# STATES OF JERSEY

# DRAFT SOCIAL SECURITY (HEALTH BONUS SCHEME) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 31st May 2016**
**by the Minister for Social Security**

**STATES GREFFE**

Jersey

# DRAFT SOCIAL SECURITY (HEALTH BONUS SCHEME) (JERSEY) REGULATIONS 201-

## REPORT

### Introduction

1. These Regulations will establish a Health Scheme to help lower-income pensioners with the routine costs of fundamental areas of healthcare. This new Scheme will replace and enhance the existing Jersey 65+ Health Plan.

2. The Council of Ministers undertook in the Medium-Term Financial Plan (MTFP) to improve the current Plan, and an additional £200,000 per annum for the Plan was identified to that end. The provisions of the current Plan have been reviewed by the Social Security Department. The review has found that the underlying principles of the current Plan remain sound, but that some important changes could be made. Most significantly, a means has been identified of removing the requirement for customers to pay upfront for services – something which had previously been identified as a problem with the current Plan.

3. These changes will be enacted via the Regulations (and in Orders to be made by the Minister for Social Security). Put simply, the Regulations and Orders will set out the following –

- **The new Scheme will assist with dental, optical and chiropody costs.**
- **The new Scheme will be targeted at lower-income pensioners.**
- **Benefit levels under the new Scheme will be increased.**
- **The new Scheme will not require customers to pay the full cost upfront.**
- **The benefit will be paid directly to practitioners on behalf of the customer.**

It has also been recognised that marketing of the new Scheme will need to be improved on what currently occurs. Marketing is not explicitly covered in the Regulations, however.

4. The current Plan is not established via legislation, but exists following a decision of the Assembly in 2003. At that time, the Assembly requested that the Plan be placed on a legislative footing in due course. The opportunity is now being taken to enact the will of the Assembly in this regard.

5. Establishing the new Scheme via Regulations and Orders under the *Social Security (Bonus) (Jersey) Law 2014* will help to ensure consistency of delivery and administration with other benefits provided by the Department.

**The current Plan**

6. The current Jersey 65+ Health Plan was established in 2001, initially on a trial basis and initially only to provide assistance with dental and optical costs. The Plan was placed on a permanent footing in November 2003, with the Assembly's adoption of *Jersey 65+ Health Plan* (P.153/2003), at which point assistance with chiropody services was included. The Plan's stated purpose was to offer support with routine health costs to lower-income pensioners.

7. In line with P.153/2003, the current Plan is available to people aged 65 and over who meet a residential requirement; who do not pay Income Tax; and who have assets (not including the family home) of less than £20,000 for a single person or £30,000 for a couple.

8. The following levels of assistance are provided –

Optical:

- Every 2 years, up to £15 towards an eye test
- Every 2 years, up to £90 towards new prescription spectacles, lenses or contact lenses.

Dental:

- Every year, up to £22 towards a dental check-up
- Every year, up to £250 towards dental treatments or dentures (this may be claimed as a lump sum of up to £500 every 2 years for the cost of dentures).

Chiropody:

- Every year, up to £90 towards the cost of chiropody treatment.

The total benefit 'pot' for each member is therefore equivalent to £414.50 per annum.

9. Services must be delivered by a practitioner who is registered under the relevant legislation. For example, dental services must be delivered by a practitioner registered under the *Dentistry (Jersey) Law 2015*.

10. People apply to the Social Security Department to join, and the Department is responsible for assessing their eligibility. Throughout its existence (including the initial trial period), the remaining aspects of the Plan's administration have been outsourced to Westfield Health, a UK company with expertise in healthcare insurance products. This has seen the current Plan commonly referred to as the 'Westfield Scheme'. The current Plan is similar to some of Westfield Health's own cash-plan schemes. It is sometimes described as an insurance scheme; but that is not, strictly speaking, the case.

11. To access the benefits, members of the Plan must pay for services themselves and submit a claim form (accompanied by a valid receipt) to Westfield Health. Claimants are subsequently reimbursed up to the level of benefit remaining. The dental and chiropody benefit pots are topped up on an annual basis, whilst the benefit pot for optical costs is replenished biennially. Authority may be given for a third party to act on a member's behalf (i.e. in the submission of receipts and claim forms).

12. The current Plan is tax-funded. Each month, the Department pays an agreed amount on behalf of each member to Westfield Health. Westfield Health retains an administration fee (an agreed proportion of the premiums paid), and the remainder is used to provide the benefits.

13. At the end of 2015, there were 2,496 members of the current Plan. During 2015, they made a total of 4,552 claims. The value of refunds to members totalled £254,527, and the administrative cost of using Westfield Health was £61,503. The table below shows how these matters have progressed over recent years.

| **Year** | **2011** | **2012** | **2013** | **2014** | **2015** |
|---|---|---|---|---|---|
| **Membership** | 2,885 | 2,266 | 2,373 | 2,386 | 2,496 |
| **Total Claims** | 4,628 | 4,391 | 4,349 | 4,416 | 4,552 |
| **Cost of Claims** | £266,423 | £257,585 | £233,433 | £239,477 | £254,527 |
| **Cost of Administration** | £71,504 | £61,119 | £57,866 | £60,561 | £61,503 |

14. Expenditure on claims has always been lower than the total of premiums paid by the Department to Westfield Health. However, under arrangements put in place when the current Plan was first established, surplus funds are returned to the Department.

**Review of the current Plan**

15. A review of the current Plan was instigated following the commitment in the MTFP that it would be improved. The review was able to call upon previous examinations of the current Plan; the Department has itself undertaken surveys in the past to gauge customers' experiences, and the current Plan has previously been subject to questioning in the Assembly and by Scrutiny.

