13(1) and (4). Section 83A was inserted by the Social Security Act 1988 (c.7) (“the 1988 Act”), section 14(1); and was amended by the 1990 Act, section 66(1) and Schedule 9, paragraph 18(5)(a) and (b); by the Health and Medicines Act 1988 (c.49), section 25 and Schedule 2, paragraph 6; by S.I.1998/2385, article 2 and by the 1995 Act, section 2(1) and Schedule 1, paragraph 40. Section 126(4) was amended by the 1990 Act, section 65(2) and the Health Act 1999 (c.8) (“the 1999 Act”), Schedule 4, paragraph 37(6). Paragraph 1 of Schedule 12 was amended by the Health Services Act 1980 (c.53), section 25(2) and Schedule 5, paragraph 1; by 1988 Act, section 16 and Schedule 5; by the National Health Service (Primary Care) Act 1997 (c.46), section 41(10) and Schedule 2, paragraph 31 and by the Health and Social Care (Community Health and Standards) Act 2003 (c.43), section 184 and Schedule 11, paragraphs 7 and 44. The functions of the Secretary of State under sections 77, 83, 83A and 126(4) of and paragraph 1 of Schedule 12 to the National Health Service Act 1977 were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672), article 2 and Schedule 1, as amended by the 1999 Act, section 66(4), the Health and Social Care Act 2001 (c.15), section 68(1), the National Health Service Reform and Health Care Professions Act 2002 (c.17), section 40(1) and the 2003 Act, section 197(1).

## **Title, commencement, application and interpretation**

1.—(1) The title of these Regulations is the National Health Service (Charges for Drugs and Appliances) (Wales) (Amendment) (No.2) Regulations 2005 and they come into force on 1 August 2005, except for regulations 2 and 7 which come into force on 1 April 2006.

(2) These Regulations apply in relation to Wales.

(3) In these Regulations “the principal Regulations” (“*y prif Reoliadau*”) means the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001(2).

## **Amendment of amounts specified in the principal Regulations**

2. For each amount specified in the column (3) of the Schedule to these Regulations, where it appears in the provision of the principal Regulations specified in relation to it in column (1) (the subject matter of which is indicated in column (2)), substitute the amount specified in relation to it in column (4).

## **Amendment of regulation 2 of the principal Regulations**

3. In regulation 2 of the principal Regulations (interpretation)—

(a) after the definition of “the Act” insert—

“ “the Charges Regulations 2000” means the National Health Service (Charges for Drugs and Appliances) Regulations 2000(3);”;

(b) in the first definition of “batch issue” for “prescriber” in each place it occurs, substitute “repeatable prescriber”;

(c) omit the second definition of “batch issue”;

(d) after the definition of “elastic hosiery” insert—

“ “equivalent batch issue” means a form provided under equivalent arrangements having effect in England, Scotland and Northern Ireland which is issued by a repeatable prescriber at the same time as an equivalent repeatable prescription to enable a chemist to receive payment for the provision of repeat dispensing services;”;

(e) in the appropriate place in the alphabetical order, insert—

“ “equivalent prescription form” means a form provided and issued under equivalent arrangements having effect in England, Scotland or Northern Ireland to enable a person to obtain pharmaceutical services

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(2) S.I.2001/1358 (W.86). Relevant amending instruments are S.I.2001/2359 (W.196), S.I.2004/1018 (W.115) and 2004/1605 (W.164) and S.I.2005427 (W.44).

(3) S.I.2000/620

or local pharmaceutical services and does not include—

- (a) a Welsh prescription form;
- (b) a Welsh repeatable prescription ; or
- (c) an equivalent repeatable prescription;”;
- (f) in the appropriate place in the alphabetical order, insert—

“ “equivalent repeatable prescription” means a prescription contained in a form and issued in accordance with arrangements having effect in England, Scotland and Northern Ireland to enable a person to obtain repeat dispensing services;”;

- (g) omit the definition of “prescription form” ;
- (h) in the appropriate place in the alphabetical order insert—

“ “prison” includes a young offender institution but not a secure training centre or a naval, military or air force prison, and for the purposes of this definition—

