NATIONAL HEALTH SERVICE

IMPLEMENTING THE OVERSEAS VISITORS HOSPITAL CHARGING REGULATIONS

GUIDANCE FOR NHS TRUST HOSPITALS IN ENGLAND

Foreword by John Hutton, Minister of State for Health

The National Health Service is first and foremost for the benefit of people who live in the United Kingdom. There have long been arrangements in place to allow the NHS to charge people who do not live here for NHS hospital treatment. Over time, however, those arrangements, and the Regulations which govern them, have become less effective as patterns of employment and migration have changed. You, the NHS, have told us what abuses are occurring and what rule changes you would like made. In December 2003 I announced a wide-ranging set of changes to the hospital charging Regulations. The changes will close existing loopholes that have allowed overseas visitors with no substantive connection with the UK to receive free NHS hospital treatment.

These changes, which come into effect on 1 April 2004, are the Government's response to the concerns and abuses which the NHS have brought to our attention. But this is an issue that is also of real concern to the general public, not just the NHS. They know that there are rules about who is entitled to receive free hospital treatment and they expect those rules to be properly enforced. The Regulations place a clear legal duty on the NHS to implement the charging regime, and I expect trusts to make enforcement of the Regulations part of their core business.

The purpose of this document is to support NHS trusts in their role by providing detailed guidance on how to interpret the Regulations, together with advice on the actions trusts are likely to need to take to fulfil the obligations placed on them by the Regulations. Although similar guidance has been available in the past, it has never been as explicit as this is, giving clear advice on how to operate the charging regime at the frontline. For example, it clearly recommends, for the first time, the appointment of a dedicated Overseas Visitors Manager in every trust. That does not, of course, mean that a brand new post needs to be set up – many trusts who already have Overseas Visitors Managers choose to combine the role with other similar functions, such as Private Patients Manager. The guidance also, again for the first time, offers suggestions as to the types of evidence which might be accepted to confirm that exemption criteria can be met.

With the changes to the charging Regulations, and their proper enforcement, we can ensure that, as far as possible, NHS resources are being used to meet the health care needs of people who live in the UK, not those who don't.

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CHAPTER ONE:

INTRODUCTION

1.1 The National Health Service provides healthcare for people who live in the United Kingdom. People who do not normally live in this country are not automatically entitled to use the NHS free of charge – regardless of their nationality or whether they hold a British passport or have lived and paid National Insurance contributions and taxes in this country in the past.

1.2 This guidance is concerned with what should happen when people who do not normally live in the UK need treatment provided by a NHS trust in England. Treatment for overseas visitors from a general practitioner (GP), dentist or optician is dealt with in ***HSC 1999/018*****.** Separate Regulations govern the charging arrangements in Wales and Scotland. There are at present no charging arrangements in Northern Ireland.

1.3 The charging Regulations place a legal obligation on NHS trusts, NHS foundation trusts and primary care trusts (providing secondary care services) in England to establish if people to whom they are providing NHS hospital services are not normally resident in the UK. If they are not then charges may be applicable for the NHS services provided. When that is the case the trust must charge the person liable (usually the patient) for the costs of the NHS services. References to "trust" or "trusts" hereafter should be taken as including any of the NHS bodies listed in this paragraph.

1.4 Trusts also need to inform the Department of Health, via an IGA form, if they provide NHS services to a person from one of our European Economic Area partners and Switzerland or one of the non-EEA countries with which the UK has a bilateral healthcare agreement. This information is important because it is needed at a national level to maintain those agreements and ensure that they remain fair to both the UK and our partners. For further information see para 7.28.

1.5 Trusts and members of the public may seek help and advice from the Department of Health, by contacting the Overseas Visitors Policy Team on 0113 2545819 or by e-mail to overseasvisitors@doh.gsi.gov.uk, about any aspect of the Regulations and this guidance. Ultimately, however, the decision as to whether a particular patient is liable for charges rests with the trust providing treatment. In some cases, perhaps where a patient's circumstances are unclear or appear not to be provided for in the Regulations or guidance, trusts may need to take their own legal advice.

1.6 Up to date advice and information is also available on the Department of Health website at **www.dh.gov.uk/overseasvisitors**

1.7 This manual of guidance supersedes and replaces all previous guidance on the implementation of the overseas visitors hospital charging Regulations. The "interim manual of guidance" issued in July 2003 should be destroyed, as should the NHS Treatment of Overseas Visitors (Manual of Guidance 1989) the old "red book".

IMPORTANT NOTE:

This guidance seeks to provide as much help and advice as possible on the implementation of the National Health Service (Charges to Overseas Visitors) Regulations 1989 (as amended). However, it cannot cover everything and is not intended to be a substitute for the Regulations themselves which contain the legal provisions. Trusts are advised to seek their own legal advice on the extent of their obligations when necessary.

