

**The Health Service (Specialist Medical Benefit)  
Regulations, 2002**

Made	...	...	...	...	...	...	...	...	...	23rd December,	2002.
Laid before the States	...	...	...	...	...	...	...	...	...		2003.
Coming into Operation	...	...	...	...	...	...	...	...	...	1st January,	2003.

THE GUERNSEY SOCIAL SECURITY AUTHORITY, in exercise of the powers conferred upon it by Part IIIA and section 35 of the Health Service (Benefit) (Guernsey) Law, 1990,<sup>(a)</sup> as amended, and as modified by the Health Service (Specialist Medical Benefit) Ordinance, 1995,<sup>(b)</sup> and of all other powers enabling it in that behalf, hereby orders:-

Interpretation

1.(1) In these regulations "the Law" means the Health Service (Benefit) (Guernsey) Law, 1990 as amended and as modified by the Health Service (Specialist Medical Benefit) Ordinance, 1995<sup>(b)</sup>.

(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shall be construed as including a reference to that enactment or those regulations, as the case may be, as amended, repealed, replaced, revoked, extended or applied by or under any other enactment or by any other regulations.

(3) The Interpretation (Guernsey) Law, 1948<sup>(c)</sup> shall apply to the interpretation of these regulations as it applies to the interpretation of a Guernsey enactment.

(4) In these regulations the "Group's Premises" means Alexandra House, Les Frieteaux, St Martins or such other premises as may for the time being be occupied by the Medical Specialist Group.

(5) In these regulations the " Medical Specialist Group" means the partners for the time being of the practice known as the Medical Specialist Group of Alexandra House as aforesaid.

(6) In these regulations the "Contract" means the contract for the provision of specialist medical benefit made between the States of Guernsey and the partners

<sup>(a)</sup> Ordre en Conseil No.XXIV of 1990; Ordinance No.XIV of 1993; Ordinance No.XXXV of 1995; Ordinance No.XXXIV of 1995.

<sup>(b)</sup> Ordinance No.XXXVI of 1995; Ordinance No. XXIX of 2002.

<sup>(c)</sup> Ordres en Conseil Vol.XIII, P.355.

of the Medical Specialist Group, as amended from time to time by agreement of the parties.

### Specialist Medical Benefit

2. For the purposes of Section 5A(2) of the Law "specialist medical benefit" shall comprise, without prejudice to the provisions of Section 5B of the Law, the provision of all such specialist consultations, treatment, procedures and ancillary entitlements within the skill and competencies of the Medical Specialist Group and undertaken at-

- (i) the Princess Elizabeth Hospital; or
- (ii) the Mignot Memorial Hospital; or
- (iii) Les Bourgs Hospice; or
- (iv) the Group's Premises;

except for those as are contained in the Schedule to these regulations.

3. A person entitled under section 5A(1) of the Law to specialist medical benefit is entitled thereto free of charge.

### Supply of specialist medical benefit otherwise than through initial referral by a medical practitioner

4.(1) An approved medical practitioner or approved nurse, pursuant to the provisions of the Contract, may provide specialist medical benefit to a person otherwise than when that person has been referred to him by a medical practitioner:-

- (i) where that person was being treated by a member of the Specialist Group for the same condition or disease prior to 1 January 1996; or
- (ii) where the specialist medical benefit is required to be provided immediately by reason of that person's condition.

(2) Nothing contained in this regulation shall be construed as affecting any restrictions or prohibition imposed by or under the provisions of any other enactment.

### Manner in which claims for specialist medical benefit are to be made

5. Every claim for specialist medical benefit shall be made either by or on behalf of a claimant -

- (i) legibly, and in a form approved by the Authority; or
- (ii) in such a way, approved by the Authority, that it is readily capable of being reproduced in a legible form; or
- (iii) in such other manner as the Authority may accept as sufficient in the circumstances of any particular case or class of cases, subject to any directions given by or on behalf of the Authority in any particular case or class of cases.

### Information to be given when making a claim

6. A person who makes a claim for specialist medical benefit (the "claimant") shall furnish such certificates, documents, information and evidence for the purpose of enabling that claim to be determined as may be required by or on behalf of the Administrator and, if reasonably so required, shall for that purpose attend at such office or place as the Administrator may direct.

### Amendment of claim forms

7. If, owing to the absence of due signature or such certificates, documents, information and evidence as may be required by or on behalf of the Administrator, a claim for specialist medical benefit is defective at the date of its receipt by the Administrator, the Administrator shall refer the claim back to the claimant or the person making the claim on his behalf; and if, and only if, (unless the Administrator directs otherwise in any particular case) the form is returned to the Administrator within one month of such reference, duly signed or with the certificates, documents, information and evidence as required by the Administrator, the Administrator shall treat the claim as if it had been duly made in the first instance.

