

**Explanatory Memorandum to: The National Health Service (Welfare Reform Consequential Amendments) (Wales) Regulations 2013.**

This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Children and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

**Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The National Health Service (Welfare Reform Consequential Amendments) (Wales) Regulations 2013.

*Mark Drakeford*  
Minister for Health & Social Services

DATE: 21 March 2013

**Description**

These Regulations amend the :

- National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (SI 2007/1104(W.116))
- National Health Service (Optical Charges and Payments) Regulations 1997(SI 1997/818)
- National Health Service (General Ophthalmic Services) Regulations (SI 1986/975)

**Matters of special interest to the Constitutional Affairs Committee**

These Regulations amend the NHS (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (SI 2007/1104 (W.116)), which provide for reimbursement of travel expenses and remission of NHS charges for dental treatment, by exemption or for persons on low incomes by entitlement under the NHS Low Income Scheme.

These Regulations also amend the :

- National Health Service (Optical Charges and Payments) Regulations 1997 (SI 1997/818)
- National Health Service (General Ophthalmic Services) Regulations 1986 (SI 1986/975)

which provide for a free NHS sight test and help towards the cost of glasses.

The amendments made by these Regulations allow for Universal Credit (UC) to be accepted as a qualifying benefit for the purposes of full or part remission from NHS charges and passport all UC claimants for the period from 29 April 2013 to 31 March 2014. This allows for those in receipt of Universal Credit to qualify for free NHS dental treatment, a free NHS sight test and help towards the cost of glasses and help with travel costs and to submit a claim under the NHS Low Income Scheme for help with health costs.

### Council Tax Credit Reduction Scheme

Council Tax Benefit is being abolished from 1 April 2013. Council Tax Benefit (CTB) is being replaced by Council Tax Reduction (CTR) schemes which will come into force on 1 April, although local authorities have all already adopted their schemes and the reduction a claimant is entitled to, will be shown on council tax bills for 2013/14.

The new CTR scheme is closely based on the old council tax benefit scheme with mostly some minor administrative simplifications. Therefore eligibility is exactly the same with the exception of Second Adult Rebate (SAR) provisions which have been removed in Wales. SAR is a scheme designed to compensate for the loss of a single person discount if one or more second adults (non - dependants) are in residence. People claiming SAR have an income which is too high for them to qualify for a normal reduction under the CTB scheme and the support they receive is based purely on the income of their non - dependant(s) with the income and capital of the applicant being ignored. There are relatively few claimants in Wales who currently receive SAR (approximately 2,000).

Currently an individual's Council Tax (CT) payments are taken into account in calculating a claim to the LIS – the claim automatically disregards any CTB in that only the amount of CT paid is used in calculating entitlement

### Personal Independence Payment (PIP)

Personal Independence Payment (PIP) will replace Disability Living Allowance (DLA) from 8 April 2013. It will apply to all new claimants aged 16 to 64 and existing DLA claimants who are aged 16 to 64 years of age on 8 April 2013 or reach age 16 after that date. PIP will be made up of two components – Daily Living and Mobility. Each can be paid at standard rate, or enhanced rate for those with the greatest needs. PIP is designed to help people meet the extra costs that come from having a long term health condition or disability. The Daily Living component is similar to the current DLA "care component":

The daily living enhanced rate of PIP will be the same as the higher rate care component of DLA and the standard rate of the daily living component will be set at the middle rate DLA care component.

DLA will continue to be awarded to those above the age of 64 and below the age of 16 years.

DWP have informed that PIP will be introduced by DWP in a gradual programme starting with small numbers approximately 4,000 persons (in the Bootle benefits centre area - so all living in England) in April, and will extend nationally across Great Britain from June.

There is a very small chance that someone who will be in receipt of PIP in the early stages of the roll out might move to Wales.

An award of PIP does not of its' own right entitle a person to free dental or optical treatment.

The Care Component of DLA is currently considered in the calculation of entitlement under the LIS to help with paying for health costs.

### Armed Forces Independence Payment (AFIP)

The Ministry of Defence (MoD), in conjunction with DWP, have announced the introduction of a new benefit, Armed Forces Independence Payment (AFIP), to provide additional financial support for seriously injured service or ex-service personnel, to cover the extra costs they may have due to their injuries.

Armed Forces personnel currently serving and ex – service are entitled to and do claim DLA.

