Department of Health

Making a fair contribution

A consultation on the extension of charging overseas visitors and migrants using the NHS in England

December 2015

Title: Making A Fair Contribution A consultation on the extension of charging overseas visitors and migrants using the NHS in England
Author: Strategy & External Relations Directorate / Visitor and Migrant NHS Cost Recovery Programme / 13790
Document Purpose: Consultation
Publication date: December 2015
Target audience: Members of the public NHS Staff
Contact details: Visitor and Migrant NHS Cost Recovery Programme Richmond House 79 Whitehall London SW1A 2NS nhscostrecovery@dh.gsi.gov.uk

Published to gov.uk, in PDF format only.

www.gov.uk/dh

Making a fair contribution

A consultation on the extension of charging overseas visitors and migrants using the NHS in England

Prepared by the Visitor and Migrant NHS Cost Recovery Programme

Contents

1. Introduction

1.1. The NHS exists because it is funded by tax payers to be a comprehensive health service, free at the point of delivery to all residents of the UK. Everyone has access to treatment, but in order for the NHS to be financially sustainable, it is vital that everyone makes a fair contribution.

1.2. This Government is committed to delivering an NHS fit for the 21st century and an ageing society, backing the NHS' own plan (the Five Year Forward View). This means investing more money (£10bn more by 2020) and driving savings so that every pound we spend makes the biggest difference it can for patients.

1.3. Part of this is ensuring the money invested is spent on UK residents and we recover costs from others who aren't entitled to free NHS care. To continue to improve the NHS we need to recognise that it can only be sustained as a National, not an international health service. The changes outlined in this consultation will go further to supporting this, including proposals to introduce charging in primary care, ambulance services and A&E.

1.4. In 2013, the Department of Health launched a public consultation[1] on the existing charging arrangements for overseas visitors and migrants for their use of the NHS. It proposed changes to improve the sustainability and fairness of our health system, while retaining the attractiveness of the UK as a destination for study, business and tourism. Based on responses to that consultation, significant changes to how overseas visitors and migrants are identified and charged for their healthcare have been made.

1.5. Our aim now is to further extend charging of overseas visitors and migrants who use the NHS. This consultation seeks your views on how best to do this, including exploring changes in primary care, secondary care, community healthcare and changing current residency requirements.

1.6. The Department of Health aims to recover up to £500m per year from charging overseas migrants and visitors by the middle of this Parliament (2017/18). This can only be achieved through encouraging fair contributions from visitors and migrants, and through encouraging behaviour changes in the NHS. The recovery of up to £500m per year will contribute to the £22 billion savings required to ensure the long-term sustainability of the NHS and deliver the NHS' own plan, the Five Year Forward View.

What have we done so far?

1.7. The Government response[2] to the 2013 consultation recognised that the rules around charging were complex. It concluded that attempts to improve identification of chargeable overseas patients and increase cost recovery should first be made in secondary care received in hospital settings.

---

[1] www.gov.uk/government/uploads/system/uploads/attachment_data/file/210438/Sustaining_services__ensuring_fairness_consultation_document.pdf

[2] www.gov.uk/government/uploads/system/uploads/attachment_data/file/268630/Sustaining_services__ensuring_fairness_Government_response_to_consultation.pdf

1.8. It also set the direction of travel towards extending charging into primary care, A&E, and all providers of NHS secondary care.

1.9. Following the consultation, the Department of Health, NHS England, the Home Office, the Department for Work and Pensions and individual NHS Trusts and Foundation Trusts in England have worked together to improve secondary care processes of identifying and recovering costs from chargeable patients. This has included successful and meaningful engagement with arms' length bodies, partners and stakeholders.

1.10. In April 2015 new Charging Regulations[3] were introduced which simplified the rules around who is chargeable. The regulations consolidated the list of exemptions from charging, removing some that were unnecessary, and realigning others to the principles of the NHS as a residency-based healthcare system.

1.11. The new regulations also included new charging rules that introduced risk-sharing between NHS providers and their commissioners. Furthermore, an Immigration Health Surcharge was introduced on 6 April 2015 under the provisions of the Immigration Act 2014 and the Immigration (Health Charge) Order 2015. From 6 April 2015, nationals of countries outside the European Economic Area (EEA) [4] who apply for leave to enter the UK for more than six months, or who apply to extend their stay, in most immigration categories pay the 'Immigration Health Surcharge', with the income going to the NHS.

1.12. The health surcharge means visa applicants from outside Europe make a contribution to the costs of their healthcare while in the UK. People who have paid the surcharge are currently entitled to use the NHS on the same basis as a UK resident. These patients are identified on the main NHS IT system ('the Spine'), which saves staff time and allows information to be shared across NHS settings.

1.13. Cost recovery from residents of countries outside the European Economic Area (EEA) is increasing. A 150% tariff in secondary care ensures additional administration costs for this group are recognised, for example translation costs for some patients.

1.14. We have also widened the circumstances when the most vulnerable people needing to access NHS healthcare are not charged for treatment. New exemptions mean that charges no longer apply in relation to treatment as a consequence of domestic violence, sexual violence, torture or female genital mutilation. A broader range of victims of human trafficking, children looked after by a Local Authority and Government supported failed asylum seekers are now also exempt from charge.

1.15. These exemptions are in addition to the continuing protection available for refugees, asylum seekers and victims of human trafficking who are also not charged for NHS healthcare they receive. Work is underway to extend the exemptions to include all victims of modern slavery.

1.16. Now that the identification of chargeable patients and cost recovery rates in secondary care are improving, we intend to make further changes to the system to support fairness and the financial sustainability of the NHS.

---

[3] www.legislation.gov.uk/uksi/2015/238/made

[4] For the purposes of this consultation, EEA means 'European Economic Area plus Switzerland'. For a list of countries in the EEA please see Annex A.

1.17. We intend to keep momentum going. The programme is established and many extensive changes have now been put in place to support significant improvements in efficiency of identification and charging in secondary care. We now need to extend charging into some aspects of primary care, into A&E, and into all providers of NHS secondary care.

What next?

1.18. It is now the right time to develop and implement the policy to extend charging, as we said we would back in 2013. Currently in England, the Charging Regulations are only applicable in secondary care, in a hospital setting. No patient can be charged for NHS primary medical care. Certain exemptions from charging for dentistry, eye care and prescriptions apply irrespective of someone's usual country of residence. The Charging Regulations at present do not apply in Accident and Emergency settings, until the individual is admitted as an in-patient, or to ambulance services.

1.19. It is fair that people who are in this country for a short time, and are not ordinarily resident here, should meet the costs of all NHS healthcare they receive. Our health system as it stands is still overly generous to those who only have a temporary relationship with the UK, particularly in comparison with what UK residents can expect when they travel abroad. Ultimately, this is a cost born by UK residents and taxpayers.

1.20. It is also right that we look across the system to ensure that rules on eligibility for other costly services based on residence in the UK are tightened. An example of this is eligibility for the European Health Insurance Card, which entitles the holder to necessary treatment in other European countries. We are tightening the ways in which individuals are able to apply for the card, to ensure that only those living here are able to take advantage of this benefit, as well as widening significantly the checks that we make on use of the card, for example by the use of credit reference agency residence data. Where there is fraud or error, we will take action to ensure that genuine UK residents and taxpayers are not left picking up the bill.

1.21. As we have done since the previous consultation, we will continue to mitigate any adverse impact these proposals might have on public health protection and health inequalities. This includes consideration of the needs of those who may not be able to provide evidence of residency, and might therefore be assumed to be chargeable, or might fail to seek necessary care. The most important mitigations are that GP consultations will remain free to all, and immediately necessary and urgent treatment must always be provided. We will also provide clear guidance on implementation to NHS staff.

1.22. When the results of this consultation have been analysed, we will work with our stakeholders to develop and publish an Implementation Plan for 2016-18.

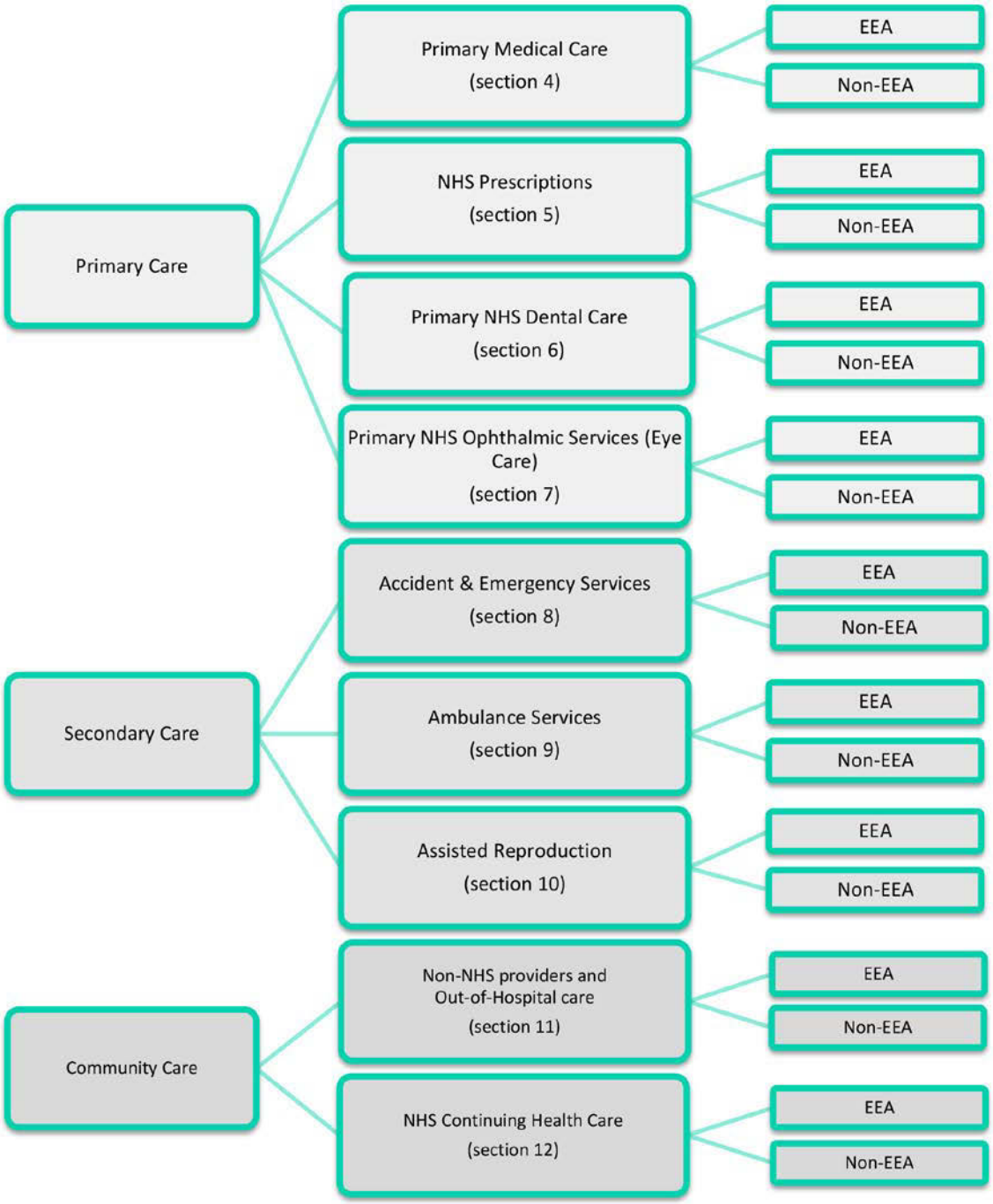
1.23. This consultation is looking specifically at how to address these issues for the NHS in England. However, there will be engagement with the Devolved Administrations across the UK on these matters.

1.24. Without restricting access to NHS treatment, we need to ensure everyone makes a fair contribution to the costs of the care they receive.