“secure training centre” means a place in which offenders subject to detention and training orders under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000<sup>(4)</sup> (offenders under 18: detention and training orders) may be detained and given training and education and prepared for their release; and

“young offender institution” means a place for the detention of offenders sentenced to detention in a young offender institution or to custody for life;”;

- (i) after the definition of “prison” insert—

“ “prisoner” means a person who is detained in a prison in which medical, dental, ophthalmic, pharmaceutical or nursing services are provided under the Act by, or under arrangements made by a Local Health Board otherwise than by virtue of section 7(2) of the Health and Medicines Act 1988<sup>(5)</sup> (extension of the powers of Secretary of State for financing the Health Service);”;

- (j) omit the definition of “repeatable prescription”;
- (k) in the definition of “supplementary prescriber”, after sub-paragraph (c) insert—

“ or

(d) the part of the register maintained by the Health Professions Council in pursuance of article 5 of the Health Professions Order 2001<sup>(6)</sup> relating to—

- (i) chiropodists and podiatrists,
- (ii) physiotherapists, or

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<sup>(4)</sup> 2000 c.6

<sup>(5)</sup> 1988 c.49

<sup>(6)</sup> S.I.2001/254



(iii) radiographers: diagnostic or therapeutic;”;

(l) in the appropriate place in the alphabetical order insert—

“ “Welsh prescription form” means a form provided by a Local Health Board or a Welsh NHS Trust and issued by a prescriber or a dentist to enable a person to obtain pharmaceutical services and does not include—

- (a) a Welsh repeatable prescription;
- (b) an equivalent prescription form; or
- (c) an equivalent repeatable prescription,

and for the purposes of this definition—

“Welsh NHS Trust” means an NHS Trust all or most of whose hospitals, establishments and facilities are situated in Wales;”;

(m) in the appropriate place in the alphabetical order, insert—

“ “Welsh repeatable prescription” means a prescription contained in a form provided by a Local Health Board and issued by a repeatable prescriber to enable a person to obtain pharmaceutical services, which is in the format specified in Part 1 of Schedule 1 to the GMS Contract Regulations and which—

- (a) is generated by a computer but signed by a repeatable prescriber; and
- (b) indicates that the drugs or appliances ordered on that form may be provided more than once, and specifies the number of occasions on which they may be provided;”;

### **Substitution of regulation 3 of the principal Regulations**

4.—(1) For regulation 3 of the principal Regulations substitute the following regulation—

#### **“Supply of drugs and appliances by chemists**

3.—(1) A chemist who provides pharmaceutical services to a patient, must, subject to paragraph (6), make and recover from that patient—

- (a) where the patient presents a Welsh prescription form—
  - (i) in respect of an item of elastic hosiery a charge of £4.00, that is to say a charge of £8.00, per pair,
  - (ii) in respect of the supply of each other appliance and of each quantity of a drug, a charge of £4.00;
- (b) where the patient presents an equivalent prescription form—
  - (i) in respect of an item of elastic hosiery the charge that is specified in

regulation 3(1)(a) of the Charges Regulations 2000,

- (ii) in respect of the supply of each other appliance and of each quantity of a drug, the charge that is specified in regulation 3(1)(b) of the Charges Regulations 2000.

(2) Where a charge is paid under paragraph (1), the person making the payment must on doing so sign a declaration in writing on the Welsh prescription form or on the equivalent prescription form that the relevant charge has been paid.

(3) A chemist who provides repeat dispensing services to a patient must, subject to paragraph (6), make and recover from that patient—

- (a) in respect of each batch issue—
  - (i) in respect of an item of elastic hosiery a charge of £4.00, that is to say a charge of £8.00 per pair,
  - (ii) in respect of the supply of each other appliance and of each quantity of a drug, a charge of £4.00;
- (b) in respect of each equivalent batch issue—
  - (i) in respect of an item of elastic hosiery, the charge specified in regulation 3(1A)(a) of the Charges Regulations 2000,
  - (ii) in respect of the supply of each other appliance and of each quantity of a drug, the charge that is specified in regulation 3(1A)(b) of the Charges Regulations 2000.

(4) Where a charge is paid under paragraph (3), the person making the payment must on doing so sign a declaration in writing on the batch issue or on the equivalent batch issue that the relevant charge has been paid.

