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HIV treatment for overseas visitors

Guidance for the NHS

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First published September 2012

Published to DH website, in electronic PDF format only.

www.dh.gov.uk/publications

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Executive summary

From 1 October 2012 an amendment to the NHS (Charges to Overseas Visitors) Regulations means that HIV treatment is no longer chargeable to any overseas visitors. This guidance supports implementation the change in England.

HIV often presents with other healthcare needs which may be chargeable unless they too are exempt from NHS charge. The Overseas Visitors Manager should continue to interview all overseas visitors seeking or receiving HIV treatment. This guidance sets out: the background to the policy change, defines HIV treatment and care, prescribing of antiretroviral therapies, the role of the Overseas Visitor Manager and how DH will monitor the change.

GUIDANCE ON IMPLEMENTING CHANGES TO THE OVERSEAS VISITORS HOSPITAL CHARGING REGULATIONS – HIV TREATMENT

1. Introduction

1.1 This document provides guidance on providing NHS HIV treatment for overseas visitors during their stay in the UK. This guidance covers England only. It does not affect existing cross-charging arrangements for patients resident in one UK country who chose to receive their HIV treatment and care in another UK country.

1.2 This guidance complements existing Department of Health *Guidance on Implementing the Overseas Visitors Hospital Charging Regulations* (October 2012).¹

2. Background

2.1 All overseas visitors are subject to the National Health Service (Charges to Overseas Visitors) Regulations 2011 as amended (the “Charging Regulations”) and may incur a charge for NHS hospital treatment. An overseas visitor is any person not ordinarily resident in the UK, that is a person not living in the UK on a lawful and properly settled basis. It therefore includes those people living in the UK without lawful permission, as well as temporary visitors. It is the former group that present most risk in terms of having untreated HIV infection since they risk transmitting HIV to an uninfected person.

2.2. The Charging Regulations place a legal obligation on NHS trusts and NHS foundation trusts in England to establish whether a person is an overseas visitor to whom charges apply or whether they are exempt from charges, by virtue of the Charging Regulations, for the NHS services provided. When charges apply, a relevant NHS body must charge the person liable (usually the patient) for the costs of the NHS services and recover the cost from them.

2.3 Some overseas visitors are already exempt from NHS charges for HIV treatment. From 1 October 2012, an amendment to the Charging Regulations means that HIV treatment is no longer chargeable to any overseas visitors and is provided in the same way as treatment for other sexually transmitted infections for which NHS treatment is free to all. This amendment responds to the significant evidence on the benefits to public health of providing HIV treatment to all in clinical need. Left untreated, HIV presents a significant risk of transmission to people in the UK. The availability of treatment should increase the acceptance of confidential HIV testing in people from abroad living in the UK and hence contribute to reducing undiagnosed HIV.

2.4 The treatment of other health conditions, will remain chargeable unless exempt under the existing Regulations. Chapter 3 of the existing Guidance on Implementing the Overseas Visitors Hospital Charging Regulations sets out the exemption categories. Chapter 5 provides advice to the NHS on how to operate the charging policy. This includes identifying patients who may be liable to charges which avoids discrimination and is fair to all patients.

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3. Definition of HIV treatment and care

3.1 Overseas visitors are entitled to HIV treatment and care as defined in the HIV Outpatient Clinical Care Pathway² and in-line with the NHS HIV care and treatment commissioning arrangements, subject to modification as set out below. The Pathway sets out costs for a whole year, however the vast majority of overseas visitors in need of HIV treatment during their stay in the UK will require treatment for considerably shorter periods. Treatment, including prescribing of antiretroviral (ARV) therapy, is available only for the duration of a person's stay in the UK.

