



Home Office

Suitability: Debt to the NHS

Version 2.0

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About this guidance

This guidance tells caseworkers when an application for entry clearance, permission to enter or permission to stay may be refused where an applicant has failed to pay charges under relevant NHS regulations.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors, then email the SORT group.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **2.0**
- published for Home Office staff on **22 December 2020**

Changes from last version of this guidance

- Minor amendment to the introduction to clarify that this guidance applies to family reunion applications.

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Debt to the NHS

A person is considered to have debt to the NHS (NHS debt) if a relevant NHS body has informed the Home Office that the applicant has failed to pay a charge to the NHS.

The term 'relevant NHS body' is defined in paragraph 6 of [the Immigration Rules](#).

This ground for refusal is set out in paragraph 9.11.1. of Part 9 of the [Immigration Rules](#).

The burden of proof is on the Home Office to prove an NHS debt. The standard of proof is the balance of probabilities (which means it is more likely that not) but you must be able provide evidence of the debt if it is contested. You may need to seek further information from the relevant NHS body.

This ground does not apply to the following applications:

- protection claims (this means decisions on asylum and humanitarian protection claims as well as on protection-based claims under article 3 of the European Convention on Human Rights(ECHR)), except under paragraphs 352ZH to 352ZS, and 352I to 352X, and 352A to 352FJ of the Rules
- applications on private life grounds under paragraphs 276ADE to 276DH of the Rules
- applications for entry clearance under the ECAA Association Agreement (but it does apply to ECAA Extensions of Stay)
- Appendix S2 Healthcare Visitor;
- Appendix Service Providers from Switzerland.
- European Economic Area (EEA) nationals and their family members who apply under the EEA regulations
- Appendix EU
- Appendix EU (Family Permit)
- nationality applications

Appendix FM and Appendix Armed Forces have their own equivalent provisions which are covered in [Refusal: NHS debt](#).

If you are a Border Forcer officer and require additional guidance, see NHS debtors

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Refusal: NHS debt

This is a discretionary ground for refusal so you must not automatically refuse an application for this reason and although it would normally be appropriate to refuse an application where there is an NHS debt you must not do so automatically, you must consider whether it is appropriate to do so based on the circumstances of the individual case.

You may consider refusing an application under paragraph 9.11.1 of the Immigration rules on grounds of unpaid NHS debt if either of the following apply:

- the person has an outstanding healthcare debt or cumulative debt of £1000 or more incurred on or after 1 November 2011
- the person has debts of £500 or more incurred on or after 6 April 2016

A person who has incurred charges of under £1000 before 6 April 2016 cannot be refused on this basis after 6 April 2016 unless either of the following apply:

- they incur further charges of at least £500 after 6 April 2016
- they incur further charges after 6 April 2016 bringing the total outstanding NHS debt since 1 November 2011 to over £1000

Appendix FM and Appendix Armed Forces

The Appendix FM routes are for those seeking to enter or remain in the UK based on their family life with a person who is a British Citizen, is settled in the UK, or is in the UK with limited leave as a refugee or person granted humanitarian protection.

The Appendix Armed Forces routes are for members of the armed forces, civilian employees and their families.

You may consider refusing the application under Appendix FM and Appendix Armed Forces if either of the following apply:

- the person has an outstanding healthcare debt or cumulative debt of £1000 or more incurred on or after 1 November 2011
- the person has debts of £500 or more incurred on or after 24 November 2016

A person who has incurred charges of under £1000 before 24 November 2016 cannot be refused on this basis after 24 November 2016 unless either of the following apply:

- they incur further charges of at least £500 after 24 November 2016
- they incur further charges after 24 November 2016 bringing the total outstanding NHS debt since 1 November 2011 to over £1000

You must consider human rights factors in accordance with the Appendix FM guidance.

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Consideration

You must check if the applicant has an outstanding total NHS debt that meets the thresholds explained in [Refusal: NHS debt](#).

A person may have an NHS debt if they have received secondary healthcare, which is healthcare provided to the person by a hospital. For guidance on secondary care treatment in England see the [Department of Health website](#).

NHS bodies use their own internal processes to recover the debt and will only notify the Home Office once the debt has been outstanding for 2 months and there is no agreement to pay by instalments.

Refusal on the basis of NHS debt is discretionary not mandatory. You must consider the following before refusing on the basis of NHS debt:

- you must be satisfied that there are no compelling or compassionate circumstances or human rights considerations that would make refusal disproportionate
- the unpaid debt relates to one or more NHS bodies and the total value of the debt is at least £1000 or more incurred on or after 1 November 2011 (for all case types), or either:
 - (in the case of applications other than those made under Appendix FM or Appendix Armed Forces) £500 or more incurred on or after 6 April 2016
 - (in the case of applications made under Appendix FM or Appendix Armed Forces) £500 or more incurred on or after 24 November 2016 in line with the relevant NHS regulations

You must only consider refusing an application for entry clearance, permission to enter or permission to stay on the basis of NHS debt if the NHS debt information has been supplied or confirmed by an NHS body.

If the application is for permission to stay or indefinite leave to remain and contains evidence which indicates that chargeable treatment was received by the applicant after 1 November 2011, but the applicant was not charged, a referral must be made to the Interventions and Sanctions Directorate (I&SD). For more information on referrals, see Referring NHS cases to Interventions and Sanctions Directorate

If checks do not confirm the application has an outstanding NHS debt, you must not refuse the applicant on this basis, even if they have received NHS treatment.

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Refusal of permission to stay or indefinite leave application based on NHS debt

If the check confirms the applicant has an outstanding total NHS debt of £1000 or more incurred on or after 1 November 2011 (for all case types), or debts of £500 or more incurred on or after 6 April 2016 (other than Appendix FM and Appendix Armed Forces cases) or debts of £500 or more incurred on or after 24 November 2016 in Part 7 paragraph 276ADE(1), Appendix FM and Appendix Armed Forces cases, you must ask the applicant to demonstrate they have repaid their debt.

