HEALTH AND SPORT COMMITTEE

Wednesday 18 March 2009

Session 3

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HEALTH AND SPORT COMMITTEE
9th Meeting 2009, Session 3

CONVENER

*Christine Grahame (South of Scotland) (SNP)

DEPUTY CONVENER

*Ross Finnie (West of Scotland) (LD)

COMMITTEE MEMBERS

Jackie Baillie (Dumbarton) (Lab)
*Helen Eadie (Dunfermline East) (Lab)
*Michael Matheson (Falkirk West) (SNP)
*Ian McKee (Lothians) (SNP)
*Mary Scanlon (Highlands and Islands) (Con)
*Dr Richard Simpson (Mid Scotland and Fife) (Lab)

COMMITTEE SUBSTITUTES

Joe FitzPatrick (Dundee West) (SNP)
*Mr Frank McAveety (Glasgow Shettleston) (Lab)
Jamie McGrigor (Highlands and Islands) (Con)
Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Shona Robison (Minister for Public Health and Sport)

CLERK TO THE COMMITTEE

Callum Thomson

SENIOR ASSISTANT CLERK

Douglas Thornton

ASSISTANT CLERK

David Slater

LOCATION

Committee Room 4

Scottish Parliament

Health and Sport Committee

Wednesday 18 March 2009

[THE CONVENER *opened the meeting at 10:03*]

Decision on Taking Business in Private

The Convener (Christine Grahame): Good morning and welcome to the ninth meeting in 2009 of the Health and Sport Committee. I remind members and witnesses to switch off their mobile phones and other electronic equipment. Apologies have been received from Jackie Baillie.

Under item 1, the committee is invited to agree, in line with usual practice, to take item 9, which is our approach to our work programme, in private. Is that agreed?

Members *indicated agreement*.

Mary Scanlon (Highlands and Islands) (Con): Should we not also agree to take item 8, which is our draft report on the pathways into sport inquiry, in private?

The Convener: We agreed to do so previously, but well spotted.

Subordinate Legislation

National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 2009 (SSI 2009/37)

10:04

The Convener: Our main item of business today is a formal debate on a motion to annul subordinate legislation. The Minister for Public Health is present to participate in the debate. I invite Mary Scanlon to speak to and move motion S3M-3619.

Mary Scanlon: I apologise for my croaky voice today.

There has been, quite rightly, widespread concern about the system of prescription charges that was inherited by the current Government, with the overwhelming majority of prescriptions being issued free of charge despite half the population being liable to pay charges. In 2006, the Health Committee at Westminster branded the national health service prescription charging regime "a mess". The combination of exemptions from charging for certain groups, such as pregnant women and pensioners, was supplemented by free prescriptions for certain conditions but not others. On top of that, the system exempted those on benefits from paying charges.

Scottish Conservatives supported extending the list of chronic conditions for which prescriptions would be free, although the Government argued that the system was too complex to amend. We also very much welcomed the substantial reduction in the cost of prepayment certificates, which allow those who need regular prescriptions and who are not eligible for free prescriptions to pay substantially less. There is no doubt that the reduction will lead to better compliance.

Sadly, because of the way in which the reduction in prescription charges has been introduced by the Scottish Government, there is no opportunity to discuss alternatives, such as reducing the cost of prepayment certificates but holding individual charges level, or the approach that is being followed by the Labour Government at Westminster of abolishing charges for those with cancer, and eventually for all those with long-term conditions.

We have not had the opportunity to discuss what is happening with the minor ailments service or indeed what the cost of full implementation could purchase, such as 2,000 extra nurses or almost 900,000 additional health visitor visits. The background to the debate is that the average

number of prescriptions per person has more than doubled in the 20 years preceding the changes.

When the National Assembly for Wales debated the abolition of charges in Wales in 2007, the Lib Dem health spokeswoman, Jenny Randerson, stated:

"Free prescriptions will mean, quite simply, more people claiming the NHS funds available for minor ailments. It will mean more demands on GPs' time, longer GP waiting lists, and less money for expensive new drugs."—[*Official Record*, *National Assembly for Wales,* 23 January 2007; p 56.]