3.2. Provision of HIV treatment does not affect decisions on immigration including any requirement to leave the country.

4. Prescribing of antiretroviral therapies

4.1. Overseas visitors requiring HIV treatment, will include:

- i) People who have no lawful permission to remain in the UK, with diagnosed HIV requiring treatment until they return to their country of origin.
- ii) As above, but newly diagnosed in the UK.
- iii) People with diagnosed HIV receiving treatment in their home country, who are lawfully present in the UK for a limited period, requiring limited emergency access to treatment including ARVs before they return to their home country. Circumstances will vary but might include unforeseen events or incidents beyond an individual's control, for example a change in travel plans, loss of medication.
- iv) People visiting the UK on a temporary basis newly diagnosed with HIV during their stay.

4.2 HIV consultants will continue to make decisions on when to commence treatment for newly diagnosed overseas visitors in-line with NHS HIV care and treatment commissioning policy. This requires follow-up testing and monitoring before a patient is first prescribed ARVs followed by further regular clinical monitoring to assess side-effects and other outcomes before a routine prescription of ARVs is prescribed.

4.3 For some patients it is possible that they will have returned to their home country during the period of initial clinical monitoring when first diagnosed or starting ARV treatment. Where possible, the HIV clinic should transfer diagnostic and other test results to the patient's home clinic where this is known.

4.4. Free HIV treatment including ARVs is only available to overseas visitors whilst they remain in the UK. The duration of prescriptions for ARVs will vary. Given the high cost of ARVs, for all overseas visitors we recommend that advance prescribing of ARVs is for a maximum of one month in the first instance. In line with good clinical care of HIV, the patient will be required to attend the HIV clinic in person before dispensing of any ARVs. There may be circumstances where patients will be in the UK for longer periods and will require longer prescriptions. Active and ongoing assessment of the patient will be required before follow-up

²http://webarchive.nationalarchives.gov.uk/+/www.dh.gov.uk/en/Managingyourorganisation/NHSFinancialReforms/DH_125788

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prescriptions can be provided to ensure clinical effectiveness and appropriate implementation of this guidance.

4.5 For visitors receiving treatment in their home country, prescriptions will be for a minimum period to avoid interruption of treatment until they can secure treatment on return to their home country, or make arrangements for their home HIV clinic to send supplies of ARVs.

4.6 There has been a significant increase in the availability of ARV anti-HIV treatment globally over recent years³. Whilst it is unlikely that people with HIV, or at risk of HIV, will visit the UK solely for the purpose of receiving free HIV treatment, this guidance (para 4.4) makes clear the arrangements that will enable monitoring to ensure this is not the case. All trusts continue to be responsible for establishing whether patients are overseas visitors. There are no provisions under the Immigration Rules for a person to travel to the UK in order to access the NHS.

5. Role of the Overseas Visitors Manager (OVM)

5.1 Regulation 3 of the Charging Regulations places a legal obligation on a relevant NHS body to determine whether the Charging Regulations apply to any overseas visitor they treat. Where a person is not ordinarily resident the relevant NHS body must make reasonable enquiries into the circumstances of that person to determine if they meet one of the categories of exemption or are liable to pay charges. Regulation 6 (as amended) exempts sexually transmitted infections from charges.

5.2 HIV often presents with other healthcare needs. Unless these too are exempt under the Regulations, they are chargeable. It is therefore possible that an overseas visitor will receive free HIV treatment but will be charged for other healthcare. The OVM will have a continuing role in assessing and recovering charges for non-HIV treatment in patients identified as an overseas visitor.

5.3 Chapter 4 of the existing guidance provides more information on the role and responsibilities of the OVM and clinicians and safeguards to protect the lives of overseas visitors who are not exempt from charge. This includes maternity treatment.

5.4 The OVM should continue to interview all overseas visitors receiving or seeking HIV treatment to assess whether or not any other healthcare condition for which they are seeking treatment is chargeable. Chapter 5 of the existing guidance provides more information.

6. Monitoring

6.1 The Health Protection Agency will collect anonymised data on overseas visitors in receipt of HIV treatment. DH will take account of this in monitoring the impact of the policy change.

³ http://www.who.int/hiv/pub/progress_report2011/summary_en.pdf