(5) For the purposes of this regulation—

- (a) where a drug ordered on a single Welsh prescription form is supplied by instalments, the charge of £4.00 payable for that drug must be paid upon the supply of the first instalment;
- (b) where a drug ordered on a single equivalent prescription form is supplied by instalments, the charge specified in regulation 3(4) of the Charges Regulations 2000 must be paid upon the supply of the first instalment.

(6) No charges may be made and recovered under paragraphs (1), (3) or (5) where—

- (a) there is an exemption under regulation 8 and a declaration of entitlement to exemption is duly completed by or on behalf of the patient—
  - (i) in cases where a Welsh prescription form is presented, on the Welsh prescription form,
  - (ii) in cases where an equivalent prescription form is presented, on the equivalent prescription form,
  - (iii) in cases falling within paragraph (3), on the batch issue relating to the Welsh repeatable prescription or, on the equivalent batch issue relating to the equivalent repeatable prescription, at the time the drug or appliance is supplied;
- (b) there is entitlement to remission of the charge under regulation 3 of the Travelling Expenses and Remission of Charges Regulations and a declaration of entitlement to remission is duly completed by or on behalf of the patient—
  - (i) in cases where a Welsh prescription form is presented, on the Welsh prescription form,
  - (ii) in cases where an equivalent prescription form is presented, on the equivalent prescription form,
  - (iii) in cases falling within paragraph (3), on the batch issue relating to the Welsh repeatable prescription or, on the equivalent batch issue relating to the equivalent repeatable prescription, at the time that the drug or appliance is supplied; or
- (c) the patient is resident in a school or institution the name of which is inserted on the Welsh prescription form or on the equivalent prescription form by a prescriber pursuant to the term of a general medical services contract which gives effect to paragraph 44(2) of Schedule 6 to the GMS Contract Regulations or of other arrangements for the provision of primary medical services made under section 16CC(2) of the Act.

(7) A chemist, notwithstanding his or her terms of service, shall be under no obligation to provide pharmaceutical services in respect of an order on—

- (a) a Welsh prescription form,
- (b) an equivalent prescription form,
- (c) a Welsh repeatable prescription, or

(d) an equivalent repeatable prescription, unless he or she is first paid by the patient any charge required to be made and recovered by paragraph (1), (3), or (5) in respect of that order.

(13) A chemist who makes and recovers a charge under paragraph (1), (3), or (5) must, if so required by the patient, give to the patient 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 may be made.

(14) Any sum which would otherwise be payable by a Local Health Board to a chemist in respect of the provision by the chemist of pharmaceutical services will be reduced by the amount of any charges which are required to be made and recovered by the preceding provisions of this regulation.”.

#### **Amendment to regulation 4 of the principal Regulations**

**5.**—(1) Regulation 4 of the principal Regulations is amended as follows.

(2) For paragraph (1) substitute the following—

“(1) A doctor who provides pharmaceutical services to a patient must, subject to paragraph (3) make and recover from that patient—

(a) where the patient presents a Welsh prescription form—

(i) in respect of an item of elastic hosiery a charge of £4.00, that is to say a charge of £8.00, per pair,

(ii) in respect of the supply of each other appliance and of each quantity of a drug, a charge of £4.00;

(b) where the patient presents an equivalent prescription form—

(i) in respect of an item of elastic hosiery the charge that is specified in regulation 4(1)(a) of the Charges Regulations 2000,

(ii) in respect of the supply of each other appliance and of each quantity of a drug, the charge that is specified in regulation 4(1)(b) of the Charges Regulations 2000.”.

(3) In paragraph (2) for the words “prescription form” substitute “Welsh prescription form or on the equivalent prescription form”.

(4) In paragraph (3) for the words “prescription form” in each place they occur, substitute the words “Welsh prescription form or the equivalent prescription form”.

(5) In paragraph (4)—

- (a) for the words “single prescription form” substitute “single Welsh prescription form or a single equivalent prescription form”; and
- (b) for “£6.00” substitute “£4.00”

### **Amendment of regulation 8 of the principal Regulations**

**6.**—(1) Regulation 8 of the principal Regulations is amended as follows.

(2) In paragraph (3), at the beginning of the paragraph, insert “Subject to paragraph (3A)”.

