

Explanatory Memorandum to The National Health Service (General Ophthalmic Services and Optical Charges and Payments) (Amendment) (Wales) Regulations 2016

This Explanatory Memorandum has been prepared by the Health and Social Services Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Cabinet Secretary Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The National Health Service (General Ophthalmic Services and Optical Charges and Payments) (Amendment) (Wales) Regulations 2016.

Vaughan Gething AM
Cabinet Secretary for Health, Well-being and Sport
3 November 2016

1. Description

These Regulations amend the National Health Service (General Ophthalmic Services) Regulations 1986, the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006 and the National Health Service (Optical Charges and Payments) Regulations 1997.

The Regulations provide for minor updating policy amendments to the principal Regulations which are technical in nature.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None.

3. Legislative background

The Regulations will be made pursuant to powers under sections 71, 72, 105, 118, 128, 129, 130 and 203(9) and (10) of the National Health Service (Wales) Act 2006.

These Regulations will follow the negative resolution procedure. They will come into force on 1 December 2016.

4. Purpose & intended effect of the legislation

The National Health Service (General Ophthalmic Services) Regulations 1986

The above Regulations regulate the terms on which ophthalmic medical practitioners and opticians provide general ophthalmic services under sections 71 and 72 of the National Health Service (Wales) Act 2006 including the list of those persons providing general ophthalmic services

The amendments required to the National Health Service (General Ophthalmic Services) Regulations 1986 are set out below.

- Remove the requirement for the optician/OMP to inform a patient's doctor of the results of a sight test of a patient diagnosed with diabetes or glaucoma.
As eye care has developed, the vast majority of patients with diabetes are enrolled in the Diabetic Retinopathy Screening Service, while patients with glaucoma are treated in secondary care and followed up in primary care. Patient care is adequately provided for without routine notification of sight tests unless there is something significant to report to their GP. This amendment will remove the administrative burden for opticians/OMPs and GPs.
- Insert a new provision to allow for Electronic claims for payments.

Over a million claims for sight tests and supply of glasses were paid for by the NHS in Wales in 2015/16. As the GOS claim forms have to be signed in ink by hand they are then sent to NHS Wales Shared Services Partnership (“SSP”) to process by hand and the data then entered onto a computer. By introducing this amendment it will improve efficiency by allowing for the processing of electronic claims once the IT systems are in place and will remove the administrative burden for opticians/OMPs and SSP.

- Allow the LHB to remove an optician/OMP from the ophthalmic list if they have not performed general ophthalmic services in the preceding 12 months rather than six.

This amendment brings opticians/OMPs in line with the Performers Lists Regulations for Doctors and Dentists in respect of the ‘12 months’. That is the Local Health Board can remove an optician/OMP from the ophthalmic list if in the preceding 12 months (instead of 6 months) the optician/OMP has not provided general ophthalmic services. This will bring opticians/OMPs in line with the other contractor professions and remove the administrative burden for opticians/OMPs and SSP.

- Give LHBs discretion as to whether they refuse to include an optician/OMP in its list or remove an optician/OMP from its ophthalmic list if they have been convicted of any criminal offence (other than murder) and has been sentenced to a term of imprisonment (whether suspended or not) of over 6 months; and to allow for a right of appeal if the LHB refuses to include an optician/OMP in its Ophthalmic List.

The current requirements are inflexible. This amendment will provide Local Health Boards with the flexibility to decide if refusals/removals in those circumstances are appropriate on a case by case basis.

National Health Service (General Ophthalmic Services) Regulations 1986 and the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006

Part 1 of the above Regulations provides for a supplementary list for those assisting in the provision of general ophthalmic services to be kept by Local Health Boards in accordance with the provisions of section 105 of the National Health Service (Wales) Act 2006.

The amendments required to Part 1 of the National Health Service (General Ophthalmic Services) Regulations 1986 and the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006 are set out below.

- Allow the LHB to remove an optician/OMP from the Supplementary list if they have not assisted in general ophthalmic services in the preceding 12 months rather than six.

This mirrors the change to be made to the Ophthalmic List under the National Health Service (General Ophthalmic Services) Regulations 1986 above.

- Give LHBs discretion as to whether they refuse or remove an optician/OMP from its Supplementary list if they have been convicted of any criminal offence (other than murder) and have been sentenced to a term of imprisonment (whether suspended or not) of over 6 months.
This mirrors the change to be made to the Ophthalmic List under the National Health Service (General Ophthalmic Services) Regulations 1986 above.

The National Health Service (Optical Charges and Payments) Regulations 1997

The above Regulations provide a scheme for payments to be made by Local Health Boards by means of a voucher system, in respect of costs incurred by certain categories of persons in connection with sight tests and the supply, replacement and repair of optical appliances.

The amendments required to the National Health Service (Optical Charges and Payments) Regulations 1997 are set out below.

- The current Regulations provide for opticians/OMPs to claim a small glasses supplement if –
 - the glasses supplied are a boxed centre of not more than 55 mm, *and*
 - the patient is a child under seven years of age, *and*
 - the optician/OMP has supplied a non-stock frame *or* a stock frame requiring extensive adaptation to ensure a satisfactory fit.

It has become apparent that a number of individuals were shown to be disadvantaged because, despite being over 7 years of age, they needed a small frame for clinical reasons. It is proposed that an amendment is made to the Regulations so as not to restrict the supply of such a supplement to a child less than 7 years of age.

- There is currently no provision for an optician/OMP to provide and certify a voucher under GOS to a patient in respect of glasses the frame of which needs to be specially manufactured on account of the patient's facial characteristics. Instead the patient has to attend the Hospital Eye Service to obtain this voucher. An amendment is proposed to allow opticians/OMPs to issue a voucher in these circumstances. This will benefit patients and also place less demand on the Hospital Eye Service.

5. Consultation

Due to the narrow and technical nature of the amendments, a six week informal consultation exercise was undertaken with relevant stakeholders which included –

Directors of Primary, Community Care and Mental Health of Health Boards
British Medical Association
Association of Optometrists
Optometry Wales
Federation of Ophthalmic and Dispensing Opticians
NHS Wales Shared Services Partnership Primary Care
Optometric practices in Wales
Association of British Dispensing Opticians
General Optical Council

Two responses were received which fully supported the proposals.

6. Regulatory Impact Assessment (RIA)

A Regulatory Impact Assessment has not been prepared for this instrument as it imposes no costs or no savings, or negligible costs or savings on the public, private or charities and voluntary sectors. In addition, the amendments are routine technical amendments to update the relevant Regulations.

This legislation has no impact on the statutory duties (sections 77-79 of the Government of Wales Act 2006) or statutory partners (sections 72-75 of that Act).