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# GUERNSEY STATUTORY INSTRUMENT

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1990 No: 39

The Health Service (Medical Appliances)  
Regulations, 1990

Made ... .. 18th December, 1990  
Laid before the States ... ..  
Coming into Operation ... .. 1st January, 1991

THE STATES INSURANCE AUTHORITY, in exercise of the powers conferred upon it by sections 15, 16, 17, 18 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990 (a), and of all other powers enabling it in that behalf, hereby orders:-

## PART I

### INTERPRETATION

#### Interpretation

1. (1) In these Regulations, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:-

"the Law" means the Health Service (Benefit) (Guernsey) Law, 1990;

"appliance charge" has the meaning assigned thereto by Regulation 5 (1) of these Regulations;

"appliance claim form" has the meaning assigned thereto by Regulation 8 of the Health Service (Payment of Authorised Appliance Suppliers) Regulations, 1990 (b);

"medical appliance card" has the meaning assigned thereto by Regulation 12 (1) of these Regulations;

"Part I appliance" means any appliance described in part I of the First Schedule to these Regulations;

"Part II appliance" means any appliance described in part II of the First Schedule to these Regulations;

"Part III appliance" means any appliance described in Part III of the First Schedule to these Regulations;

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(a) Ordres en Conseil No. XLVIII of 1990.

(b) S.I. 1990 No. 41 .

"Part IV appliance" means any appliance described in Part IV of the First Schedule to these Regulations.

(2) Except where the context otherwise requires, any reference in these Regulations to any enactment or regulations shall be construed as including a reference to that enactment or those Regulations, as the case may be, as amended, repealed, replaced, revoked, extended or applied, by or under any enactment or by or under any other Regulations.

(3) The Interpretation (Guernsey) Law, 1948, (c) shall apply to the interpretation of these Regulations as it applies to the interpretation of a Guernsey enactment.

## PART II

### MEDICAL APPLIANCES

#### Meaning of "medical appliances" in the Law

2. For the purposes of section 15 (1) of the Law a medical appliance is any appliance specified in the First Schedule to these Regulations. Provided that for the purposes of the Law -

- (a) a Part I appliance may be supplied only on an appliance prescription and only for the treatment, management or control of a chronic respiratory condition;
- (b) a Part II appliance may be supplied only on an appliance prescription and only for the treatment, management or control of diabetes;
- (c) a Part III appliance may not be supplied on an appliance prescription but may be supplied to a person on presentation of a medical appliance card;
- (d) a Part IV appliance may not be supplied on an appliance prescription but may be supplied on the presentation of a medical appliance card to any authorised appliance supplier of Part IV appliances who has made an arrangement with the Authority to supply such appliances.

#### Form of appliance prescription

3. (1) Subject to the provisions of paragraph (4) of the next following Regulation, an appliance prescription issued by an approved medical practitioner shall be in the form set out in part I of the Second Schedule to these Regulations and shall contain the particulars required therein.

(2) An appliance prescription and an appliance claim form shall contain on their reverse sides the form of declaration set out in Part II of the Second Schedule to these Regulations.

(3) An appliance prescription may be used by an approved medical practitioner only for ordering the supply of Part I or Part II appliances or pharmaceutical benefit.

Provisions relating to the use of appliance prescriptions

4. (1) An appliance prescription shall be completed in writing or print in ink or other indelible substance and signed and dated by the approved medical practitioner issuing the same with his own hand.

(2) An appliance prescription shall not be written in such manner as to necessitate reference on the part of an authorised appliance supplier to a previous appliance prescription.

(3) Subject to the provisions of the next following paragraph, a single appliance prescription shall not be used for ordering the supply of medical appliances under the Law for more than one person.

(4) The Authority may authorise an approved medical practitioner to issue a single appliance prescription for ordering Part I or Part II appliances under the Law for two or more persons who are normally resident in a school or institution and for whose treatment he is responsible; and, where an appliance prescription is so issued, the medical practitioner shall enter thereon, instead of the names of the said persons, the name of the school or institution.

(5) Subject to the provisions of the next following paragraph, an approved medical practitioner shall not order the supply of Part I or Part II appliances under the Law for any person in a quantity exceeding that which is requisite for that person's treatment, and shall not, in any event, order the supply of any Part I or Part II appliances under the Law for any person in a quantity exceeding the quantity requisite for that person's treatment for a period of thirty days.

(6) Where a Part I or Part II appliance is required for the treatment of a person for a period exceeding thirty days, an approved medical practitioner may attach to the appliance prescription on which the Part I or Part II appliance is ordered by him for that person under the Law not more than three copies thereof; and any such copy shall, on presentation to an authorised appliance supplier, be sufficient authority for the supply of the Part I or Part II appliance under the Law.