There is an argument about whether it is appropriate to exempt those who can afford to make a contribution for prescriptions. The Government is pursuing means testing for other policy areas; indeed, only last month the Cabinet Secretary for Finance and Sustainable Growth argued for means testing for insulation grants on the ground that

"I cannot justify paying for people like me to get home insulation for nothing when people who are more deserving than I am require it."—[*Official Report*, 4 February 2009; c 14700.]

If it is wrong in principle for people such as Mr Swinney to get free insulation, we must ask whether it is wrong in principle for such people to get free prescriptions. Abolishing prescription charges means that MSPs and others who currently contribute to the NHS budget will join a new group who can pay but will not pay. The Government says that the cost of implementing the policy in full is £57 million.

"I am not persuaded that there is a cast-iron case that shows that abolishing prescription charges will not cause an increase in the prescription bill. If people do not have to pay for prescriptions, their use of the service may increase."—[*Official Report*, Finance Committee, 8 November 2005; c 3077.]

Those are not my words but those of John Swinney, my favourite spokesman in this debate, before he came into government.

Only this week, we saw reports of patients with cancer being denied access to drugs on the NHS in Scotland. Would the money that is being used to fund the further reduction in prescription charges be better spent widening access to more drugs rather than giving existing treatments free to those who can afford to pay? I refer in particular to the rarer cancers forum report that highlighted at the weekend that attempts by an estimated 200 patients to get life-extending treatments for cancer on the NHS were rejected even though, in many cases, the drug treatments had already been approved.

Following her statement to Parliament in December 2007, the Cabinet Secretary for Health and Wellbeing said in response to a question that I asked that there was no evidence from Wales of an increase in prescribing as a result of the abolition of prescription charges. That evidence now exists. A recent study by the publication for general practitioners, *Pulse*, showed that the abolition of prescription charges had led to an increase in prescribing bills, with five out of six classes of drugs showing increases in prescription rates that were higher in Wales than in England, including a worrying seven-times-higher increase in the rate of prescribing antibiotics, for which there is no over-the-counter alternative and of which the Government is quite rightly trying to prevent overprescribing. Only yesterday, NHS Lothian launched a campaign to reduce the level of medicines that are prescribed and obtained but not taken, which, for that health board alone, is estimated to cost at least £3 million per year, which the director of pharmacy considers to be "a low estimate".

I do not dispute that the health budget for 2009-10 is built on the assumption that the reduction in charges is to be introduced. However, since the Government published its plans to phase out prescription charges, we have had advance warning, in the shape of the United Kingdom pre-budget report, of a slowing in the rate of growth in the Scottish budget that is much beyond what was expected. Barely a week passes when ministers do not mention in the Parliament a reduction of £500 million for 2010-11 and 2011-12. If health takes the same share of that £500 million reduction as it does of the whole budget, there will be about £150 million less to spend in the NHS in 2010-11 than was planned. We cannot ignore those figures. Ministers have not yet said whether the NHS in Scotland will be expected to find that money. Given that uncertainty, is it wise to push ahead with a plan that will take more money out of Scotland's NHS budget?

As we prepare for a decade or more of exceptionally tight public spending rounds, is it sensible for one of the Scottish Government's priorities to be abolishing prescription charges, rather than reforming the system to make it fairer? Freezing prescription charges at their current levels could be a sensible compromise at this stage, but my reason for moving the motion is to trigger what is, in my and my party's opinion, a much-needed debate on the subject.

I move,

That the Health and Sport Committee recommends that nothing further be done under the National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 2009 (SSI 2009/37).

The Convener: Before inviting the minister to speak, I welcome Frank McAveety, who is the substitute on the committee for Jackie Baillie. Do you have any relevant interests to declare, Frank?

Mr Frank McAveety (Glasgow Shettleston) (Lab): I have none to declare, other than what is contained in my register of interests.

The Convener: Thank you.

I will ask the minister to respond, and we can then hear contributions from members. As this is a debate, the officials accompanying the minister will not take or answer questions—I am sure that they do not need to be told that, but I wanted to let the committee know. The maximum period for the debate is 90 minutes, starting from when Mary Scanlon started to move her motion. After the minister has spoken, I will give Mary a chance to wind up and to indicate whether she wishes to press the motion or ask the committee's permission to withdraw it.