A note on this consultation's structure

Areas of healthcare and types of patient

1. This consultation is asking a number of questions related to several areas of NHS healthcare and concerning different audiences. For ease of understanding, we have divided the document into several sections:



Other issues for consultation

2. In addition to consulting on changes to the charging rules in particular areas of NHS healthcare, we are also seeking views on five other issues. These are:

- Equalities and Health Inequalities (section 3)
- Defining residency for EEA nationals (section 13)
- Recovering NHS debt of visitors resident outside the EEA (section 14)
- Overseas visitors working on UK-registered ships (section 15)
- Further areas for consideration - opportunity for respondents to add other comments (section 16)

Definitions used

3. For the purposes of this consultation the following definitions apply:

Residency definitions

- UK residents: people who are "ordinarily resident" in the UK.
- Ordinary residence means people who live here lawfully, voluntarily and for settled purpose for the time being. The existing NHS Charging Regulations 2015 do not apply to people who are ordinarily resident in the UK.
- Under the Immigration Act 2014, nationals of countries outside the European Economic Area (EEA) must also have indefinite leave to remain in the UK in order to be ordinarily resident here. This consultation proposes changes to the way the ordinary residence definition is applied to EEA nationals.
- EEA residents: People who are ordinarily resident in the European Economic Area (EEA), or Switzerland. This includes UK nationals who have moved to live in an EEA country. For a list of countries in the EEA please see Annex A.
- Non-EEA residents: People who are ordinarily resident outside the UK, EEA or Switzerland. This includes UK nationals who have moved to live in a non-EEA country.
- Reciprocal agreements between countries may also affect who is charged for NHS healthcare. For information on which countries have reciprocal agreements in place, please see Annex B.

European healthcare agreement definitions

- EHIC: European Health Insurance Cards (EHICs) are used by visitors and students from countries in the European Economic Area (EEA). EHICs allow the UK to recover costs of NHS healthcare provided to visitors during their stay, from their home country.

- PRC: If a patient is entitled to an EHIC but doesn't have one, 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 forms: Issued to people who live in one 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. For example, a Spanish pensioner who retires to the UK may be ordinarily resident in England but a contribution towards their healthcare costs can be reclaimed from Spain. Registering an S1 form allows the UK to claim around £4,500 per person, per year, towards their healthcare costs, regardless of how much healthcare the person needs.
- S2 forms: Issued to people who choose to have their healthcare, usually hospital treatment, in a different EEA country to the one where they live. These forms are processed by the hospital where the individual is receiving treatment. They are more likely to be presented in secondary care as most pre-arranged treatment takes place in hospitals. The patient's home country will pay the costs of this treatment.

Health Surcharge definitions

- Health surcharge: Since 6 April 2015, non-EEA nationals who apply for leave to enter the UK for more than six months, or who apply to extend their stay, in most immigration categories pay the Immigration Health Surcharge, with the income going to the NHS. The current rate of the surcharge is £200 per person, per year (£150 for students).
- People who have paid the health surcharge (or for whom the health surcharge is waived or who are exempt from paying it e.g. asylum seekers): these patients do not face any additional charges for the NHS healthcare they receive other than those which would be paid by a UK resident.
- People to whom health surcharge arrangements do not apply: this group have not paid the surcharge (e.g. they are not eligible to do so because they will be in the UK for less than 6 months). Under the existing Charging Regulations they are usually chargeable for any secondary healthcare they receive unless an exemption applies. The proposals in this consultation will increase the number of services for which they will be chargeable.

NHS definitions

- Primary Care: Care provided by those who act as a first point of contact for patients, except in emergencies.
- Primary Medical Care: Healthcare services provided in NHS General Practice (GP) surgeries, primary care Walk In Centres, and Out Of Hours services.
- Secondary Care: Care provided by medical specialists who generally do not have first contact with patients, except in emergencies.

2. Overarching Principles

2.1. When considering how best to extend charging of overseas visitors and migrants to other parts of the NHS healthcare system in England, we continue to be mindful of the four overarching principles stated in the 2013 consultation:

> • A system that ensures access for all in need – everybody needs access to immediately necessary treatment irrespective of their means or status. In particular, no person should be denied timely treatment necessary to prevent risks to their life or permanent health
>
> • A system where everybody makes a fair contribution to the NHS – the NHS is under increasing pressure and it is right that in the future everyone who benefits from its services makes a fair contribution to ensure it is sustainable.
>
> • A system that is workable and efficient – any new rules and systems must enable the NHS to recover charges and to use its public funds appropriately. In doing so, it must not compromise the efficient, cost-effective and safe delivery of quality healthcare or place undue burdens on staff. The role of NHS staff should not extend to immigration control, and clinicians should not be diverted from treating patients.
>
> • A system that does not increase inequalities – the Secretary of State has a duty to have due regard to the need to reduce inequalities relating to the health service. In developing these proposals we shall ensure the needs and interests of vulnerable or disadvantaged patients are protected.

Immediately necessary and urgent treatment

2.2. NHS providers have a statutory obligation to make and recover charges from patients who are deemed chargeable under legislation. However, treatment which is considered by clinicians to be immediately necessary (including all maternity treatment) must never be withheld from chargeable patients, even if they have not paid in advance.

2.3. Treatment which is not deemed immediately necessary, but is nevertheless classed as urgent by clinicians, since it cannot wait until the overseas visitor can be reasonably expected to return home, should also be provided, even if payment or a deposit has not been secured. Nonetheless providers are strongly encouraged to obtain a deposit ahead of treatment deemed urgent if circumstances allow. However, if that proves unsuccessful, the treatment should not be delayed or withheld for the purposes of securing payment.

2.4. Treatment is not made free of charge by virtue of being provided on an immediately necessary or urgent basis. Charges cannot be waived and should be applied. Providers should take a pragmatic approach as to the most appropriate time to discuss financial arrangements with the patient. An invoice should always be raised.

2.5. Non-urgent or elective treatment should not be provided unless the estimated full charge is received in advance of treatment.

3. Equalities and Health Inequalities

3.1. In developing the proposals contained in this consultation, we have taken into account the Public Sector Equality Duty as set out in the Equality Act 2010, and the Secretary of State's duties under the NHS Act 2006, including the duty to have regard to the need to reduce inequalities relating to the health service.

3.2. We will continue to protect the needs and interests of vulnerable or disadvantaged patients on humanitarian grounds. We have developed our proposals not to have an unjustifiable adverse impact on any protected groups, and welcome your views on how to ensure they do this as effectively as possible. An Equalities Analysis will be published alongside the Government response to this consultation.

3.3. Engaging with networks which support vulnerable people has been important in helping us identify the key issues they face. Through workshops and outreach visits we have worked to raise awareness about entitlement to healthcare and the fact that some people have to pay for the NHS healthcare they receive.

Exemptions from Part 4 of the NHS Charging Regulations

Exemptions from charging

3.4. The following exemptions from charging currently apply in secondary care:

- Asylum seekers, (those applying for asylum, humanitarian protection or temporary protection whose claims, including appeals, have not yet been determined).
- Individuals receiving support under section 95 of the Immigration and Asylum Act 1999 (the 1999 Act) from the Home Office.
- Failed asylum seekers receiving support under section 4(2) of the 1999 Act from the Home Office or those receiving support from a Local Authority.
- Children who are looked after by a Local Authority.
- Victims, and suspected victims, of human trafficking, as determined by the UK Human Trafficking Centre or the Home Office, plus their spouse/civil partner and any children under 18 provided they are lawfully present in the UK.
- Treatment required for a physical or mental condition caused by:
    - torture;
    - female genital mutilation;
    - domestic violence; or
    - sexual violence

  (except where the overseas visitor has travelled to the UK for the purpose of seeking that treatment).
- A qualifying overseas visitor in whose case the Secretary of State for Health determines there to be exceptional humanitarian reasons to provide a free course of treatment. This

exemption will also apply to their child and/or companion who is authorised to travel with them, for whom the exemption is limited to treatment that cannot await their return home.

- Anyone receiving compulsory treatment under a court order or who is detained in an NHS hospital or deprived of their liberty (e.g. under the Mental Health Act 1983 or the Mental Capacity Act 2005), who is exempt from charge for all treatment provided, in accordance with the court order, or for the duration of the detention.
- Prisoners.
- Immigration detainees.
- Members of the regular and reserve forces, NATO forces, Crown servants and others.
- War pensioners and armed forces compensation scheme payment recipients.
- Employees on UK-registered ships.
- Those who have paid the health surcharge.
- Those with an EHIC, PRC or S2 form (see section 1 for definition).
- UK state pensioners resident in another EEA member state who have registered an S1 document in that state.

3.5. The following exemptions also apply to all patients for public health and public protection reasons:

- Family planning services (does not include termination of pregnancy);
- Diagnosis and treatment of specified infectious diseases (listed in Annex C);
- Diagnosis and treatment of sexually transmitted infections.

GP and nurse consultations free to all

3.6. In our 2013 consultation response the programme committed to retain free access to GP and nurse consultations for all. This is in recognition of the critical importance of unrestricted access to prompt diagnosis in the interests of patient and public health, as well as the likely cost benefits of early intervention to avoid emergency treatment later on. More details about our proposals for primary medical care are set out in section 4.

Exemptions in other areas of primary care

3.7. There are different charging exemptions in other areas of primary care (pharmacy, dentistry and eye care) related to secondary care which are discussed in later sections of this consultation.

Questions - Equalities and Health Inequalities

QUESTION 1: We propose to apply the existing secondary care charging exemptions to primary medical care and emergency care.

Do you agree?

Please respond using the consultation response form or online questionnaire form.

QUESTION 2: Do you have any views on how the proposals in this consultation should be implemented so as to avoid impact on:

- people with protected characteristics as defined under the Equality Act 2010;
- health inequalities; or
- vulnerable groups?

Please respond using the consultation response form or online questionnaire form.

4. Primary Care > Primary Medical Care

Current rules

4.1. Under current legislation GP Practices cannot automatically treat someone as a private patient, or refuse NHS services, because the patient is an overseas visitor (contrary to the widely-held belief that this is possible). GPs can currently only charge overseas visitors if the person is first offered the choice of being an NHS patient but decides to pay to be treated as a private patient.

4.2. Overseas visitors should be registered with a GP practice if they request it. If staying in the UK for less than three months they should be registered as a temporary patient using the GMS3 form[5].

4.3. Although patients who normally reside in the European Economic Area (EEA) are not charged directly for primary medical care, the European Health Insurance Card (EHIC) provides a way for these costs to be reclaimed from their home member state. For each consultation with an NHS nurse or GP, a certain amount[6] can be reclaimed from the patient's EEA country of residence through an existing online portal operated by the Department for Work and Pension's Overseas Healthcare Team. A pilot measuring the impact of collecting this data on GP practices was undertaken between April and June 2015 and the findings are shown below.

European Health Insurance Cards: Primary Medical Care Pilot 2015

A pilot to test the collection and processing of European Health Insurance Card (EHIC) data in primary medical care ran from April to June 2015. Nine GP practices participated in the pilot.

Each practice asked all new registrations brief questions to determine whether they held an EHIC. EHIC information was reported via the Overseas Healthcare portal to enable the costs to be recovered from patients' home member states.

The nine GP practices registered 2,116 new patients during the three month pilot.

Of these 272 (13%) were from the European Economic Area. Many of these would not have needed an EHIC because they were ordinarily resident in the UK. Others were not aware that they were eligible for an EHIC, or did not know about them. A total of 49 people (2.3% of the total number of registrants) presented an EHIC.

On average, collecting the additional data at the point of registration added an extra minute or two minutes per patient. Practices spent around a further 30 minutes each month processing the data and uploading data onto the portal.

[5] See also www.nhs.uk/chq/Pages/how-do-i-register-as-a-temporary-resident-with-a-gp.aspx?CategoryID=68&

Why the rules need to change

4.4. We want to extend the principle that everyone should make a fair contribution to the costs of healthcare they receive to include primary medical care services.

Proposals for change

4.5. Our proposals for primary medical care are to:

- recover costs from EEA residents without an EHIC (or Provisional Replacement Certificate); and
- recover costs from non-EEA nationals to whom health surcharge arrangements do not apply.