(7) For the purposes of these regulations, the expression "appliance prescription" shall, except where the context otherwise requires, be deemed to include a copy of an appliance prescription issued in pursuance of the provisions of the last foregoing paragraph.

(8) A copy of an appliance prescription issued in pursuance of the provisions of paragraph (6) of this Regulation shall be signed and dated by the approved medical practitioner issuing the same with his own hand and shall be so dated by him that the date thereof shall be not earlier than the twenty-eighth day and not later than the thirty-first day next following the date of the

original appliance prescription or of the first or second copy thereof, as the case may be.

(9) Except in any case to which the provisions of the next following Regulation apply and subject to the provisions of the next following paragraph, upon the completion of an appliance prescription by an approved medical practitioner he or his servant shall issue the same in the following manner, that is to say -

- (a) by delivering it by hand to the person in respect of whom it is required or to his parent, guardian or other representative, or
- (b) by making it available for collection by that person or by his parent, guardian or other representative at the surgery of the approved medical practitioner as the case may be, or
- (c) by sending it by post addressed to that person or to his parent, guardian or other representative, at his usual place of residence.

(10) In the case where an appliance prescription is issued in pursuance of the provisions of paragraph (4) of this Regulation for ordering the supply of a medical appliance for two or more persons resident in a school or institution, the provisions of the last foregoing paragraph shall have effect as if for the references therein to the person in respect of whom an appliance prescription is required, his parent, guardian or other representative, there were substituted references to the person in charge of that school or institution or a person acting on his behalf, and for the reference in sub-paragraph (c) thereof to his usual place of residence there were substituted a reference to that school or institution, as the case may be.

### PART III

#### PROVISIONS RELATING TO APPLIANCE CHARGES

##### Appliance Charges

5. (1) A person supplied with medical appliances under the Law by an authorised appliance supplier shall pay a charge of the amount specified in the Third Schedule to these Regulations (an "appliance charge") unless he furnishes a declaration in the form specified in Part II of the Second Schedule to the effect that a certificate of exception is in force in respect of him.

(2) An authorised appliance supplier is not obliged to supply medical appliances under the Law unless -

- (a) he is paid the appliance charge payable therefor under this Regulation; or
- (b) he is furnished with a declaration described in paragraph (1).

(3) An appliance charge payable to an authorised appliance supplier may be recovered by him as a civil debt.

Exception from liability to pay appliance charges

6. (1) A person is not liable to pay an appliance charge under Regulation 5 if a certificate of exception has been granted in respect of him and is in force.

(2) The Administrator shall grant a certification of exception

(a) to a person (other than a person resident in Alderney) who has attained the age of 65 years; and in this case the certificate shall be valid only in respect of the supply of medical appliances in Guernsey;

(b) to any other person entitled to receive a supplementary benefit; and in this case the certificate shall -

(i) be granted in respect of that person or any of his dependants; and

(ii) remain in force while he is entitled to receive a supplementary benefit;

(c) to a person who applies to him in that behalf if satisfied (having regard to any special circumstances and considerations which, in his opinion, affect the financial position of the applicant) that it is just and equitable so to do; and in this case the certificate shall -

(i) be granted in respect of the applicant and his dependants; and

(ii) subject to paragraph (6), remain in force for the period specified therein.

(3) An application under paragraph (2)(c) and certificate of exception shall be in the form approved by the Authority, and any such certificate shall specify the names and addresses of the persons in respect of whom it is granted.

(4) A person who applies for or is granted a certificate of exception under paragraph (2)(c) shall

(a) whenever so directed by the Administrator, furnish any information and evidence which the Administrator is empowered to demand under any Ordinance made under the Supplementary Benefit Law, and

(b) if such a certificate is granted to him, comply with any directions given by the Administrator as to reporting any change of circumstances which may, in the opinion of the Administrator, affect his financial position, including any change in the means of any of his dependants.

(5) A person to whom a certificate of exception which is in force has been granted shall -

(a) as soon as may be, notify the Administrator in writing of any change in the name or address of himself and (unless the certificate was granted under paragraph (2)(a)) any of his dependants;

(b) if so directed by the Administrator, return the certificate to him to enable him to vary it by deleting or inserting the name and address of any person who has ceased to be or has become a dependant or by altering the name or address of any person specified therein.

(6) The Administrator may at any time revoke a certificate of exception granted to any person under paragraph (2)(c) -

(a) if satisfied (having regard to any change of circumstances which, in the opinion of the Administrator, affects his financial position) that he is no longer in need of a certificate of exception; or

(b) if he fails to comply with paragraph (5) or with any direction given under paragraph (4) or (5).