(3) After paragraph (3) insert—

“ (3A) A person who falls within paragraph (1)(a) or (b) will not be required to provide any declaration of entitlement required by regulations 3(6) or 4(3) where—

- (a) a Welsh prescription form;
- (b) a Welsh repeatable prescription;
- (c) an equivalent prescription form; or
- (d) an equivalent repeatable prescription,

is issued and the person’s date of birth is printed by means of a computer on the relevant form.”.

### **Insertion of regulation 8A into the principal Regulations**

**7.**After regulation 8, insert the following regulation—

#### **“Exemption from charges for prisoners**

**8A.** A prisoner is not liable to pay any charges under these Regulations.”.

### **Amendment of regulation 11 of the principal Regulations**

**8.** In paragraph (2) or regulation 11 of the principal Regulations, for the words “regulation 3(6)” substitute “regulation 3(13)”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(7)

Date

*Dafydd Elis Thomas*

The Presiding Officer of the National Assembly

## SCHEDULE

regulation 2

### Amounts substituted in the principal Regulations

<i>(1)</i> <i>Provision in</i> <i>the principal</i> <i>Regulations</i>	<i>(2)</i> <i>Subject matter</i>	<i>(3)</i> <i>Old</i> <i>amount</i>	<i>(4)</i> <i>New</i> <i>amount</i>
Regulation 3	Supply of drugs and appliances by chemists—		
paragraph (1)(a)(i)	charge for elastic hosiery— per item per pair	£4.00 £8.00	£3.00 £6.00
paragraph (1)(a)(ii)	charge for drugs, and for appliances not specified in paragraph (1)(a)(i)	£4.00	£3.00
paragraph (3)(a)(i)	charge for elastic hosiery— per item per pair	£4.00 £8.00	£3.00 £6.00
paragraph (3)(a)(ii)	charge for drugs, and for appliances not specified in paragraph (3)(a)(i)	£4.00	£3.00
paragraph (5)(a)	charge for drugs supplied by instalments	£4.00	£3.00
Regulation 4	Supply of drugs and appliances by doctors—		
paragraph (1)(a)(i)	charge for elastic hosiery—		

	per item	£4.00	£3.00
	per pair	£8.00	£6.00
paragraph (1)(a)(ii)	charge for drugs, and for appliances not specified in paragraph (1)(a)(i)	£4.00	£3.00
paragraph (4)	charge for drugs supplied by instalments	£4.00	£3.00
Regulation 5	Supply of drugs and appliances to out-patients by Local Health Boards and NHS Trusts—		
paragraph (1)(a)	charge for elastic hosiery—		
	per item	£4.00	£3.00
	per pair	£8.00	£6.00
paragraph (1)(c)	charge for tights	£8.00	£6.00
paragraph (1)(d)	charge for drugs, and appliances not specified in paragraph (1)(a) or (1)(c), or in Schedule 1	£4.00	£3.00
paragraph (5)	charge for drugs supplied by instalments	£4.00	£
			3.00
Regulation 6	Supply of drugs and appliances at Walk-in centres—		
paragraph (1)(a)	charge for elastic hosiery—		
	per item	£4.00	£3.00
	per pair	£8.00	£6.00
paragraph (1)(b)	charge for drugs, and	£4.00	£3.00

	appliances not specified in paragraph (1)(a)		
paragraph (4)	charge for drugs supplied by instalments	£4.00	£3.00
Regulation 7(1)	Supply of drugs under Patient Group Directions	£4.00	£3.00
Regulation 10(5)	Pre-payment Certificate—		
	4 months	£20.93	£15.69
	12 months	£57.46	£43.09



To: Business Committee  
From: Brian Gibbons AM  
Minister for Health and Social Services

## **EXPLANATORY MEMORANDUM**

### **NATIONAL HEALTH SERVICE, WALES**

#### **THE NATIONAL HEALTH SERVICE (CHARGES FOR DRUGS AND APPLIANCES) (WALES) (AMENDMENT) (NO.2) REGULATIONS 2005**

##### **Summary**

The intended effect of this instrument is to ensure that the reduced prescription charge (and eventually the exemption of all patients from prescription charges) will only apply to prescriptions written on a Welsh prescription form. It will also allow a further reduction in the prescription charge from £4 to £3 in April 2006. The cost of annual pre-payment certificates will reduce from £57.46 to £43.09, and four monthly ones from £20.93 to £15.69.