16. Nevertheless, the review essentially started with a 'blank page' approach, and considered the following questions –

- What healthcare services should be covered?
- Who should be eligible for the Plan?
- What should the benefit levels be?
- How should the Plan be administered?

17. These questions were investigated and discussed with stakeholders, including healthcare professionals; the representative associations of the 3 service areas; and pensioner representative organisations.

18. The review found that the underlying principle of the current Plan remains sound. It was established to provide assistance with the routine costs in important healthcare areas where there was no other government subsidy available. It was founded upon the importance for older people of looking after their feet, teeth and eyes. For instance, the fact that everyone should visit the dentist at least once a year or have a sight-test every 2 years. The current Plan was designed to help lower-income pensioners achieve this and, on that basis, it has provided welcome assistance to those people who have joined the Plan and made use of it.

19. The importance of looking after one's feet, teeth and eyes – particularly for older people – has not diminished. Furthermore, dental, optical and chiropody costs for pensioners remain otherwise unsubsidised by the Government. The rationale for the current Plan therefore holds true today as it did in 2003. Indeed, during the review of the current Plan, stakeholders welcomed the

'nudge' that the current Plan provides to lower-income pensioners to maintain their health in these 3 fundamental areas of healthcare.

20. In that regard, the principle underlying the Plan sits well with current strategic thinking for primary care in the Island. *Health and Social Services: A Sustainable Primary Care Strategy for Jersey 2015 – 2020* (R.1/2016) was presented to the States on 6th January 2016. That report highlighted that "*there should be a greater emphasis on health promotion and health prevention and a greater responsibility for self-care*." It also acknowledged that "*promoting good health and preventing ill health saves money*" and that "*patients need to be able to access affordable primary care*." The current 65+ Health Plan tallies with those principles.

21. Nevertheless, the review confirmed that 2 significant challenges face the current Plan:

The Plan is under-subscribed

Approximately 7,500 pensioners in the Island do not pay Income Tax. Information on household asset levels is not collected in Jersey and so it is not possible at this stage to calculate the total number of pensioners that may be eligible for the current Plan. However, only one third of the pensioner non-taxpayers are current members, and there is likely to be a considerable number of other pensioners who are also eligible but have not yet made a claim. Membership has never grown to the level that was initially envisaged when the current Plan was first launched.

The Plan is under-used

Even those who join the Plan do not make full use of the benefits provided. In 2015, for example, only 7% of members claimed the maximum benefit available for dental services, and a similar proportion claimed the maximum benefit available for chiropody services. Furthermore, approximately 10% of members have never claimed at all – in any of the service areas. The subscription fee is nevertheless paid to Westfield Health and there is no disqualification from the current Plan for non-use.

22. Notwithstanding the benefit which the current Plan has delivered since its inception, it can therefore be seen that there are indeed limits to its success. For the current Plan to be improved and made more successful, take-up and usage need to be increased.

23. There are a number of barriers within the current Plan to doing this, however. These were confirmed by the review although some have previously been identified. They are as follows:

The benefit levels are relatively low

The benefit levels have not increased since 2003 and have not kept pace with changing prices. For instance, the benefit does not cover the full cost of a dental check-up or sight-test (although it was not in fact the intention in 2003 for the full cost to be covered). The current Plan does not provide the level of support that might encourage greater take-up and usage.

The administrative burden falls predominantly upon the customer

Administration of the Plan is a 3-way relationship between customers, practitioners and the Department. Westfield Health's involvement comes from the Department's choice at the start of the scheme to outsource the day-to-day operational responsibilities. At present, customers themselves have significant

administrative responsibility: it is they who are required to obtain valid receipts and to send them off with completed claim forms. This is not an encouraging system for customers to use, particularly taking into account that the reimbursement can be for a relatively small amount.

Members are required to pay upfront

The administrative responsibility which falls on customers includes a requirement for them to pay upfront before making a claim. This is not an unusual administrative structure for health insurance schemes, where claimants are expected to pay upfront before being reimbursed. However, it has been recognised that the requirement to make this payment is a barrier that prevents some people from accessing the current Plan (which is aimed at lower-income pensioners). Some people are unable to pay even knowing that they will be reimbursed.

People are not aware of the Plan or forget about its existence

All pensioners are advised about the current Plan at least once every year, when they are advised about their new pension rate. Information is also made available via www.gov.je. Nevertheless, the review has found that some non-use of the current Plan can be explained by members forgetting that they have joined. Feedback from stakeholders also suggested that the current Plan is not sufficiently well-known amongst the target cohort.

**The proposed new Scheme**

24. To address these challenges, it is therefore proposed that a new Health Scheme will be established via Regulations and Orders, to replace the current Plan. In some respects, the new Scheme will be very similar. However, there will be some significant differences, all of which are designed to address the identified barriers to increased take-up and usage. The opportunity has also been taken to ensure that administration of the new Scheme will be consistent with administration of other benefits provided by the Department.

25. The primary aim has been to ensure that the new Scheme is structured and administered in such a way that is easy for members to use and which encourages take-up – whilst at the same time ensuring the underlying principles of the current Plan are respected. Subject to States' approval, the new Scheme will become operational on 1st January 2017.

What healthcare services should be covered?

26. No changes to the current coverage are proposed, and the new Scheme will therefore continue to assist with dental, optical and chiropody costs. This respects the underlying principle that assistance be provided in fundamental areas of healthcare where there is otherwise limited financial assistance from government.