(7) For the purposes of this section, the expression "dependants" -

(a) in relation to a person entitled to receive a supplementary benefit, has the meaning given by section 4 of the Supplementary Benefit Law;

(b) in relation to any other person, means the persons who would be dependants within the meaning of that Law if he were entitled to receive a supplementary benefit.

#### Validity of appliance prescriptions

7. Subject to the provisions of section 12 of the Misuse of Drugs (Bailiwick of Guernsey) Ordinance, 1976(d), an authorised appliance shall not supply Part I or Part II appliances on an appliance prescription later than 13 weeks after the date specified in the prescription.

#### Supply of Part I, or Part II appliances otherwise than on appliance prescriptions

8. (1) An approved medical practitioner whether or not he is an authorised appliance supplier, may supply a Part I or Part II appliance under the Law otherwise than on an appliance prescription to a person who is being treated by him (hereafter in this Regulation referred to as "the patient") where the Part I or Part II appliance is required for the immediate use of the patient; and in that event, that approved medical practitioner shall, as soon as may be thereafter, complete an appliance prescription in all respects as if the prescription were to be issued to the patient; and the Part I or Part II appliance so supplied shall, for the purposes of the Law and of any Regulations made thereunder, be deemed to have been supplied on that appliance prescription.

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(d) Recueil d'Ordonnances Tome XX p. 272.

(2) Where a medical appliance is supplied under and in accordance with the provisions of paragraph (1) of this Regulation by an approved medical practitioner who is not an authorised appliance supplier, the patient shall be liable to pay to him an appliance charge as specified in the Third Schedule to these Regulations in respect of the medical appliance so supplied unless it is declared to him that the patient is a person in respect of whom a certificate of exception for the time being in force has been granted; and any charge payable under this paragraph to an approved medical practitioner may be recovered by him as a civil debt.

(3) An authorised appliance supplier who is a pharmacist may supply Part I or Part II appliances under the Law to any person otherwise than on an appliance prescription -

- (a) if that authorised appliance supplier is reasonably satisfied that the person ordering the same is an approved medical practitioner who is, by reason of some emergency, unable to issue an appliance prescription immediately; and
- (b) the person ordering the same undertakes to furnish that authorised appliance supplier with an appliance prescription within the twenty-four hours next following.

(4) Where an approved medical practitioner is required to complete or furnish an appliance prescription under this Regulation, he shall, if it is declared to him by or on behalf of the patient that the patient is a person in respect of whom a certificate of exception for the time being in force has been granted, complete the form of declaration to that effect on the reverse side of the appliance prescription.

(5) Nothing in this Regulation contained shall be construed as affecting any restriction or prohibition imposed by or under the provisions of any other enactment.

Declaration of entitlement to exception from liability to pay appliance charges

9. Subject to the provisions of these Regulations, where exception from liability to pay appliance charges is claimed in respect of the supply of Part I or Part II appliances, the form of declaration on the reverse side of the appliance prescription on which the appliance is ordered shall be duly completed by or on behalf of the claimant before the appliance prescription is presented to an authorised appliance supplier.

PART IV

SPECIAL PROVISIONS RELATING TO PART III APPLIANCES

Application of Part IV

10. The provisions of this Part of these Regulations shall apply in relation to Part III appliances.

Supply of Part III appliances

11. (1) Subject to the provisions of these Regulations, a person who is entitled to medical appliances under the Law shall be entitled to be supplied by an authorised appliance supplier with any Part III appliance on a medical appliance card being presented to the supplier by or on behalf of that person and upon payment of such appliance charge as he is liable to pay in accordance with the Third Schedule to these Regulations in respect of the supply of that appliance.

(2) A person shall not be entitled to be supplied with a Part III appliance, and an authorised appliance supplier shall not supply such an appliance, on a medical or appliance prescription.

(3) The Administrator may in exceptional circumstances authorise the supply by an authorised appliance supplier of a Part III appliance to a person who has not been granted a medical appliance card if he is satisfied that that person would have been granted such a card if an application therefor had been made to the Administrator in accordance with the provisions of Regulation 12.

Medical appliance cards

12. (1) A card authorising the supply of any Part III appliance (a "medical appliance card") may be granted by the Administrator to any person upon application being made to him therefor by or on behalf of that person together with a certificate issued by an approved medical practitioner to the effect that that person is suffering from a disease which requires the use by that person of any Part III appliance.

(2) A medical appliance card shall be in such form as shall be approved by the Authority, shall be valid for such period as shall be determined by the Administrator and specified on the card, and shall be renewable by the Administrator from time to time for such further period as shall be so determined and as shall be specified on the card as renewed.

(3) A medical appliance card may be revoked at any time by the Authority, and in that event shall be surrendered to the Administrator by the person holding the same.

