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WELSH STATUTORY INSTRUMENTS

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**2017 No. 340 (W. 84)**

**NATIONAL HEALTH SERVICE, WALES**

**The National Health Service (Welfare Reform  
Miscellaneous Amendments) (Wales) Regulations 2017**

<i>Made</i>	- - - -	<i>8 March 2017</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>10 March 2017</i>
<i>Coming into force</i>	- -	<i>1 April 2017</i>

The Welsh Ministers in exercise of the powers conferred on them by sections 71, 125, 128, 129, 130, 131, 132 and 203(9) and (10) of the National Health Service (Wales) Act 2006<sup>(1)</sup> make the following Regulations.

**Title, commencement and application**

1.—(1) The title of these Regulations is the National Health Service (Welfare Reform Miscellaneous Amendments) (Wales) Regulations 2017 and they come into force on 1 April 2017.

(2) These Regulations apply in relation to Wales.

**Interpretation**

2. In these Regulations—

“the 1986 Regulations” (“*Rheoliadau 1986*”) means the National Health Service (General Ophthalmic Services) Regulations 1986<sup>(2)</sup>;

“the 1997 Regulations” (“*Rheoliadau 1997*”) means the National Health Service (Optical Charges and Payments) Regulations 1997<sup>(3)</sup>; and

“the 2007 Regulations” (“*Rheoliadau 2007*”) means the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007<sup>(4)</sup>.

**Amendment of the 1986 Regulations**

3.—(1) The 1986 Regulations are amended in accordance with this regulation.

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(1) 2006 c. 42.

(2) S.I. 1986/975 as amended.

(3) S.I. 1997/818 as amended.

(4) S.I. 2007/1104 (W. 116) as amended.

- (2) In regulation 13 (sight tests – eligibility)—
- (a) in paragraph (2), for sub-paragraph (q) substitute—
- “(q) that person is a relevant universal credit recipient.”;
- (b) after paragraph (2A), insert—
- “(2B) In paragraph (2)(q) “relevant universal credit recipient” means a person who, in the relevant assessment period—
- (a) had an award of universal credit, either as a single claimant or as one of joint claimants, where—
- (i) the award did not include the child element,
- (ii) the single claimant or, as the case may be, both joint claimants, did not have limited capability for work, and
- (iii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £435.00 or less;
- (b) had an award of universal credit, either as a single claimant or as one of joint claimants, where—
- (i) the award included the child element, and
- (ii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £935.00 or less;
- (c) had an award of universal credit, either as a single claimant or as one of joint claimants, where—
- (i) the single claimant or, as the case may be, one or both joint claimants, had limited capability for work, and
- (ii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £935.00 or less; or
- (d) was a qualifying young person for whom a recipient referred to in sub-paragraph (b) or (c) is responsible (within the meaning of Part 1 of the 2012 Act (universal credit) and regulations made thereunder).
- (2C) Where paragraph (2D) applies, a person is, for the purposes of regulation 13B(1)(c), to be treated as falling within the description of a relevant universal credit recipient in paragraph (2)(q).
- (2D) This paragraph applies where the conditions in sub-paragraphs (a), (b), (c) or (d) of paragraph (2B) are satisfied in the assessment period in which the sight test takes place and—
- (a) there is no relevant assessment period; or
- (b) none of those conditions were satisfied in the relevant assessment period.”;
- (c) omit paragraph (3)(e); and
- (d) after paragraph (3), insert—
- “(4) For the purposes of paragraphs (2B) and (2C)—
- “assessment period” means the assessment period for the purposes of universal credit as specified in regulation 21 of the Universal Credit Regulations 2013 (assessment periods)(5);
- “child element” means the child element of universal credit as specified in regulation 24(1) of the Universal Credit Regulations 2013 (the child element);

“earned income” means a person’s earned income as defined by Chapter 2 of Part 6 of the Universal Credit Regulations 2013 (calculation of capital and income – earned income);

“joint claimants” has the meaning given in section 40 of the 2012 Act (interpretation of Part 1);

“limited capability for work” means limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 39 and 40 respectively of the Universal Credit Regulations 2013 (limited capability for work; limited capability for work and work-related activity);

“qualifying young person” has the meaning given in section 10(5) of the 2012 Act (responsibility for children and young persons);

“relevant assessment period” means the assessment period immediately preceding that in which the sight test takes place; and

“single claimant” has the meaning given in section 40 of the 2012 Act (interpretation of Part 1).”.