Exemptions

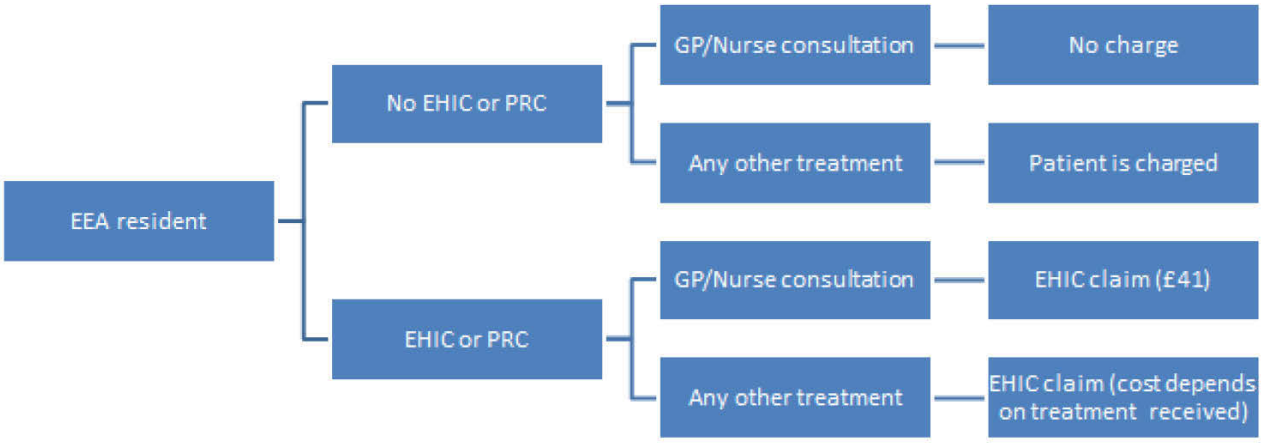
4.6. We have previously committed to keeping all GP and nurse consultations free for all. This is on public protection grounds, as early identification of diseases such as TB and Ebola will help prevent or lessen the risk of any potential outbreaks. We do not want a situation to arise where the health of the public is put at risk because someone is deterred from seeking diagnosis because they are worried about being charged to see a GP. We intend to uphold that commitment and maintain consultations in primary care as free at the point of use. We are seeking views in this consultation as to whether this is the right approach.

4.7. We propose that patients who fall into one of the charge-exempt categories identified in section three should also be exempt from any charges in primary medical care. We intend for diagnostic tests for the conditions listed in Annex C to also remain exempt from charge.

Visitors from EEA Countries

4.8. Patients who are resident in an EEA country and who do not have an EHIC will be asked to obtain a Provisional Replacement Certificate (PRC) from their EEA country of residence. If they do not provide EHIC or PRC details they will not be charged for a GP or nurse consultation. However, if other services in primary care are required, they will be charged for these, as well as any chargeable treatment they receive in secondary care. Chargeable primary medical care services would be anything other than a GP or nurse consultation delivered in a GP practice or on behalf of a GP practice, e.g. phlebotomy, spirometry, minor surgery and physiotherapy.

4.9. The proposed new arrangements for EEA residents without an EHIC or PRC are shown in the image below:

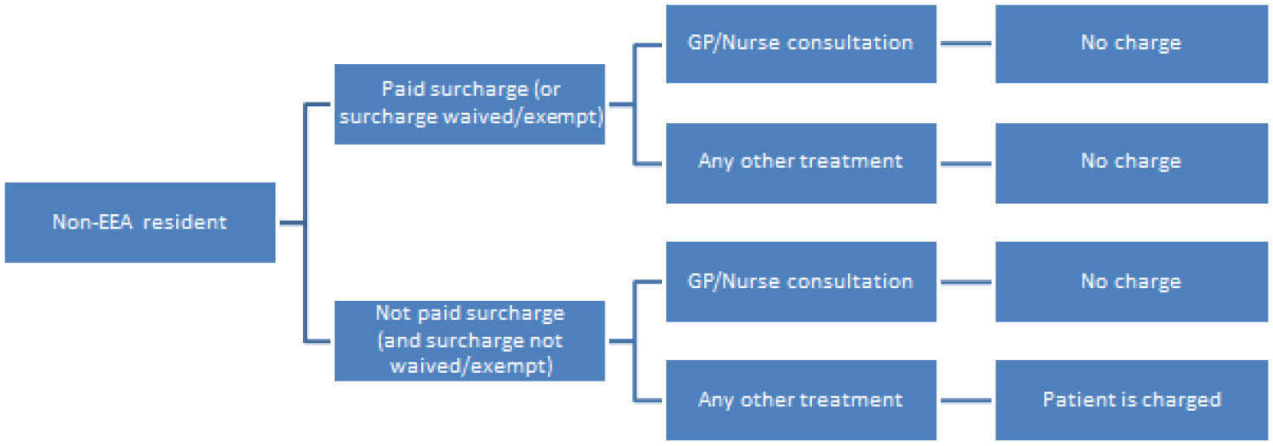


Visitors from non-EEA Countries

4.10. We intend to charge patients who do not normally reside in the UK or in another EEA member state for primary medical care services accessed in the UK (not including GP and nurse consultations and not including those to whom exemptions apply).

4.11. This means that for non-exempt patients who are resident outside the UK and the EEA, and to whom health surcharge arrangements do not apply, the costs of these services will be charged to the patient directly.

4.12. The proposed new arrangements for non-EEA residents are shown in the image below:



Implementation

4.13. The programme made clear in the 2013 consultation response that our intention was to extend charging in primary care and that GP practices would be expected to be

part of administrating it. We have worked with a number of practices as part of the EHIC pilot to establish the most effective options for doing this. We are exploring making changes to the GMS1/GMS3 registration forms to embed these changes.

4.14. We need to find the right solution to enable better data collection and data sharing on patients' chargeable status between primary care and secondary care. Data sharing will be restricted to information related to patients' demographic and chargeable status and will only be accessible to accredited NHS members of staff. We will work with the British Medical Association (BMA) and the Royal College of General Practitioners' (RCGP) Joint GP IT Committee, Health and Social Care Information Centre (HSCIC), and the NHS Business Services Authority (NHS BSA) among other stakeholders to identify the best way to implement these proposals. Further work will be needed to improve and integrate this into current GP systems.

4.15. We will continue to work with stakeholders before publishing an Implementation Plan with more details, once the results of this consultation have been analysed.

Questions - Primary Medical Care

QUESTION 3: We propose recovering costs from EEA residents visiting the UK who do not have an EHIC (or PRC).

Please respond using the consultation response form or online questionnaire form.

QUESTION 4: We propose recovering costs from non-EEA nationals and residents to whom health surcharge arrangements do not apply.

Please respond using the consultation response form or online questionnaire form.

QUESTION 5: We have proposed that GP and nurse consultations should remain free to all on public protection grounds.

Please respond using the consultation response form or online questionnaire form.

QUESTION 6: Do you have any comments on implementation of the primary medical care proposals?

Please respond using the consultation response form or online questionnaire form.

5. Primary Care > NHS prescriptions

Current rules

5.1. In the existing system everyone is entitled to be registered as an NHS patient and all NHS patients who meet the eligibility criteria below are currently entitled to free prescriptions. Everyone who does not meet the criteria below pays a standard prescription charge, currently £8.20 per item.

5.2. Existing exemptions to prescription charges include:

- Adults aged 60 and over;
- Children under 16;
- Young people aged 16, 17 and 18 who are in full time education;
- Pregnant women and women who have had a child in the previous 12 months and who hold a valid exemption certificate;
- Someone with a specified medical condition and who holds a valid medical exemption certificate (MedEx);
- Prescribed contraceptives; and
- Those in receipt of certain benefits (shown in Annex D).
- Other medication as listed in Annex D.

5.3. Currently, anyone who is within the prescription exemption categories above does not need to pay a prescription charge.

Why the rules need to change

5.4. It is fair that overseas visitors should make a contribution to the cost of any NHS prescriptions they receive. The current exemptions from charge are designed for people who are ordinarily resident in the UK and as they stand are disproportionately generous to individuals who are in the UK on a temporary basis.

Proposals for change

5.5. Our proposals for NHS prescriptions are to:

- reclaim the balance of cost of drugs and appliances provided to EEA residents with EHICs (over and above the prescription charge paid by the patient) from their home country.
- remove prescription exemptions for non-EEA residents to whom surcharge arrangements do not apply and who are not in one of the charge-exempt categories identified in section three.

Exemptions

5.6. UK and EEA residents who meet the existing prescription exemptions will continue to receive free prescriptions. There is a case for removing these exemptions from EEA residents, but this would need to be done in accordance with European law. We welcome your views on this issue.

5.7. EEA residents who do not meet the criteria for exemption from the prescription charge will still pay the NHS standard prescription charge, and we will recover the balance of costs of the drugs from their home country if they have an EHIC (or PRC).

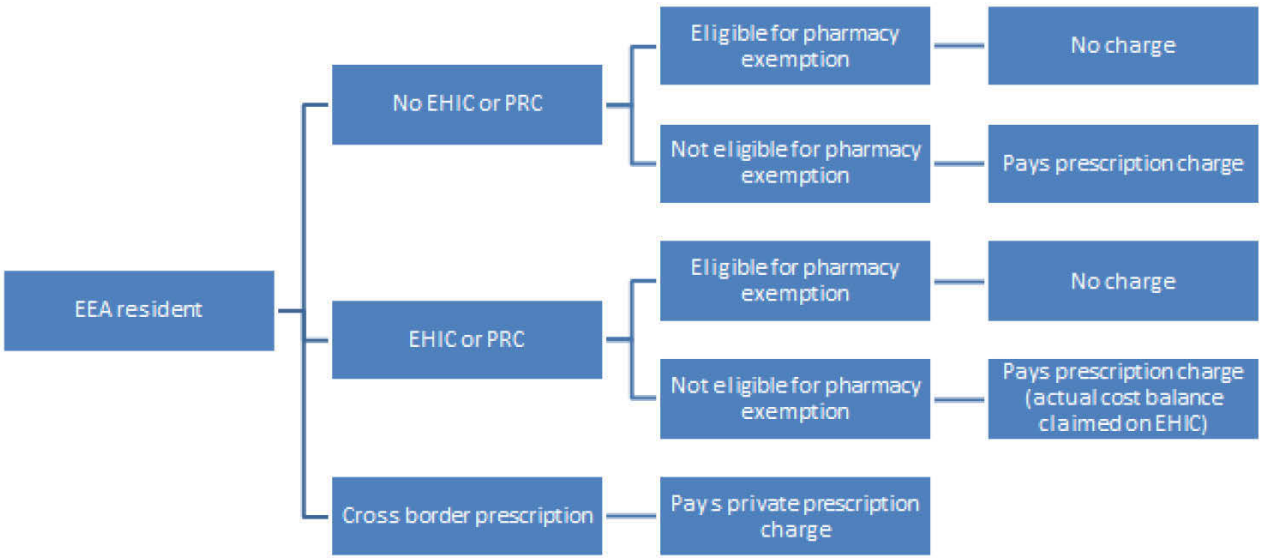
5.8. All non-EEA residents to whom surcharge arrangements do not apply will pay the NHS prescription charge unless the patient meets current prescription exemption criteria and is also in one of the charge-exempt categories identified in section three.

5.9. Wigs and fabric supports are excluded from the proposals, although exemptions for children and for those on low-income will continue to apply.