27. That is not to say that other healthcare areas were not suggested during the review of the current Plan or have not previously been suggested. In the past, it has been proposed that assistance should be provided for visits to G.P.s or for the purchase of dressings. Westfield Health, meanwhile, has previously advised that the Plan could feasibly provide assistance with physiotherapy, chiropractic and osteopathy services (as occurs under some of their own cash-plan and insurance schemes).

28. These healthcare areas are not proposed for inclusion at this time, either because financial assistance is already provided (i.e. Medical Benefit for G.P.

services), or because these areas are not as fundamental as looking after one's teeth, feet and eyes. For instance, not everyone needs to visit a chiropractor in the way that it is recommended that people over the age of 65 should have regular check-ups with a chiropodist or an optician. This is not to decry the seriousness of the needs of those who access these other services. But the inclusion of more specialist services would alter the underlying, generalist principle of the current Plan.

29. **The Scheme will continue to assist with dental, optical and chiropody costs.**

Who should be eligible?

30. The review found that the current Plan was essentially aimed at the correct demographic: lower-income pensioners. Nevertheless, some minor amendments to the eligibility criteria are proposed in the Regulations, in part to bring the new Scheme up-to-date, and in part to ensure consistency with other benefits administered by the Department. However, anyone who is a member of the current Plan at the end of 2016 will automatically be transferred to the new Scheme when it becomes operational on 1st January 2017.

31. Eligibility for the new Scheme will be based upon pensionable age, rather than the age of 65. This reflects the fact that, since the current Plan was first introduced, it has been agreed to increase pensionable age. The current Plan was effectively targeted at pensioners, and amending eligibility criteria to align with pensionable age will respect that principle. Pensionable age is defined in the *Social Security (Jersey) Law 1974* and is dependent upon a person's date of birth. A person can be in receipt of a pension and yet not be of pensionable age. For example, women who were registered under the previous Social Security legislation may take a pension at the age of 60. For the Health Scheme, however (as has been the case with the current Plan), the fact that a person has taken an early pension does not mean they will become eligible for the Scheme; in such circumstances the person will still need to reach standard pensionable age before becoming eligible.

32. The Regulations will therefore state that a person must be of pensionable age to be eligible for the new Scheme. Under the provisions of the *Social Security (Jersey) Law 1974*, pensionable age will start to increase from 2020 until it reaches the age of 67 in 2031. There will be no additional administrative burden in aligning the new Scheme in this way, as the Department is already geared to administering benefits to people of pensionable age. In reality, however, it will remain a '65+' Health Scheme until these changes start to come through.

33. A minor change is also proposed to the residential requirement. At present, a person must be ordinarily resident in the Island at the time of their application and have 5 prior years of continuous ordinary residence (at any time in their life). It is instead proposed that, to be eligible, a person will either need to be in receipt of an Old Age Pension or, if not, will need to have Entitled status under the *Control of Housing and Work (Jersey) Law 2012*.

34. It is anticipated that this change will have minimal impact on access to the new Scheme compared to current access. A person needs to have 4.5 years of contributions (which can be equated to ordinary residence) in order to receive a pension; those in receipt of a pension would therefore effectively be very close to the current residential requirement. It is acknowledged, however, that

some people may move to Jersey after pensionable age and may therefore not have a Jersey pension. In such cases, it is suggested that Entitled status (i.e. 10 years' ordinary residence) is an appropriate requirement to ensure the new Scheme is accessible by people with a sufficient period of ordinary residence. A person will nevertheless still need to be ordinarily resident in Jersey at the time of their application, and will need to remain ordinarily resident in order to remain eligible. A person will therefore not be able to access the benefit whilst out of the Island.

35. No real changes are proposed to the eligibility criteria in respect of income and assets. As with the current Plan, it is proposed that the new Scheme will be open to pensioners who do not pay Income Tax (as they are assessed as having no liability to pay). In terms of assets, it is proposed that a single asset limit of £30,000 be used for all applicants – regardless of whether they are single or in a couple. This is proposed in order to recognise that household costs such as building maintenance are the same, regardless of whether or not a person lives alone or as a couple, and that a similar amount of basic assets will therefore be required of every household. The value of the family home and personal possessions with a market value of less than £10,000 will be disregarded from the consideration of an applicant's assets.

36. The Regulations nevertheless anticipate an administrative change to the manner in which the income and assets bars are set. The primary Law has already created Order-making powers for the Minister for Social Security to set both the income and asset bars; the bars will not be contained in the Regulations themselves. In the short term, the bars will not be changed from the current levels, but these Order-making powers will allow for a more flexible and adaptable Scheme going forward than what currently exists. With the current Plan, it is difficult to amend the structure which emanates directly from an historic decision of the Assembly.

37. Orders will therefore be made to specify the income bar as being equivalent to the Income Tax exemption threshold for pensioners, as set by the *Income Tax (Jersey) Law 1961*; and to specify the asset bar as £30,000. The Minister will be responsible for keeping these limits up-to-date in line with the funding allocated to the Department in respect of the new Scheme.

38. In line with the current Plan, it will still be possible under the new Scheme for authority to be given to a third party to act on a claimant's behalf.

39. **The new Scheme will continue to be targeted at lower-income pensioners.**

What should the benefit levels be?

40. The benefit levels have not been increased since the current Plan was introduced. It is recognised that they have therefore failed to keep pace with the changing price of services. For example, assistance of up to £22 is available for a dental check-up and yet an average check-up may now cost approximately £40, if not more.

41. It is therefore proposed to increase the benefit levels. The Regulations will not themselves set the benefit levels, but will allow the Minister to state, by Order, what the levels will be. Allowing the Minister the authority to amend and increase the benefit levels in this way will also allow for the new Scheme to be more flexible and responsive than what is currently possible.