You must write to the applicant in all cases where checks have identified there is an outstanding NHS debt and request evidence that the outstanding debt has been repaid. An example of the wording to use in your information request is below:

Home Office records show that you have an outstanding debt of £[amount] owed to (insert details of healthcare provider debt is owed to) from (insert date debt was raised)

You must provide written confirmation from (insert details of healthcare provider) to show that this debt has been paid or is subject to an agreed schedule of payment by instalment which is being maintained. We will only accept formal documentation and receipts from the healthcare provider as evidence. Evidence is not accepted from any other source

Please provide this information within 10 days from the date of receipt of this letter. If you fail to respond within this timescale, your application will be assessed against the evidence available regarding the outstanding healthcare debt, as well as all other factors set out in your application

You can only accept evidence from the healthcare provider that charged for the treatment. Receipts must accompany this evidence and are to be considered as evidence that the debt has been paid. You may accept the evidence by email or in writing.

You must confirm with the healthcare provider that the documentation has been genuinely issued. If such genuine documentary evidence is produced and can be verified by the healthcare provider, you cannot refuse the application under paragraph 9.11.1. of Part 9 in respect of that NHS debt.

If the applicant fails to respond to your request, you must assess the application based on the available evidence. Any requests for extensions to submit evidence must be considered on a case by case basis.

Details of the nature of medical treatment received by the applicant should not have been passed to the Home Office by the health body. If such details have been

passed on by the health body, that data should not be retained on the applicant's record and no mention must be made of the nature of the treatment in the decision letter.

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False representations

You must consider whether the applicant's stated reason for entering or remaining in the UK at the time of their previous application was genuine, or whether their true intention was to gain free access to healthcare that is chargeable. If you consider their true intention may have been to gain free access to healthcare, you should consider whether to refuse permission on those grounds, in line with the applicable guidance:

For more information on false representations in a current application, see the Suitability: False representations guidance. For information about deception in a previous application, see Suitability: previous breach of immigration rules.

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NHS debt relates to a linked dependant

A linked dependant is a person who is applying for entry clearance as a dependant of the main applicant at the same time as the main applicant. If you refuse the main applicant because they owe an NHS debt, you must also refuse any linked dependants applying at the same time in line as they will not meet requirements if the main applicant is not granted leave.

However, if you refuse an application from a linked dependant because the dependant owes an NHS debt, you must **not** also refuse the main applicant on the basis of the dependant's debt.

Where the treatment was received by a child (anyone under the age of 18), their parents or legal guardians are liable for any healthcare charges. These cases will be identified and recorded by the healthcare provider. In these cases you must consider whether the main applicant's claimed reason for entering the UK at the time of their application was genuine, or whether their intention was to access healthcare for their dependant. For more information on false representations in a current application, see the Suitability: False representations and in previous applications, Suitability: previous breach of immigration rules_guidance.

Details of the nature of medical treatment received by the applicant should not have been passed to the Home Office by the health body. If, however, such details have been passed on by the health body, that data should not be retained on the applicant's record and no mention must be made of the nature of the treatment in the decision letter.

If the checks show an outstanding NHS debt attached to a child, the passenger must be referred to a Higher Executive Officer (HEO) before a decision is taken. The HEO must consider the best interests of any child affected by the decision and any Article 8 ECHR implications. See, [Permission to stay: Human rights](#).

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Recently discharged NHS debt

An NHS debt was recently discharged if it was paid off in the 6- month period before the application was made.

If the applicant has only recently discharged their debt to the NHS, before granting entry clearance, permission to enter or stay, you must consider the effect of paying off the debt on the person's ability to meet any relevant requirements of the Immigration Rules. This includes the ability of the applicant to maintain and accommodate themselves while in the UK and that they have no intention to seek further NHS treatment without paying, unless such access is permitted on the route under which they are applying.

A refusal on the grounds of insufficient funds should be made under the relevant rules and not under the NHS debtor rules.

Once the NHS debt has been cleared, there will no longer be a reason to refuse entry on this basis.

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Permission to stay: Human rights

Applicants who are applying in non human-rights based routes should make a separate application if they wish to raise any human rights issues as to why their application should be granted, which should then be considered in the usual way.

Where an applicant has an outstanding NHS debt, and they say that there are compassionate or other circumstances which mean discretion should be exercised in their favour you must consider that representation to decide whether to refuse on this basis or whether it is appropriate to exercise discretion in the applicant's favour.

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Decision notice

You must explain in the refusal decision why you are deciding to refuse on the grounds of NHS debt. For example, whether they have failed to pay outstanding debt or whether you asked for evidence that the debt was paid but none has been received.

You should use plain and concise language and avoid jargon and acronyms.

If you have details of the medical treatment received by the applicant, no mention must be made of the nature of the treatment in the decision notice.

You may use the following refusal paragraphs (adapted to the facts of the case).

A person has failed to pay an outstanding debt:

I am satisfied that you have an outstanding NHS debt with a total cumulative value of [amount at least £1,000 / £500] in respect of National Health Service (NHS) treatment you have received, from [insert name(s) of relevant NHS body(ies)].

[Option for evidence being requested if applicable]

You were contacted on DATE and given XX days to provide evidence that you had paid the NHS debt, but you failed to do so.

[End of option]

In deciding whether to refuse your application on the grounds of unpaid NHS debt I have carefully considered the circumstances of your case. I am satisfied that refusal is appropriate because [reasons including what evidence has been considered and why discretion is not exercised].

Any further application is also likely to be refused unless you pay your NHS debt.

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