### Claims for persons unable to act

8.(1) In a case of an adult person for the time being unable to act a claim may be made by a person acting in the best interests of that person.

(2) A person who has not attained the age of eighteen years may not act for a claimant under this regulation.

### Claims on behalf of a child

9. Where a guardian has not been appointed to act on behalf of a child a claim on behalf of the child may be made by:-

- (a) in the case of a child living with one or both of his parents, any parent with whom he is living;
- (b) in any other case -
  - (i) a person with whom the child is living or the person having care or control of the child; or
  - (ii) where there is no such person, a person appointed by the Authority having regard to all the circumstances of the particular case.

### Claims on death

10. Claims for benefit may be made on behalf of a deceased person by a person acting for the estate of the deceased person.

### Time of claims

11.(1) The prescribed time for claiming specialist medical benefit shall be any time before such benefit is provided.

(2) If a person fails to make his claim for specialist medical benefit prior to that benefit being provided he shall not be entitled to benefit PROVIDED THAT if a claim is received by the Administrator for benefit after a specialist consultation, treatment, procedure or entitlement has been provided and the Administrator is satisfied that there was good cause for delay in making the claim the Administrator may direct that the claimant shall not be disqualified from the receipt of specialist medical benefit in respect of the relevant consultation, treatment, procedure or entitlement.

### General limitation of right to benefit

12. Notwithstanding anything contained in these regulations no sum shall be paid to any person on account of specialist medical benefit in respect of any consultation, treatment, procedure or entitlement provided more than 12 months before the date on which the claim therefor is made.

### Repayment of the value of specialist medical benefit

13. Where a person claims for specialist medical benefit provided to any person and it is subsequently decided that the person to whom it was provided was not entitled to it the Administrator shall:-

- (i) demand repayment of the value of the specialist medical benefit provided; or
- (ii) deduct the value of the specialist medical benefit provided from any other benefit properly due to him; or
- (iii) determine that the specialist medical benefit was properly provided; or
- (iv) determine that the specialist medical benefit was provided on account of benefit properly due to him;

and for the purposes of this regulation any value of specialist medical benefit provided will be determined by or on behalf of the Administrator.

### Repeals

14. The Health Service (Specialist Medical Benefit) Regulations, 1995<sup>(d)</sup> and The Health Service (Ophthalmic Benefit) Regulations, 1995<sup>(e)</sup> are hereby repealed.

### Extent

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

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<sup>(d)</sup> SI No. 38 1995

<sup>(e)</sup> SI No. 39 1995

Citation

16. These Regulations may be cited as the Health Service (Specialist Medical Benefit) Regulations, 2002.

Commencement

17. These Regulations shall come into operation on 1 January 2003.

Dated this 23rd day of December 2002



O D Le Tissier

President of the Guernsey Social Security Authority  
for and on behalf of the Authority

**SCHEDULE**

The following services and procedures are excluded from the definition of specialist medical benefit:

- a) contraceptive procedures including sterilisation operations unless medically indicated;
- b) reversal of contraception procedures;
- c) screening programmes such as cervical smears except work carried out as a result of screening such as breast assessment following mammography;
- d) cosmetic surgery and procedures unless medically indicated;
- e) treatment for chemical, drug and alcohol dependency, except treatment for drug related illness and disease;
- f) in-vitro fertilisation;
- g) sperm for donor insemination;
- h) obesity surgery and procedures;
- i) anaesthesia for operations performed by a general practitioner;
- j) anaesthesia performed by general dental practitioners other than for Patients on the register for people with learning disability; and
- k) hearing and sight tests except where carried out as part of a specialist medical procedure under the Contract.

## EXPLANATORY NOTE

(This note is not part of the regulations, but is intended to indicate their general purport).

These regulations deal with matters relating to -

- (1) the extent of specialist medical benefit available to persons entitled to benefit to be provided by the Medical Specialist Group, under the terms of the contract which it has with the States of Guernsey, including the schedule of services excluded from the definition of specialist medical benefit;
- (2) the supply, in exceptional cases, of specialist medical benefit under the Law otherwise than on referral by a medical practitioner;
- (3) the manner in which claims for specialist medical benefit are to be made;
- (4) information to be given when making a claim;
- (5) amendment of claims;
- (6) claims relating to -
  - (i) persons unable to act;
  - (ii) children;
  - (iii) death;
- (7) time of claims;
- (8) repayment of the value of specialist medical benefit;

and certain related matters.