Visitors from EEA Countries

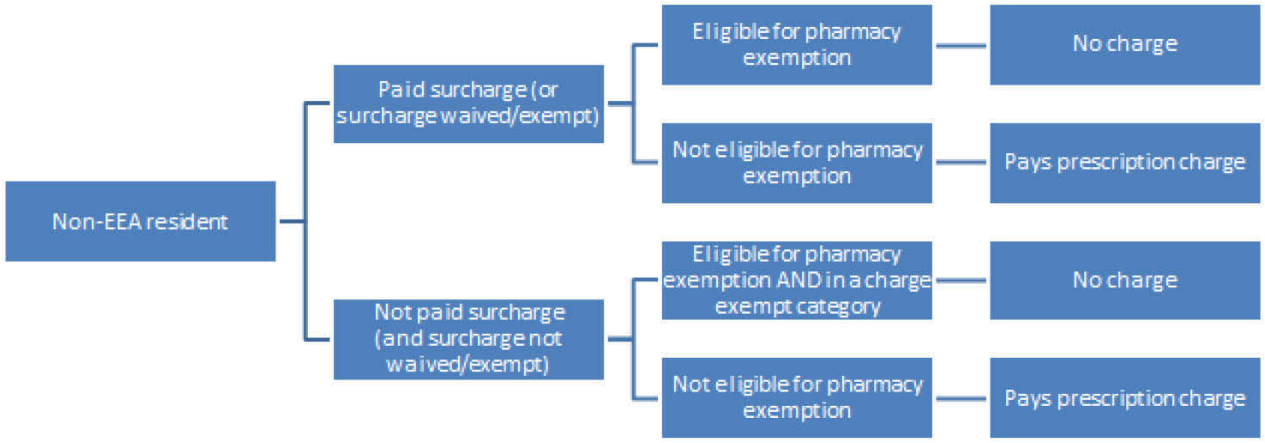
5.10. Some EEA residents may present a prescription form that was issued in another EEA country. This is called a cross-border prescription. These will continue to be charged as a private prescription.

5.11. The proposed new arrangements for EEA residents are shown in the image below:



Visitors from non-EEA Countries

5.12. The proposed new arrangements for non-EEA residents are shown in the image below:



Implementation

5.13. We are working with the NHS BSA on the best way to implement these proposals and will continue to work with stakeholders to develop our proposals for our Implementation Plan.

Questions - NHS Prescriptions

QUESTION 7: We propose reclaiming the balance of cost of drugs and appliances provided to EEA residents who hold an EHIC (or PRC) (over and above the prescription charge paid by the patient) from the EEA country that issued the EHIC/PRC.

Please respond using the consultation response form or online questionnaire form.

QUESTION 8: We propose removing prescription exemptions for non-EEA residents to whom surcharge arrangements do not apply and who are not in one of the charge-exempt categories identified in section three.

Please respond using the consultation response form or online questionnaire form.

QUESTION 9: Do you have any comments on implementation of the NHS prescriptions proposals?

Please respond using the consultation response form or online questionnaire form.

6. Primary Care > Primary NHS Dental Care

Current rules

6.1. Anyone can receive treatment from an NHS dentist. Examinations and treatment are free if the patient qualifies for an exemption from NHS dental charges as described below.

6.2. Those who are not exempt from NHS dental charges are required to pay the applicable NHS charge for their NHS treatment. Alternatively they can choose to be treated as a private patient and pay the dentist directly for the service received.

6.3. Current exemptions to NHS dental treatment charges include treatment provided to those who are:

- Aged under 18:
- Aged under 19 and receiving full-time education;
- Pregnant or who have given birth to a child in the previous 12 months
- Staying in an NHS hospital and treatment is carried out by a hospital dentist
- An NHS hospital dental service outpatient (may have to pay for dentures or bridges).
- In receipt of certain benefits (please see Annex D for full details).

6.4. The cost of NHS treatment depends on which category or 'band' the course of treatment falls into:

- Band 1: £18.80 covers an examination, diagnosis and advice. If necessary, it also includes X-rays, a scale and polish and planning for further treatment.
- Band 2: £51.30 covers all treatment covered by Band 1, plus additional treatment, such as fillings, root canal treatment and extractions.
- Band 3: £222.50 covers all treatment covered by Bands 1 and 2, plus more complex procedures, such as crowns, dentures and bridges.

Why the rules need to change

6.5. Routine dental care is not immediately necessary or urgent. People who are not resident in the UK should make a fair contribution to the costs of their NHS dental treatment.

Proposals for change

6.6. Our proposals for dentistry are to

- reclaim the balance of cost of NHS dental treatment provided to EEA residents with EHICs or PRCs (over and above the banded charge paid by the patient) from their home country.
- remove dental exemptions from non-EEA residents to whom surcharge arrangements do not apply and who are not in one of the charge-exempt categories identified in section three.

Exemptions

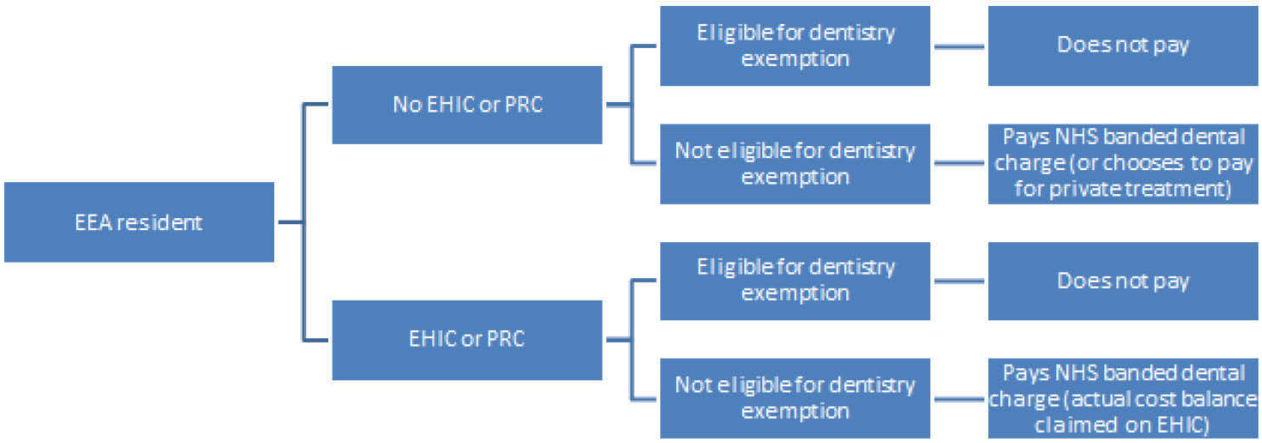
6.7. UK residents who meet the existing dentistry exemptions will continue to receive free dental treatment.

6.8. EEA residents who meet the existing dentistry exemptions will also not pay the NHS banded dental charge for any of their treatment. EEA residents who do not meet the criteria for exemption from the banded charge will still pay the charge and we will recover the balance of costs of the treatment from their home country.

6.9. All non-EEA residents not subject to surcharge arrangements will pay the NHS banded dental charge unless the patient meets current dentistry exemption criteria and is also in one of the charge-exempt categories identified in section three.

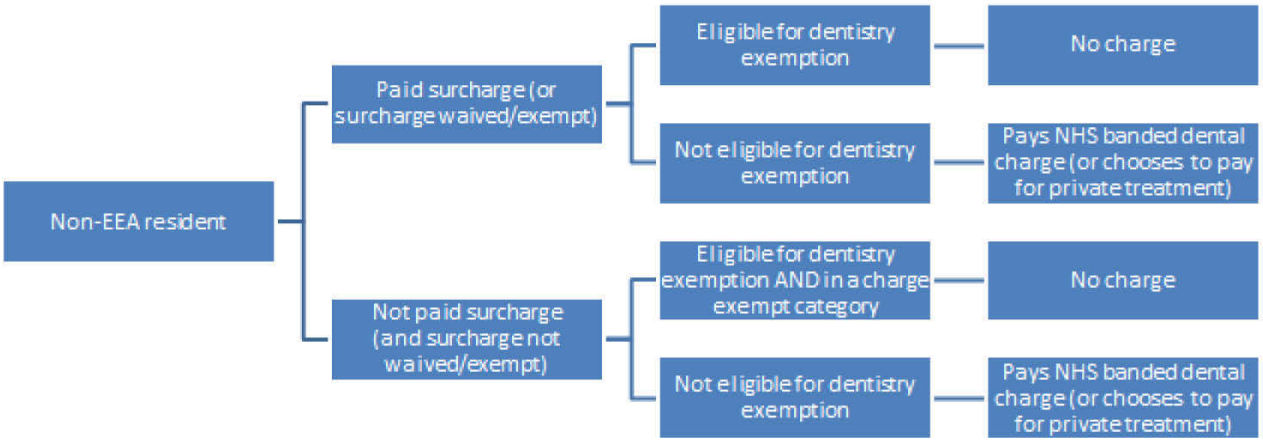
Visitors from EEA Countries

6.10. The proposed new arrangements for EEA residents are shown in the image below:



Visitors from non-EEA Countries

6.11. The proposed new arrangements for non-EEA visitors/migrants are shown in the image below:



Implementation

6.12. We will work with the NHS BSA, the British Dental Association and other stakeholders to identify the best way of implementing these proposals through our Implementation Plan.

Questions - Primary NHS Dental Care

QUESTION 10: We propose reclaiming the balance of cost of NHS dental treatment provided to EEA residents with EHICs or PRCs (over and above the banded charge paid by the patient) from their home country.

Please respond using the consultation response form or online questionnaire form.

QUESTION 11: We propose removing NHS dental charge exemptions from non-EEA residents to whom surcharge arrangements do not apply and who are not in one of the charge-exempt categories identified in section three.

Please respond using the consultation response form or online questionnaire form.

QUESTION 12: Do you have any comments on implementation of the primary NHS dental care proposals?

Please respond using the consultation response form or online questionnaire form.

7. Primary Care > Primary NHS Ophthalmic Services (Eye Care)

Current rules

7.1. Entitlement to a free NHS sight test is not currently based on residency or nationality, but is based on eligibility criteria as set out in primary and secondary legislation. This means that all individuals who meet the eligibility criteria are entitled to receive a free NHS sight test regardless of where they reside. Secondary legislation sets out entitlements to either the full cost, or a contribution towards the cost, of an optical appliance (such as glasses) for those persons who are eligible (referred to below as an optical voucher).

Why the rules need to change

7.2. People who are in England for a short period of time are unlikely in the normal course of events to require primary ophthalmic services. Therefore routine sight tests should not be provided to people for free while they are visiting England. Such treatment is not likely to be immediately necessary or urgent and there is no public health risk entailed in delaying this treatment until the persons return to their home country. Any treatment which is clinically necessary should always be provided

Proposals for change

7.3. Our proposal for primary NHS ophthalmic services is to remove eligibility for an NHS sight test and optical vouchers from non-EEA residents to whom surcharge arrangements do not apply and who are not in one of the charge-exempt categories identified in section three.

Exemptions

7.4. UK residents who are eligible for a free sight test under existing legislation will still be able to get their sight test for free.

7.5. EEA residents who meet the relevant eligibility criteria applicable to UK residents will remain eligible for a free sight test.

7.6. Sight tests will also remain free for non-EEA nationals who meet the eligibility criteria and who are covered under surcharge arrangements.

7.7. Non-EEA residents to whom surcharge arrangements do not apply will no longer be eligible for a free NHS sight test or optical voucher, unless the patient meets current exemption criteria and is also in one of the charge-exempt categories identified in section three.

Visitors from EEA Countries

7.8. Under these proposals, the arrangements for EEA residents will remain unchanged - they will be eligible for free NHS sight tests if they meet the existing criteria.

Visitors from non-EEA Countries

7.9. Non-EEA residents to whom surcharge arrangements do not apply will no longer be eligible for a free NHS sight test or optical voucher unless the patient meets current exemption criteria and is also in one of the charge-exempt categories identified in section three.

Implementation

7.10. This proposal will mean opticians need to know whether someone is a non-EEA visitor. We will work with providers of these services to establish the best way to achieve this and publish the outcome in an Implementation Plan.

Questions - Primary NHS Ophthalmic Services (Eye Care)

QUESTION 13: We propose removing eligibility for an NHS sight test and optical voucher from non-EEA residents to whom surcharge arrangements do not apply and who are not in one of the charge-exempt categories identified in section three.

Please respond using the consultation response form or online questionnaire form.

QUESTION 14: Do you have any comments on implementation of the primary NHS ophthalmic services proposals?

Please respond using the consultation response form or online questionnaire form.