42. Further work on the new benefit levels will be undertaken before the new Scheme becomes fully operational on 1st January 2017 (at which time the new

benefit levels will apply). In the short term, it is proposed that priority be given to ensuring sufficient assistance is provided for the cost of check-ups, visits and sight-tests.

43. As with the current Plan, the benefit will continue to be divided into 5 discrete elements. As also happens presently, however, it is proposed that the equivalent of 2 years of dental treatment benefit could be taken in one lump sum in one year towards the cost of dentures.

44. It is recognised that any increases may not initially go as far as some might wish. However, there is an imperative to ensure that the new Scheme remains affordable (within the budget allocated by the MTFP). Given that other changes are anticipated which may well increase take-up and usage, it is believed that a careful, staged approach to increasing benefit levels (at least in the short term) is appropriate.

45. **Benefit levels under the new Scheme will be higher than those currently in place.**

How should the Scheme be administered?

46. It is in the administration where it is felt changes could most beneficially help to make the new Scheme more encouraging to join and easier to use than the current Plan. A change to the administrative system is therefore proposed, that will reduce the customer's administrative responsibilities and remove the requirement for the customer to meet the full cost of services upfront.

47. In broad terms, the following administrative system is therefore proposed –

- Pensioners will apply to the Department to join the Scheme. Each applicant will be asked to name their dentist/optician/chiropodist.
- The Department will assess eligibility. Once a person is put on the Scheme, the Department will inform their chosen practitioners and advise how much benefit the person can access.
- Practitioners will invoice the Department directly in respect of the cost of services provided, and the Department will reimburse them up to the level of benefit remaining. If the cost of the service is more than the available benefit, the customer will be liable for the remainder.
- When a person has used up their benefit pot, the Department will advise the practitioner and customer that there is no longer any benefit remaining.
- At the start of each new benefit cycle, the Department will inform practitioners and customers that a new cycle has started and advise how much benefit can be accessed.

48. Customers will therefore no longer have to pay upfront and will not be required to submit claim forms accompanied by valid receipts. Their administrative responsibilities will thereby be reduced. They will be asked to nominate their chosen practitioners in order to ease the administration of the new system. However, it is recognised that customers may at times wish or need to visit a different practitioner (for example, if one dentist were to refer their patient to another dentist for a particular treatment), and this is accommodated within the draft Regulations.

49. Practitioners will invoice the Department directly for services provided under the new Scheme. The fact that practitioners will invoice the Department is not

intended to impact in any way upon the clinical relationship between practitioners and their patients. It is recognised that practitioners must adhere to professional standards; for example, dentists must follow standards set out by the General Dental Council. Implementation of the Scheme will not alter that fact and is not intended to hinder practitioners in delivering their responsibilities under such standards. Practitioners will remain responsible for the duty of care for their patients (for instance, in the determination of treatment plans), and administration of the Scheme will not interfere in the clinical relationship between practitioner and patient. In effect, the new arrangements create a means by which the Department can contribute directly towards the costs of the services provided for the patient.

50. From the Department's perspective, implementation of this system will include a decision for the Department to cease outsourcing its own administrative responsibilities to Westfield Health and to bring administration of the new Scheme entirely within the Department. The Minister and Department are grateful for the good work which Westfield Health has done since 2001 in administering the Plan. However, moving administration in-house will allow the Department to ensure consistency in delivery of the Scheme with other benefits it administers. It will also ensure that funds are not leaving the Island to pay for the administration. It is apparent that, in any event, the administrative cost would likely increase were the system not to be revised and brought within the Department. Within the new system, the Department will also take on the administrative responsibilities currently held by Westfield Health for communicating with customers. It is believed this will help to improve marketing of the new Health Plan.

51. Practitioners have already been engaged in the review to date and are aware of the proposed new system. However, the Regulations do not describe in detail the proposed arrangements, and these will be agreed with practitioners in the second half of 2016, in advance of the introduction of the new scheme.

52. **The new Scheme will not require customers to pay upfront for services in order to be reimbursed; rather the benefit will be paid by the Department on customers' behalf directly to practitioners.**

53. Beyond the method of payment, the Regulations also make administrative provisions that are not present in the current Plan. The Regulations set out the process by which appeals against decisions may be made. At present, there is no specific provision within the Plan for appeals to be made and for matters to be re-determined by the Department (because responsibility for these matters has been outsourced to Westfield Health). However, in order to be consistent with other benefits administered by the Department, such provisions now need to be included. The Regulations therefore clarify how applications and claims are to be determined and how, if necessary, they would be re-determined by the Department and how an appeal could be made in the event of a dispute. In line with other benefits, the Regulations will also establish penalties, for example, for the furnishing of false information to the Department.

54. Other administrative measures will also need to be taken but are not set out in the Regulations. The review of the current Plan highlighted that knowledge and awareness of the Plan's existence may not be as widespread as would be hoped. It is therefore proposed that measures will be taken to improve marketing. Such measures do not need to be covered in legislation, but

improved marketing will be easier to achieve with the administration of the new Scheme brought fully in-house within the Department.

55. **Marketing of the new Scheme will be improved on what presently occurs.**

**Conclusion**

56. The Regulations state that the new Scheme will become operational on 1st January 2017. On that date, all members of the current Plan will automatically transfer to become members of the new Scheme and the structure of the Scheme will become operational. Ahead of that date, a number of actions will need to be taken to ensure this can happen.

