



Number 20 of 2010

HEALTH (AMENDMENT) (NO. 2) ACT 2010

ARRANGEMENT OF SECTIONS

Section

1. Amendment of section 59 of Health Act 1970.
 2. Short title, construction, collective citation and commencement.
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[No. 20.] *Health (Amendment) (No. 2) Act* [2010.]
2010.

ACTS REFERRED TO

Child Care Acts 1991 to 2007	
Health Act 1970	1970, No. 1
Health Acts 1947 to 2010	
Misuse of Drugs Act 1977	1977, No. 12
Nurses Act 1985	1985, No. 18



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HEALTH (AMENDMENT) (NO. 2) ACT 2010

AN ACT TO AMEND THE HEALTH ACT 1970 TO PROVIDE FOR THE CHARGING OF FEES IN RESPECT OF PRESCRIBED ITEMS DISPENSED BY COMMUNITY PHARMACY CONTRACTORS TO PERSONS WITH FULL ELIGIBILITY AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[13th July, 2010]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—Section 59 of the Health Act 1970 is amended—

Amendment of
section 59 of Health
Act 1970.

(a) by inserting the following subsections after subsection (1):

“(1A) Notwithstanding subsection (1) but subject to subsections (1B) and (1C), a person with full eligibility who avails himself or herself of the service under subsection (1) shall be charged, by a community pharmacy contractor, an amount of €0.50, or such other amount as may be determined by regulations made by the Minister under this section, per item supplied to that person on the prescription of a registered medical practitioner or registered dentist, or on the prescription of a registered nurse (being a person whose name is entered in the register of nurses maintained under section 27 of the Nurses Act 1985) who is entitled pursuant to any enactment to prescribe the drugs, medicines or medical or surgical appliances so supplied.

(1B) (a) Subject to paragraph (b), the maximum aggregate amount payable in respect of items referred to in subsection (1A) supplied in a month to an adult person and his or her dependants shall be €10.00 or such other amount as may be determined by regulations made by the Minister under this section.

(b) The Health Service Executive shall make arrangements for the refunding, crediting or otherwise relieving persons from the payment of amounts charged that exceed the maximum aggregate amount referred to in paragraph (a) and where, for any reason, such an excess amount is charged in respect of an adult person and his or her dependants, that excess amount

shall be refunded or credited, or relief shall otherwise be granted, as the case may be, in relation to any such excess amount in accordance with such arrangements and subject to any regulations that the Minister may make under this section.

(1C) A person who falls within any of the following classes shall not be charged an amount under subsection (1A):

- (a) children who are in the care of the Health Service Executive under the Child Care Acts 1991 to 2007;
- (b) persons to whom are supplied specified controlled drugs, within the meaning of the Misuse of Drugs (Supervision of Prescription and Supply of Methadone) Regulations 1998 or such other regulations as may be made by the Minister under section 5 of the Misuse of Drugs Act 1977 for the purpose of preventing the misuse of controlled drugs, in respect of those specified controlled drugs;
- (c) persons who are of a class specified by the Minister in regulations made under this section.

(1D) Notwithstanding any other enactment, contract, arrangement, understanding, expectation, circular or other document, the payment that shall be made to a community pharmacy contractor in respect of services rendered by the community pharmacy contractor to or on behalf of the Health Service Executive in respect of the drugs, medicines and medical and surgical appliances dispensed by a registered pharmacist to persons and their dependants under this section shall be reduced by an amount equal to the amounts collectable by that community pharmacy contractor under subsection (1A), irrespective of whether those amounts are actually collected.

(1E) In subsections (1A) to (1D)—

‘community pharmacy contractor’ means a registered pharmacist, company or other body corporate that provides services to the Health Service Executive under an agreement made in accordance with conditions specified by the Minister in 1971 or 1996, as amended from time to time, for the provision of community pharmacy services to eligible persons under subsection (1);

‘dependant’, in relation to a person with full eligibility, includes an adult person with full eligibility, so long as that adult person is under the age of 21 years and receiving full time education and is wholly or mainly maintained by the first-mentioned person.”,

- (b) in subsection (2), by substituting “in respect of a prescribed period and to a prescribed amount” for “in respect of a period and to an amount determined by regulations made by the Minister”, and

(c) by substituting the following subsection for subsection (4):

“(4) (a) The Minister may make regulations—

- (i) subject to paragraph (b), varying either or both of the amounts referred to in subsections (1A) and (1B)(a),
- (ii) subject to paragraph (c), specifying other classes of persons who shall not be charged the amount referred to in subsection (1A) either in respect of all items supplied to persons of that class or specified categories of such items, and
- (iii) where the Minister considers it necessary to do so, in relation to the refund, credit or other relief of amounts in excess of the maximum aggregate amount referred to in subsection (1B).

(b) The Minister shall make regulations under paragraph (a)(i) only where he or she is of opinion that such a variation is desirable, having regard to such of the following as he or she considers appropriate:

- (i) information on the consumer price index made available by the Central Statistics Office from time to time;
- (ii) recent information on the aggregate of the amounts expended, and the number of items in respect of which those amounts were expended, by the Health Service Executive in providing the service under subsection (1);
- (iii) the medical needs of, and the financial burden on, persons who avail themselves of the service under subsection (1);
- (iv) the necessity of controlling expenditure in relation to the provision by the State of health services.

(c) The Minister shall make regulations under paragraph (a)(ii) only where he or she is of opinion that not to charge the amount referred to in subsection (1A) to such a class is just and equitable in the circumstances, having regard to such of the following as he or she considers appropriate:

- (i) the particular medical condition, disability or medical needs of persons of that class;
- (ii) the number of prescription items required in respect of the condition, disability or medical needs referred to in subparagraph (i);

- (iii) recent information on the aggregate of the amounts expended, and the number of items in respect of which those amounts were expended, by the Health Service Executive in providing the service under subsection (1), either generally or in respect of persons of that class;
 - (iv) the necessity of controlling expenditure in relation to the provision by the State of health services;
 - (v) whether the overall financial situation of all, or substantially all, of the persons of that class is significantly worse than that of other persons who are charged amounts under subsection (1A).
- (d) Regulations under this section shall be made with the consent of the Minister for Finance.”.

Short title,
construction,
collective citation
and
commencement.

2.—(1) This Act may be cited as the Health (Amendment) (No. 2) Act 2010.

(2) The Health Acts 1947 to 2010 and this Act shall be construed together as one Act and the collective citation “the Health Acts 1947 to 2010” shall include this Act.

(3) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes or different provisions.