STATUTORY INSTRUMENTS

2015 No. 238

NATIONAL HEALTH SERVICE, ENGLAND

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

Made - - - -	*5th February 2015*
Laid before Parliament	*16th February 2015*
Coming into force - -	*6th April 2015*

The Secretary of State for Health, in exercise of the powers conferred by sections 175 and 272(7) and (8) of the National Health Service Act 2006 [F1], makes the following Regulations.

F1 2006 c.41. By virtue of section 271(1) of the National Health Service Act 2006 ("the 2006 Act") the powers of the Secretary of State exercised in making these Regulations are exercisable only in relation to England.

PART 1

Introduction

Citation and commencement

1. These Regulations may be cited as the National Health Service (Charges to Overseas Visitors) Regulations 2015 and come into force on 6th April 2015.

Interpretation

2. In these Regulations—

"the 1971 Act" means the Immigration Act 1971[F2];

"the 2006 Act" means the National Health Service Act 2006;

"the 2014 Act" means the Immigration Act 2014[F3];

[[F4]"actual charge" has the meaning given in regulation 3(7);**]**

[[F4]"advance payment sum" has the meaning given in regulation 3(7);**]**

"authorised child" means a child who—

(a) has been granted leave to enter the United Kingdom with a parent for the purpose of the parent receiving a course of treatment in respect of which no charge may be made or recovered under regulation 17; or

(b) is a child of an authorised companion;

"authorised companion" means a person who has been granted leave to enter the United Kingdom to accompany a person who is obtaining a course of treatment—

(a) **[**F5 in respect of which no charge may be made or recovered under regulation 17;**][**F6or

(b) ordinarily resident in Ukraine and is obtaining a course of treatment;**]**

"child" means a person who is under the age of eighteen;

[F7"competent institution" has the same meaning as in Regulation (EC) No 883/2004 or Regulation (EEC) No 1408/71, as the case may be;**]**

"entry clearance" has the meaning given in section 33(1) (interpretation) of the 1971 Act[F8];

[F9"equivalent document" means a document which, for the purposes of a listed healthcare arrangement, as defined in regulation 1(3) of the Healthcare (European Economic Area and Switzerland Arrangements) (EU Exit) Regulations 2019, is treated as equivalent to an S1 healthcare certificate ;**]**

"immigration health charge" means a charge payable under an order made under section 38 (immigration health charge) of the 2014 Act;

"immigration rules" means the rules laid before Parliament under section 3(2) (general provisions for regulation and control) of the 1971 Act;

"overseas visitor" means a person not ordinarily resident in the United Kingdom[F10];

"parental responsibility" has the meaning given in section 3 (meaning of "parental responsibility") of the Children Act 1989[F11];

"reciprocal agreement" means arrangements agreed mutually between the Government of the United Kingdom and the Government of a country or territory outside the United Kingdom for the provision of health care;

"registered dentist" has the meaning given in section 53(1) (interpretation) of the Dentists Act 1984[F12];

[F13"Regulation (EC) No 883/2004" means Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, as it had effect immediately before IP completion day;

"Regulation (EEC) No 1408/71" means Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, as it had effect immediately before IP completion day;**]**

[F4"relevant body" means—

(a) an NHS foundation trust;

(b) an NHS trust;

(c) a local authority within the meaning of section 2B of the 2006 Act (functions of local authorities and Secretary of State as to improvement of public health) exercising public health functions (within the meaning of that Act); or

(d) any other person providing relevant services,

except in respect of regulation 6A, for which purposes a person mentioned in paragraph (d) is not a "relevant body";**]**

F14 . . . . . .

"relevant services" means accommodation, services or facilities[F15] which are provided, or whose provision is arranged, under the 2006 Act other than—

(a) primary medical services provided under Part 4 (medical services);

(b) primary dental services provided under Part 5 (dental services);

(c) primary ophthalmic services provided under Part 6 (ophthalmic services); or

(d) equivalent services which are provided, or whose provision is arranged, under the 2006 Act;

"ship" includes fishing vessels and hovercraft;

"treatment the need for which arose during the visit" means—

(a) diagnosis of symptoms or signs occurring for the first time after the overseas visitor's arrival in the United Kingdom; or

(b) treatment, provided that the overseas visitor has not travelled to the United Kingdom for the purpose of seeking that treatment, which in the opinion of a registered medical practitioner or registered dentist employed by or providing services to the **[**[F16]relevant body**]** is required promptly for a condition which arose, or became acutely exacerbated, after the overseas visitor's arrival, or which, but for the treatment, would be likely to become acutely exacerbated,

which cannot wait until the overseas visitor can reasonably be expected to return to the overseas visitor's country of ordinary residence.

F2 1971 c. 77.
F3 2014 c. 22.
F4 Words in reg. 2 inserted (23.10.2017) by The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756), regs. 1(2)(a), **2(3)**
F5 Words in reg. 2 renumbered (17.3.2022 at 5.00 p.m.) by The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/318), regs. 1(2), **2(2)(a)**
F6 Words in reg. 2 inserted (17.3.2022 at 5.00 p.m.) by The National Health Service (Charges to Overseas Visitors) (Amendment) (No. 2) Regulations 2022 (S.I. 2022/318), regs. 1(2), **2(2)(b)**
F7 Words in reg. 2 inserted (31.12.2020) by The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423), regs. 1(2), **3(a)**
F8 The definition of "entry clearance" in section 33(1) was amended by the British Nationality Act 1981 (c. 61), Schedule 4, paragraph 2, and the Immigration Act 1988 (c. 14), Schedule, paragraph 5.
F9 Words in reg. 2 inserted (31.12.2020) by The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423), regs. 1(2), **3(b)**
F10 The meaning of ordinary residence in section 175 of the 2006 Act was amended by section 39 (related provision: charges for health services) of the Immigration Act 2014 (c. 22) which has not yet come into force.
F11 1989 c. 41.
F12 1984 c. 24; to which there are amendments not relevant to these Regulations.
F13 Words in reg. 2 inserted (31.12.2020) by The National Health Service (Charges to Overseas Visitors) (Amendment) (EU Exit) Regulations 2020 (S.I. 2020/1423), regs. 1(2), **3(c)**
F14 Words in reg. 2 omitted (23.10.2017) by virtue of The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756), regs. 1(2)(a), **2(2)**
F15 "Facilities" is defined in s275(1) of the 2006 Act.
F16 Words in reg. 2 substituted (23.10.2017) by The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756), regs. 1(2)(a), **3(1)**