(3) In regulation 13B (sight test treated as a test under general ophthalmic services)—

(a) for paragraph (1), substitute—

“(1) A person whose sight is tested by a contractor, but who was not an eligible person immediately before the testing and is shown—

(a) during the testing to fall within the description specified in sub-paragraph (d) of regulation 13(1);

(b) in accordance with paragraph (3), within 3 months after the testing to fall within any of the descriptions specified in sub-paragraphs (e), (f) or (k) of regulation 13(2); or

(c) within three months after the testing to fall within the description specified in regulation 13(2)(q),

shall be taken for the purposes of the testing to have so fallen immediately before the person’s sight was tested.”

(b) in paragraph (4), after “(3)” insert “or (1)(c)”.

#### **Amendment of the 1997 Regulations**

4.—(1) The 1997 Regulations are amended in accordance with this regulation.

(2) In regulation 8 (eligibility – supply of optical appliances)—

(a) for paragraph (3)(q), substitute—

“(q) that person is a relevant universal credit recipient.”

(b) after paragraph (3), insert—

“(3A) For the purposes of paragraph (3)(q) “relevant universal credit recipient” means a person who, in the relevant assessment period—

(a) had an award of universal credit, either as a single claimant or as one of joint claimants, where—

(i) the award did not include the child element,

(ii) the single claimant or, as the case may be, both joint claimants, did not have limited capability for work, and

- (iii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £435.00 or less;
- (b) had an award of universal credit, either as a single claimant or as one of joint claimants, where—
  - (i) the award included the child element, and
  - (ii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £935.00 or less;
- (c) had an award of universal credit, either as a single claimant or as one of joint claimants, where—
  - (i) the single claimant or, as the case may be, one or both joint claimants, had limited capability for work, and
  - (ii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £935.00 or less; or
- (d) was a qualifying young person for whom a recipient referred to in sub-paragraph (b) or (c) is responsible (within the meaning of Part 1 of the 2012 Act (universal credit) and regulations made thereunder).

(3B) Where paragraph (3C) applies, a person is to be treated as a person of a description specified in paragraph (2) for the purposes of regulation 20 (payments in respect of optical appliances).

(3C) This paragraph applies where the conditions in sub-paragraphs (a), (b), (c) or (d) of paragraph (3A) are satisfied in the assessment period in which the sight test takes place and—

- (a) there is no relevant assessment period; or
- (b) none of those conditions were satisfied in the relevant assessment period.”;
- (c) at the end of paragraph (4)(b), insert “and”;
- (d) at the end of paragraph (4)(d), omit “; and” and insert “.”;
- (e) omit paragraph (4)(e); and
- (f) after paragraph (4), insert—

“(4A) For the purposes of paragraphs (3A) and (3C)—

“assessment period” means the assessment period for the purposes of universal credit as specified in regulation 21 of the Universal Credit Regulations 2013 (assessment periods)(6);

“child element” means the child element of universal credit as specified in regulation 24(1) of the Universal Credit Regulations 2013 (the child element);

“earned income” means a person’s earned income as defined by Chapter 2 of Part 6 of the Universal Credit Regulations 2013 (calculation of capital and income – earned income);

“joint claimants” has the meaning given in section 40 of the 2012 Act (interpretation of Part 1);

“limited capability for work” means limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 39 and 40 respectively of the Universal Credit Regulations 2013 (limited capability for work; limited capability for work and work-related activity);

“qualifying young person” has the meaning given in section 10(5) of the 2012 Act (responsibility for children and young persons);

“relevant assessment period” means the assessment period immediately preceding that in which the supply of the optical appliance is paid for; and

“single claimant” has the meaning given in section 40 of the 2012 Act (interpretation of Part 1).”.

### **Amendment of the 2007 Regulations**

5.—(1) The 2007 Regulations are amended in accordance with this regulation.

(2) In regulation 2(a) (interpretation), in the definition of “couple” omit “(i) and (iii)”.

(3) In regulation 5 (entitlement to full remission and payment)—

(a) for paragraph (1)(aa), substitute—

“(aa) is a relevant universal credit recipient;”

(b) after paragraph (1), insert—

“(1A) For the purposes of paragraph (1)(aa) “relevant universal credit recipient” (*“derbynydd credyd cynhwysol perthnasol”*) means a person who, in the relevant assessment period—

(a) had an award of universal credit, either as a single claimant or as one of joint claimants, where—

(i) the award did not include the child element,

(ii) the single claimant or, as the case may be, both joint claimants, did not have limited capability for work, and

(iii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £435.00 or less;

(b) had an award of universal credit, either as a single claimant or as one of joint claimants, where—

(i) the award included the child element, and

(ii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £935.00 or less;

(c) had an award of universal credit, either as a single claimant or as one of joint claimants, where—

(i) the single claimant or, as the case may be, one or both joint claimants, had limited capability for work, and

(ii) the single claimant had earned income or, as the case may be, the joint claimants had combined earned income, of £935.00 or less; or

(d) was a child or qualifying young person for whom a recipient referred to in sub-paragraph (b) or (c) is responsible (within the meaning of Part 1 of the 2012 Act (universal credit) and regulations made thereunder).