The Order will also allow patients who are exempt from charges on age grounds, and whose age is printed on the prescription form, not to sign the declaration on the reverse of the form in order to qualify for their exemption. In addition it will allow prisoners to be added to the list of patients exempt from prescription charges when devolution of commissioning takes place and they become NHS patients from April 2006.

1. This Memorandum is submitted to the Assembly's Business Committee in relation to the National Health Service (Charges for Drugs and Appliances) (Wales) (Amendment) (No.2) Regulations 2005, in accordance with Standing Order 24.6.
2. A copy of the Instrument is submitted with the Memorandum.

##### **Enabling Power**

3. The powers enabling this Instrument to be made are contained in sections 77, 83, 83A and 126(4) of and paragraph 1 of Schedule 12 to the National Health Service Act 1977. These powers have been transferred to the National Assembly for Wales and in turn have been delegated to my portfolio as Minister for Health and Social Services.

##### **Effect**

4. The intended effect of this Instrument is to:
  - ensure that Welsh prescription charge will only apply to prescriptions written on a Welsh prescription form by a prescriber registered with a Welsh Local Health Board or NHS Trust and dispensed in a pharmacy in Wales;
  - allow patients who are exempt from charges on age grounds, and whose age is printed on the prescription form, not to sign the declaration on the reverse of the form in order to qualify for their exemption;

- allow prisoners to be added to the list of patients exempt from prescription charges when devolution of commissioning takes place and they become NHS patients from April 2006;
- reduce prescription charges from £4 to £3 on 1 April 2006; and
- simultaneously reduce the cost of an annual pre-payment certificate from £57.46 to £43.09 and a four monthly pre-payment certificate from £20.93 to £15.69.

### **Target Implementation**

5. It is intended that these Regulations be made on 28 June 2005 and come into force on 1st August 2005. If the intended dates are not met then patients presenting prescriptions from other countries will continue to benefit from the lower prescription charges in Wales as they do now. Although, at present the increase in demand has not been significant, there is a concern that as the charge continues to decrease in Wales and increase in England, that more and more patients will bring their prescriptions over the border to benefit from the lower charge. If this were to remain unchecked when no charges at all were being levied in Wales, there would be potential for real abuse of the system and for this to become unmanageable.

### **Financial Implications**

6. The cost of implementing these Regulations is estimated to be £5.37m for 2006-07. This is additional to the cost in 2006-07 of funding the reductions in prescription charges introduced in 2004 and 2005. The total cost in 2006-07 of funding the reductions in the prescription charges implemented by this and the earlier Statutory Instruments (The National Health Service (Charges for Drugs and Appliances) (Wales) (Amendment) Regulations 2004 (SI 2004 No. 1605 (W.164))) and (The National Health Service (Charges for Drugs and Appliances) (Wales) (Amendment) Regulations 2005 (SI 2005/ 427 (W.44))) is estimated to be £16.1 million. These figures are calculated on the basis of an annual income from prescription charges during 2002-03 of £32.2m. The Welsh Assembly Government has given a commitment in "Wales: A Better Country" to remove all prescription charges by April 2007. This is the next stage in that process; the first and second reduction having taken place in October 2004 and April 2005.
7. The financial impact on the NHS of exempting prisoners from charges will be neutral, as the resources transferred from the Home Office already take account of the costs of these services, including any NHS patient contributions that prisons currently pay on prisoners' behalf .
8. Patients who are age exempt already do not pay the prescription charge so that there would be no further expense as a result of this change.