8. Secondary Care > Accident and Emergency (A&E)

Current rules

8.1. A&E services[7] are currently exempt from charges as they are not covered under the existing Charging Regulations 2015. Any emergency treatment received in an A&E setting and under the care of an A&E consultant is free at the point of need.

8.2. At present, overseas visitors and short-term migrants are charged from the point of being admitted as an in-patient to an NHS hospital, and/or for any subsequent follow-up treatment received as an out-patient.

8.3. It is not our intention to restrict access to emergency care or to cause a delay in the provision of immediately necessary or urgent care to any patient. Where treatment is deemed as immediately necessary, it will always be given without seeking prior payment or a deposit. Chargeable treatments considered by clinicians to be immediately necessary must never be withheld. However, as with all other treatments deemed immediately necessary or urgent, NHS healthcare will remain chargeable even if it has been provided prior to payment being received. NHS hospitals will continue to be obliged by law to collect payment once clinically appropriate.

Why the rules need to change

8.4. We know that the current rules can cause confusion. Overseas visitors accessing services in A&E are often surprised when they try to pay for the care they have received only to be told that it is free of charge. We know that the line between free care and chargeable care (i.e. when the patient is admitted or returns for an outpatient appointment) is sometimes difficult to establish.

8.5. We also believe our system is an outlier compared to the majority of other countries. Emergency care elsewhere often requires up front proof of either insurance or ability to pay e.g. credit card details.

8.6. We do not believe that the current system is fair or consistent if the choice for charging is made dependent on where care is given. With a view to introducing consistency and promoting fairness across the whole system, all secondary care should become chargeable, regardless of where it is provided.

8.7. This consultation is considering whether primary care should become chargeable. It would be remiss to consider charging in primary care and not A&E as there could be unintended consequences of extending charging into one area and not the other.

[7] (whether this is a hospital A&E department or a separate Walk-In Centre, Urgent Care Centre or Minor Injuries Unit)

Proposals for change

8.8. Our proposal for A&E is to extend charging of overseas visitors to cover all treatment provided within all NHS A&E settings, including Walk-In Centres, Urgent Care Centres and Minor Injuries Units (some of which are managed by primary care clinicians).

Exemptions

8.9. We propose that patients who fall into one of the charge-exempt categories identified in section three should also be exempt from any charges in A&E. We intend for all diagnostic tests in this public health category to also remain exempt from charge regardless of the outcome.

8.10. No patient will be charged if the emergency care given is due to an act of terrorism or a natural disaster that occurs in the United Kingdom.

Visitors from EEA Countries

8.11. EEA residents will be asked to produce their EHIC or a PRC or an S2 form as soon as is feasible. If they are unable to produce one, they will be charged at 100% of the cost of treatment.

Visitors from non-EEA Countries

8.12. Non-EEA residents will be charged at 150% of tariff for their treatment, as is currently the case in other areas of secondary care. Depending on the individual and treatment needed, a payment should be secured before treatment where clinically appropriate and an invoice raised as soon as possible thereafter.

8.13. There will be no additional charge for A&E services to those individuals who have paid the health surcharge (or for whom the health surcharge is waived or who are exempt from paying it).

Implementation

8.14. We will work with our stakeholders to understand the challenges for implementation and to mitigate against any negative repercussions.

Questions - Accident and Emergency (A&E)

QUESTION 15: Our proposal for A&E is to extend charging of overseas visitors to cover all treatment provided within all NHS A&E settings, including Walk-In Centres, Urgent Care Centres and Minor Injuries Units.

Please respond using the consultation response form or online questionnaire form.

QUESTION 16: If you disagree or strongly disagree with the proposals in question 15, do you agree that charging should cover care given within an NHS A&E setting if an individual is subsequently admitted to hospital, or referred to an outpatient appointment?

Please respond using the consultation response form or online questionnaire form.

QUESTION 17: Are there any NHS-funded services provided within an NHS A&E setting that should be exempt from a requirement to apply the Charging Regulations (e.g. on public protection grounds)?

Please respond using the consultation response form or online questionnaire form.

QUESTION 18: Do you have any comments on implementation of the A&E proposals?

Please respond using the consultation response form or online questionnaire form.

9. Secondary Care > Ambulance Services

Current rules

9.1. Paramedic and ambulance services are currently exempt from charges as they are not covered under the existing NHS Charging Regulations 2015.

9.2. It is not our intention to restrict access to emergency care or to cause a delay in the provision of immediately necessary and urgent care to any patient. Where treatment is deemed as immediately necessary, it will always be given without seeking prior payment or a deposit before treatment is given. Chargeable treatment which is considered by clinicians to be immediately necessary must never be withheld.

Why the rules need to change

9.3. We do not believe that the current system is fair or consistent if the choice for charging is made dependent on where care is given. This consultation asks the question if charging should be extended to cover emergency care given on NHS premises. It is right that in parallel the question is asked whether all emergency care given by the NHS should become chargeable for those who are not resident in the UK.

Proposals for change

9.4. Our proposal for ambulance services is to introduce charging for all treatment delivered by NHS Ambulance Trusts. This would include any cost incurred for treatment delivered by NHS paramedics, including at the site of an accident, any use of ambulance services, and any treatment carried out outside an A&E department or equivalent.

9.5. We also intend to consider the feasibility of charging for emergency care provided by air ambulances. We will consider how best a contribution could be made to these organisations going forward.

Exemptions

9.6. We propose that patients who fall into one of the charge-exempt categories such as public health concerns identified in section three should also be exempt from any charges.

Visitors from EEA Countries

9.7. EEA residents will be asked to produce their EHIC or a PRC as soon as is feasible. If they are unable to produce either, they will be charged at 100% of the cost of treatment.

Visitors from non-EEA Countries

9.8. Non-EEA residents will be charged at 150% of tariff for their treatment, as is currently the case in other areas of secondary care. Depending on the individual and treatment needed a payment should be secured before treatment at a hospital where appropriate and an invoice raised as soon as possible thereafter.

9.9. There will be no additional charge for NHS ambulance services to those individuals who have paid the health surcharge (or for whom the health surcharge is waived or who are exempt from paying it).

Implementation

9.10. We will work with our stakeholders to consider how to implement any changes once the responses to this consultation have been analysed.

Questions - Ambulance Services

QUESTION 19: Our proposal for ambulance services is to introduce charging for all treatment delivered by NHS Ambulance Trusts. This would include any cost incurred for treatment delivered by NHS paramedics, including at the site of an accident, any use of ambulance services, and any treatment carried out outside an A&E department or equivalent.

Please respond using the consultation response form or online questionnaire form.

QUESTION 20: Do you agree that the Government should charge individuals who receive care by air ambulance?

Please respond using the consultation response form or online questionnaire form.

QUESTION 21: Do you have any comments on implementation of the ambulance service charging proposals?

Please respond using the consultation response form or online questionnaire form.

10. Secondary Care > Assisted Reproduction

Current rules

10.1. Assisted reproduction includes fertility drugs, surgical interventions (e.g. fallopian tube surgery), and assisted conception - both IVF (in vitro fertilization) and IUI (intrauterine insemination).

10.2. The National Institute for Health and Care Excellence (NICE) has published Fertility Guidelines, which include criteria for treatment based on age and time spent trying to become pregnant. It recommends three full cycles of IVF for women who are eligible under these recommendations. While the guidelines are not mandatory, Clinical Commissioning Groups (CCGs) are encouraged to implement them in full. Some CCGs apply additional criteria to eligibility for fertility treatment in their area, such as residency or other social circumstances including children from a previous relationship.

10.3. Individuals who have paid the health surcharge when entering the UK are currently treated in an identical manner to those ordinarily resident in the UK. However, there is scope within the legislation to remove eligibility for particular NHS-funded treatments. We think that there are sufficient grounds to exclude assisted conception services from the range of NHS treatment a surcharge payee can access free at the point of use whilst in England. The cost of the health surcharge is currently £200 per year or £150 per year for a student. The cost of a single full course of IVF is around £5,000.

Why the rules need to change

10.4. We recognise that eligibility for fertility treatment is an area of the NHS in England that is subject to local variation and determined by Clinical Commissioning Groups. This means that a considerable percentage of UK residents who need fertility treatment aren’t able to receive it from the NHS because of limited provision, and so are either deprived of treatment or obliged to pay for it privately, which can cost tens of thousands of pounds. Introducing a standard residency criterion applicable by all CCGs to NHS provision would help recognise and address this. Building on the cost recovery programme's principles of fairness and our desire for transparency in regard to access criteria we believe that a single universal additional criterion of residency status should be implemented throughout England.

10.5. It takes considerable time to demonstrate clinical eligibility for NHS-funded fertility treatment. A couple must have been trying to conceive for 12 months before they can be referred by a GP for further tests. This service is resource intensive and can take a long time to reach its conclusion.

10.6. The cost recovery programme believes that assisted reproduction services should be excluded from the health surcharge because individuals coming to the UK from outside the EEA for a temporary period due to work or study should not be eligible to begin treatment that is likely to be on-going once the visa has come to an end.

Proposals for change

10.7. Our proposals for assisted reproductions are to:

- create a new mandatory residency requirement across England for access to fertility treatments where both partners will need to prove that they are ordinarily resident at the time of treatment before being able to access NHS-funded fertility treatment. For non-EEA nationals, this means both partners must have Indefinite Leave to Remain in order to be classed as OR.

- remove the right to access NHS-funded assisted reproduction services from those who have paid the health surcharge. This will not affect any other care given by the NHS.

Exemptions

10.8. There would be no exemptions from this proposal, except for Armed Forces personnel servicing overseas, and/or their spouses or civil partners, who would not need to prove ordinary residence to access NHS-funded fertility treatment.

Visitors from EEA Countries

10.9. EHICs should not currently be used to access assisted reproduction. We do not plan to change this.

10.10. EEA residents will not be able to access NHS-funded fertility services when visiting the UK.

Visitors from non-EEA Countries

10.11. Non-EEA residents will no longer be able eligible for NHS-funded fertility services by having paid the surcharge.

10.12. Non-EEA residents who are not ordinarily resident (i.e. do not have Indefinite Leave to Remain in the UK) will not be able to access NHS-funded fertility services.

Implementation

10.13. We will work with our stakeholders on the front line to implement any changes made once the results of this consultation have been analysed. We will also work with the Home Office to change the appropriate legislation should this proposal be agreed.

Questions - Assisted reproduction

QUESTION 22: Our proposal for assisted reproduction is to create a new mandatory residency requirement across England for access to fertility treatments where both partners will need to demonstrate they are ordinarily resident (in the case of non-EEA citizens this includes having Indefinite Leave to Remain in the UK) in order for any treatment to begin.

Please respond using the consultation response form or online questionnaire form.

QUESTION 23: We propose removing the right to access NHS funded fertility treatment from those who have paid the health surcharge. This will not affect any other care given by the NHS.

Please respond using the consultation response form or online questionnaire form.

QUESTION 24: Are there any other services that you think we should consider removing access to for those who have paid the health surcharge?

Please respond using the consultation response form or online questionnaire form.

QUESTION 25: Are there any groups of individuals who you believe should continue to have the right to access NHS funded fertility treatment, even if they are not ordinarily resident, and (in the case of non-EEA citizens) do not have Indefinite Leave to Remain in the UK?

Please respond using the consultation response form or online questionnaire form.

11. Non-NHS providers of NHS Care and Out-of-Hospital Care

Current rules

11.1. The Charging Regulations 2015 only require charges to be made to, and recovered from, overseas visitors when services are provided to them under certain conditions.

11.2. Firstly, the organisations that can make and recover charges are limited to 'relevant NHS bodies.' Currently this applies only to NHS Trusts, NHS Foundation Trusts and Local Authorities exercising public health functions within the meaning of the NHS Act 2006. Any non-NHS body that provides NHS-funded healthcare on behalf of the NHS cannot apply charges to overseas visitors, regardless of whether those overseas visitors would be chargeable for services provided by a relevant NHS body.

11.3. Secondly, there is an exemption category within the Charging Regulations 2015 for "services provided otherwise than at, or by staff employed to work at, or under the direction of, a hospital" (Regulation 9(b)).