(1B) Where paragraph (1C) applies, a person is to be treated as entitled to claim repayment of an NHS charge or NHS travel expenses under regulation 10 (claims for repayment).

(1C) This paragraph applies where the conditions in sub-paragraphs (a), (b), (c) or (d) of paragraph (1A) are satisfied in the assessment period in which the sight test takes place and—

- (a) there is no relevant assessment period; or
- (b) none of those conditions were satisfied in the relevant assessment period.

(1D) For the purposes of paragraphs (1A) and (1C)—

“assessment period” (“*cyfnod asesu*”) means the assessment period for the purposes of universal credit as specified in regulation 21 of the Universal Credit Regulations 2013 (assessment periods)(7);

“child element” (“*elfen plentyn*”) means the child element of universal credit as specified in regulation 24(1) of the Universal Credit Regulations 2013 (the child element);

“earned income” (“*incwm a enillir*”) means a person’s earned income as defined by Chapter 2 of Part 6 of the Universal Credit Regulations 2013 (calculation of capital and income – earned income);

“joint claimants” (“*ceiswyr ar y cyd*”) has the meaning given in section 40 of the 2012 Act (interpretation of Part 1);

“limited capability for work” (“*gallu cyfyngedig i weithio*”) means limited capability for work or limited capability for work and work-related activity as construed in accordance with regulations 39 and 40 respectively of the Universal Credit Regulations 2013 (limited capability for work; limited capability for work and work-related activity);

“qualifying young person” (“*person ifanc cymwys*”) has the meaning given in section 10(5) of the 2012 Act (responsibility for children and young persons);

“relevant assessment period” (“*cyfnod asesu perthnasol*”) means the assessment period immediately preceding that in which the NHS charge was paid or NHS travel expenses incurred; and

“single claimant” (“*ceisydd unigol*”) has the meaning given in section 40 of the 2012 Act (interpretation of Part 1).”.

(4) In Schedule 1 (modifications of the Income Support (General) Regulations 1987), in column 2 of Table A, in the modification of regulation 62 (calculation of grant income)—

(a) in paragraph (2C)(a)—

- (i) for “regulations 57 to 59 of the Education (Student Support) Regulations 2009” substitute “regulations 57 to 60 of the Education (Student Support) Regulations 2011”(8); and

(b) in paragraph (2C)(b)—

- (i) for “regulations 39 to 41 of the Assembly Learning Grants and Loans (Higher Education) (Wales) (No.2) Regulations 2011” substitute “regulations 37 to 39 of the Education (Student Support) (Wales) Regulations 2015”(9); and
- (ii) for “regulations 49 to 52” substitute “regulations 46 to 49”.

### **Transitional provision relating to the 1986 Regulations**

6.—(1) This regulation applies where, before 1 April 2017, a cost is incurred by a person in respect of a sight test by an ophthalmic medical practitioner or an optician, without a voucher being completed, and—

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(7) S.I. 2013/376.

(8) S.I. 2011/1986.

(9) S.I. 2015/54 (W. 5); amended by S.I. 2015/1505 (W. 173), 2016/77 (W. 34) and 2016/211 (W. 84).

- (a) immediately before that date, a person would have been entitled to have a sight test under general ophthalmic services by virtue of paragraph 2(q) of regulation 13 of the 1986 Regulations (sight tests – eligibility); and
  - (b) but for the application of paragraph (2), that person’s entitlement would cease by virtue of the amendments made to regulation 13 by regulation 3 of these Regulations.
- (2) Where this regulation applies, regulation 6 of the 1997 Regulations (payments to patients in respect of sight tests) has effect in relation to that person’s eligibility for a payment as if—
- (a) the amendments made by regulation 3 of these Regulations had not come into force; and
  - (b) that person was an “eligible person” for the purposes of regulation 6(1) of the 1997 Regulations.

