



**THE ACCIDENT REHABILITATION AND COMPENSATION  
INSURANCE (SOCIAL REHABILITATION-CHILD CARE)  
REGULATIONS 1992**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 14th day of September 1992

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to sections 26 and 167 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.

ANALYSIS

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## REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Accident Rehabilitation and Compensation Insurance (Social Rehabilitation-Child Care) Regulations 1992.

(2) These regulations shall come into force on the day after the date of their notification in the *Gazette*.

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

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

“Area health board” means an area health board constituted under the Area Health Boards Act 1983:

“Child” means a child who is—

(a) Under the age of 12 years; or

(b) Between the age of 12 years and 18 years where that child 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:

“Claimant” means a person who has suffered personal injury and had a claim in respect of it accepted under the Act and who was the person who primarily undertook the care of the child or children in the home before the personal injury occurred:

“Home” means the residential premises which are owned, leased, rented, or otherwise occupied by the claimant and in which the claimant and the child or children live; but does not include any hotel, motel, rest home, hostel, hospital, or other institution:

“Individual rehabilitation programme” means an individual rehabilitation programme required to be prepared pursuant to Part III of the Act:

“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**—(1) Subject to these regulations, these regulations shall apply—

(a) To any application received on or after the 1st day of July 1992 from a claimant for payment for child care; and

(b) On and after the 1st day of January 1993, in respect of any claimant for whom any payment for child care under section 80 (1) or section 80 (3) of the Accident Compensation Act 1982 has been continued until the 31st day of December 1992 by virtue of section 149 of the Act.

(2) A claimant to whom subclause (1) (b) of this regulation applies shall be deemed to have had a written application for child care processed by the Corporation.

**4. Assessment of entitlement to payment for child care**—(1) Upon receipt of a written application from a claimant 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 the claimant.

(2) The Corporation or exempt employer shall assess entitlement to payment for child care under these regulations in consultation with the claimant, or a person acting on behalf of the claimant where the claimant is not competent to participate.

(3) No entitlement to payment for child care shall exist unless the claimant is by reason of personal injury incapable of providing that child care.

(4) The amount of any entitlement to payment for child care (including the administrative cost of arranging and paying for child care, if any) shall be established using the table set out in the Schedule to these regulations, but in any case shall not be more than \$140.

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

(6) No entitlement under these regulations shall exist in respect of a child who has an entitlement under the Accident Rehabilitation and Compensation Insurance (Social Rehabilitation-Attendant Care) Regulations 1992.

**5. Reassessment of entitlement**—(1) The Corporation or exempt employer may at any time reassess a claimant's entitlement under these regulations.

(2) Where the Corporation is responsible for payment, it shall reassess entitlement at intervals of 13 weeks unless it is satisfied that the claimant's entitlement to payment for child care would remain unchanged.

(3) Where the Corporation is responsible for payment and no reassessment of the claimant's entitlement under these regulations has been undertaken for a period of 12 months from the date of the last assessment, the Corporation shall reassess the claimant's entitlement to payment for child care under these regulations.

(4) A claimant may, at any time, request a reassessment of entitlement under these regulations, but neither the Corporation nor the exempt employer shall be obliged to reassess the claimant's entitlement under these regulations where—

(a) The Corporation or exempt employer has made an assessment or reassessment of the claimant's entitlement under these regulations within 2 months prior to the date of such request; or

(b) The claimant has previously requested 2 reassessments in the previous 12-month period.

(5) The costs involved in any assessment or reassessment under this regulation shall be met by the Corporation or exempt employer.

(6) Any reassessment shall be undertaken in the same manner as an initial assessment under these regulations.

**6. Payment for child care**—(1) The amount of any entitlement under these regulations shall be paid to the claimant upon receipt by the Corporation or exempt employer of accounts from the person or organisation providing child care, which accounts specify the dates and the time on those dates during which child care was provided to the claimant.

(2) In accordance with section 74 (1) of the Act, the Corporation shall not, and an exempt employer shall not be required to, make any payment under these regulations in advance of the provision of child care to the claimant.

(3) Neither the Corporation nor the exempt employer shall be liable for making or arranging for the making of any deduction of premiums payable under the Act, or source deduction payments under the Income Tax Act 1976, from any payment.

(4) Where entitlement is for a period of less than 1 week, the entitlement shall be calculated on the basis that each day of entitlement is one-seventh of the weekly amount established in accordance with the Schedule to these regulations.

(5) No payment shall be made by the Corporation or be required to be made by an exempt employer for more than 13 weeks from the date of personal injury unless the provision of child care forms part of an individual rehabilitation programme approved under section 20 (4) of the Act.

(6) No payment shall be made in respect of child care provided subsequent to the personal injury of the claimant by a person who lives in the claimant's home or lived in the claimant's home immediately prior to the occurrence of the personal injury.

(7) No payment shall be made in respect of child care provided by an employee of an area health board where the personal injury is a work injury or a motor vehicle injury.

(8) No payment shall be made in respect of time spent by a child in a school, kindergarten, early childhood education centre, or similar place in excess of any amount that such a place would normally charge for the care of a child.

**7. Commencement of payment**—Where a person is assessed as entitled to a payment for childcare, that payment shall become due and payable from the date of the written application.

**8. No liability to pay provider directly**—Neither the Corporation nor the exempt employer shall have any liability to ensure that the claimant pays any person or organisation who or which provides child care or any liability to pay that person or organisation directly.

**9. Child care need not be provided in home**—It is not a requirement for payment that the child care be provided in the claimant's home.

**10. Payments by Department of Social Welfare or area health boards**—(1) Where any payment has been made in respect of child care by the Department of Social Welfare or an area health board in respect of a period for which a claimant subsequently establishes an entitlement under these regulations, the Corporation shall pay the Department of Social Welfare or area health board the amount paid by those organisations in respect of the period of entitlement, but such amount shall not exceed the maximum permitted under these regulations.

(2) Subject to subclause (3) of this regulation, where—

(a) Subclause (1) of this regulation applies; and

- (b) The claimant has paid or incurred a liability to pay for child care for which the claimant is entitled to payment under these regulations; and
- (c) The amount so paid or incurred is in excess of the amount paid by the Corporation or exempt employer under subclause (1) of this regulation—

then the Corporation or exempt employer shall pay that excess to the claimant.

(3) The combined amounts paid by the Corporation or exempt employer under subclause (1) and subclause (2) of this regulation shall not, in any case, exceed the entitlement of the claimant under these regulations.

(4) No payment under this regulation shall be made to an area health board where the personal injury of the claimant is a work injury or motor vehicle injury.

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

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SCHEDULE  
CHILD CARE ENTITLEMENT

Regs. 4 (4), 6 (4)

	Weekly Amount \$
1 child	100
2 children	120
3 or more children	140

BOB MacFARLANE,  
Acting for 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 provide for the assessment of eligibility of claimants for child care and prescribe the rates payable.

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

Date of notification in *Gazette*: 17 September 1992.

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