Why the rules need to change

11.4. Overseas visitors who access NHS-funded services that are provided by an NHS Trust or NHS Foundation Trust are charged (unless they are exempt), but other overseas visitors who access similar NHS-funded services provided by a non-NHS body receive those services free of charge. We believe this is unfair and needs to change.

11.5. Overseas visitors accessing NHS services in a hospital are charged (unless they are exempt), but if the same services are provided outside the hospital setting (by a member of staff that is not employed or directed by a hospital) then no charge can be applied to the overseas visitor . This means that overseas visitors cannot usually be charged for community services even if these services are identical to chargeable services provided in a hospital.

Proposals for change

11.6. Our proposal for non-NHS providers and out-of-hospital care is to standardise the rules so that NHS-funded care is chargeable to non-exempt overseas visitors wherever, and by whomever, it is provided.

Exemptions

11.7. We propose that patients who fall into one of the charge-exempt categories identified in section three should also be exempt from any charges for care provided in other settings or by non-NHS providers.

11.8. We are also seeking views through this consultation as to whether there are some services which should always be exempt from charging, for example on public protection grounds.

Visitors from EEA Countries

11.9. We will reclaim the costs of NHS-funded care from the home country of EEA residents wherever, and by whomever, it is provided. EEA residents will be asked to produce their EHIC, PRC or S1 as soon as is feasible. If they are unable to produce one, they will be charged at 100% of the cost of treatment.

Visitors from non-EEA Countries

11.10. Non-EEA residents to whom surcharge arrangements do not apply will be charged at 150% of tariff for their treatment wherever, and by whomever, it is provided, as is currently the case in other areas of secondary care. Depending on the individual and treatment needed a payment should be secured before treatment where appropriate and an invoice raised as soon as possible thereafter.

11.11. There will be no additional charge to those individuals who have paid the health surcharge.

Implementation

11.12. We will work with providers of these services to establish how best to achieve any changes once the results of this consultation have been analysed. We will publish the outcome in our Implementation Plan.

Questions - Non-NHS providers of NHS care and Out-of-Hospital care

QUESTION 26: Our proposal for non-NHS providers and out-of-hospital care is to standardise the rules so that NHS funded care is chargeable to non-exempt overseas visitors wherever, and by whomever, it is provided.

Please respond using the consultation response form or online questionnaire form.

QUESTION 27: Are there any non-NHS providers that should be exempt from a requirement to apply the Charging Regulations?

Please respond using the consultation response form or online questionnaire form.

QUESTION 28: Are there any NHS-funded services provided outside hospital that should be exempt from a requirement to apply the Charging Regulations (e.g. on public protection grounds)?

Please respond using the consultation response form or online questionnaire form.

QUESTION 29: Are you aware of any data on the number of overseas visitors that access NHS funded care provided by non-NHS bodies, or outside the hospital setting (and when the providers of that care are not hospital employed or directed staff)?

Please respond using the consultation response form or online questionnaire form.

12. NHS Continuing Healthcare

Current rules

12.1. NHS Continuing Healthcare (NHS CHC), also known as NHS continuing care or "fully funded NHS care", is free care provided outside hospitals, but arranged and funded by the NHS. It can be provided in a person's own home or in a registered care home.

12.2. To be eligible for NHS CHC, a person must be assessed by a multidisciplinary team and determined to have a "primary health need". Whether or not someone has a primary health need is assessed by looking at all of their care needs as a whole across 12 care domains and areas of need and relating them to:

- what help is needed;
- how complex the person's needs are;
- how intense or severe these needs can be; or
- how unpredictable they are, including any risks to the person's health if the right care isn't provided at the right time.

12.3. Eligibility for NHS CHC depends on assessed needs, and not on any particular diagnosis or condition.

12.4. A person not eligible for NHS CHC but assessed as requiring nursing care in a care home providing registered nursing care is eligible for "NHS-funded Nursing Care" (NHS FNC). This means that the NHS will pay a contribution towards the cost of his or her registered nursing care in a care home, irrespective of who is funding the rest of the care home fees.

12.5. Dependent on the nature of the services provided as part of a package of care and the body providing these services, NHS CHC and NHS FNC do not fall in the scope of the NHS Charging Regulations 2015. This is because the regulations only cover care provided in a hospital setting, or under the direction of hospital staff.

Why the rules need to change

12.6. We do not have data on whether any patients who are not ordinarily resident in the UK are receiving these services. The nature of the care provided means it can be very expensive so even relatively few cases would have significant resource implications. One possible example could be someone on a multiple-entry visitor visa who becomes too ill to return home.

12.7. In order to decide whether or not to bring NHS CHC into the scope of the Charging Regulations so that we can charge for it if a patient is not ordinarily resident in the UK, we would like to know whether there are any cases where this is already happening, or may happen in future.

Question - NHS Continuing Healthcare

QUESTION 30: Are you aware of circumstances where someone who may not be ordinarily resident in the UK is receiving NHS Continuing Healthcare or NHS-funded Nursing Care?

Please respond using the consultation response form or online questionnaire form.

QUESTION 31: Do you think NHS Continuing Healthcare and NHS-funded Nursing Care should be covered by the NHS Charging Regulations?

Please respond using the consultation response form or online questionnaire form.

13. Defining residency for EEA Nationals

Current rules

13.1. Entitlement to free NHS healthcare is residency-based. Ordinary residence in the UK, as described earlier, is not defined in law. It takes its meaning from case law as **living in the UK lawfully, voluntarily and for settled purposes as part of the regular order of your life for the time being.**

13.2. Ordinary residence can be of long or short duration and there is no period of residence required before which a person can qualify, therefore a person can be ordinarily resident in the UK immediately upon moving here if they do so lawfully and with settled intent to remain. A person can also be ordinarily resident in more than one country if, for example, they regularly spend part of the year in the UK and the rest of the year in another country.

13.3. Since April 2015, non-EEA nationals subject to immigration control are required to have 'indefinite leave to remain' (i.e. permission to reside here permanently), as well as being in the UK lawfully and for settled purposes, in order to be considered ordinarily resident and entitled to free NHS healthcare.

13.4. The OR definition does not expressly reflect the operation of European legislation relating to member state responsibility for publicly funded healthcare[8]. Therefore, EEA nationals can become ordinarily resident in the UK even if their country of origin could remain the country responsible for their healthcare costs (known as 'the country of applicable legislation'). This can apply, for example, to European students, posted workers and 'frontier workers' who reside in the UK but choose to work (e.g. daily or weekly) in another European Union member state.

13.5. Another example is a pensioner who lives in the UK but for whose healthcare costs another member state is responsible, or 'competent', because they pay that person's pension. This group of people should register an S1 form in the UK upon moving here in order for the UK to receive funding for their healthcare, but they are also likely to become ordinarily resident in the UK under the current definition.

13.6. This means that students, pensioners and workers who are entitled to obtain EHICs or S1s so the UK can recover the costs of their healthcare often do not do so. Because they are also ordinarily resident in the UK, the NHS misses out on this chance to reclaim funding from the EEA member state responsible for covering their costs.

[8] EU Social Security Coordination Regulations (Regulations 883/2004 and 1408/71) are meant to operate so that only one EEA member state is responsible for a person's social security provision (including healthcare) at any one time (that member state being known as the 'country of applicable legislation'). This is usually the country in which they work or are 'habitually resident'. Habitual residence is a term recognised and applicable across the EEA as the country in which a person's 'centre of interest lies'. Whilst similar to ordinary residence, one major difference is that a person can only be habitually resident in one country at a time.

Why the rules need to change

13.7. We do not believe it is consistent with the intention of existing legislation that people who are entitled to have healthcare costs covered by another EEA member state should also become ordinarily resident in the UK for the purposes of free NHS healthcare.

13.8. We want to amend legislation so that EEA nationals who are insured by their European countries of origin (meaning that they are entitled to healthcare in that country) must present an EHIC, PRC or S1, or otherwise be charged for any non-exempt NHS healthcare they receive, and that those moving here who have their pension paid by another member state must register S1 forms here where the other state is responsible for their healthcare costs.

Proposals for change

13.9. Our proposal for defining residency for EEA nationals is to bring English legislation in line with EU legislation so that there is no additional domestic entitlement that interferes with our right to be fairly funded. We propose to exclude EEA nationals from being considered ordinarily resident in the UK for the purposes of receiving free NHS healthcare if another member state is the country of applicable legislation or otherwise responsible for funding their health care.

13.10. We would achieve this by amending legislation relating to overseas visitors using Regulations under section 2(2) of the European Communities Act 1972.

13.11. This will mean that all EEA nationals who hold, or are entitled to hold, non-UK EHICs should present that EHIC (or a PRC or S1) to access healthcare or risk being charged directly.

13.12. Those for whom another member state is the country of applicable legislation and are not entitled to hold an EHIC from that country will also be charged for chargeable NHS services.

13.13. It will also mean that those EEA nationals who are entitled to hold a non-UK S1 must register that S1 to allow the UK to receive the funding to which it is entitled, otherwise they may be charged at 100% of tariff.

Exemptions

13.14. We propose that patients who fall into one of the charge-exempt categories identified in section three should remain exempt from any direct charges, although EHICs, PRCs and S1s can still be used to recover costs where appropriate.

Implementation

13.15. We will work with the NHS to establish the best way to implement any changes to the definition of ordinary residence.

13.16. We will work closely with the Devolved Administrations in implementing any changes to the definition of residency for EEA nationals, as they may wish to make similar amendments to their own legislation to maximise recovery of funding owed to the UK.

Question - Defining Residency for EEA Nationals

QUESTION 32: Our proposal for defining residency for EEA nationals is to exclude EEA nationals from being considered ordinarily resident in the UK for the purposes of receiving free NHS healthcare if another member state is the country of applicable legislation or otherwise responsible for funding their health care.

Do you agree?

Please respond using the consultation response form or online questionnaire form.

14. Recovering NHS debt of visitors resident outside the EEA

Current rules

14.1. The immigration health surcharge is not paid by those who make an application to come to the UK for less than 6 months and those who come to the UK on visitor visas. Instead, these groups are chargeable for healthcare they receive, as and when they receive it.

14.2. Where NHS debt is incurred by these visitors who then leave the UK without paying, the current approach taken to cost recovery by NHS providers is generally to use overseas debt collection agencies. This route is both expensive and without guarantee of any financial return.

14.3. The only other mechanism currently available to deter overseas patients from leaving their NHS bills unpaid is the "NHS debtors rule". Under this rule, individuals who do not settle debts of at least £1,000 within three months are placed on the Home Office systems. They will normally be refused permission to re-enter or extend their stay in the UK.

14.4. Visitors have to show they are able to financially support themselves in the UK in order to receive a visitor visa. This financial support can be provided by a third party who is legally in the UK at the time of the visit. At the moment, where NHS debt is incurred and is not repaid by the individual, the third party has no liability in regard to that debt.

14.5. We intend to explore whether it would be possible to make individuals who support a visitor's application liable for the unpaid bills for NHS treatment of the individuals they are providing financial support to. This would apply in those cases where an individual shows that they are able to financially support a visitor, where that visitor can not otherwise show that they have sufficient funds available whilst they are in the UK. These individuals would usually be UK residents and therefore easier to pursue for unpaid debt.

Why the rules need to change

14.6. The NHS currently writes off up to £17million of debt each year incurred by overseas visitors. We are investigating options for reducing this amount.

Proposals for change

14.7. Our proposal for recovering NHS debt of visitors resident outside the EEA is that where NHS debt is incurred and is not repaid by a visitor, payment should be sought from the individual providing third party financial support of their application when the visitor can not otherwise show that they have sufficient funds available whilst they are in the UK.

Exemptions

14.8. This proposal does not apply to EEA residents, nor does it apply to formal sponsors (e.g. employer/university) of non-EEA migrants.

Implementation

14.9. We will work closely with Home Office, the Department for Business, Innovation and Skills, UK Trade and Investment, and the Devolved Administrations to decide the best way to implement any changes.