### **Transitional provision relating to the 1997 Regulations**

7.—(1) This regulation applies where, before 1 April 2017, a cost is incurred by a person in respect of the supply, replacement or repair of an optical appliance before 1 April 2017 and—

- (a) immediately before that date, that person was eligible for a payment by virtue of regulation 8 (eligibility – supply of optical appliances) or regulation 15 (eligibility – replacement or repair) of the 1997 Regulations; and
- (b) but for the application of paragraph (2), that person’s entitlement would cease by virtue of the amendments made to regulation 8 of those Regulations by regulation 4 of these Regulations.

(2) Where this regulation applies, regulation 20 of the 1997 Regulations (payments to patients in respect of the supply, replacement or repair of optical appliances) continues to have effect in relation to that person’s eligibility for a payment as if the amendments made by regulation 4 of these Regulations had not come into force.

(3) This paragraph applies where—

- (a) before 1 April 2017, a person was issued with a voucher in accordance with regulation 9 (issue of vouchers by ophthalmic medical practitioners or opticians), 10 (issue of vouchers by NHS trusts) or 11 (issue of replacement vouchers by NHS trusts or health authorities) of the 1997 Regulations; and
- (b) that voucher has not been accepted before that date.

(4) Where paragraph (3) applies, such a voucher must be processed in accordance with the provisions of the 1997 Regulations as if the amendments made by regulation 4 of these Regulations had not come into force.

### **Transitional provision relating to the 2007 Regulations**

8.—(1) This regulation applies where, before 1 April 2017, NHS travel expenses are incurred or an NHS charge is paid and—

- (a) immediately before that date, a person was entitled to payment in full of NHS travel expenses or to the full remission of an NHS charge by virtue of regulation 5 of the 2007 Regulations (entitlement to full remission and payment); and
- (b) but for the application of this regulation, that person’s entitlement would cease by virtue of the amendments made to regulation 5 of those Regulations by regulation 5 of these Regulations.

(2) Where this regulation applies, regulation 5 of the 2007 Regulations continues to have effect as if the amendments made by regulation 5 of these Regulations had not come into force.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## **Revocation**

**9.** The National Health Service (Welfare Reform Consequential Amendments) (Wales) Regulations 2016(**10**) are revoked.

8 March 2017

*Vaughan Gething*  
Cabinet Secretary for Health, Well-being and  
Sport, one of the Welsh Ministers



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## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (General Ophthalmic Services) Regulations 1986 (S.I. 1986/975), the National Health Service (Optical Charges and Payments) Regulations 1997 (S.I. 1997/818) and the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (S.I. 2007/1104 (W.116)).

They revoke the National Health Service (Welfare Reform Consequential Amendments) (Wales) Regulations 2016 (S.I. 2016/97 (W. 46)) and introduce thresholds for persons in receipt of universal credit if they are to qualify for reimbursement of travel expenses and assistance in respect of certain health related costs.

Regulation 13 of the 1986 Regulations makes provision about who is entitled to general ophthalmic services sight tests under Part 6 of the NHS (Wales) Act 2006.

Regulation 8 of the 1997 Regulations provides for a scheme for payments to be made, by means of a voucher system, in respect of costs incurred by certain categories of persons in connection with the supply of optical appliances.

Regulation 5 of the 2007 Regulations makes provision to enable people in receipt of certain state benefits, or on low incomes, to be reimbursed for travel expenses incurred in obtaining certain NHS services and to be exempt from paying certain NHS charges, without needing to make a claim.

Regulations 3, 4 and 5 of these Regulations amend regulation 13 of the 1986 Regulations, regulation 8 of the 1997 Regulations and regulation 5 of the 2007 Regulations respectively, so that, after 1 April 2017, a person receiving universal credit without a child element, a limited capability for work element or a limited capability for work and work-related activity element to their award is entitled to the reimbursement in full of certain travel expenses relating to NHS treatment, remission of certain NHS charges and assistance relating to the provision of general ophthalmic services sight tests and the supply of optical appliances, if that person has no earned income or earned income of £435 or less in the relevant universal credit assessment period. A person (or a qualifying young person for whom the recipient is responsible) will also be entitled to such reimbursement, remission and assistance if that person is in receipt of universal credit with any of the aforementioned elements to the award and has no earned income or earned income of £935 or less in the relevant universal credit assessment period.

Regulations 6 to 8 make transitional provision to ensure that persons whose entitlement to reimbursement of a travel expense, remission of a charge or assistance with a cost arose before 1 April 2017, can obtain reimbursement, remission or assistance after that date, notwithstanding the changes made by these Regulations.

Regulation 9 revokes the National Health Service (Welfare Reform Consequential Amendments) (Wales) Regulations 2016.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.