CHAPTER TWO:

THE LAW IN ENGLAND

Statutory provisions

2.1 The statutory provisions which enable overseas visitors to be charged for NHS treatment are found in section 121 of the National Health Service Act 1977 (as amended by sections 7(12) and (14) of the Health and Medicines Act 1988). These give authority to the Secretary of State for Health to make Regulations concerning charging anyone who is not ordinarily resident in Great Britain for any NHS services provided. They also give him powers to calculate such charges on any appropriate commercial basis. These powers are devolved to SHAs, PCTs, Foundation Trusts and NHS trusts in England.

2.2 The section 121 regulatory powers have so far only been used in relation to NHS hospital services. The Regulations made under those powers place a legal obligation on the trust providing treatment to identify those patients who are not ordinarily resident in the United Kingdom; establish if they are exempt from charges by virtue of the Regulations; and, if they are not exempt, make and recover a charge from them to cover the full cost of their treatment.

The Regulations

2.3 Regulations were first introduced in 1982 but were replaced by revised, consolidated Regulations in 1989. The National Health Service (Charges to Overseas Visitors) Regulations1989 are therefore the baseline from which trusts should work, taking into account all other amending Regulations made since 1989. Trusts should be particularly aware of the National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2004, which make a number of wide ranging changes to the 1989 Regulations. The full list of current Regulations is as follows:

- The National Health Service (Charges to Overseas Visitors) Regulations 1989 (Statutory Instrument No: 306) – *the current baseline Regulations;*

- The NHS (Charges to Overseas Visitors) Amendment Regulations 1991 (SI No.438) - *amended the baseline to reflect the introduction of NHS trusts; introduced exemption for family planning services and made changes to the list of bilateral healthcare agreement countries;*

- The NHS (Charges to Overseas Visitors)(Amendment) Regulations 1994 (SI No.1535) – *introduced amendments necessary on the creation of the European Economic Area; removed dental and optical emergency departments from the services exempt from charges; made amendments concerned with the European Social Charter and amended the list of diseases for which no charge shall be made and the list of countries with which we hold bilateral healthcare agreements;*

- The NHS (Charges to Overseas Visitors) Amendment Regulations 2000 (SI No.602) - *amended the baseline Regulations to include Primary Care Trusts;*

- The NHS (Charges to Overseas Visitors) (Amendment) (No2) Regulations 2000 (SI No.909) – *corrected an error in SI No 2000/602 which omitted a coming into force date;*

- The NHS (Functions of Strategic Health Authorities and Primary Care Trusts and Administration Arrangements (England)) Regulations 2002 (SI No.2375) - *placed responsibilities on Strategic Health Authorities to performance manage the operation of arrangements made under s121 of the NHS Act 1977*;

- The NHS (Charges to Overseas Visitors) (Amendment) Regulations 2004 (SI No 614) – *amended the baseline Regulations to include the changes to the Regulations designed to tighten loopholes open to abuse and modernise the charging regime*.

2.4 These Regulations apply only in England.

Overlap with other legal provisions

2.5 There may be cases where patients are also affected by other legal provisions. Two in particular may occur:

injuries as a result of criminal actions: in these cases the patient may be eligible to claim compensation from the Criminal Injuries Compensation Authority. It will be for the patient to pursue such a claim and, although the trust can advise the patient to contact the Authority, the possibility of compensation **does not** affect the patient's liability for charges as an overseas visitor. The recovery of NHS charges from the patient should not be suspended pending the outcome of a claim.

injuries as a result of a road traffic accident: in these cases the patient may claim personal injury compensation from the driver of the vehicle. If compensation is subsequently paid to the patient, the Secretary of State will recover the costs of NHS treatment from the driver's insurer (if the driver is not insured or untraceable then from the Motor Insurers' Bureau) and pay that sum to the trust under the provisions of The Road Traffic (NHS Charges) Act 1999. Again this **does not** affect the patient's personal liability to pay for his or her treatment as an overseas visitor. The possibility that the trust may eventually recover the costs of treatment through the road traffic accident scheme should not prevent the trust seeking and recovering the cost of treatment directly from the patient. If the trust does eventually receive payment through the road traffic accident scheme it should **not** repay the overseas visitor.

CHAPTER THREE:

WHAT TRUSTS NEED TO DO

What are your responsibilities?

3.1 All trusts have a **legal obligation** to:

- ensure that patients who are not ordinarily resident in the United Kingdom are identified;
- assess liability for charges in accordance with the charging Regulations;
- charge those liable to pay in accordance with the Regulations (see Chapter 8).