- The contract with Westfield Health will be terminated.
- There will be communication with existing members to inform them of the new system and to confirm their chosen practitioners.
- A revised application form and application process will be developed.
- A new database will be developed to support the Department's administration of the Plan.
- New communication and publicity material for marketing the Scheme will be developed.

57. Ultimately, it is hoped that by removing the requirement for customers to pay upfront; by improving marketing, and by gradually increasing the benefit levels; the new Scheme will be attractive and easy to use. And that, consequently, more lower-income pensioners will join, make use of it, and thereby be better able to look after their teeth, feet and eyes, which are so fundamental to their general health and well-being.

**Financial and manpower implications**

58. There are no additional financial implications in respect of benefit payments arising from approval of the draft Regulations. The benefit levels will be set by Order later in 2016. It is important to control the growth of costs within the new Scheme to remain within the allocated budget, which includes the additional £200,000 per annum agreed within the MTFP. An increase in membership and take-up of benefits within the Scheme will increase costs, even at the current benefit levels. As such, care will be taken when setting revised benefit levels later in the year to ensure that the cost of the new Scheme remains within the cash limit available. A phased approach will be taken until the extent of the increased coverage can be gauged more accurately.

59. In terms of the administration, bringing responsibility for the new Scheme within the Department will have implications, as it will require activity of the Department which it does not currently undertake. Manpower and resources will be required to develop the new Scheme (including the transition from current arrangements), but these will be accommodated within the Department's existing overall headcount and cash limit. In relation to ongoing administration, as the new Scheme will be administered by the Department, there will no longer be any payment made to Westfield Health. The current budget for administration will therefore be available to support the Department's own ongoing administration in the future.

## Explanatory Note

These Regulations establish a health bonus scheme the object of which is to provide a health bonus to support the health and well-being of individuals, who have reached their pensionable age, by contributing to the cost of certain health care services.

*Regulation 1* provides certain definitions for terms used in the Regulations.

*Regulation 2* defines the term "asset".

*Regulation 3* provides for the establishment of the health bonus scheme and requires that the Minister publish the principles of the scheme must be observed by a practitioner (defined as a chiropodist, dentist, optician or podiatrist) participating in the scheme.

*Regulation 4* provides the process by which a chiropodist, dentist, optician or podiatrist may apply to participate in the provision of health care services under the health bonus scheme, and provides for such a practitioner to cease to participate where the Minister considers that a practitioner is not conducting himself or herself in accordance with the principles published under *Regulation 3(2)*. *Regulation 4(8)* provides an appeal mechanism for a practitioner who is aggrieved by a decision of the Minister not to admit him or her to the scheme, or a determination by the Minister that the practitioner must cease to participate.

*Regulation 5* sets out who is eligible to be admitted to the health bonus scheme. In order to be eligible, a person must be ordinarily resident in Jersey; must have attained his or her pensionable age, determined in accordance with Article 1A of, and Schedule 1AA to, the Social Security (Jersey) Law 1974; must be receiving a Jersey old age pension or have Entitled status within the meaning of Part 2 the Control of Housing and Work (Jersey) Law 2012; and must not have more than the relevant total income or assets specified in an Order made under Article 3 of the Social Security (Bonus) (Jersey) Law 2014 ("2014 Law"). A person who is admitted to the health bonus scheme is eligible to receive a health bonus under the scheme.

*Regulation 6* provides that a person may apply to be admitted to the health bonus scheme, in accordance with procedures specified in an Order made under Article 3 of the 2014 Law, and that his or her application shall be determined in accordance with those procedures. By *Regulation 6(2)*, a person must, when applying to be admitted to the scheme, specify the participating practitioners from whom he or she wishes to receive a health care service. *Regulation 6(3)* provides the date from which a person will be admitted to the health bonus scheme and provides that once a person is approved for admission to the scheme, he or she will be entitled to receive a health bonus under the scheme. A person may also be entitled to receive a health bonus for treatment carried out prior to being admitted to the scheme if the determining officer considers that in all the circumstances it is reasonable for the health bonus to be paid in respect of that health care service. By *Regulation 6(4)*, a person who, immediately before the coming into force of these Regulations, was entitled to receive payments under the Jersey 65+ Health Plan, will be admitted to the health bonus scheme upon the coming into force of these Regulations. By *Regulation 6(5)*, a person who is admitted to the health bonus scheme will be entitled to a health bonus under the scheme if he or she has a health care service provided to him or her by a participating practitioner; and the determining officer is satisfied that the health care service was provided in accordance with the published principles of the health bonus scheme. By *Regulation 6(7)*, a person's admission to the health bonus scheme and entitlement to a

health bonus shall cease immediately upon his or her circumstances changing such that he or she no longer satisfies the conditions for eligibility under *Regulation 5*. However, a person whose entitlement to the health bonus ceases under paragraph (7) may re-apply for admission to the health bonus scheme if he or she becomes eligible for admission again. *Regulation 6(10)* provides an appeal mechanism, so that if a person's application is refused, or he or she is removed from the health bonus scheme, he or she may seek a redetermination or appeal in accordance with the procedures set out in an Order made under Article 3 of the 2014 Law.

