



**THE ACCIDENT REHABILITATION AND COMPENSATION
INSURANCE (CHILD CARE FOR CHILDREN OF DECEASED
PERSONS) REGULATIONS 1993**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 13th day of December 1993

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to sections 56A and 167 (1) (1A) of the Accident Rehabilitation and Compensation Insurance Act 1992, Her 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 Rehabilitation and Compensation Insurance (Child Care for Children of Deceased Persons) Regulations 1993.

(2) These regulations shall come into force on the 1st day of January 1994.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“Act” means the Accident Rehabilitation and Compensation Insurance Act 1992;

“Child” means a child as defined in section 3 of the Act who has not, at the date of the death of the deceased person, attained—

(a) The age of 14 years; or

(b) The age of 21 years, in the case of a child who requires child care by reason of that child's physical or mental condition:

“Child care” means personal care or supervisory care of a child in New Zealand:

“Deceased person” means—

(a) A person who has died, on or after the 1st day of July 1992, as a result of personal injury covered by the Act and in respect of whose death a claim has been accepted under the Act; or

(b) For the purposes of any assessment under section 149 (8) (b) of the Act that may lead to an election for a determination under section 149 (9) (b) of the Act, and any subsequent determination of entitlement to child care payments, a person who died before the 1st day of July 1992 and in respect of whom compensation in respect of child care was payable immediately before the 1st day of July 1992 under section 121 of the Accident Compensation Act 1972 or section 80 of the Accident Compensation Act 1982:

“Personal care” means the provision for a child of physical assistance to move around and to take care of basic personal needs such as dressing, bathing, feeding, and toilet:

“Supervisory care” means the supervision of a child.

(2) In these regulations, unless the context otherwise requires, expressions defined in or for the purposes of the Act have the meanings so defined.

3. Application—Subject to these regulations, these regulations shall apply to any application from or on behalf of a child for payment for child care.

4. Assessment of entitlement of payment for child care—(1) Upon receipt of a written application from or on behalf of a child for payment for child care, the Corporation or exempt employer shall commence an assessment of entitlement to child care within 7 days of the date of receipt of the written application or such longer period as may be agreed to by or on behalf of that child.

(2) The Corporation or exempt employer shall assess entitlement to payment for child care under these regulations in consultation with the person or persons who have assumed responsibility for providing child care for the child.

(3) No entitlement to payment for child care shall exist unless the deceased person died as a result of personal injury covered by this Act.

(4) The amount of any weekly entitlement to payment for child care shall be established using the table set out in the Schedule to these regulations.

(5) Neither the Corporation nor the exempt employer shall be liable for any administration costs incurred by or on behalf of the child in purchasing child care.

5. Payment for child care—The amount of any entitlement under these regulations shall be paid on behalf of the child to a person who is responsible for arranging for the care of the child.

6. Duration of payment—(1) Where a child is entitled to a payment for child care, that payment shall become due and payable from the date of commencement of these regulations or the date of death of the deceased person, whichever last occurs or occurred.

(2) Entitlement to child care under these regulations shall cease—

(a) Five years after the date on which such entitlement commenced; or

(b) On the date on which the child attains—

(i) The age of 14 years; or

(ii) The age of 21 years, in the case of a child who requires child care because of the child's physical or mental condition—

whichever first occurs.

(3) Notwithstanding anything in these regulations, where any child is, immediately before the date of death of the deceased person, entitled to payments for child care under these regulations by virtue of the prior death of another deceased person, that child shall have no entitlement under these regulations in respect of the subsequent death, but the 5-year period referred to in subclause (2) (a) of this regulation shall be determined having regard to the date of that subsequent death.

7. No liability to child for payments to financially responsible person—In accordance with section 80 (3) of the Act, neither the Corporation nor the exempt employer shall be under any obligation to see to the application of any money paid to any person under these regulations, and shall not be liable to the child in respect of any such payment.

8. Payments by the Crown—(1) Where any payment has been made in respect of child care by the Crown in respect of a period for which a child subsequently establishes an entitlement under these regulations, the Corporation or exempt employer shall pay the Crown the amount so paid in respect of the period of entitlement, but that amount shall not exceed the entitlement of the child under these regulations.

(2) Where the amount payable to the Crown under subclause (1) of this regulation is less than the entitlement of the child under these regulations, the Corporation or exempt employer shall pay an amount equal to the remainder of that entitlement to a person who is responsible for arranging for the care of the child on behalf of that child.

9. Goods and services tax—All amounts specified or referred to in these regulations are inclusive of goods and services tax.

Reg. 4 (4)

SCHEDULE
CHILD CARE ENTITLEMENT

No. of Children of the Deceased	Weekly Amount per Child
1 child	\$ 100
2 children	60
3 or more children	140 divided by the number of children of the deceased person for whom payment is being made.

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, which come into force on 1 January 1994, provide for payment for child care where a child's parent has died as the result of personal injury covered by the Accident Rehabilitation and Compensation Insurance Act 1992.

Entitlement commences on the date of death of the deceased person or on 1 January 1994, whichever last occurs or occurred.

Entitlement ceases—

(a) Five years after the date on which entitlement commenced; or

(b) On the date on which the child attains—

(i) The age of 14 years; or

(ii) The age of 21 years, in the case of a child who requires child care because of the child's physical or mental condition—

whichever first occurs.

The amount of the weekly entitlement is set out in the Schedule to the regulations.

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

Date of notification in *Gazette*: 16 December 1993.

These regulations are administered in the Accident Rehabilitation and Compensation Insurance Corporation.