

Overseas Visitors Hospital Charging Policy

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1 Introduction

This policy is concerned with the management of charges to individuals who do not normally live in the UK (overseas visitors) when they seek treatment from the Shrewsbury & Telford Hospital NHS Trust (hereafter known as the Trust).

The National Health Service (NHS) provides healthcare free of charge to people who are ordinarily resident (see definitions below) in the United Kingdom (UK). People who are not ordinarily resident in the UK are not automatically entitled to use the NHS free of charge. Residency is, therefore, the main qualifying criterion, applicable regardless of nationality, ethnicity or whether the person holds a British passport, or has lived and paid taxes or National Insurance contributions in the UK in the past.

The charging regulations place a legal obligation on NHS Trusts in England to establish if people to whom they are providing NHS hospital services are ordinarily resident in the UK. If a patient is not ordinarily resident in the UK then charges may be applicable for the NHS services provided.

2 Aim and scope of policy

The aim of this policy is to provide clear guidelines to staff for the management of access by overseas visitors to the Trust.

3 Statutory provisions

The statutory provisions, which enable overseas visitor to be charged for NHS treatment, are found in section 175 of the National Health Service Act 2006. The legal framework is set out in the National Health Service (Charges to Overseas Visitors) Regulations 2015 (2015 No. 238) and the Immigration Act (2014). These regulations place a legal obligation on NHS bodies to ensure that patients who are not ordinarily resident in the UK are identified, that their liability for charges is assessed and then charged in accordance with the Regulations and that those charges are recovered. The Trust does not have the authority to waive these charges.

4 Definitions

Overseas Visitor – a person who is not ordinarily resident in the UK.

Ordinarily Resident (OR) – A person is NOT ordinarily resident in the UK simply because they have British nationality, hold a British passport, are registered with a GP, have an NHS number, own a property in the UK or have paid (or are currently paying) national insurance contributions and taxes in the UK. OR is defined as living in the United Kingdom voluntarily and for settled purposes, as part of the regular order of their life for the time being. There must be identifiable purpose for their residence here, there can be one purpose or several, and it may be for a limited period. The purpose of living in the UK must have a sufficient degree of continuity to be properly described as “settled”.

EEA Visitors – visitors who are nationals of, or who are ordinarily resident in a European Economic Area (EEA) country. Due to EEA Regulations the charging regulations are different for EEA visitors and those visitors who are nationals or residents of Non-EEA countries.

EHIC – The European Health Insurance Card (EHIC) entitles European visitors who are insured through their own State healthcare system to access emergency NHS treatment without charge. The card details must be provided to gain this entitlement.

PRC - If a patient is entitled to an EHIC, but the patient does not have this in their possession, they can apply for a Provisional Replacement Certificate (PRC) from their home country, which can be used in the same way as an EHIC.

S1 – Issued to people who live in an EEA country, but have their healthcare costs covered by another EEA country. People entitled to apply for an S1 include state pensioners and those in receipt of certain benefits (e.g. a Spanish pensioner who retired to the UK may be ordinarily resident in England but a contribution towards their healthcare costs can be reclaimed from Spain).

S2 – The S2 (formerly E112) route entitles visitors to state-funded elective treatment in another EEA country or Switzerland. This applies to visitors from the EEA or Switzerland who wish to have planned treatment in the UK.

Health Surcharge – Non EEA nationals who apply for leave to enter the UK for more than 6 months, or who apply to stay in most immigration categories pay the Immigration Health Surcharge.

5 Duties and Responsibilities of staff

The Overseas Visitors Manager (in this Trust the PALS Manager) is responsible for ensuring that Trust policy is in line with statutory duties and national guidance and that charges are made where applicable.

It is the responsibility of all staff to adhere to this policy and ensure that they inform the Overseas Visitors Manager of any patient who may not be eligible to access free NHS care.

6 General Guidance

Enquiries regarding overseas visitors should be made to the Overseas Visitor Office (PALS Office – based on each site). If the issue is still unclear, advice will be sought from the Department of Health and the PALS team will work closely with the Home Office and Local Counter Fraud Service, as required.