The Minister for Public Health and Sport (Shona Robison): Thank you for the opportunity to address the committee. The Government is committed to building a healthier nation. One of the key commitments in "Better Health, Better Care" was to phase out prescription charges. We believe fundamentally that prescription charges are a tax on ill health. We believe that people should not be penalised financially because they fall ill, and they should not have to make choices about which essential medicines they can afford.

We also believe that prescription charges are a barrier to good health, particularly so for people living with long-term conditions. Many of those conditions can, with the right support and medication, be self-managed by patients in their own homes, enabling them to go on enjoying a good quality of life.

The problem is that many people with long-term conditions who are not already exempt from charges simply cannot afford the right medication. Mary Scanlon contends that there should be no further reduction in the price of prescriptions in the current economic climate. It is the Government's strong view that it is precisely because of the current economic climate that we must deliver the commitment to abolish prescription charges. In these difficult economic times, removing barriers to good health and putting money back into the pockets of those who are struggling to make ends meet have never been more important.

10:15

Let me give an example of why the phasing out and abolition of prescription charges will help patients in these difficult economic times. Some patients do not take some or all of their prescribed medication because they cannot afford the charges. Some patients fail to get all or part of their prescriptions because of the cost. Indeed, we estimate that around 600,000 people living in families with an income of less than £16,000 will benefit from our proposals every time they have a prescription dispensed.

We can already see the benefit that we are delivering to the people of Scotland. The sales of prepayment certificates for those with high medication needs have more than doubled in the first six months since prices were reduced. That was an intended benefit of the policy. Along with the rise in PPC sales, there has also been an increase of 159,000 prescriptions to patients who pay for prescriptions. In addition to the PPC sales, analysis of prescribing trends provides evidence that patients living with long-term conditions are benefiting from the price reduction.

We are delivering this policy within our budget of £17 million—our projected costs to the end of this financial year are £16 million, which is well within the funding envelope. By removing this tax on ill health, we are making a significant contribution to achieving the healthier Scotland that we all want. Cost will no longer prevent people from consulting their doctor and picking up their prescriptions.

The abolition of prescription charges will remove barriers to good health and support people in making healthier choices, improving their health and, ultimately, living longer.

I believe that Parliament supports our proposals to abolish prescription charges. I also believe that the proposals have the backing of the vast majority of people in Scotland. Accordingly, I oppose the motion.

Helen Eadie (Dunfermline East) (Lab): I have a great deal of sympathy with the points that Mary Scanlon makes. I note that the minister did not answer Mary's point about means testing. There is a certain inconsistency in the Government's approach to that, particularly given its policies on central heating over the past few months. Mary Scanlon made a valid point in that regard.

However, there are also considerations to do with what people out there are feeling and suffering at the moment. We have to consider the situation of those people—from professional people down to people doing manual labour—who find themselves unexpectedly unemployed.

I was pleased when the minister responded positively to the concerns that I raised on behalf of the Skin Care Campaign Scotland, psoriatic arthritis sufferers, Alopecia Help and Advice (Scotland) and others. Under the minister's proposals, children and mothers who, because of alopecia, have to pay up to £360 for a prescription for wigs, will pay a prescription charge of only £6.50. That is a major point in favour of lowering the charges.

With a heavy heart, I must oppose Mary Scanlon's motion. I say that I do so with a heavy

heart because I wonder why people with incomes as high as mine are able to get prescriptions free or nearly free while many others with long-term conditions are not, although they would be if, as Mary Scanlon said, the system were organised slightly differently.

Ian McKee (Lothians) (SNP): I do not wish to shoot the messenger, and I think that Mary Scanlon is a wise and valued member of this committee. However, I find the motion that she has been mandated to move pernicious and evil.

Mary Scanlon: Oh dear.

Ian McKee: I do. The member does not realise what a huge burden having to pay for prescriptions can place on people. It is not the same situation as with central heating. Very rich people who have diabetes or a thyroid problem get free prescriptions for the rest of their lives, but I know of people for whom the cost of paying for their prescriptions at the chemist is a huge burden. As a general practitioner, I knew that many people did not go to the chemist with their prescription because they could not afford it—the choice was between paying for the prescription and getting food for their family. Others told the chemist that they could afford only one of the two or two of the six medications that they had been prescribed and gave the chemist the job of telling them which were the most important. That is why I have used such harsh words.

