



**THE ACCIDENT COMPENSATION (PHARMACEUTICAL COSTS)
REGULATIONS 1989**

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 6th day of November 1989

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.

REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Accident Compensation (Pharmaceutical Costs) Regulations 1989.

(2) These regulations shall come into force on the 1st day of December 1989.

2. Interpretation—(1) 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 made under that Act.

(2) No person shall be regarded as acting in the course of employment by the Crown or an area health board by reason of that person being a general practitioner contracted to work in a special area designated as such by the Director-General of Health.

3. Application—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 1st day of December 1989, to a claimant in respect of personal injury by accident and shall not apply in respect of any such treatment provided before that date, irrespective of—

- (a) The date on which any fee for any treatment was charged or paid; or
- (b) The date on which the personal injury by accident occurred.

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 items 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 in respect of any pharmaceutical items unless the item has been prescribed by—

- (a) A registered medical practitioner; or
- (b) A dentist,—

who is not acting in the course of employment by the Crown or an area health board.

(4) 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 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, in whole or in part, 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 has been provided with the prior approval of the Corporation.

7. Costs not payable in respect of public hospital 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; or
- (c) Where the registered medical practitioner or dentist who ordered the item is acting in the course of employment by the Crown or an area health board.

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

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 shall pay in respect of pharmaceutical items provided to claimants on or after 1 December 1989.

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.

Issued under the authority of the Regulations Act 1936.

Date of notification in *Gazette*: 9 November 1989.

These regulations are administered in the Accident Compensation Corporation.