7 Process for establishing eligibility for NHS treatment without charge

At each new patient episode all patients, whether they attend as an emergency or routine attendance or admission, should be asked on registration a baseline question on arrival to identify their place of residence in the previous 12 months to assess their eligibility for NHS treatment without charge. By asking all patients this avoids the possibility of discrimination and ensures that all patients who may be liable for charges are identified.

7.1 Emergency Department (ED) Attenders

There is no exemption from charge for ‘emergency’ treatment (other than that given within the 4 walls of the Emergency Department – this does not include the Clinical Decisions Unit). The Trust will always provide immediately necessary treatment if it is to save the patient’s life. In this instance treatment must not be delayed whilst the patient’s chargeable status is determined. Failure to do so is in direct breach of the Human Rights Act 1998. Charges still apply for immediately necessary treatment if the overseas visitor is not themselves exempt from charge.

All patients attending ED must be asked where they have been resident in the previous 12 months. Anyone whose answers indicate that they have not been resident in the UK for the last 12 months should be referred to the Overseas Visitor Office (PALS office).

Although no charges can be made to a patient for treatment carried out in ED, if the patient has a European Health Insurance Card (EHIC) the cost of treatment can be recovered centrally from the European Economic Area (EEA) member state by the Overseas Visitors Office back into the NHS.

7.2 Ward Admissions

If ward staff identify, after admission, that a patient may not be resident in the UK referral should be made to the Overseas Visitors Office.

7.3 Outpatient Appointments

At each new patient attendance the patient should be asked their place of residence in the previous 12 months. If outpatient appointment staff identify that a patient may not be ordinarily resident in the UK, then they should contact the Overseas Visitors Office urgently so that the patient can be assessed for eligibility.

7.4 GP Referrals

In cases where the GP referral letter indicates that the patient has recently arrived in the UK or is a resident abroad, then the booking team will contact the Overseas Visitors Office for advice. If in the opinion of the medical staff the appointment is not urgent or classed under the 'two week rule', treatment eligibility must be established before any appointments are made or any treatment is given.

7.5 Elective Admissions where treatment is considered by the clinician as non-urgent

Where the patient's treatment is chargeable, the Trust should not initiate any treatment process, e.g. by putting the patient on a waiting list, until a deposit, equivalent to the estimated full cost of treatment is obtained. An invoice will be raised by the Finance Team.

A patient from an EEA member state can be added to a waiting list in the same way as an NHS patient, as long as they have an S2 (previously E112) form from their member state authorising payment for their treatment in the UK. The Overseas Visitors Office will submit the claim to the EEA member state to ensure funding is returned centrally to the NHS.

8 Assessment of eligibility

The Overseas Visitors team (PALS team) will conduct a patient interview with any patient who is not ordinarily resident in the UK to establish their potential overseas status. The interview should be undertaken in privacy and, where possible, in the presence of another member of staff. Arrangements may need to be made by the PALS team for an interpreter to be present during the interview. The purpose of this interview is to determine whether the patient is an overseas visitor and is liable for charges. If the patient is not liable for treatment fees, no further action is required.

Patients deemed to be chargeable must show insurance details and acquire authorisation from their insurer, or provide payment equal to the value of the expected total cost of treatment to be received before treatment is commenced, unless urgent. If that is not possible, for example, due to their admission taking place at a weekend, then wherever possible payment or authorisation must be provided as soon as possible and always prior to discharge. In accordance with Department of Health Regulations and Guidance, it is the responsibility of the patient to prove their entitlement to access NHS care. Failure to provide sufficient evidence to prove eligibility will usually result in an overseas visitor being recorded as NHS Chargeable and charges will be incurred by the Trust.