### **Regulatory Appraisal**

9. A Regulatory Appraisal has been carried out in relation to this Instrument, and is attached.

## **Consultation**

### With Stakeholders

10. This is another stage in the agreed programme to abolish the prescription charge. The decision to adopt a staged reduction arose out of the initial consultations with a stakeholder group including representatives from Community Pharmacy Wales, the British Medical Association (GPC Wales), the Royal College of Pharmacy, the Association of Welsh Community Health Councils (CHCs), Health Solution Wales, Local Health Boards, the Chief Pharmaceutical Advisor and the National Public Health Service.

### With Subject Committee

11. The Health and Social Services Committee are formally scrutinising these Regulations on 22<sup>nd</sup> June. (HSS(2)-03-05)

## **Recommended Procedure**

12. Subject to the views of the Business Committee, I recommend that these Regulations proceed to Plenary under the Standard procedure so that Assembly Members are given every opportunity to examine and discuss the proposed changes.

## **Compliance**

13. The proposed legislation will (as far as is applicable):

- have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998 Section 120);
- be compatible with the Assembly's scheme for sustainable development (Section 121);
- be compatible with Community law (Section 106);
- be compatible with the Assembly's human rights legislation (Section 107); and
- be compatible with any international obligations binding the UK Government and the Assembly (Section 108).

14. The information contained in this Memorandum has been cleared with the Directorate of Legal Services and the Assembly Compliance Officer.

15. Drafting Lawyer – Tracy Hull Ext 5946

16. Head of Branch – Paul Parker Ext 5404

17. Drafting Policy Official – Karen Morgan Ext 3858

**BRIAN GIBBONS AM**  
**MINISTER FOR HEALTH AND SOCIAL SERVICES**

**MAY2005**

## **REGULATORY APPRAISAL**

National Health Service, Wales

### **THE NATIONAL HEALTH SERVICE (CHARGES FOR DRUGS AND APPLIANCES) (WALES) (AMENDMENT) (NO.2) REGULATIONS 2005**

#### **Purpose and intended effect**

1. The intended effect of this instrument is to ensure that the reduced prescription charge (and eventually the exemption of all patients from prescription charges) will only apply to prescriptions written on a Welsh prescription form, by a prescriber registered with a Welsh Local Health Board or NHS Trust, and dispensed in a pharmacy in Wales. It will also allow a further reduction in the prescription charge from £4 to £3 in April 2006. The cost of annual pre-payment certificates will reduce from £57.46 to £43.09, and four monthly ones from £20.93 to £15.69.
2. The Order will also allow patients who are exempt from charges on age grounds, and whose age is printed on the prescription form, not to sign the declaration on the reverse of the form in order to qualify for their exemption. In addition it will allow prisoners to be added to the list of patients exempt from prescription charges when devolution of commissioning takes place and they become NHS patients from April 2006.

#### **Risk Assessment**

3. It has long been contended that patients on low incomes neglect to collect items on their prescriptions because they cannot afford to do so. There are also many patient groups, who are currently not exempt from charges on medical grounds, but have a case for saying that they should be. In order to address these and other concerns, the Welsh Assembly Government is committed to removing all prescription charges by April 2007. This Order represents the next stage in that process, with other reductions having taken place in October 2004 and April 2005. The risk of not making the Order is that these difficulties for patients will continue to exist.
4. If the Order which restricts access to the reduced prescription charges, and ultimately prescriptions with no charge is not made then patients presenting prescriptions from other countries will continue to benefit from the lower prescription charges as they do now. Although at present the increase in demand has not been significant, there is a concern that as the charge continues to decrease in Wales and increase in England, that more and more patients will bring their prescriptions over the border to benefit from the lower charge. If this were to remain unchecked when no charges at all were being levied in Wales, there would be potential for real abuse of the system and for this to become unmanageable. There is at least one company already in existence whose sole purpose it is to dispense English forms through a Welsh pharmacy once the charges are abolished. This order would prevent there being any financial benefit in doing this.

5. If the Order was not made which adds prisoners to the list of exempt patients from April 2006 when devolution of commissioning comes into effect, then there is a real risk that more resources would be spent in administering a charges collection system than would actually be collected.
6. If patients who are age exempt remained obliged to complete the declaration on the reverse of the prescription form to qualify for their exemption, a chance to streamline the system and save time in the dispensary would be missed.