PART V

SPECIAL PROVISIONS RELATING TO PART IV APPLIANCES

Application of Part V

13. The provisions of this Part of these Regulations shall apply in relation to Part IV appliances.

Supply of Part IV appliances

14. (1) Subject to the provisions of these Regulations, a person who is entitled to medical appliances under the Law shall be entitled to be supplied with Part IV appliances by an authorised appliance supplier who has made an arrangement with the Authority to supply such appliances under the Law.

(2) Any such appliance shall be supplied on a medical appliance card being presented to any such supplier by or on behalf of that person and upon payment of such appliance charge as he is liable to pay in accordance with the Third Schedule to these Regulations in respect of that appliance.

(3) A person shall not be entitled to be supplied with a Part IV appliance, and an authorised appliance supplier shall not supply such an appliance, on a medical or appliance prescription.

(4) The Administrator may in exceptional circumstances authorise the supply by an authorised appliance supplier of a Part IV appliance to a person who has not been granted a medical appliance card if he is satisfied that that person would have been granted such a card if an application therefor had been made.

(5) A medical appliance card authorising the supply of any Part IV appliance may be granted by the Administrator to any person upon application being made to him therefor by or on behalf of that person together with a certificate issued by an approved medical practitioner to the effect that that person is suffering from a disease which requires the use by that person of any Part IV appliance.

Extent

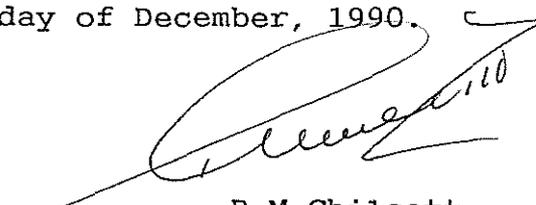
15. These Regulations shall have effect in the Islands of Guernsey, Alderney, Herm and Jethou.

Citation and commencement

16. (1) These Regulations may be cited as the Health Service (Medical Appliances) Regulations, 1991.

(2) These Regulations shall come into operation on the 1st day of January, nineteen hundred and ninety one.

Dated this 18th day of December, 1990.



R M Chilcott  
President of the States Insurance Authority  
for and on behalf of the Authority



SECOND SCHEDULE

Regulation 3

FORM OF APPLIANCE PRESCRIPTION AND DECLARATION

PART I

Form of appliance prescription for use by an approved medical practitioner

STATES INSURANCE AUTHORITY, GUERNSEY

Name and Address

Age if under 12 years yrs. mths
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Supplier's Stamp

Supplier's pack endorsement		NP		Pricing Office Use only
Signature of Doctor			Date	
Items				
Charges				

IMPORTANT: Complete appropriate declaration overleaf, if applicable.

PART II

Form of Declaration

To be completed by or on behalf of the patient

I DECLARE that the patient named overleaf is covered  
by a valid States Insurance Authority Certificate of  
Exception

AND THAT I AM

the patient

Please  
tick  
one

the patient's parent or guardian

the patient's representative

I understand that enquiries may be made to check this  
Declaration and that a false statement may lead to prosecution.

Signed: ..... Date .....

NAME AND ADDRESS ..... If your full  
(Block letters) ..... address appears  
..... overleaf, write  
..... "As overleaf".  
.....

Third Sched. sub'd  
by 1995/24

THIRD SCHEDULE

Regulation 5

APPLIANCE CHARGES IN RESPECT OF  
MEDICAL APPLIANCES

(1)	(2)
Description of appliance	Appliance charges
<u>Part I Appliances supplied in Guernsey</u> For each appliance	80p
<u>Part II Appliances supplied in Guernsey</u> For each appliance	80p
<u>Part III Appliances supplied in Guernsey or Alderney</u>	
1. For each complete apparatus (including one belt but excluding bags)	£4.40
2. For each additional belt or replacement belt	£1.10
3. For each permanent or semi-permanent bag, such as rubber or plastic heavy gauge, washable bags	55p
4. Disposable bags, such as light gauge bags with or without plaster attached - for each unit of ten or less	10p
<u>Part IV Appliances supplied in Guernsey or Alderney</u>	No Charge
<u>Part I and Part II appliances supplied in Alderney</u> For each appliance	£1.60

EXPLANATORY NOTE

(This Note is not part of the Regulations but is intended to indicate their general purport)

These Regulations provide for -

- (a) the meaning of medical appliances in the Health Service (Benefit) (Guernsey) Law, 1990;
- (b) the form of appliance prescription and its use;
- (c) the payment of and exception from payment of appliance charges;
- (d) the validity of appliance prescriptions;
- (e) special provisions relating to -
  - (i) Part I and Part II appliances;
  - (ii) Part III appliances;
  - (iii) Part IV appliances.
- (f) the amount of appliance charges for the different categories of appliance.