*Regulation 7(1)* requires the Minister to notify both the person who applies to be admitted to the health bonus scheme under Regulation 6(1), or who is admitted under Regulation 6(4), and the participating practitioner specified in the person's application, of the date that the person is admitted to the scheme and the date upon which the person will be entitled to a health bonus under *Regulation 6(3)*. By *Regulation 7(2)*, where a person intends to receive a health care service from a participating practitioner who was not specified in the person's application (or, in the case of a person who was participating in the Jersey 65+ plan, was specified to the Minister after admission to the health bonus scheme), either the person, the participating practitioner who was specified in the person's application (or specified to the Minister, as the case may be), or the participating practitioner who intends to provide the health care service, must notify the Minister of the person's intention. By *Regulation 7(4)*, this notification requirement does not apply if the participating practitioner carries out the health care service in the normal course of a business that is operated within the same chiropody, dental, opticians' or podiatry practice (as the case may be) as the participating practitioner named in the person's application (or specified to the Minister, as the case may be). *By Regulation 7(5)*, if the Minister is not notified of the change, the determining officer may refuse to pay a health bonus in respect of that treatment.

*Regulation 8* requires the determining officer to pay any health bonus in respect of a person admitted to the health bonus scheme to the participating practitioner specified in the person's application made under *Regulation 6(1)*, (or specified to the Minister, as the case may be). or subsequently notified to the Minister under Regulation 7, who carried out the health care service on the person unless, in all the circumstances, the Minister considers that it is appropriate to pay it to another person.

*Regulation 9* enables the Minister to recover a health bonus payment that has been paid when it was not properly payable and provides for recovery to be instituted by the Treasurer of the States any time within 10 years from the time when that sum was paid. By *Regulation 9(1)*, the Minister may at any time request further information or documentation from the person admitted to the health bonus scheme for the purpose of the Minister satisfying himself or herself whether a person is, or remains, eligible for admission to the health bonus scheme, or entitled to receive a health bonus.

*Regulation 10* enables a person to be appointed to act on a behalf of a person who is unable to make an application to be admitted to the health bonus scheme or to apply for a health bonus under that scheme. It also enables a person wishing to be admitted to the health bonus scheme to appoint another person to act on his or her behalf in relation to any matter relating to an application or health bonus.

*Regulation 11* provides that the existing scheme known as the Jersey 65+ health plan ceases upon the coming into force of these Regulations.

*Regulation 12* provides for these Regulation to be cited as the Social Security (Health Bonus Scheme) (Jersey) Regulations 201- and to come into force on 1st January 2017.


# DRAFT SOCIAL SECURITY (HEALTH BONUS SCHEME) (JERSEY) REGULATIONS 201-

## Arrangement

**Regulation**

Jersey

# DRAFT SOCIAL SECURITY (HEALTH BONUS SCHEME) (JERSEY) REGULATIONS 201-

| | |
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| *Made* | *[date to be inserted]* |
| *Coming into force* | *[date to be inserted]* |

**THE STATES**, in pursuance of Article 2 of the Social Security (Bonus) (Jersey) Law 2014[1], have made the following Regulations –

## 1 Interpretation

(1) In these Regulations, unless the context otherwise requires –

"2014 Law" means the Social Security (Bonus) (Jersey) Law 2014[2];

"asset" has the meaning given in Regulation 2;

"chiropodist" means a person registered as a chiropodist under Article 7 of the Health Care (Registration) (Jersey) Law 1995[3];

"dentist" means a person registered as a dentist under Part 2 of the Dentistry (Jersey) Law 2015[4];

"determining officer" means a determining officer as defined in the Income Support (Jersey) Law 2007[5] or as appointed in accordance with an Order under Article 33 of the Social Security (Jersey) Law 1974[6];

"health bonus" means a bonus, up to the limit specified in an Order made under Article 3 of the 2014 Law, payable in respect of a person admitted to the health bonus scheme for –

(a) an examination of, or treatment carried out on, that person by a chiropodist or a podiatrist;

(b) an examination of, or treatment carried out on, that person by a dentist;

(c) an examination of that person carried out by an optician; or

(d) the prescription of glasses or contact lenses by an optician for wearing by that person;

"health bonus scheme" means the scheme established under Regulation 3 for the provision of a health bonus;

"health care service" means an examination, treatment or prescription provided by a chiropodist, dentist, optician or podiatrist;

"Jersey 65+ health plan" means the plan referred to in the States' proposition P.153/2003 and approved by the States on 25th November 2003;

"Jersey old-age pension" means a pension to which a person is entitled under Article 25 of the Social Security (Jersey) Law 1974[7];

"Minister" means the Minister for Social Security;

"optician" means a person registered as an optician under the Opticians (Registration) (Jersey) Law 1962[8];

"participating practitioner" means a practitioner approved under Regulation 4;

"pensionable age" has the same meaning as in Article 1A of the Social Security (Jersey) Law 1974[9];

"podiatrist" means a person registered as a podiatrist under Article 7 of the Health Care (Registration) (Jersey) Law 1995[10];

"practitioner" means a chiropodist, dentist, optician or podiatrist;

"Royal Court" means the Inferior Number of the Royal Court.

**2 Meaning of "asset"**

(1) In this Law, "asset" means a person's immovable or movable (whether tangible or intangible) property excluding any of the following –

(a) personal possessions;

(b) any sums held on trust in a Jersey retirement trust scheme approved under Article 131CA of the Income Tax (Jersey) Law 1961[11] or a trust approved under Article 131E of that Law;

(c) income;

(d) assets that are integral to a business owned by the person that is being run actively as a going concern by the person.

(2) Paragraph (1)(a) does not include any personal possession held wholly or mainly for investment purposes.

(3) An asset may be situated in or outside Jersey.

**3 Establishment and object of health bonus scheme**

(1) There is established a scheme, the object of which is to provide a health bonus to support the health and well-being of individuals, who have reached their pensionable age, by contributing to the cost of certain health care services.

(2) The Minister, having regard to the object of the health bonus scheme, shall publish the principles of the scheme that must be observed by a participating practitioner.