PART 2

Provision for making and recovery of charges

Obligation to make and recover charges

3.—(1) Where the condition specified in paragraph (2) is met, a **[**F17relevant body**]** must make and recover charges for any relevant services it provides to an overseas visitor from the person liable under regulation 4 (liability for payment of charges).

[F18(1A) Where the condition specified in paragraph (2) is met, before providing a relevant service in respect of an overseas visitor, a relevant body must secure payment for the estimated amount of charges to be made under paragraph (1) for that relevant service unless doing so would prevent or delay the provision of—

(a) an immediately necessary service; or

(b) an urgent service.

(1B) The person from whom payment is to be secured under paragraph (1A) in respect of a relevant service is the person who it appears to the relevant body, at the time that the request for that payment is made, will be the person to whom a charge will be made under paragraph (1) in respect of that relevant service at the time that it is provided.**]**

(2) The condition is that the **[**F17relevant body**]**, having made such enquiries as it is satisfied are reasonable in all the circumstances, including in relation to the state of health of that overseas visitor, determines that the case is not one in which these Regulations provide for no charge to be made.

[F19(3) Where more than one relevant body is to provide relevant services to an overseas visitor, each relevant body must secure the advance payment sum in respect of each relevant service that it is to provide.

(3A) Where more than one relevant body provides relevant services to an overseas visitor, each relevant body must make and recover the actual charge in respect of each relevant service that it provides.

(4) A relevant body that makes and recovers a charge in accordance with paragraph (1) or secures payment in accordance with paragraph (1A) must give or send to the person making the payment a receipt for the amount paid.

(4A) In making and recovering an actual charge from a person in respect of a relevant service, a relevant body must—

(a) deduct any advance payment sum secured by the relevant body from that person in respect of that relevant service; and

(b) refund any amount by which an advance payment sum secured by the relevant body from that person in respect of that relevant service exceeds the amount of the actual charge that person is liable to pay.**]**

(5) Subject to paragraph (6), where—

(a) a **[**F17relevant body**]** has determined that an overseas visitor is exempt from being charged for relevant services under these Regulations, except where the overseas visitor is exempt from being charged by virtue of—

(i) regulation 10 (immigration health charge);

(ii) regulation 11 (overseas visitors who have made applications for entry clearance or leave to remain prior to the commencement of the immigration health charge); **[**F20...

(iii) regulation 25(3) (family members of overseas visitors – children born to a parent exempt under regulation 10 or 11); **[**F21or**]**

[F22(iv) regulation 14 (reciprocal health care agreements);**]**

(b) the overseas visitor has received relevant services from a **[**F17relevant body**]** as part of a course of treatment; and

(c) prior to the course of treatment being completed, a **[**F17relevant body**]** has determined that the overseas visitor is no longer exempt from being charged for relevant services under these Regulations,

a **[**F17relevant body**]** may not make and recover charges under paragraph (1) in respect of relevant services provided as part of that course of treatment during a period where the overseas visitor has remained in the United Kingdom without absence.

(6) Paragraph (5) does not apply where a **[**F17relevant body**]** has determined that a person is exempt from being charged for relevant services as a result of that body receiving fraudulent or misleading information.

[F23(7) In this regulation—

"actual charge" means a charge to be made under paragraph (1);

"advance payment sum" means a sum to be secured under paragraph (1A);

"immediately necessary service" means—

(a) antenatal services provided in respect of a person who is pregnant;

(b) intrapartum and postnatal services provided in respect of—

(i) a person who is pregnant;

(ii) a person who has recently given birth; or

(iii) a baby; and

(c) any other relevant service that the treating clinician determines the recipient needs promptly—

(i) to save the recipient's life;

(ii) to prevent a condition becoming immediately life-threatening; or

(iii) to prevent permanent serious damage to the recipient from occurring;

"urgent service" means a service that the treating clinician determines is not an immediately necessary service but which should not wait until the recipient can be reasonably expected to leave the United Kingdom.**]**

F17 Words in reg. 3 substituted (23.10.2017) by The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756), regs. 1(2)(a), **3(1)**

F18 Reg. 3(1A)(1B) inserted (23.10.2017) by The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756), regs. 1(2)(a), **4(2)**

F19 Reg. 3(3)-(4A) substituted for reg. 3(3)(4) (23.10.2017) by The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756), regs. 1(2)(a), **4(3)**

F20 Word in reg. 3(5)(a)(ii) omitted (23.10.2017) by virtue of The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756), regs. 1(2)(a), **4(4)(a)**

F21 Word in reg. 3(5)(a)(iii) inserted (23.10.2017) by The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756), regs. 1(2)(a), **4(4)(b)**

F22 Reg. 3(5)(a)(iv) inserted (23.10.2017) by The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756), regs. 1(2)(a), **4(4)(c)**

F23 Reg. 3(7) inserted (23.10.2017) by The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 (S.I. 2017/756), regs. 1(2)(a), **4(5)**