We are here to make a healthier Scotland, but if people are making decisions off their own bat, on grounds of cost, to deny themselves prescription medicines that a doctor has decided that they need, we are putting their health at risk and creating an intolerable situation. If medicines are overprescribed because they are free or for some other reason, we should tackle the medical profession on that, as it is doctors who do the prescribing. A patient cannot simply buy prescription drugs from the chemist, so they have no knowledge of whether the medication is needed. If a doctor decides that an antibiotic is needed but it is not, that is the doctor's fault, not the patient's. That is how we should tackle that issue.

If we analyse the cost of prescription charges, we find that at present the NHS is making a huge profit on many medicines. Some people who go to private hospitals such as Spire Murrayfield hospital here in Edinburgh pay far less for a course of treatment than people in the health service do. A couple of years ago, I received a private prescription for a course of antibiotics that cost £2.50; the prescription charge for that medicine would have been much higher.

If there is overprescribing, we should blame the doctor, not the patient. The reason why many costs have gone up is that people are now getting the medicines that they need. Is that not a good thing, rather than a bad thing? We could cut costs more by setting prescription charges at £20, if that is what Mary Scanlon wants. For all the reasons that I have given, we must oppose utterly the motion to annul.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): The basic principle that people should not be charged for being ill is entirely appropriate and has been subscribed to by the Labour Party since the beginning of the health service. However, a pragmatic approach was adopted in the 1950s and again when prescription charges were reintroduced, after it was found that the cost of medicines had gone up enormously. That approach was based on the view that some sort of co-payment system was appropriate.

No member of the committee could defend the existing system of prescription charges, which is out of date, anachronistic and dangerous. I do not agree with the rather intemperate language that Ian McKee used, although I understand his passion. Like him, I have had patients—including students, who are technically prescription charge free—tell the pharmacist that they can take only one of the medicines that they have been prescribed or ask for only one medicine, without consulting the pharmacist. One asthmatic patient opted not to take the steroid treatment that would have saved his life. Such an approach is dangerous and is a matter of considerable concern.

No one could disagree that the current system is inappropriate. In my view, it is wrong and unacceptable that diabetic patients such as some of our MSP colleagues, who earn salaries of £54,000, should receive free prescriptions.

Equally, it is inappropriate for someone with a thyroid condition to have all prescriptions free, irrespective of income. The Parliament has not yet had a proper debate on the financial restrictions that we now face. I am grateful to Mary Scanlon for bringing forward the debate on the regulations. The Parliament should have a full debate on the principle of co-payment and whether people on high incomes should be asked to make co-payments. People on the borderline, such as those to whom Ian McKee and I have referred from our personal knowledge, would be protected. They must be protected, but co-payment would ensure that those who can contribute do so.

The minister has a number of questions to answer, the first of which is on the minor ailments service. She will know that I have asked about that in parliamentary questions. The response has been that the service is not to be extended when free prescriptions are extended to all patients. Therefore, means testing will continue in respect

of the service, which will not simply be available to all those on free prescriptions, as it is at present. As a result, some form of bureaucracy will have to be retained or the service will have to be abolished. The minor ailments service is a highly successful and proven scheme, which reduces the number of GP appointments.

Secondly, what is the final outcome in Wales following the decision by the National Assembly for Wales to abolish prescription charges? Our consideration was made on the basis of a process of reductions in charges. Initially, there appeared to have been no increase in prescription numbers in Wales. However, comparative studies with England have shown a different outcome. I will take the example of the comparative paper on antihistamines, which showed not only that there had been a substantial increase in the number of prescriptions for antihistamines in Wales relative to numbers in England, but—and even more interestingly—that the increase was very much greater in areas without deprivation than in areas of deprivation. The study showed that wealthier people are taking advantage of the introduction of free prescriptions by seeking prescriptions for items for which they would not previously have sought prescriptions. That will add to the burden.

We have not addressed the issue of the availability of new medicines. Again from parliamentary questions that I have put, I know that the Government expects that that will not affect in any way the Scottish medicines consortium's determination on cost grounds of new medicines becoming available for prescription, some of which are incredibly expensive. I have grave concerns about health service budgets being able to sustain that in future.