**4 Approval of practitioner as a participating practitioner**

(1) A practitioner may apply to the Minister to be a participating practitioner in the health bonus scheme.

(2) On receiving an application under paragraph (1), the Minister may –

(a) grant the application; or

(b) refuse the application.

(3) The Minister shall not grant an application under paragraph (2)(a) unless he or she is satisfied that the applicant, when admitted as a participating practitioner, will conduct himself or herself in accordance with the principles published under Regulation 3.

(4) The Minister shall, subject to paragraph (6), notify the applicant in writing of any decision under paragraph (2) and shall give reasons for any decision to refuse the application under paragraph (2)(b).

(5) If the Minister is satisfied that a participating practitioner is not conducting himself or herself in accordance with the principles published under Regulation 3, the Minister may, subject to paragraph (6), notify the participating practitioner that the Minister has determined that, from a date specified in the notification, the participating practitioner shall cease to be a participating practitioner.

(6) Before giving a notification of a decision under paragraph (4) to refuse an application, or of a determination under paragraph (5), the Minister must serve written notice on the practitioner –

(a) giving the reasons for the Minister's proposed refusal or determination; and

(b) stating that within such period as may be specified in the notice (not being less than 21 days beginning with the date of service of the notice) the person on whom it is served may make objections or representations in writing to the Minister concerning the proposal.

(7) A notification of a decision to refuse an application under paragraph (4), or of a determination under paragraph (5), may only be made after the Minister has considered any objections or representations in accordance with paragraph (6)(b).

(8) If a person is aggrieved by –

(a) a decision of the Minister under paragraph (2); or

(b) a determination under paragraph (5),

the person may appeal to the Royal Court no later than 28 days after the date of receipt of the notification of the decision or determination, as the case may be, on the ground that the decision or determination of the Minister was unreasonable, having regard to all the circumstances of the case.

(9) Unless the Royal Court so orders, the lodging of an appeal shall not operate to stay the effect of a decision under paragraph (2) or a determination under paragraph (5) pending determination of the appeal.

(10) On hearing the appeal, the Court may confirm, reverse or vary the Minister's decision or determination.

**5 Eligibility for admission to health bonus scheme or payment under scheme**

A person is eligible to be admitted to the health bonus scheme if the person –

(a) is ordinarily resident in Jersey;

(b) has attained his or her pensionable age;

(c) is receiving a Jersey old age pension or has Entitled status within the meaning of Part 2 the Control of Housing and Work (Jersey) Law 2012[12]; and

(d) does not have more than the relevant total income or assets specified in an Order made under Article 3 of the 2014 Law for the purposes of these Regulations.

**6 Application and admission to health bonus scheme and entitlement to health bonus**

(1) A person may apply to be admitted to the health bonus scheme, in accordance with procedures specified in an Order made under Article 3 of the 2014 Law, and his or her application shall be determined in accordance with those procedures.

(2) A person must, when applying to be admitted to the scheme, specify the participating practitioners from whom he or she wishes to receive a health care service.

(3) A person –

(a) shall be admitted to the health bonus scheme on the first day of the month following the date on which his or her application for admission to the scheme is approved under the procedures referred to in paragraph (1);

(b) shall be entitled to a health bonus for a health care service received, in the amount specified in an Order made under Article 3 of the 2014 Law, from the date he or she is admitted to the health bonus scheme; and

(c) may be entitled to the health bonus for a health care service received from a participating practitioner undertaken before the date on which he or she was admitted to the health bonus scheme if the determining officer considers that, in all the circumstances, it is reasonable for the health bonus to be paid in respect of that health care service.

(4) A person who, immediately before the coming into force of these Regulations, was entitled to receive payments under the Jersey 65+ Health Plan shall be admitted to the health bonus scheme upon the coming into force of these Regulations without needing to make an application.

(5) A person who is admitted to the health bonus scheme under paragraph (4) shall, as soon as reasonably practicable after the coming into force of this Regulation, specify to the Minister the participating practitioners from whom he or she wishes to receive a health care service.

(6) A person who is admitted to the health bonus scheme shall be entitled to a health bonus under the scheme if –

(a) he or she has had a health care service provided to him or her by a participating practitioner; and

(b) the determining officer is satisfied that the health care service was provided in accordance with the principles published under Regulation 3(2).

(7) A person's admission to the health bonus scheme and entitlement to a health bonus shall cease immediately upon his or her circumstances changing such that he or she no longer satisfies the conditions for eligibility under Regulation 5.

(8) A person whose entitlement to the health bonus ceases under paragraph (7) may re-apply for admission to the health bonus scheme if he or she becomes eligible for admission again.

(9) The right to a health bonus is not transferable.

(10) If the person's application under paragraph (1) is refused in accordance with procedures referred to in that paragraph, or he or she ceases to be admitted to the health bonus scheme, he or she may seek a redetermination or appeal in accordance with the procedures contained in an Order made under Article 3 of the 2014 Law.

**7 Access to health care services under health bonus scheme**

(1) The Minister shall notify a person who applies to be admitted to the health bonus scheme under Regulation 6(1), or who is admitted under Regulation 6(4), and the participating practitioners specified in the person's application, of the date that the person is admitted to the scheme and the date from which the person shall be entitled to a health bonus under Regulation 6(3).

(2) Where a person intends to receive a health care service from a participating practitioner who was not specified in the person's application made under Regulation 6(1), the person, the participating practitioner who was specified in the application, or the participating practitioner who intends to provide the health care service, must notify the Minister of the intention of the person who wishes to receive the health care service.

