GUERNSEY STATUTORY INSTRUMENT

1990 No. 42

The Health Service (Medical Benefit) 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 7, 8, 9 and 35 of the Health Service (Benefit) (Guernsey) Law, 1990 (a) 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.

(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shall be construed as including a reference to that enactment or those Regulations, as the case may be, as amended, repealed, replaced, revoked, extended or applied, by or under any other enactment or by any other regulations.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(b), shall apply to the interpretation of these Regulations as it applies to the interpretation of a Guernsey enactment.

Manner in which claims for medical benefit are to be made

2. Every claim for 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.

(a) Ordres en Conseil No. XLVIII of 1990.
(b) Ordres en Conseil Vol.XIII, p.355.

Information to be given when making a claim

3. Subject to the provisions of Regulation 4 a person who makes a claim for 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.

4. Notwithstanding the generality of the provisions of Regulation 3, every person who makes a claim for medical benefit shall produce such evidence as the Administrator may require relating to the claim for medical benefit and relating to each consultation for a medical purpose (as defined in Section 6 of the Law) in question; and the information required may include -

(a) the name of the person who had the consultation for a medical purpose;

(b) the identity of the medical practice to which payment has been made;

(c) whether the consultation was given by an approved medical practitioner or approved nurse;

(d) the identity of the approved medical practitioner or the approved nurse who provided the consultation;

(e) evidence of the place where and date when the consultation was provided;

(f) evidence of the amount paid in respect of the consultation.

Amendment of claim forms

5. 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 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, 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.

Exclusions from definition of "consultation for a medical purpose"

6. For the purpose of section 6 of the Law a "consultation for a medical purpose" shall not include a consultation or treatment described in the Schedule.

Claims for and payments to persons unable to act

7.(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) In the case of an adult person who is for the time being unable to act and to whom medical benefit is payable payment shall be made by the Authority to an approved medical practitioner or approved nurse nominated by or on behalf of the claimant or, upon application, to such other person as the Authority may decide.

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

Claims and payments on behalf of a child

8.(1) 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.

(2) Payment of benefit in respect of a claim on behalf of a child shall be made to the person entitled to claim on behalf of that child or an approved medical practitioner or approved nurse nominated by that person.

Claims and payments on death

9.(1) Claims for benefit may be made on behalf of a deceased person by a person acting for the deceased person.

(2) Payment of benefit shall be made to the estate of that deceased person or to an approved medical practitioner or approved nurse nominated by the person acting for the deceased person.

Time and manner of payment of medical benefit

10. Subject to the provisions of these Regulations, benefit shall be paid in accordance with an award thereof as soon as is reasonably practicable after such an award has been made by the Administrator and in such manner as the Authority may determine or in such manner as the Authority may in any particular case direct.

Late claim for medical benefit

11.(1) The prescribed time for claiming benefit shall be the period of 26 weeks from the date of the consultation for a medical purpose in respect of which the claim has been made.

(2) If a person fails to make his claim for benefit within the prescribed time, he shall not be entitled to benefit in respect of any consultation more than 26 weeks before the date on which the claim is made.

PROVIDED THAT if throughout the period from expiry of the 26 weeks to the date on which the claim was made there was good cause for delay in making the claim the claimant shall not be disqualified (subject to Regulation 13) from the receipt of medical benefit in respect of the relevant consultation.

General limitation of right to benefit

12. Notwithstanding anything contained in these Regulations no sum shall be paid to any person on account of benefit in respect of any consultation more than twelve months before the date on which the claim therefor is made.

Extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time

13.(1) The right to any sum payable by way of benefit shall be extinguished where payment thereof is not obtained within the period of twelve months from the date on which that sum is receivable within the meaning of the following provisions of this regulation;

Provided that in calculating the said period of twelve months no account shall be taken of -

(a) any period during which the Authority has under consideration any representation that the payment has been lost, mislaid or stolen;

(b) any period during which the person concerned is for the time being unable to act by reason of any mental incapacity, subject to the qualification that the total period disregarded on account of such inability to act shall not exceed one year; or

(c) any period during which the determination of any question as to such extinguishment is pending.