I accept entirely that the bureaucracy under the system was expensive and excessive. For example, it was ridiculous for a student to have to complete a 35 or 37-page form twice a year. Certainly, in the first session of the Parliament, I suggested to my party that we should abolish prescription charges for those under 23, the overwhelming majority of whom are on a low income. The return from imposing a charge on that group is not reflected appropriately or proportionately in what are bureaucratic budgets. Many issues need to be addressed.

A further concern is the number of prescriptions for antibiotics that GPs have issued over the past three years. The number stands at 14 million; in fact, it has not altered much at all. The pressure on GPs to prescribe free antibiotics will increase. Given the situation with health care associated infection, it is vital that downward pressure is put on the antibiotics budget. I am saying not that that should be achieved by cost savings but that we will have to address the increased pressure from articulate, well-paid individuals to get antibiotics.

I turn to the overall picture of the health service. The Scottish Parliament information centre's estimate of the cost of the measure is between £65 million and £90 million and not, as the Government has indicated, around £45 million. I accept that the figure of £16 million that the minister has given is within the present cost envelope, but we also have to take note of the figure at the upper end of the SPICe estimate. The Welsh experience has shown that the increase comes at the end of the abolition period and not during the process. It is therefore likely that the cost envelope will be very tight towards the end of the period. Even if the figure is at the lower end of the SPICe estimate—£65 million—the amount is significant.

There is no doubt that there is rationing in the health service at the moment. The committee knows from exploring a whole range of issues, such as community nurses for people with neurological conditions and palliative care in the community, to which the Government has given more money, that the health service will make enormous demands for additional funding resources that are crucial to the health of our population. Would it not be appropriate in the current economic circumstances to have a totally revised system that ensures that those who are better off, with above-average incomes, continue to make some sort of co-payment in the health service? My party currently supports the abolition of charges, but we may need to have a further debate about that.

10:30

Ross Finnie (West of Scotland) (LD): I understand some of the points of principle that are being made, but am bound to say that the regulations would replace the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2008 (SSI 2008/27), in which, unless I am mistaken, the Government introduced the principle of where it was going on abolishing the charges. Therefore, it is not entirely correct to say that we have not discussed the principle of abolishing the fees as they are set out; rather, the regulations are a further step in a progression.

I should have made a declaration at the outset for the clerks. I have been the beneficiary of an exemption from prescription charges for a great number of years. I am bound to say that I have often wondered, given my income, why I have been the beneficiary of exemption from certain elements of those charges. I do not entirely agree with Richard Simpson that anyone who earns money and has diabetes should bear the whole

costs of having that disease—I am not entirely sure what the logic of that view is—but I have certainly never thought that I should be an entire beneficiary for every ailment that I might contract in the same way that anyone else might.

I recall the appalling situation under the previous Government when experts were asked to reconsider those with long-term conditions and produce a completely revised list. Three years later, the expert group concluded that it was so difficult to come to a decision on the matter that we got no answer at all. That is a fact. The previous Government was very exercised in particular by people with long-term conditions who were not exempt, and every effort that was made to remedy the situation came to grief.

Another issue was whether it would be better for everybody to approach long-term conditions the other way round and whether everyone should pay for their first 10 or 15 prescriptions. If people had conditions that meant that they needed more prescriptions, they would then be exempt from that point. There are legitimate arguments for that approach, which Richard Simpson has adduced, but my difficulty is that we are not discussing alternatives; rather, we are discussing the possibility of freezing prescription rates. By annulling the regulations, we would not help at all the very group of people whom I think we unanimously want to help—the large number of people with long-term conditions who currently have no exemptions at all. It would not be equitable at all to say to them, "We don't have an alternative and, by the way, although you thought that the Government was promising you a free prescription, we are actually going to freeze rates at their current levels."

I understand perfectly why Mary Scanlon has raised the issue, but I say to her ever so gently that the principle of cancelling prescription charges was raised in the debate on the regulations that were introduced a year ago. The argument is far more complex this morning because there is no alternative. That is the difficulty with the statutory instrument procedure. We are faced with the prospect of leaving people with long-term conditions who are not currently exempt from paying charges bearing heavy charges. I find that proposal almost impossible to support in the circumstances. I understand perfectly that there may be other ways of addressing the issue, but I am afraid that it would have to be for the parties that are not in government to lodge a motion for a chamber debate on the matter in their time. I regret that the discussion this morning is a much narrower debate on the merits of the regulations. On that basis, despite reservations that I may have about them, I would not wish to place persons with long-term conditions, who are not currently exempt, in a worse position.