(3) Where a person admitted to the health bonus scheme under Regulation 6(4) intends to receive a health care service from a participating practitioner whom he or she has not specified to the Minister under Regulation 6(5), the person, the participating practitioner specified to the Minister under Regulation 6(5), or the participating practitioner who intends to provide the health care service, must notify the Minister of the intention of the person receiving the health care service.

(4) The requirement to notify the Minister under paragraph (2) or (3) shall not apply if the participating practitioner referred to in that paragraph carries out the health care service in the normal course of a business that is operated within the same chiropody, dental, opticians' or podiatry

practice (as the case may be) as the participating practitioner named in the person's application, or specified to the Minister under Regulation 6(5).

(5) If the Minister is not notified, as required under paragraph (2) or (3), the determining officer may refuse to pay a health bonus in respect of a health care service provided by the participating practitioner who had not been specified in the person's application (or specified under Regulation 6(5)).

**8 Payment of health bonus**

The determining officer shall pay any health bonus in respect of a person admitted to the health bonus scheme to the participating practitioner specified in the person's application made under Regulation 6(1), specified to the Minister under Regulation 6(5) or notified to the Minister under Regulation 7(2) or (3) who carried out the health care service on the person unless, in all the circumstances, the Minister considers that it is appropriate to pay it to another person.

**9 Verifying entitlement to health bonus and recovery of health bonus wrongly paid**

(1) The Minister may at any time request further information or documentation from a person admitted to the health bonus scheme for the purpose of satisfying himself or herself whether a person is, or remains, eligible for admission to the health bonus scheme, or entitled to a health bonus.

(2) If it is found at any time that any health bonus has been paid that was not properly payable, the Minister may require it to be repaid –

(a) if it was paid to a person in his or her own right, by that person; or

(b) if it was paid to a person on behalf of another person, by that other person.

(3) If it is found at any time that any health bonus properly payable has been paid to a person not being a person by whom it was properly receivable, the Minister may require it to be repaid by the person to whom it was paid.

(4) In case of the death of a person who could be required to repay a health bonus under this Regulation, the Minister may require it to be repaid by the person charged with the administration of the deceased person's personal estate.

(5) Proceedings for the recovery of any health bonus which a person is required under this Regulation to repay to the Minister may be instituted by the Treasurer of the States and, despite any enactment or rule of law to the contrary, any such proceedings may be brought at any time within 10 years from the time when that health bonus was paid, or, where the proceedings are for the recovery of a consecutive series of health bonuses, within 10 years from the date on which the last health bonus of the series was paid.

(6) Any health bonus which a person is required under this Regulation to repay to the Minister may, without prejudice to any other remedy, be recovered by means of deduction from any other payment due under the health bonus scheme to the person to whom the health bonus was paid, unless it was paid to that person on behalf of another, in which case it may, without prejudice to any other remedy, be recovered by means of deduction from any payment of health bonus due under these Regulations to that other person.

**10 Persons acting on behalf of an applicant**

(1) In this Regulation, "applicant" includes a person who is unable to make an application to be admitted to the health bonus scheme or to apply for or receive a health bonus under that scheme.

(2) In the case of an applicant in respect of whom none of the circumstances in paragraph (3) apply, and who is unable to act in relation to an application or health bonus, the Minister may appoint a person (which may include the Minister or a determining officer) to act on the applicant's behalf in relation to any matter relating to an application or health bonus, including making an application, specifying a participating practitioner and receiving a health bonus on the applicant's behalf.

(3) Those circumstances are that the applicant –

(a) has been received into guardianship in pursuance of a guardianship application under Article 14 of the Mental Health (Jersey) Law 1969[13];

(b) has a curator appointed under Article 43 of the Mental Health (Jersey) Law 1969 to manage and administer his or her property and affairs; or

(c) has a *tuteur*.

(4) An appointment under paragraph (2) shall terminate –

(a) if the applicant is received into guardianship, or has a curator or *tuteur* appointed as specified in paragraph (3);

(b) at the request of the person who has been appointed;

(c) if revoked by the Minister; or

(d) if the applicant becomes able to act in relation to the application or health bonus.

(5) Where –

(a) an applicant does not have another person acting for him or her under paragraph (2); and

(b) none of the circumstances in paragraph (3) apply,

the applicant may appoint a person (which may include the Minister or a determining officer) to act on the applicant's behalf in relation to any matter relating to an application or health bonus, including making an application, specifying a participating practitioner and receiving a health bonus on the applicant's behalf.

(6) An appointment under paragraph (5) shall be in writing and copied to the Minister.

(7) A person appointed under paragraph (5) may act on the applicant's behalf until whichever of the following happens first –

(a) the applicant revokes the appointment;

(b) the Minister makes an appointment under paragraph (2); or

(c) one of the circumstances described in paragraph (3) apply to the applicant.

**11 Cessation of Jersey 65+ health plan**

No person may be admitted to the Jersey 65+ health plan after the coming into force of these Regulations.

**12 Citation and commencement**

These Regulations may be cited as the Social Security (Health Bonus Scheme) (Jersey) Regulations 201- and shall come into force on 1st January 2017.

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|---|---|
| 1 | *chapter 26.880* |
| 2 | *chapter 26.880* |
| 3 | *chapter 20.300* |
| 4 | *L.17/2015* |
| 5 | *chapter 26.550* |
| 6 | *chapter 26.900* |
| 7 | *chapter 26.900* |
| 8 | *chapter 20.750* |
| 9 | *chapter 26.900* |
| 10 | *chapter 20.300* |
| 11 | *chapter 24.750* |
| 12 | *chapter 18.150* |
| 13 | *chapter 20.650* |