Questions - Recovering NHS debt of visitors resident outside the EEA

QUESTION 33: Our proposal for recovering NHS debt of visitors resident outside the EEA is that where NHS debt is incurred and is not repaid by a visitor, payment should be sought from the individual providing third party financial support of their application when the visitor can not otherwise show that they have sufficient funds available whilst they are in the UK.

Do you agree?

Please respond using the consultation response form or online questionnaire form.

QUESTION 34: Do you have any evidence on the impact of this proposal on NHS cost recovery or any comments on the implementation of such a proposal?

Please respond using the consultation response form or online questionnaire form.

15. Overseas visitors working on UK-registered ships

Current rules

15.1. Under the Charging Regulations there is an exemption from NHS charges for those overseas visitors employed in any capacity on board a ship that is registered in the UK.[9]

15.2. This means any overseas visitor employed on a UK registered ship receives free NHS healthcare, regardless of whether they have any past or current connection with the UK.

15.3. However, overseas visitors who are employed on ships that are not registered in the UK do not benefit from a similar exemption.

15.4. The Regulations require employers, not the ship workers themselves, to be liable for the cost of the NHS hospital treatment if certain conditions are met. The conditions are that the overseas visitor is employed or engaged in work on a ship, where the normal place of work of the overseas visitor is on board a ship, and that the overseas visitor is present in the UK in the course of that employment.

Why the rules need to change

15.5. The exemption for workers on UK-registered ships means that the NHS has to absorb the costs of treatment that would otherwise fall to their employer. Whilst the numbers involved are likely to be low, we consider that it is fairer to the taxpayer to remove this exemption.

15.6. It is also fairer if the rules are the same for any overseas worker employed on a ship, regardless of where that ship is registered.

Proposals for change

15.7. Our proposal for overseas visitors working on UK-registered ships is to remove their exemption from NHS charges. This will mean that the employers of all overseas visitors employed on ships are liable for the cost of NHS hospital treatment in England, regardless of where the ship is registered.

---

[9] (Regulation 23): "No charge may be made or recovered in respect of any relevant services provided to an overseas visitor who is employed or engaged or working in any capacity on board a ship and whose normal place of work is on board a ship, where that ship is registered in the United Kingdom."

Exemptions

15.8. We propose that patients who fall into one of the charge-exempt categories identified in section three should remain exempt from any direct charges, although EHICs, PRCs and S1 can still be used to recover costs where appropriate.

Implementation

15.9. We will work closely with the Devolved Administrations in deciding the best way to implement any changes to NHS charges for overseas visitors working on UK-registered ships.

15.10. Since there is already provision within the Charging Regulations requiring the NHS to charge the employer of an overseas visitor employed on a non-UK registered ship, we do not believe our proposal will be a significant additional burden on the NHS upon implementation.

Question - Overseas visitors working on UK-registered ships

QUESTION 35: Our proposal for overseas visitors working on UK-registered ships is to remove their exemption from NHS charges.

Please respond using the consultation response form or online questionnaire form.

16. Further areas for consideration

QUESTION 36: Do you think there are any other healthcare services not mentioned in this consultation that you feel we should consider for the extension of charging?

Please respond using the consultation response form or online questionnaire form.

QUESTION 37: Do you have any comments on the assumptions made in the impact assessment accompanying this consultation?

Please respond using the consultation response form or online questionnaire form.

17.How will proposed changes affect…?

17.1 EEA Residents with a European Health Insurance Card (EHIC)

	Current position	New proposal
Primary Medical Care	GP/nurse consultations and all treatment is free of charge. However, for each GP appointment for which EHIC card details are recorded, £41 can be reclaimed from patient's home country. Practices do not do so due to lack of awareness.	No change - GP/nurse consultation and any other treatment is free to the patient – costs are recovered from their home country.
A&E and ambulances	A&E ambulance services are currently exempt from charges. Overseas visitors and short term migrants currently start being charged at the point of being admitted to hospital as an in-patient.	EEA residents will be asked to produce their EHIC (or Provisional Replacement Certificate) as soon as is feasible. The cost of all their treatment will be reclaimed from their home country.
Prescriptions	If not in an existing prescription exemption category, patient pays NHS prescription charge. Pharmacists currently do not collect EHIC data. If in an existing exemption category, patient does not pay prescription charge.	If not in a prescription exemption category, patient pays NHS prescription charge. We will reclaim the balance of cost of drugs provided from their home country via the EHIC. If in a prescription exemption category, patient does not pay prescription charge.
Dentistry	If not in an existing dentistry exemption category, patient pays NHS banded dentistry charge (or private charge if patient so chooses). Dentists currently do not collect EHIC data. If in existing dentistry exemption category, patient is exempt from charge.	If not in an existing dentistry exemption category, patient pays NHS banded dentistry charge. We will reclaim the balance of cost of treatment provided from their home country using the EHIC. If in existing dentistry exemption category, patient is exempt from charge.
Eye-Care	Entitlement to a free NHS sight test is not currently based on residency or nationality but eligibility criteria as defined in primary legislation. Everyone who meets the eligibility criteria is entitled to a free eye test.	No change to current arrangements for EHIC holders. We are not proposing EHIC collection due to large number of private providers and assumed low volumes of patients (cost/benefit ratio low).
NHS services provided outside hospital	No non-NHS body providing NHS-funded healthcare can apply charges to overseas visitors.	Make NHS funded care reclaimable via EHIC from the home country of non-exempt EEA residents wherever, and by whomever, it is provided.

17.2 EEA Residents with no European Health Insurance Card (EHIC) or PRC/S1/S2

	Current position	New proposal
Primary Medical Care	Charging regulations do not currently apply in primary care. Consultations and all treatment is free of charge.	GP/nurse consultations remain free. Charge 100% of costs for any other treatment (unless an exemption described in section three applies).
A&E and ambulances	A&E ambulance services are currently exempt from charges. EEA residents without an EHIC currently start being charged at the point of being admitted as an in-patient.	EEA residents will be asked to produce an EHIC (or a Provisional Replacement Certificate) as soon as is feasible. If they are unable to produce either they will be charged at 100% of the cost of treatment.
Prescriptions	If not in a prescription exemption category, patient pays NHS prescription charge. If in a prescription exemption category, patient does not pay prescription charge.	If not in a prescription exemption category, patient pays NHS prescription charge. We cannot reclaim the balance of cost of drugs provided from their home country without an EHIC. If in a prescription exemption category, patient does not pay prescription charge.
Dentistry	If not in an existing dentistry exemption category, patient pays NHS banded dentistry charge (or private charge if patient so chooses). If in existing dentistry exemption category, patient is exempt from charge.	If not in an existing dentistry exemption category, patient pays NHS banded dentistry charge. No money can be recovered from home country without an EHIC. If in existing dentistry exemption category, patient is exempt from charge.
Eye-Care	Entitlement to a free NHS sight test is not currently based on residency or nationality but eligibility criteria as defined in primary legislation. Everyone who meets the eligibility criteria is entitled to receive a free eye test.	No changes planned to current arrangements for EEA residents.
NHS services provided outside hospital	No non-NHS body providing NHS-funded healthcare can apply charges to overseas visitors.	Care becomes chargeable at 100% of cost for non-exempt EEA residents without an EHIC or PRC wherever, and by whomever, it is provided.

17.3 Non-EEA Residents who have paid the health surcharge

	Current position	New proposal
Primary Medical Care	Charging regulations do not currently apply in primary care. Consultations and all treatment is free of charge.	No further charge will be made as health surcharge has been paid.
A&E and ambulances	A&E ambulance services are currently exempt from charges. Surcharge payees do not pay any further charges for the healthcare they receive.	No further charge will be made as health surcharge has been paid.
Prescriptions	If not in an existing prescription exemption category, patient pays NHS prescription charge. If in an existing exemption category, patient does not pay NHS prescription charge.	If not in an existing prescription exemption category, patient pays NHS prescription charge. If in an existing exemption category, patient does not pay prescription charge. Exemptions will not be removed since surcharge payers are to be treated in the same way as UK residents.
Dentistry	If not in an existing dentistry exemption category, patient pays NHS banded dentistry charge (or private charge if patient so chooses). If in existing dentistry exemption category, patient is exempt from charge.	If not in an existing dentistry exemption category, patient pays NHS banded dentistry charge (or private charge if patient so chooses). If in existing dentistry exemption category they will be exempt from the NHS banded dentistry charges. Exemptions will not be removed since surcharge payers are to be treated in the same way as UK residents.
Eye-Care	Entitlement to a free NHS sight test is not currently based on residency or nationality but eligibility criteria as defined in primary legislation. Everyone who meets the eligibility criteria is entitled to receive a free eye test.	No change to current arrangements due to surcharge rules about equal treatment with UK residents.
NHS services provided outside hospital	No non-NHS body providing NHS-funded healthcare can apply charges to overseas visitors.	No further charge will be made as health surcharge has been paid.

17.4 Non-EEA Residents who have not paid the health surcharge

	Current position	New proposal
Primary Medical Care	Charging regulations do not currently apply in primary care. Consultations and all treatment is free of charge.	GP/nurse consultations remain free. Charge for any other treatment (unless an exemption described in section three applies).
A&E and ambulances	A&E ambulance services are currently exempt from charges. Overseas visitors and short term migrants currently start being charged at the point of being admitted as an in-patient.	Non-EEA residents not subject to surcharge arrangements will be charged at 150% of tariff for their treatment. Depending on the individual and treatment needed a payment should be secured before treatment where appropriate and an invoice raised as soon as possible.
Prescriptions	If not in an existing prescription exemption category, patient pays NHS prescription charge. If in an existing exemption category, patient does not pay prescription charge.	Remove prescription exemptions so all non-EEA residents not subject to surcharge arrangements pay the NHS prescription charge unless patient meets current criteria and an exemption described in section three applies.
Dentistry	If not in an existing dentistry exemption category, patient pays NHS banded dentistry charge (or private charge if patient so chooses). If in existing dentistry exemption category, patient is exempt from charge.	Remove dentistry exemptions so all non-EEA residents not subject to surcharge arrangements unless patient meets current criteria and an exemption described in section three applies.
Eye-Care	Entitlement to a free NHS sight test is not currently based on residency or nationality but eligibility criteria as defined in primary legislation. Everyone who meets the eligibility criteria is entitled to receive a free eye test.	Remove eligibility for a free NHS sight test and optical voucher for all non-EEA residents not subject to surcharge arrangements unless patient meets current criteria and an exemption described in section three applies.
NHS services provided outside hospital	No non-NHS body providing NHS-funded healthcare can apply charges to overseas visitors.	Care will be chargeable for non-exempt non-EEA residents to whom surcharge arrangements do not apply at 150% of tariff wherever, and by whomever, it is provided.

18. Summary of Questions

Please respond using the consultation response form or online questionnaire form.

Questions - Equalities and Health Inequalities

QUESTION 1: We propose to apply the existing secondary care charging exemptions to primary medical care and emergency care.

QUESTION 2: Do you have any views on how the proposals in this consultation should be implemented so as to avoid impact on:

- people with protected characteristics as defined under the Equality Act 2010;
- health inequalities; or
- vulnerable groups?

Questions - Primary Medical Care

QUESTION 3: We propose recovering costs from EEA residents visiting the UK who do not have an EHIC (or PRC).

Do you agree?

QUESTION 4: We propose recovering costs from non-EEA nationals and residents to whom health surcharge arrangements do not apply.

Do you agree?

QUESTION 5: We have proposed that GP and nurse consultations should remain free to all on public protection grounds.

Do you agree?

QUESTION 6: Do you have any comments on implementation of the primary medical care proposals?

Questions - NHS Prescriptions

QUESTION 7: We propose reclaiming the balance of cost of drugs and appliances provided to EEA residents who hold an EHIC (or PRC) (over and above the prescription charge paid by the patient) from the EEA country that issued the EHIC/PRC.

Do you agree?

QUESTION 8: We propose removing prescription exemptions for non-EEA residents to whom surcharge arrangements do not apply and who are not in one of the charge-exempt categories identified in section three.