The Convener: I will, if I may, make a brief personal contribution.

The issue of people who have money paying for a prescription has been raised. I start from the principle of NHS treatment being free at the point of need. I know that the regulations do not address that issue, but it has been discussed. If we are saying that the test is whether people can afford to pay for their medical treatment, or contribute financially towards it, then the principle ought to apply to visiting a GP and perhaps to attending hospital. Why distinguish between a prescription charge, visiting a GP or going to hospital? That is my concern. I have always worked from the point of view that by paying tax—and hoping that I will never use the NHS; thankfully, at the moment I use it very little—I pay for the treatment of those who have a long-term illness, whether that is at their GP, in hospital or by getting their prescription. The illness might be something that they have genetically or to which they have contributed by their lifestyle. That is part of social justice in Scotland and that is why I am pleased that the Government is moving towards an abolition of prescription charges.

I hear the sensible points about the rationing of some medicines and treatments due to cost. I fear, given developments in science, that that will always be the case, but what we have discussed, in the context of the regulations, is the gross cost. We have not considered the fact that, because people will now take all their medicines—both the former GPs on the committee have made it plain that some people ration the prescriptions that they pick up—that might prevent them from having to go into hospital. There may therefore be a reduction in cost overall. I hope that, together with our policy of trying to make Scotland fitter and more active, we will no longer have to firefight as much as we now do on the Health and Sport Committee.

I wanted to put my point of view on the record. I add that I think that when Ian McKee spoke, he was not making personal remarks; he was describing his attitude to the motion.

Ian McKee: I hope that I made it clear in my introductory sentence that there was nothing personal against Mary Scanlon in my speech; I was talking about the motion for annulment.

The Convener: We appreciate your passion; your comment was perhaps a little misunderstood at the time.

Minister, do not feel obliged, but if you would like to comment on anything that has been said, please do.

Shona Robison: I will reply to as many points as I can.

Mary Scanlon and Ross Finnie made the same point, from different ends of the argument, about the complexities of the alternatives to abolition. Ross Finnie made it clear that the previous Administration undertook a three-year study to consider the alternatives. We also undertook a study of the alternatives and I can confirm Ross Finnie's comment that, by creating another list, we would create more unfairness. Having considered all the alternatives, we felt that the fairest policy was the one that we are now pursuing. It is interesting that Wales is being followed by Northern Ireland. Although England is going down a different route, I refer members to the comments made by the British Medical Association, which has expressed some concern about that and has advocated that England should follow the rest of the UK, because to do otherwise creates more unfairness.

Another point that Mary Scanlon made was about some policies being means-tested while others are subject to universal provision. Helen Eadie made the point that that is the case under all Governments and that you must judge the policy in respect of its application. We judged this policy to be fundamentally about health, but under previous Administrations some policies were universal, such as free personal care or concessionary travel, and others were not. Our judgment on prescription charges is that it is unfair to penalise someone because they have fallen ill. We believe that that fundamental principle underlay the establishment of the health service.

Mary Scanlon asked about the position in Wales. We have been in regular contact with Wales, for obvious reasons. There are key differences between the situation in Wales and that in Scotland. In particular, the annual growth in prescribing tends to be higher in Wales than in Scotland. Following the abolition of prescription charges in Wales in April 2007, there was a 5 per cent rise in the volume of items dispensed up to February 2008. That is in line with trends and represents only a small rise relative to previous years. The figures have remained relatively constant for the past four years. It is interesting to note that the overall increase in the volume of items dispensed was greater in England in 2007 than it was in Wales in 2007-08, when charges were abolished. It is important that, as well as having robust monitoring systems here in Scotland, we keep a close eye on developments in Wales.

Mary Scanlon and Richard Simpson mentioned access to drugs more generally, which has been debated extensively in Parliament. I understand that the cabinet secretary will provide further information on that issue in the near future.