AFIP is being introduced from 8 April 2013. The MoD's Service Personnel and Veterans Agency (SPVA) will be responsible for deciding entitlement to AFIP, while DWP is responsible for payment and ongoing maintenance of AFIP claims.

The number of persons who will currently have the potential to claim AFIP and are resident in Wales is expected to be around 30 persons.

An award of AFIP does not of its' own right entitle a person to free dental or optical treatment.

DLA is currently considered in the calculation of entitlement under the LIS to help with paying for health costs.

## **Legislative Background**

These Regulations are being made in exercise of powers conferred by sections 130, 131, 71, 128, 129 and 203(9) and (10) of the National Health Service (Wales) Act 2006.

These Regulations are subject to the negative resolution procedure.

## **Purpose and intended effect of the legislation**

### Policy Background

A range of DWP working - age benefits will be replaced from 31 October 2013 by streamlined payments known as Universal Credit and rolled out across Great Britain (GB) from October 2013. A Pathfinder will be introduced from 29 April 2013 to 31 October 2013.

Working - age benefits are currently used to establish entitlement to full or part remission of some NHS charges in Wales. It is intended for the period 29 April 2013 to 1 March 2014 to continue full or part remission on the basis of working age benefits and therefore to accept Universal Credit as a qualifying benefit for exemption in Wales.

Income based entitlement to help with health costs may be available through the NHS Low Income Scheme to those who are not automatically entitled to full or part remission of charges through receipt of a passported benefit.

An NHS passported benefit is a benefit where the patient is entitled to receive free treatment by virtue of being in receipt of some other welfare type benefit.

From 8 April 2013 Personal Independence Payment (PIP) and Armed Forces Independence Payment (AFIP) will replace the current Disability Living Allowance (DLA). DLA is currently taken into account in the calculation of entitlement to help with health costs through the NHS Low Income Scheme.

From 1 April 2013 Council Tax Benefit (CTB) is being replaced by Council Tax Reduction (CTR) schemes. Currently CTB is considered in the calculation of entitlement under the LIS to help with paying for health costs.

The purpose of the Regulations is to allow for persons currently receiving passported benefits to continue to do so and for those who will be in receipt of the new benefits; PIP, AFIP, CTR and UC, to continue to receive passported benefits (remission of certain NHS charges and help with travel costs) in the same way as if they had been in receipt of the previous legacy benefits.

## **Implementation**

It is intended that these Regulations will come into force on 12 April 2013.

If these Regulations were to be annulled then the failure to implement the changes to the three Principal Regulations would result in Universal Credit (UC) not being accepted as a qualifying benefit in Wales during the period from 29 April 2013 to 31 March 2014 for the purposes of full or part remission from NHS charges. Consequently those in receipt of Universal Credit would not qualify for free NHS dental treatment, a free NHS sight test and help towards the cost of glasses and help with travel costs. Also, if annulled, these Regulations would not reflect the changes brought about by the introduction of Personal Independence Payment (PIP), Armed Forces Independence Payment (AFIP) and Council Tax Reduction Scheme (CTR); that is to say the recipients of PIP, AFIP and CTR would not be treated the same as those currently in receipt of Disability Living Allowance (DLA) and Council Tax Benefit (CTB).

## **Consultation**

There has been no consultation with stakeholders because these are technical changes to the :

- National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (SI 2007/1104(W.116))
- National Health Service (Optical Charges and Payments) Regulations 1997 (SI 1997/818)
- National Health Service (General Ophthalmic Services) Regulations 1986 (SI 1986/975)

as a consequence of the introduction of the Welfare Reform Act 2012.

These Regulations do not alter existing policy; they simply allow for the continuation of entitlement by the same group of persons to free NHS dental treatment, a free NHS sight test and help towards the cost of glasses and help with travel costs and to submit a claim under the NHS Low Income Scheme.

## **Regulatory Impact Assessment**

These Regulations have no impact on the statutory duties (sections 77 – 79 Government of Wales Act 2006) or impose any additional burdens upon the statutory partners (sections 73 – 75 of that Act).

A Regulatory Impact Assessment has not been prepared for these Regulations because they have no impact on business, charities or voluntary bodies.

## **Summary**

These Regulations will ensure that equity of access to help with NHS charges is maintained across Wales.