Do you agree?

QUESTION 9: Do you have any comments on implementation of the NHS prescriptions proposals?

Questions - Primary NHS Dental Care

QUESTION 10: We propose reclaiming the balance of cost of NHS dental treatment provided to EEA residents with EHICs or PRCs (over and above the banded charge paid by the patient) from their home country.

Do you agree?

QUESTION 11: We propose removing NHS dental charge exemptions from non-EEA residents to whom surcharge arrangements do not apply and who are not in one of the charge-exempt categories identified in section three.

QUESTION 12: Do you have any comments on implementation of the primary NHS dental care proposals?

Questions - Primary NHS Ophthalmic Services (Eye Care)

QUESTION 13: We propose removing eligibility for an NHS sight test and optical voucher from non-EEA residents to whom surcharge arrangements do not apply and who are not in one of the charge-exempt categories identified in section three.

Do you agree?

QUESTION 14: Do you have any comments on implementation of the primary NHS ophthalmic services proposals?

Questions - Accident and Emergency (A&E)

QUESTION 15: Our proposal for A&E is to extend charging of overseas visitors to cover all treatment provided within all NHS A&E settings, including Walk-In Centres, Urgent Care Centres and Minor Injuries Units.

Do you agree?

QUESTION 16: If you disagree or strongly disagree with the proposals in question 15, do you agree that charging should cover care given within an NHS A&E setting if an individual is subsequently admitted to hospital, or referred to an outpatient appointment?

QUESTION 17: Are there any NHS-funded services provided within an NHS A&E setting that should be exempt from a requirement to apply the Charging Regulations (e.g. on public protection grounds)?

QUESTION 18: Do you have any comments on implementation of the A&E proposals?

Questions - Ambulance Services

QUESTION 19: Our proposal for ambulance services is to introduce charging for all treatment delivered by NHS Ambulance Trusts. This would include any cost incurred for treatment delivered by NHS paramedics, including at the site of an accident, any use of ambulance services, and any treatment carried out outside an A&E department or equivalent.

QUESTION 20: Do you agree that the Government should charge individuals who receive care by air ambulance?

QUESTION 21: Do you have any comments on implementation of the ambulance service charging proposals?

Questions - Assisted reproduction

QUESTION 22: Our proposal for assisted reproduction is to create a new mandatory residency requirement across England for access to fertility treatments where both partners will need to demonstrate they are ordinarily resident (in the case of non-EEA citizens this includes having Indefinite Leave to Remain in the UK) in order for any treatment to begin.

Do you agree?

QUESTION 23: We propose removing the right to access NHS funded fertility treatment from those who have paid the health surcharge. This will not affect any other care given by the NHS.

Do you agree?

QUESTION 24: Are there any other services that you think we should consider removing access to for those who have paid the health surcharge?

QUESTION 25: Are there any groups of individuals who you believe should continue to have the right to access NHS funded fertility treatment, even if they are not ordinarily resident, and (in the case of non-EEA citizens), do not have Indefinite Leave to Remain in the UK?

Questions - Non-NHS providers of NHS care and Out-of-Hospital care

QUESTION 26: Our proposal for non-NHS providers and out-of-hospital care is to standardise the rules so that NHS funded care is chargeable to non-exempt overseas visitors wherever, and by whomever, it is provided.

QUESTION 27: Are there any non-NHS providers that should be exempt from a requirement to apply the Charging Regulations?

QUESTION 28: Are there any NHS-funded services provided outside hospital that should be exempt from a requirement to apply the Charging Regulations (e.g. on public protection grounds)?

QUESTION 29: Are you aware of any data on the number of overseas visitors that access NHS funded care provided by non-NHS bodies, or outside the hospital setting (and when the providers of that care are not hospital employed or directed staff)?

Question - NHS Continuing Healthcare

QUESTION 30: Are you aware of circumstances where someone who may not be ordinarily resident in the UK is receiving NHS Continuing Healthcare or NHS-funded Nursing Care?

QUESTION 31: Do you think NHS Continuing Healthcare and NHS-funded Nursing Care should be covered by the NHS Charging Regulations?

.

Question - Defining Residency for EEA Nationals

QUESTION 32: Our proposal for defining residency for EEA nationals is to exclude EEA nationals from being considered ordinarily resident in the UK for the purposes of receiving free NHS healthcare if another member state is the country of applicable legislation or otherwise responsible for funding their health care.

Do you agree?

Questions - Recovering NHS debt of visitors resident outside the EEA

QUESTION 33: Our proposal for recovering NHS debt of visitors resident outside the EEA is that where NHS debt is incurred and is not repaid by a visitor, payment should be sought from the individual providing third party financial support of their application when the visitor can not otherwise show that they have sufficient funds available whilst they are in the UK.

Do you agree?

QUESTION 34: Do you have any evidence on the impact of this proposal on NHS cost recovery or any comments on the implementation of such a proposal?

Question - Overseas visitors working on UK-registered ships

QUESTION 35: Our proposal for overseas visitors working on UK-registered ships is to remove their exemption from NHS charges.

Questions - Further areas for consideration

QUESTION 36: Do you think there are any other healthcare services not mentioned in this consultation that you feel we should consider for the extension of charging?

QUESTION 37: Do you have any comments on the assumptions made in the impact assessment accompanying this consultation?

19. How to respond to the consultation

Responding to the consultation

We welcome responses to all of the questions above as well as any additional comments that you would like to make.

Please submit your responses to the questions and any other comments that you have by 5pm on 7 March 2016.

A link to the online response form can be found alongside this document on our website. Please use this to record your responses and comments.

Alternatively, you can email your responses to:

nhscostrecovery@dh.gsi.gov.uk

If you do not have internet or e-mail access, then please write to:

Cost Recovery Programme

Department of Health

506 Richmond House

79 Whitehall

London SW1A 2NS

If you wish to do so, you can request that your name and/or organisation be kept confidential and excluded from the published summary of responses.

Please note that we may use your details to contact you about your responses or to send you information about our future work. We do not intend to send responses to each individual respondent. However, we will analyse responses carefully and give clear feedback on how we have developed the implementation plan as a result.

Comments on the consultation process

If you have concerns or comments which you would like to make relating specifically to the consultation process itself please contact:

Consultations Coordinator

Department of Health

2e26, Quarry House

Leeds

LS2 7UE

e-mail consultations.co-ordinator@dh.gsi.gov.uk

Please do not send consultation responses to this address.

Confidentiality of information

We manage the information you provide in response to this consultation in accordance with the Department of Health's Information Charter.

Information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

Annex A: European Economic Area (EEA) countries

Austria

Belgium

Bulgaria

Croatia

Republic of Cyprus

Czech Republic

Denmark

Estonia

Finland

France

Germany

Greece

Hungary

Iceland

Ireland

Italy

Latvia

Liechtenstein

Lithuania

Luxembourg

Malta

Netherlands

Norway

Poland

Portugal

Romania

Slovakia

Slovenia

Spain

Sweden

Switzerland (not an EEA member but is part of the single market: Swiss nationals therefore have the same rights to live and work in the UK as other EEA nationals)

Annex B: Reciprocal Agreement countries

The level of coverage of free treatment, and who the agreements extend to, vary depending on the terms of the individual agreements.

The agreements relating to those countries marked with an asterisk will terminate from 1 January 2016.

Anguilla

*Armenia

Australia

*Azerbaijan

Barbados

*Belarus

Bosnia and Herzegovina

British Virgin Islands

Falkland Islands

*Georgia

Gibraltar

Isle of Man

Jersey

*Kazakhstan

Kosovo

*Kyrgyzstan

Macedonia

*Moldova

Montenegro

Montserrat

New Zealand

*Russia

Serbia

St Helena

*Tajikistan

*Turkmenistan

Turks and Caicos Islands

*Ukraine

*Uzbekistan

Annex C: Infectious diseases which are exempt from the Charging Regulations

Specified infectious diseases which are currently exempt from charging[10]

Acute encephalitis

Acute poliomyelitis

Anthrax

Botulism

Brucellosis

Cholera

Diphtheria

Ebola - see Viral haemorrhagic fever

Enteric fever (typhoid and paratyphoid fever)

Food poisoning

Haemolytic uraemic syndrome (HUS)

Human immunodeficiency virus (HIV)

Infectious bloody diarrhoea

Invasive group A streptococcal disease and scarlet fever

Invasive meningococcal disease (meningococcal meningitis, meningococcal septicaemia and other forms of invasive disease)

Legionnaires' Disease

Leprosy

Leptospirosis

Malaria

Measles

Mumps

Pandemic influenza (defined as the 'Pandemic Phase'), or influenza that might become pandemic (defined as the 'Alert Phase') in the World Health Organization's Pandemic Influenza Risk Management Interim Guidance

Plague

Rabies

[10] Please note that despite these services being free to the patient, in the case of insured visitors or students from the European Economic Area (EEA), the UK can still be reimbursed by the relevant EEA member state for having provided these individuals with medically necessary treatment, if the patient has a non-UK European Health Insurance Card (EHIC), or PRC for the EHIC. Relevant NHS bodies are encouraged to record and report EHICs/PRCs whenever possible for such patients accessing 'exempt' services.

Rubella

Severe acute respiratory syndrome (SARS)

Smallpox

Tetanus

Tuberculosis

Typhus

Viral haemorrhagic fever (which includes Ebola)

Viral hepatitis

Whooping cough

Yellow fever

Annex D: Current exemptions from NHS Prescription Charges

Adults aged 60 and over

Children under 16

Young people aged 16, 17 and 18 who are in full time education

Pregnant women and women who have had a child in the previous 12 months and who hold a valid exemption certificate

Someone with a specified medical condition and who holds a valid medical exemption certificate (MedEx)

People who hold a valid exemption certificate for a War Disablement but only in respect of medication for the disablement

The patient is named on an HC2 charges certificate for full help (under NHS Low Income Scheme)

The patient, the patient's partner and any dependant young people aged under 20 included in an award of

Income Support

Pension Credit Guarantee Credit, with or without a Savings Credit element (entitles partners who are under 60 and any dependent young person under 20 who are included in the claim, recipients are entitled on age grounds)

Income-based Jobseeker's Allowance (with or without a contribution based element)

Income-related Employment and Support Allowance (with or without a contribution based element)

Tax credit where income is £15,276 (from 6 April 2010) per year or less and one of the following applies (and they have a valid NHS tax credit exemption certificate):

working tax credit with a disability element or severe disability element;

child tax credit.

Universal Credit (until 31 October 2015)

There is no charge for:

prescribed contraceptives

a sexually transmissible infection (STI)

medication supplied to hospital in-patients

medication supplied to an in-patient on the day of discharge

medication administered at a hospital or Walk in Centre or under a Patient Group Direction

medication supplied by a GP and administered personally by the GP or supplied by a GP for immediate treatment

a listed medicine supplied by arrangement by the Secretary of State during an emergency

Direct supply of NHS medicines by a hospital, commissioned service or a Patient Group Direction (PGD) supplied for the treatment of:

for a patient subject to a community treatment order, in respect of any drug supplied to that patient for the treatment of a mental disorder

medication for the treatment of tuberculosis where the medication is supplied at a hospital, by a commissioned service or PGD.

Annex E: Current exemptions from NHS Dental Charges

Aged under 18

Aged under 19 and receiving full-time education

Pregnant or who have given birth to a child in the previous 12 months

Staying in an NHS hospital and their treatment is carried out by the hospital dentist

An NHS hospital dental service outpatient (however, the patient may have to pay for dentures or bridges).

Current exemptions to NHS dental treatment charges also include those who, when the treatment starts, are in receipt of:

Income Support

Income-related Employment and Support Allowance

Income-based Jobseeker's Allowance

Pension Credit guarantee credit

Universal Credit:

Or they are named on a valid NHS tax credit exemption certificate or are entitled to an NHS tax credit exemption certificate; or are named on a valid HC2 certificate.

The patient may be entitled to partial help if their name is on a valid HC3 certificate. In this case, they may not have to pay for all their treatment.