Richard Simpson mentioned the minor ailments service, as he has done on previous occasions. We recognise the importance of the service and do not believe that the abolition of prescription charges will substantially affect it. We are considering the implications of that measure, with a view to ensuring that no patient who accesses other services will be disadvantaged in any way. By April 2011, when the prescription charge will be reduced to zero, we will have redefined the eligibility criteria for the minor ailments service to ensure that members of patient groups that currently qualify, such as children, the elderly and people who are exempt on low-income grounds, will continue to qualify. I will be happy to keep Richard Simpson informed of developments on that front.

I hope that I have covered the key points. Ross Finnie made an important general point. We are discussing whether to reduce the prescription charge further, from £5 to £4. I believe that the Parliament, in the previous session and in the present session, has had extensive discussions on the abolition of prescription charges, in parliamentary debates, in its consideration of various bills and following the Government's initiative. I feel that the issue has been subject to a fair amount of parliamentary scrutiny. In addition, the committee debated the first reduction in prescription charges last year.

I believe that we are on the right road. We will continue to monitor the situation robustly. I will be happy to keep the committee informed of that monitoring as we proceed with it.

The Convener: I allowed the debate to go wider than the subject of the regulations because wider issues were raised. I appreciate Ross Finnie bringing us back to the matter in hand.

I invite Mary Scanlon to wind up the debate.

Mary Scanlon: My first point is about pre-payment certificates, which I mentioned in my opening speech. I have a long-term condition—asthma. I have to pay, whereas Ross Finnie does not. The 50 per cent reduction in the cost of pre-payment certificates is undoubtedly extremely helpful to people who have a long-term condition. I accept Ross Finnie's point about the confusion that exists—that is accepted all round.

There are various points that the minister has not addressed. Ministers and cabinet secretaries are highly vocal about the potential £500 million cut in funding from Westminster. I had hoped that the minister would take the opportunity to talk about the potential effect of the cost of the cut in prescription charges on our health service.

10:45

I am disappointed that when the minister considered the ballpark figure for Wales she did not mention that in Wales prescribing rates for antibiotics increased by 7 per cent, compared with a 1 per cent increase in England. I am also sorry that she did not address my point about wastage.

In response to the comments on minor ailments that I and Richard Simpson made, the minister said that eligibility criteria would be redefined and that further information on the rarer cancers would be forthcoming. I welcome those remarks, although the situation is not crystal clear.

I thank everyone who contributed to the debate, in particular Richard Simpson, whose comments were measured and thoughtful, particularly in relation to hospital-acquired infections. Reducing antibiotic use is one of the Government's health improvement, efficiency, access and treatment targets.

I hope that Ian McKee will reconsider the language that he used—that is entirely up to him. I accept that it was not intended to be personal, but it was not pleasant to hear. Surely no elected parliamentarian should criticise a person who seeks to debate a critical issue in a democratic Parliament that is in the depths of the worst recession since the 1930s.

Ross Finnie made an excellent point when he said that we are not discussing alternatives. I raised that point and I welcome his acknowledgment of that. He said that although the debate was narrow it was welcome.

In her opening speech the minister addressed none of the points that I raised. She addressed two points in her closing remarks, but I am disappointed that she chose not to address three or more of my main points. On the basis that I have not had an answer to—or an acknowledgement of—my point about the serious financial situation that the Parliament will face not just this year but in the next decade, I press the motion to a vote.

The Convener: The question is, that motion S3M-3619 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Scanlon, Mary (Highlands and Islands) (Con)

AGAINST

Eadie, Helen (Dunfermline East) (Lab)
Finnie, Ross (West of Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Matheson, Michael (Falkirk West) (SNP)
McAveety, Frank (Glasgow Shettleston) (Lab)
McKee, Ian (Lothians) (SNP)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Motion disagreed to.

10:50

Meeting suspended.

10:51

On resuming—

Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2009 (Draft)

Community Care and Health (Scotland) Act 2002 (Amendment to Schedule 1) Order 2009 (Draft)

The Convener: I invite the minister to make some opening remarks.

Shona Robison: Thank you, convener. I will be brief.

The two draft affirmative instruments before the committee reflect the Scottish Government's commitment to increase free personal and nursing care payments in line with inflation and to clarify the legislation on personal and nursing care as it applies to charging for food preparation. If the instruments are approved, they will benefit vulnerable older people and improve the operation of this important policy.

