



**THE ACCIDENT COMPENSATION (PRESCRIBED ARTIFICIAL
LIMBS, AIDS, AND PROSTHETIC APPLIANCES 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 (Prescribed Artificial Limbs, Aids, and Prosthetic Appliances 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:

“Audiologist” means a member of the New Zealand Audiological Society; but does not include an audiologist acting in the course of employment by any supplier of hearing aids:

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

“Corporation” means the Accident Compensation Corporation:

“Item” means any artificial limb, aid, or prosthetic appliance:

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

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

“Registered specialist” means any registered medical practitioner registered as a specialist with—

(a) The Medical Council of New Zealand; or

(b) The Department of Health for the purposes of Drug Tariff and health benefits,—

but does not include any registered specialist working outside his or her registered specialty:

“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 item made 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 item prescribed on or after the 15th day of October 1990, irrespective of—

(a) The date on which any costs 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 10 (2)) shall not apply in respect of any item provided before the 15th day of October 1990 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 (less any Social Security benefit) for any item (and its normal repair or renewal) where the item is prescribed by a registered specialist for the claimant as a result 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 item 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 treatment was provided and the specific nature of that treatment.

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

- (a) To the person who provided the item; or
- (b) If they have already been paid by the claimant, then to the claimant.

5. Hearing aids—(1) Except as provided in subclause (2) of this regulation, nothing in these regulations shall apply in respect of any hearing aid unless the hearing aid is—

- (a) Approved by the Director-General of Health; and
- (b) Specified in the Hearing Aids Notice 1957*; and
- (c) Supplied on the recommendation of an audiologist.

(2) These regulations shall apply in respect of any hearing aid that is of the all-in-the-ear type and is not a hearing aid to which subclause (1) of this regulation applies if the Corporation is satisfied, after considering the report of an audiologist that—

- (a) There is a demonstrable improvement in aided over unaided free field thresholds up to and including 4KHz; having regard to the type of results that would be expected with alternative types of hearing aid fittings:
- (b) The aid gives a demonstrable improvement in speech perception including, where applicable, speech in noise and/or competing message speech tests:
- (c) The saturation sound pressure level of the aid does not violate the patient's tolerance thresholds:
- (d) There is an absence of acoustic feedback:
- (e) Comfort and earmould fit is acceptable to the claimant.

6. Restriction on payments—No payment shall be made under these regulations in respect of any artificial aid in the nature of an implant unless it is implanted in the course of a procedure specified in Part II of the Schedule to the Accident Compensation (Specialists Costs) Regulations (No. 2) 1990† and the Corporation has approved payment under those regulations for that procedure.

7. Second opinions—(1) The Corporation shall decline to make any payment in respect of any item that it considers may not be necessary or appropriate or that it considers may have exceeded the number 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 item was unnecessary or inappropriate it shall decline to make any payment in respect of the item and shall advise the claimant, the registered specialist, and the person who provided the item accordingly.

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

8. Goods and services tax—(1) All amounts specified or referred to in these regulations are inclusive of goods and services tax.

(2) Notwithstanding subclause (1) of this regulation, where any amount is to be calculated in a manner that involves the deduction of any Social Security benefit, the full amount of that benefit, including any goods and services tax component, shall be deducted.

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

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

- (a) The Accident Compensation (Prescribed Artificial Limbs, Aids, and Prosthetic Appliances Costs) Regulations 1989 (S.R. 1988/340);
- (b) The Accident Compensation (Prescribed Artificial Limbs, Aids, and Prosthetic Appliances Costs) Regulations 1989, Amendment No. 1 (S.R. 1989/397).

(2) Notwithstanding regulation 3 (2) of these regulations and subclause (1) of this regulation, where an item has been 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, 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 item 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 artificial limbs, aids, and prosthetic appliances prescribed for claimants on or after 15 October 1990.

The Corporation is required to pay the full costs of items prescribed by a registered medical practitioner to the extent that they are payable by the claimant. There is, however, a limitation in respect of hearing aids, in that they must be approved by the Director-General of Health and specified in the Hearing Aids Notice 1957 and must be supplied on the recommendation of an audiologist who is not employed by a hearing aid supplier. There is an extension for hearing aids not specified in that notice if certain conditions are met. There is also a limitation on payments for aids of any kind that are implants.

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.

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.
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These regulations are administered in the Accident Compensation Corporation.