When all avenues of establishing entitlement have been exhausted, it may be necessary to establish the immigration status of a person e.g. establishing whether a failed asylum seeker has exhausted all their appeal processes, or where a person appears to be living in the country without proper authority. In some cases, information may be obtained from the Home Office Evidence & Enquiry Service. Whilst there is no requirement to obtain the patient's consent to do this (as per R [on the application of W, X, Y and Z] v the Secretary of State for Health), staff should notify the patient that their non-clinical data will be shared with the Home Office. Staff should only share non-clinical data with the Home Office via a secure nhs.net e-mail account.

Where there is a suspicion that an overseas visitor is attempting to access, or has accessed free NHS treatment by fraud or deception, this should be reported to the Local Counter Fraud Specialist for further investigation.

9 Exempt services

Treatment is chargeable to Overseas Visitors with the exception of:

- Treatment in Accident & Emergency (this does not include the Clinical Decisions Unit)
- Family Planning Services
- Diseases deemed exempt for Public Health reasons (Appendix 3)
- Sexually transmitted diseases, including human immunodeficiency virus (HIV)
- Treatment given to people detained, or liable to be detained, or subject to a community treatment order under the provisions of the Mental Health Act 1983, or other legislation authorising detention in a hospital because of mental disorder
- Treatment (other than that covered by the Mental health Act 1983 exemption above) which is imposed by, or included in, an order of the Court
- Services provided other than in a hospital or by a person who is employed to work for, or on behalf of, a hospital. This means that services provided in the community will be chargeable only where the staff providing them are employed by or on behalf of an NHS hospital
- People who have paid the health surcharge (or were exempt from paying it) whose visa is more than 6 months length remain valid.
- Refugees and asylum seekers, including failed asylum seekers supported by the Home Office under section 4 (2), of the Immigration and Asylum Act 1999 or s21 of the National Assistance Act 1948. (Failed asylum seekers not supported by the Home Office/LA are chargeable from the date their appeal is rejected but courses of treatment under way will remain free)
- Those supported under section 95 of the IAA 1999.
- Children in the care of the Local Authority
- Victims and suspected victims of human trafficking and their family members.
- Treatment required for a physical or mental condition caused by:
Torture; Female genital mutilation; domestic violence or sexual violence except where the visitor has travelled to the UK for the purpose of seeking that treatment.
- Exceptional humanitarian reasons as approved by the Secretary of State for Health
- NATO personnel and attached civilians and their family members
- People who receive UK war pensions and their family members
- Members of HM UK forces and their family members
- People working abroad as crown servants, or for the UK Government, or for the British Council or the Commonwealth War Graves Commission who were ordinarily resident in the UK prior to being posted overseas and their family members
- Prisoners and detainees
- People working on ships registered in the UK
- Any UK state pensioner resident in another EEA member state or Switzerland who has registered an S1 document in that state. The person's spouse/civil partner and children under 18 are also exempt when lawfully visiting the UK with them, unless they are entitled to hold a non-UK EHIC.

10 EEA Visitors

Arrangements for European Union Overseas Visitors are governed by the European Union (EU) Social Security Regulations (Regulations (EC) 883/2004 and 987/2009 for EU member states, and Regulations (EEC) 1408/71 and 574/72 for Iceland, Liechtenstein, Norway and Switzerland). In practice this applies to residents of other EEA states and Switzerland, including third country nationals, who are entitled to hold a European Health Insurance Card (EHIC) issued by their country of residence or, in some cases, the country which is the 'competent authority' for them (see Appendix 2 for a list of EEA states)

The EHIC provides free NHS treatment that is medically necessary during their visit. Visitors from Switzerland or the EEA (except Republic of Ireland) that do not provide an EHIC/PRC must be charged for their NHS hospital treatment (except for treatment within the Accident & Emergency Department), unless a different exemption applies to them under the Charging Regulations. In order for the UK to make a claim to the relevant EEA state or Switzerland for treating their residents, it is imperative that the data from a valid EHIC/PRC (for unplanned treatment) or S2/or Maltese quota number (for planned treatment) is recorded and reported to the Overseas Healthcare team at the Department of Work & Pensions.