(2) For the purpose of this Regulation, a sum payable by way of benefit shall, subject to the provisions of the next following paragraph, be receivable -

(a) in the case of a sum contained in a transfer to a nominated bank account, on the date on which the transfer is due to be paid;

(b) in the case of a sum contained in a draft -

(i) if the draft is sent through the post, on the date on which it would be delivered in the ordinary course of post; and

(ii) in any other case, on the date of issue of the draft;

(c) in the case of a sum not contained in a transfer or draft, where notice is given orally or in writing that the sum is available for collection -

(i) if written notice is sent through the post, on the date on which the notice would be delivered in the ordinary course of post; and

(ii) in any other case, on the date of the notice; and

(d) in any case to which none of the preceding subparagraphs of this paragraph applies, twelve months (or such longer period as the Authority may determine in the circumstances of any particular case) after the date on which the sum became payable.

(3) In determining when a sum is receivable under the provisions of the foregoing paragraph, the following provisions shall apply:-

(a) if a person proves that through no fault of his own he did not receive any such transfer or draft or written notice until a date later than the appropriate receivable date determined in accordance with the provisions of the foregoing paragraph, the sum contained in the transfer or draft or referred to in the notice shall be receivable -

(i) on that later date; or
(ii) on the date which is twelve months after the said appropriate receivable date,

whichever is the earlier;

(b) if a person proves that through no fault of his own he did not receive any such transfer or draft or written notice, the sum contained in the original transfer or draft or referred to in the notice shall be receivable -

(i) on the date determined in accordance with the provisions of the foregoing sub-paragraph on the basis of the issue of any further transfer or draft or notice in respect of that sum, or

(ii) on the date which is twelve months after the receivable date determined in accordance with the provisions of the foregoing sub-paragraph on the basis of the original transfer or draft or notice,

whichever is the earlier;

(c) subject to the provisions of paragraph (3) of regulations 8 or 9 of these Regulations and of the preceding subparagraph, a sum which in accordance with the foregoing provisions of this regulation was receivable on any date, shall remain receivable on that date notwithstanding the issue since that date of a transfer or draft or notice in respect of that sum or any part thereof.

(4) Any sum payable by way of benefit to a person who is for the time being unable to act shall be receivable in accordance with the foregoing provisions of this Regulation, notwithstanding his inability to give a receipt therefor.

(5) Any sum payable to a nominated approved medical practitioner or approved nurse shall be receivable in accordance with the foregoing provisions of this Regulation.

Extent

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

Citation

15. These Regulations may be cited as the Health Service (Medical Benefit) Regulations, 1990.

Commencement

16. These Regulations shall come into operation on the 1st day of January, 1991.

Dated this 18th day of December, 1990.

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

SCHEDULE **Regulation 6**

Exclusions from definition of "consultation for a medical purpose"

Description

Consultations or treatment for the purpose of -

(a) validating passports;
(b) issuing a death certificate or cremation certificate;
(c) issuing a certificate to drive;
(d) issuing a report to obtain exemption from the use of a seat belt;
(e) authenticating holiday cancellation insurance claims;
(f) carrying out examinations and completing reports for -

  (i) life insurance;
  (ii) health insurance;
  (iii) school fees insurance claims;
  (iv) private requests for third parties.

(g) attending Court hearings including inquests or Tribunals in order to give evidence;
(h) attending and examining (but not otherwise treating) a patient at his request at a police station in connection with proceedings which the police are minded to bring against him;
(i) any other non-medical reason.

EXPLANATORY NOTE

These Regulations deal with -

(a) the manner in which claims for medical benefit are to be made;

(b) information to be given when making a claim;

(c) amendment of claim forms

(d) exclusion from the definition of "consultation for a medical purpose" as defined in Section 6 of the Health Service (Benefit) (Guernsey) Law, 1990;

(e) claims and payments relating to -

(i) persons unable to act;
(ii) children;
(iii) death

(f) the time and manner of the payment of medical benefit;

(g) late claims for medical benefit; and certain related matters.