Last year, we increased the personal and nursing care payments for residents in care homes in line with inflation. The draft Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2009 further increase the weekly payments for personal care in line with inflation by £4 to £153 per week and the additional nursing care payments by £2 to £69 per week. In line with our concordat with local government, councils will meet the costs of the inflationary increases—which total around £2.5 million across all councils—from within their agreed settlement allocations.

The draft Community Care and Health (Scotland) Act 2002 (Amendment to Schedule 1) Order 2009 delivers on our commitment to work with the Convention of Scottish Local Authorities to prepare revised legislation to clarify the issue of charging for food preparation for eligible personal care clients. We accepted the finding of Lord Sutherland's independent review of free personal and nursing care, which was published last year, that the current legislation, which is contained in schedule 1 to the Community Care and Health (Scotland) Act 2002, is not clear. The order aims to rectify that lack of clarity by providing a general

prohibition that will end charging for food preparation and setting out specific tasks that should not be charged for. It was prepared by a joint working group of Scottish Government and local government legal advisers and was issued to all councils for consultation. Although the previous legislation resulted in variations in local charging practices, the revised legislation should ensure consistency among councils.

The free personal and nursing care policy continues to command strong support, and I hope that the draft instruments receive the committee's support.

I am happy to take any questions.

The Convener: To clarify for the committee, the minister is giving evidence on items 3 and 5 of the agenda, which we will combine with questions on both instruments. Thereafter, we will consider separate motions on the instruments under agenda items 4 and 6.

Mary Scanlon: I welcome the instruments. The 2002 act was clear, but the guidance that was issued contradicted it. Therefore, it is wrong to say that the bill that the Parliament passed was not clear. However, that is in the past.

Many of the councils that have illegally charged for food preparation, including Western Isles Council and the City of Edinburgh Council, have refunded the people who paid the illegal charges. There are still eight councils on the roll of shame in Scotland. What is the Government doing to ensure that the councils that illegally charged for food preparation will be brought to account and the people who have paid charges that they should not have paid will be refunded? I appreciate that that would not be included in the order.

Shona Robison: If the draft order is approved, no council will charge for food preparation from April. Lord Sutherland concluded that the existing legislation lacked clarity and that that resulted in variations in local practice. He was clear on that point.

Whether refunds are appropriate will depend on each individual client's circumstances and the relevant council's interpretation of the legislation as it applied at the time. It is for individual councils to consider whether their charging policies were appropriate in the context of the existing legislation, and it would not be appropriate for us to dictate on that.

The fact that we are changing the legislation indicates that we accept that it was not clear. I take your point that the three separate pieces of guidance that were issued compounded that confusion and were certainly not helpful. However, we are where we are and the Scottish Government has been keen to ensure that we draw a line under the matter. The draft order will ensure that, from April, there will be no dubiety whatever. From then on, no matter where somebody lives in Scotland, the policy will apply equally.

Motions moved,

That the Health and Sport Committee recommends that the draft Community Care (Personal Care and Nursing Care) (Scotland) Amendment Regulations 2009 be approved.

That the Health and Sport Committee recommends that the draft Community Care and Health (Scotland) Act 2002 (Amendment to Schedule 1) Order 2009 be approved.—[*Shona Robison.*]

Motions agreed to.

The Convener: I thank the Minister for Public Health and Sport for her evidence and for participating in today's meeting.

National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2009 (SSI 2009/72)

National Assistance (Sums for Personal Requirements) (Scotland) Regulations (SSI 2009/73)

The Convener: We have two negative instruments for consideration under agenda item 7. The first set of regulations, SSI 2009/72, amends the capital limit and savings disregard in regard to charges made by local authorities for residential accommodation. The second, SSI 2009/73, increases the allowance for personal expenses that is used in calculating an individual's ability to pay for residential accommodation.

No comments have been received from members and no motions to annul have been lodged. The Subordinate Legislation Committee did not bring either set of regulations to our attention. Are we agreed that the committee does not wish to make any recommendations in relation to them?

Members *indicated agreement*.

The Convener: That concludes our public business. We will now move into private.

10:57

Meeting continued in private until 12:35.

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