Visitors from the Republic of Ireland do not need to provide an EHIC, but must provide evidence that they are resident in the Republic of Ireland in order to receive free NHS treatment that is medically necessary during their visit.

11 Reciprocal Agreements

Within the reciprocal agreements there are a number of variations in the level of free treatment afforded to visitors travelling to the UK. Generally, only immediate medical treatment is to be provided free of charge, to allow the overseas visitor to return home for other needs. Also, the agreements do not usually apply when the person has travelled to the UK for the purpose of obtaining healthcare. However, this is not always the case. For a list of countries that have a reciprocal agreement with the UK see Appendix 2.

12 Patients who have paid a health surcharge

Individuals who have paid the health surcharge, or who are exempt or waived from payment of the surcharge, will be pre-registered on the Summary Care Record on the Spine using information provided by the Home Office. The Spine is an information technology system consisting of applications, services and directories, used to record and display data on individuals and provide for the exchange of information across the health service in England. NHS records for surcharge payers, and those exempt from paying the surcharge, will include basic demographic information including an individual's nationality, UK Biometric Residence Permit (BRP) and period of permitted stay in the UK via a 'Chargeable Status' tab within the Summary Care Record application. The PALS team have access to the Spine and will check a patient's status as part of the assessment process.

Individuals who are able to access NHS services on the same basis as a UK ordinary resident, either because they have paid the surcharge, or are exempt or waived from paying the surcharge, will have a 'green' banner on their NHS record. The banner will indicate that they are 'Green: Paid or exempt from the health surcharge'.

Should an individual's 'green' status change for any reason (e.g. the period of granted leave expires), the individual may be chargeable for NHS services from that point onwards, including the remainder of courses of treatment already under way. These individuals will have a red banner indicating that they are 'Red: Likely chargeable for NHS services'. This should act as a prompt for further investigation to determine chargeability. Further guidance can be found <https://www.gov.uk/healthcare-immigration-application/how-much-pay>

13 Recovery of charges

Once the patient's status has been established and the patient is liable for charges, the patient must sign an 'Undertaking to Pay' form, which acknowledges their liability for charges; this may be signed by any person the patient nominates to act on their behalf. However, the patient remains liable for charges irrespective of whether they sign this form.

All documentation should be forwarded to the Credit Control Manager (Finance) by the PALS team. The cost of treatment is calculated according to the patient's residency status. Costs are calculated using the Department of Health Guidance on implementing the overseas visitor hospital charging regulations 2015.

For non EEA nationals identified as Overseas Visitors, commissioners will pay the costs of healthcare provided to this category of patients at 75% of tariff (or whatever the cost of the treatment determined in accordance with the national tariff and rules). This new risk sharing arrangement between providers and commissioners applies to patients who are deemed chargeable. If the chargeable patient is resident in a non-EEA country, the Trust will charge the debtor 150% of tariff (which will include all ancillary services provided to the Non EEA patient to include interpreting).

For any elective Overseas Visitors who are not covered by an E112/S2 form, an invoice will be raised by the Overseas Visitor Officer and a deposit or full payment must be received in advance of the admission. This process is pursued by the Finance Department.

The Finance Department is responsible for collecting payments and for debt management procedures in line with Trust guidelines. The Department of Health will be notified of any debts over £1,000 outstanding for 3 months. Failure to pay for NHS treatment, for which charges have been levied, may result in any future immigration application being made or application to remain in the UK being denied.

14 Training

There is no mandatory training associated with this guidance. If staff have any queries about its operation, they should contact their line manager in the first instance. An e-learning module is available of the Department of Health website offering more advice and details about the charging regulations and individual obligations.

15 Review process

This policy will be reviewed every 3 years or sooner in response to any changes in legislation.

16 Equality Impact Assessment (EQIA)

The Trust is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on any grounds. This policy ensures that each patient is treated fairly.

