

APPENDIX A

Executive summary – Guidance on implementing the overseas visitor hospital charging regulations 2015

1. The National Health Service (Charges to Overseas Visitors) Regulations 2015 (the Charging Regulations) came into force on 6th April 2015 and apply to all courses of treatment commenced on or after that date. The Regulations have subsequently been amended, with changes coming into effect on 1st February 2016.
2. The NHS is a residency-based healthcare system and eligibility for free NHS hospital care is based on the concept of “ordinary residence”. An overseas visitor is any person who is not “ordinarily resident” in the UK. A person will be “ordinarily resident” in the UK when that residence is lawful, adopted voluntarily, and for settled purposes as part of the regular order of their life for the time being, whether of short or long duration. Nationals of countries outside the European Economic Area (EEA) must also have indefinite leave to remain in the UK in order to be ordinarily resident here. A person who is ordinarily resident in the UK must not be charged for NHS hospital services.
3. The Charging Regulations place a legal obligation on NHS trusts, NHS foundation trusts and local authorities in the exercise of public health functions¹ in England, to establish whether a person is an overseas visitor to whom charges apply, or whether they are exempt from charges. When charges apply, a relevant NHS body must make and recover charges from the person liable to pay for the NHS services provided to the overseas visitor. A list of exempt services and exempt categories of overseas visitor is provided in Chapter 1, with a more detailed list of exempt services at Chapter 4.
4. Significant changes have been made to the exemption categories by these Charging Regulations. An exemption for temporary migrants coming to the UK for six months or more from outside the EEA has been introduced because such visitors are now required to pay the immigration health charge (referred to as the health surcharge). Certain temporary migrants may also be exempt from paying the health surcharge or will have payment waived; these individuals will generally also be exempt from NHS charges. Payment of, or exemption or waiver from, the health surcharge entitles the person to free NHS hospital services on the same basis as an ordinarily resident patient while their visa remains valid, which means they must not be charged for NHS services. More on this group and how to recognise them can be found in Chapter 5.
5. Overseas visitors who are visiting the UK for six months or less, including on a multiple entry visa, or who are in the UK without permission, must be charged for services they receive at the point of accessing care, unless exempt from charges under other categories of the Charging Regulations. Overseas visitors who reside in an EEA state (including non EEA nationals) may be insured under the public healthcare insurance system in their resident member state, or country of work for frontier workers. They will consequently be exempt from charges for any medically necessary treatment they receive under the Charging Regulations, as long as they present the appropriate EEA healthcare document. This is because the UK can recover the cost of their care from the relevant insuring member state, if the details of their healthcare form are recorded.

6. The way in which a person qualifies as insured varies depending on their country of residence (or country of work if they are a posted worker). However, in every case where someone is insured under the public system they will have, or should be entitled to hold, a European Health Insurance Card (EHIC) or Provisional Replacement Certificate (PRC) from the EEA state in which they are insured. Each family member, including children, will have their own EHIC or PRC. EEA residents may also be issued an S2 form if they wish to seek preplanned treatment abroad.
7. If the visitor has not come to England specifically to seek healthcare, and cannot show their EHIC, they may instead produce a PRC to prove entitlement to free healthcare in the UK under the EU Regulations. It should be for the patient or their representative to arrange the issue of the PRC from the EEA state/Switzerland that would issue their EHIC, but the OVM may assist with this if needed.
8. EEA residents who are visiting the UK on a temporary basis or to pursue a course of study, and who are insured by their resident state, should present a valid EHIC or PRC from that country to access free medically necessary treatment. This includes British nationals who are insured in another EEA state. The EHIC/PRC is issued by the country of residence or work, not country of citizenship. The UK will recover the cost of that healthcare from the relevant member state.
9. Those visitors from the EEA to the UK who do not have a valid EHIC, PRC or S2 and who are not covered under another exemption category under the Charging Regulations, must be charged for services they receive at the point of accessing care.
10. The information above sets out the general position only. These general principles do not apply in all cases, and relevant NHS bodies must ensure that they understand the full scope of the Charging Regulations when making and recovering charges from overseas visitors.
11. A relevant NHS body also has human rights obligations, so chargeable treatment which is considered by clinicians to be immediately necessary must never be withheld from an overseas visitor, even when that overseas visitor has indicated that they cannot pay. This does not mean that the treatment should be provided free of charge. Charges will still apply, and, if not yet recovered, should be pursued after the treatment is provided. Treatment which is not immediately necessary, but is nevertheless classed as urgent by clinicians, as it cannot wait until the overseas visitor can be reasonably expected to return home, should also be provided regardless of the patient's ability to pay. Every effort should be made to obtain payment or a deposit in the period before treatment starts. Non-urgent, or elective treatment should not begin until full payment has been received. See Chapters 11 and 13 for more important information about how and when to ask for payment from chargeable overseas visitors.
12. All relevant NHS bodies, as public authorities, must comply with the public sector equality duty in the exercise of their functions. More details on this, and on resources which can be used to assist NHS organisations to do this, can be found in Chapter 11.
13. When a relevant NHS body treats an EEA insured patient they must inform the Overseas Healthcare Team at the Department of Work and Pensions of details of the

EHIC/PRC/ S2 document held by that person. This information is necessary to allow the UK to recover the cost of treating EEA residents from the relevant EEA country. See Chapter 9 for more information.

14. This guidance does not cover treatment provided by a general practitioner (GP), dentist or optician, although there is some comment on GP registration in Chapter 11. Nor does it concern charging arrangements in Wales, Scotland and Northern Ireland as these are governed by separate legislation under the jurisdiction of the respective devolved administration.
15. A relevant NHS body in England may seek help and advice about any aspect of the Charging Regulations and this guidance by using the OVM online community.² Ultimately, the decision that a patient is liable for charges legally rests with the relevant NHS body providing the treatment. In cases where a patient's circumstances are unclear, unusual or appear not to be provided for in this guidance, relevant NHS bodies should seek their own legal advice as to the application of the Charging Regulations to the patient.
16. This guidance may be amended on occasion to reflect changes to the Charging Regulations. Relevant NHS bodies should ensure that they refer to the latest version. The Department of Health has also published a toolbox of supporting information. The aim of the toolbox is to help trusts discharge their cost recovery duties more effectively and it contains a wide range of documents including standardised best practice pre-attendance forms for all patients to fill in when being admitted. The Charging Guidance and toolbox is available at www.gov.uk/dh/nhscostrecovery. Relevant NHS bodies should check the website and toolbox regularly for information which may update and augment this document. A table of subsequent changes made to this guidance will be compiled as they arise, and will appear in any updates. A list of other relevant materials is set out below.