



**THE ACCIDENT COMPENSATION (PHARMACEUTICAL COSTS)
REGULATIONS 1990**

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 10th day of September 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 120 (1) (f) of the Accident Compensation Act 1982, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Accident Compensation (Pharmaceutical Costs) Regulations 1990.

(2) These regulations shall come into force on the 15th day of October 1990.

2. Interpretation—In these regulations, unless the context otherwise requires,—

“The Act” means the Accident Compensation Act 1982:

“Claimant” means a person who has suffered personal injury by accident to which the Act applies:

“Controlled drug or controlled drug analogue” has the same meaning as in the Misuse of Drugs Act 1975:

“Corporation” means the Accident Compensation Corporation:

“Dentist” means any person who holds a current annual practising certificate issued by the Dental Council of New Zealand:

“General practitioner” means any registered medical practitioner working in a non-specialist capacity; and includes any specialist working outside his or her registered specialty:

“Hospital” has the same meaning as in the Hospitals Act 1957:

“Medicine” means a substance listed in the First Schedule to the Medicines Regulations 1984*; but excludes all biochemical preparations as defined in those regulations:

“Personal injury by accident” means personal injury by accident to which the Act applies:

“Pharmaceutical item” means any medicine, controlled drug, or controlled drug analogue; and includes any prescription charge:

“Private hospital” means a licensed hospital as defined in section 118 of the Hospitals Act 1957:

“Public hospital” means any hospital that is not a private hospital and is operated by the Crown or an area health board:

“Registered medical practitioner” means any person who holds a current annual practising certificate issued by the Medical Council of New Zealand:

“Registered pharmacist” means any person registered with the Council of the Pharmaceutical Society of New Zealand:

“Therapeutic purpose” has the same meaning as in section 4 of the Medicines Act 1981:

“Social Security benefit” means any benefit payable under Part II of the Social Security Act 1964 or any regulations in force under that Part; and includes any payment in respect of any specific treatment made to any registered pharmacist under any arrangement entered into under section 97 of the Social Security Act 1964.

3. Application—(1) Subject to these regulations, these regulations shall apply in respect of any treatment that is the provision of a pharmaceutical item on or after the 15th day of October 1990, to a claimant in respect of personal injury by accident, irrespective of—

(a) The date on which any fee for any item was charged or paid; or

(b) The date on which the personal injury by accident occurred.

(2) These regulations (other than regulation 9 (2)) shall not apply in respect of any treatment that is the provision of a pharmaceutical item before the 15th day of October 1990 by a registered pharmacist to a claimant in respect of personal injury by accident, irrespective of the date of the charging or payment of any fee for the treatment.

4. Corporation to pay certain costs—(1) Subject to these regulations, the Corporation shall pay the costs payable by any claimant in respect of any pharmaceutical item relating to treatment of the claimant in respect of personal injury by accident.

(2) The Corporation shall not pay any costs unless it has received such information and declarations as it may require in order to verify that the claimant has suffered personal injury by accident and that the treatment in respect of which the claim for payment is made was provided in respect of personal injury by accident.

(3) The Corporation shall not pay any costs unless it has been advised of the date on which the pharmaceutical item was provided and the specific nature of that item.

(4) The Corporation shall not pay any costs in respect of any pharmaceutical item unless the item has been prescribed by—

(a) A registered medical practitioner; or

(b) A dentist.

(5) The costs payable by the Corporation, as required or permitted under these regulations, shall be paid—

(a) To the registered pharmacist or general practitioner approved by the Minister of Health under section 117 of the Social Security Act 1964 supplying the item; or

(b) If they have already been paid by the claimant, then to the claimant.

5. Special conditions relating to payment for pharmaceutical items—(1) The Corporation shall not make any payment (other than the prescription charge) in respect of any pharmaceutical item that is not specified in the First Schedule to the Medicines Regulations 1984 or any of the Schedules to the Misuse of Drugs Act 1975.

(2) The Corporation shall not make any payment for any pharmaceutical item unless the item was prescribed for a therapeutic purpose and is supplied to the claimant by a registered pharmacist or by a general practitioner approved by the Minister of Health under section 117 of the Social Security Act 1964.

6. Second opinions—(1) The Corporation shall decline to make any payment in respect of the provision of any pharmaceutical item as treatment that it considers may not be necessary or appropriate or that it considers may have exceeded the amount necessary or appropriate in the particular case until it has obtained a second opinion on the matter.

(2) Where the Corporation, after having obtained the second opinion, believes that the provision of the item was unnecessary or inappropriate, it shall decline to make any payment in respect of the item or part of the item (as appropriate) and shall advise the claimant and the registered pharmacist accordingly.

(3) Nothing in this regulation shall apply in any case where the item concerned or the amount of items concerned has been provided with the prior approval of the Corporation.

7. Costs not payable in respect of certain treatment—No payment shall be made by the Corporation under these regulations in respect of the provision of any pharmaceutical item—

(a) In a public hospital; or

(b) To any claimant as an out-patient of a public hospital.

8. Application of regulations to certificates and treatments provided overseas—Nothing in these regulations shall limit or restrict section 75 (8) of the Act.

9. Revocations and savings—(1) The following regulations are hereby revoked:

(a) The Accident Compensation (Pharmaceutical Costs) Regulations 1989 (S.R. 1989/336):

(b) The Accident Compensation (Pharmaceutical Costs) Regulations 1989, Amendment No. 1 (S.R. 1989/396).

(2) Notwithstanding regulation 3 (2) of these regulations and subclause (1) of this regulation, where a registered pharmacist has provided, at any time in the period beginning with the 1st day of December 1989 and ending with the close of the 14th day of October 1990, any pharmaceutical item as treatment to a claimant in respect of personal injury by accident, the regulations revoked by subclause (1) of this regulation shall continue to apply in respect of the treatment so provided.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

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

These regulations specify the costs that the Accident Compensation Corporation is to pay in respect of pharmaceutical items provided to claimants on or after 15 October 1990.

By virtue of the Accident Compensation Act 1982 and these regulations, the Corporation is not authorised to make any payment until a claim has been verified, and it is satisfied that the service provided relates to the claim.

The Corporation can pay the full costs incurred by the claimant for items specified in the Medicines Regulations 1984 or the Misuse of Drugs Act 1975. In other cases only the prescription charge is payable. The item provided must be prescribed for a therapeutic purpose and supplied by a registered pharmacist or appropriate general practitioner.

Payment can be made where the item is prescribed by a medical practitioner or dentist employed by the Crown or an area health board, but not if the claimant is a patient or out-patient of a public hospital.

Other changes are made to align these regulations with other regulations relating to costs.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 13 September 1990.

These regulations are administered in the Accident Compensation Corporation.