17 Process for monitoring compliance

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring (job title)	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Income recovery	Report on income received	Credit Control Manager	Monthly	Finance Team

18 References

National Health Service Act 2006

National Health Service (Charges to Overseas Visitors) Regulations 2015 (2015 No. 238)

Amendment to the NHS (Charges to Overseas Visitors) Regulations 2015 issued January 2016

Guidance on Implementing the Overseas Visitors Hospital Charging Regulations. Department of Health 2015

The Immigration Act 2014

R [on the application of W, X, Y and Z] v the Secretary of State for Health(British Medical Association intervening) [2015] All ER (D) 113 Oct

Appendix 1 Infectious diseases exempt from charges

Certain diseases are exempt for Overseas Visitors where treatment is necessary to protect the wider public health. This exemption from charge will apply to the diagnosis even if the outcome is a negative result. It will also apply to the treatment necessary for the suspected disease up to the point that it is negatively diagnosed. It does not apply to any secondary illness that may be present even if treatment is necessary in order to successfully treat the exempted disease. These diseases are defined in the Department of Health Guidance on Implementing the Overseas Visitors Hospital Charging Regulations (April 2015)

Acute encephalitis

Acute poliomyelitis

Amoebic dysentery

Anthrax

Botulism

Cholera

Diphtheria

Enteric fever (typhoid and paratyphoid)

Food poisoning

Haemolytic uraemic syndrome (HUS)

Human Immunodeficiency Virus (HIV)

Infectious bloody diarrhoea

Invasive group A streptococcal disease and scarlet fever

Invasive meningococcal disease

Legionnaires' disease

Leprosy

Leptospirosis

Malaria

Measles

Mumps

Pandemic influenza (defined as 'phase 6' or influenza that might become pandemic defined as 'phase 4 or 5')

Plague

Rabies

Rubella

Sever Acute Respiratory Syndrome (SARS)

Smallpox

Tetanus

Tuberculosis

Typhus

Viral haemorrhagic fever

Viral hepatitis

Whooping cough

Yellow fever

Treatment for all sexually transmitted diseases, including HIV treatment and family planning services (Termination of pregnancy is not a method of contraception).

The exemption for victims of violence covers the treatment of conditions directly attributable to certain types of violence:

- Torture
- Female genital mutilation;
- Domestic violence; and
- Sexual violence

Patients detained under the Mental Health Act 1983.

Appendix 2 EEA Countries

Austria	Liechtenstein
Belgium	Lithuania
Bulgaria	Luxembourg
Southern Cyprus (does not include the Turkish Republic of Northern Cyprus)	Malta
Croatia	Netherlands
Denmark	Norway
Estonia	Poland
Finland	Portugal
France	Romania
Germany	Slovakia
Greece	Slovenia
Hungary	Spain
Iceland	Sweden
Italy	Switzerland
Latvia	

Proof of Entitlement – European Health Insurance Card

Level of care approved – Treatment which is immediately necessary

Exclusions – Elective treatment of the treatment of pre-existing conditions, which can wait until return home.

Non EEA Bilateral Healthcare Agreement Countries

	Level of cover provided (see key below)		Level of cover provided
Anguilla	1	Kosovo	3
Australia	1	Macedonia*	3
Barbados	1	Montenegro*	3
Bosnia-Herzegovina*	3	Montserrat*	1
British Virgin Islands	1	New Zealand*	2
Falkland Islands	4	Serbia*	3
Gibraltar*	3	St Helena	1
Isle of Man	2	Turks and Caicos Islands	1
Jersey	2		

Key

- 1 Immediate medical treatment only
- 2 Only treatment promptly for a condition which arose after arrival into the UK or became, or but for treatment would have become, acutely exacerbated after such arrival. Services such as routine monitoring of chronic/pre-existing conditions are not included and free treatment should be limited to that which is urgent in that it cannot wait until the patient can reasonably return home
- 3 All treatment on the same basis as for a person insured in the other country, including services such as routine monitoring of pre-existing conditions, but not including circumstances where a person has travelled to the other country for the purpose of obtaining healthcare.
- 4 All treatment free on the same terms as for an eligible UK resident, including elective treatment