## **Options**

### **Option 1: Do Nothing**

The cost of prescriptions and pre-payment certificates would remain the same, patients from elsewhere would continue to benefit from the lower charge; prisoners would have to be charged for their prescriptions from April 2006 when not exempt on other grounds, and patients would have to continue to sign the declaration on the reverse of the WP10 despite the fact that their exemption from charges on grounds of their age is apparent on the front of the form.

### **Option 2: Make the Legislation**

Taking into account time, ethical and financial constraints there is no reasonable alternative to this course of action at this stage.

## **Benefits**

7. Restricting access to the reduced prescription charge to patients who have been prescribed medication by a prescriber registered with a Welsh Local Health Board or NHS Trust, should prevent abuse of the system by patients from other territorial countries in the UK . This will allow the resources available to be used for the benefits of patients in Wales. Furthermore, reducing the charge made to patients for their medication should help to prevent them having to be selective about the products they choose bringing longer term health benefits.
8. By allowing patients to obtain their age exemption without signing the declaration if their date of birth is printed on the form, time will be saved in the pharmacy, and unnecessary paperwork prevented. Including prisoners in the list of exempt patients means that they will continue to receive their prescriptions free of charge after the devolving of commissioning arrangements, and further administration costs will be avoided.

## **Costs**

9. The cost of implementing these Regulations is estimated to be £5.37m for 2006-07. This is additional to the cost in 2006-07 of funding the reductions in prescription charges introduced in 2004 and 2005. The total cost in 2006-07 of funding the reductions in the prescription charges implemented by this and the earlier Statutory Instruments (The National Health Service (Charges for Drugs and Appliances) (Wales) (Amendment) Regulations 2004 (SI 2004 No. 1605 (W.164))) and (The National Health Service

(Charges for Drugs and Appliances) (Wales) (Amendment) Regulations 2005 (SI 2005/ 427 (W.44))) is estimated to be £16.1 million. These figures are calculated on the basis of an annual income from prescription charges during 2002-03 of £32.2m. The Welsh Assembly Government has given a commitment in "Wales: A Better Country" to remove all prescription charges by April 2007. This is the next stage in that process; the first and second reduction having taken place in October 2004 and April 2005.

10. The financial impact on the NHS of exempting prisoners from charges will be neutral, as the resources transferred from the Home Office already take account of the costs of these services, including any NHS patient contributions that prisons currently pay on prisoners' behalf.
11. Patients who are age exempt already do not pay the prescription charge so that there would be no further expense as a result of this change.

### **Competition Assessment**

12. Any negative competitive impact arising from the proposed amendment would be restricted to English pharmacies on the border which may lose business from Welsh patients. However, this is likely to be counteracted a return to those pharmacies by English patients who would previously have been benefiting from the reduced charge available to them in Welsh pharmacies.

### **Consultation**

#### **WITH STAKEHOLDERS**

13. This is another stage in the agreed programme to abolish the prescription charge. The decision to adopt a staged reduction arose out of the initial consultations with a stakeholder group including representatives from Community Pharmacy Wales, the British Medical Association (GPC Wales), the Royal College of Pharmacy, the Association of Welsh Community Health Councils (CHCs), Health Solution Wales, Local Health Boards, the Chief Pharmaceutical Advisor and the National Public Health Service.

#### **WITH SUBJECT COMMITTEE**

14. The Health and Social Services Committee are scrutinising this legislation on 22<sup>nd</sup> June 2005. (HSS(2)-03-05)

### **Significant Costs**

15. The costs involved in implementing these changes will be borne by the Assembly as stated in paragraphs 8-11 above.

### **Review**

16. The impact of the Order will be monitored and reviewed in the usual way through the collection of dispensing data by Health Solutions Wales.

### **Summary**

17. The proposed amendment will result in cheaper prescriptions for all patients in Wales, as well as disposing of the need whereby patients are

having to declare their age on the reverse of the WP10 when it is apparent from their date of birth on the front of the form that they are exempt on age grounds. The amendment will also restrict access to cheaper (and ultimately free) prescriptions to patients who are treated by a Welsh prescriber registered with a Welsh Local Health Board or NHS Trust. In addition it will mean that from April 2006 prisoners will continue to be exempt from prescription charges.