

No Recourse to Public Funds and Access to NHS Services

Overview:

NHS treatment is not classed as a public fund for immigration purposes and can be accessed by anyone regardless of their immigration status, including a person who is subject to the 'no recourse to public funds' (NRPF) condition.

However, a person's immigration status will affect whether they are required to pay for some types of treatment. This document sets out further details of the circumstances a person with the NRPF condition can access health and social care services and when charges may be applicable.

The NHS Charging Regulations

The National Health Service (Charges to Overseas Visitors) Regulations 2015, as amended in 2017 and 2020, sets out the legal basis for when access to healthcare services in England may be chargeable.

The Charging Regulations apply to England only.

Ordinary Residence:

The NHS is a residency-based healthcare system and eligibility for relevant services without charge 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 person is:

- In the UK lawfully
- Is here voluntarily, and
- Is here for settled purposes as part of their life for the time being (whether long or short duration)

In addition, persons who are subject to immigration control must also have indefinite leave to remain in the UK to be 'ordinarily resident'. In the case of an EU or EFTA citizens living in the UK on or before 31 December 2020, has by 30 June 2021, applied for/been granted status under the EUSS.

The Charging Regulations place a legal obligation on providers of relevant services to establish whether a person is an overseas visitor to whom charges apply, or whether they are exempt from such charges.

Prior to 23 October 2017, this obligation only applied to NHS trusts, NHS foundation trusts and local authorities exercising public health functions in England, but since then it also applies to any provider of relevant services including non-NHS organisations, such as private and voluntary providers supplying relevant services.

Relevant Services:

Relevant services mean accommodation, services of facilities which are provided, or whose provision is arranged, under the National Health Service Act 2006, **except for** primary medical, dental, or ophthalmology services, or equivalent services provided under the same Act.

Relevant Bodies:

Those organisations which are required to make and recover charges under the Charging Regulations are referred to as relevant bodies.

Exempt Services

There are a number of services which are free of charge to patients whether they are ordinarily resident in the UK or not.

For example:

- Accident and Emergency (A&E) services, including all A&E services provided at an NHS hospital (i.e. A&E department, walk-in centre, minor injuries unit or urgent care centre).
- Family planning services
- Diagnosis and treatment of specified infectious diseases
- Diagnosis and treatment of sexually transmitted diseases
- Palliative care services provided by a registered palliative care charity or a community interest company
- Services that are provided the by NHS 111 telephone line
- Treatment required for a physical or mental health condition caused by:
 - o Torture
 - o Female genital mutilation
 - o Domestic violence
 - o Sexual violence

Except where the patient has travelled to the UK for the purpose of seeking that treatment.

Primary Care

Primary care is usually delivered through GP practices and NHS walk-in centres.

Under the definition of relevant services, these services are accessible by everyone without charge.

Regardless of immigration status, everyone in England is entitled to register with a GP. Not having a fixed address or not having a NHS number should not be a barrier to someone registering at a GP practice.

Ambulatory Care

All Accident and Emergency services and services provided by NHS 111 telephone advice line are exempt from the Charging Regulations and therefore available to everyone free of charge.

However, this does not include any emergency services provided after a patient has been accepted as an inpatient, or at a follow-up outpatient appointment. Where emergency treatment is given after admission to the hospital, (e.g. in intensive care or coronary care) it is chargeable notwithstanding the pathway the patient took to become an inpatient.

Secondary Care

Most treatment provided in a hospital setting is chargeable to those who are not exempt from charges. A person will be exempt if they belong to one of the following exempt categories:

- o Those who have paid the health surcharge or are covered by transitional arrangements
- o Those with entitlement under an EU/EFTA reciprocal healthcare agreement

- Vulnerable patients and those detained (e.g. asylum seekers, those granted asylum, humanitarian protection or temporary protection under the Immigration Rules, individuals receiving s.95 support of the Immigration and Asylum Act 1999)
- UK Government employees and war pensioners
- Those covered by other reciprocal healthcare arrangements and other international obligations

Immediately Necessary, Urgent, Non-Urgent Treatment

Since 23 October 2017, relevant bodies are required to recover the estimated cost of treatment from overseas visitors in full and in advance of providing them **unless** doing so would prevent or delay the provision of **immediately necessary** (i.e. to save their life, to prevent a condition becoming immediately life threatening, or to prevent permanent serious damage) or **urgent services** (i.e. those which cannot wait until the person can be reasonably expected to leave the UK).

Care which is clinically considered **non-urgent** must be paid for in full before it is provided.

Maternity Care

Due to the associated severe health risks, **all maternity services** are treated as being **immediately necessary**. Whether a person has the means to pay for maternity services or not, their access to care will not be affected.

Prescription, Dentistry and Ophthalmology Charges

Charges for prescriptions, primary dental services and primary ophthalmic services in England are set out separately to the NHS (Charges to Overseas Visitors) Regulations.

Generally, charges may apply unless that person meets particular exemption criteria for the service being delivered. Those with the NRPF condition in receipt of local authority support will not receive free prescriptions unless they fall into one of these exempt groups.

However, those who are not exempt from paying prescription charges may be entitled to full or partial help through the NHS Low Income Scheme

The NHS Low Income Scheme covers:

- NHS prescriptions
- NHS dental treatment
- Sight tests, glasses and contact lenses
- Travel to received NHS treatment
- NHS wigs and fabric supports

Further Guidance

NHS: How do I register with a GP? -

www.nhs.uk/NHSEngland/AboutNHSservices/doctors/Documents/how-to-register-with-a-gp-leaflet.pdf

NHS: Low Income Scheme - www.nhs.uk/nhs-services/help-with-health-costs/nhs-low-income-scheme-lis/

The National Health Service (Charges to Overseas Visitors) Regulations, 2015 -

www.legislation.gov.uk/uksi/2015/238/pdfs/uksi_20150238_en.pdf

Guidance on implementing the overseas visitor charging regulations, February 2021 –

www.assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/977345/Main_Guidance_post_February_2021_v3.pdf