In the context of charging overseas visitors, when to charge can be considered in terms of the urgency of the treatment needed:

immediately necessary treatment – if the opinion of the clinicians treating the patient is that treatment is immediately necessary then it must not be delayed or withheld while the patient's chargeable status is being established. There is no exemption from charges for "emergency" treatment (other than that given in an accident and emergency department - see para 6.7(a)) but trusts should always provide immediately necessary treatment whether or not the patient has been informed of, or agreed to pay, charges. Not to do so could be in breach of the Human Rights Act 1998. While it is a matter of clinical judgement whether treatment is immediately necessary, this should not be construed simply as meaning that the treatment is clinically appropriate, as there may be some room for discretion about the extent of treatment and the time at which it is given, in some cases allowing the visitor time to return home for treatment rather than incurring NHS charges. When providing immediately necessary treatment clinicians should be asked to complete an advice from Doctors or Dentists form at Appendix 1;

urgent treatment – where the treatment is, in a clinical opinion, not immediately necessary, but cannot wait until the patient returns home. Patients should be booked in for treatment, but the trust should use the intervening period to establish the patient's chargeable status. Wherever possible, if the patient is chargeable, trusts are strongly advised to seek deposits equivalent to the estimated full cost of treatment in advance of providing any treatment. Any surplus which is paid can be returned to the patient on completion of treatment. When providing urgent treatment clinicians should be asked to complete an advice from Doctors or Dentists form at Appendix 1;

non-urgent treatment – routine elective treatment which could in fact wait until the patient returned home. The patient's chargeable status should be established as soon as possible after first referral to the hospital. Where the patient is chargeable, the trust should not initiate treatment processes, eg by putting the patient on a waiting list, until a deposit equivalent to the estimated full cost of treatment has been obtained. Any surplus which is paid can be returned to the patient on completion of treatment. This is not refusing to provide treatment, it is requiring

payment conditions to be met in accordance with the charging Regulations before treatment can commence.

This information is repeated in Chapter 8 of this guidance for the benefit of Finance Officers who may not read the rest of the document.

3.2 In addition, the Department of Health needs all trusts to inform them, via an IGA form, when NHS treatment is given to patients either from one of our European Economic Area partners and Switzerland or one of the non-EEA countries with which we hold a bilateral healthcare agreement. The Department needs this information to charge these countries for treatment provided by the NHS. For further information see para 7.28.

Who should carry them out?

3.3 In order to enforce this responsibility all trusts will need to have systems in place with staff who have the appropriate skills to:

ensure that all those patients who are not ordinarily resident are identified – this will include involving all staff in patient administration, including out-patient clinics and wards. At least one person should be involved with the training of these staff and the configuration of the Patient Administration System. Trusts need to have procedures in place for identifying charge liable patients out of normal hours;

interview non-ordinarily resident patients to establish whether they are exempt from charges or liable for charges - these in-depth interviews need to be handled sensitively and by staff who have received appropriate training. Trusts will need to ensure that they have an adequate number of these staff to provide cover at all sites and that appropriate back-up services, for example interpreters, are available;

set appropriate charges for treatment – different charges need to be set for treatment depending on whether the patient is paying for the treatment themselves or whether the costs will be recovered at a national level through the bilateral healthcare agreements. Trusts therefore need to identify a person who is familiar with the NHS Costing Manual, reference costs and setting fees and charges guidance;

recover charges owed – finance staff who can issue invoices for treatment – in some cases at very short notice – and staff who are experienced at debt recovery procedures. Trusts are strongly advised to make use of a debt recovery agency that is experienced in handling the recovery of overseas debt if they have significant levels of unrecovered overseas visitor debt;

inform the Department of Health and the Nationwide Clearing Service – information is needed manually or electronically by the Department of Health when treatment is given to a patient from an EEA country and Switzerland or a non-EEA country with whom the UK holds a bilateral healthcare agreement. Trusts need to return IGA forms on a regular basis, at least monthly, to Leeds North East PCT so that monies can be recovered from the relevant country. For further information see

para 7.28.

3.4 Overseas postcodes should be recorded electronically through the Nationwide Clearing Service. Therefore a person who is aware of, and skilled in, information technology transfer should be involved. This information can also usefully provide the trust board with an annual or more frequent report on overseas visitors activity**.**

Overseas Visitors Managers

3.5 The Department of Health strongly recommends that trusts appoint a designated Overseas Visitors Manager to oversee the implementation of the hospital charging regime. This does not need to be set up as a brand new post, but could be linked with other similar roles within the trust. For example many trusts that already have Overseas Visitors Managers in place link it with the Private Patients Manager role. Nevertheless, it needs to be a person of sufficient seniority to be able to deal with clinicians, other senior trust managers and members of the public. They should be given the authority to ensure that the charging regime can be properly implemented throughout the trust.

Spread the word

3.6 Trusts should ensure as a priority that all trust staff and patients are aware of the overseas visitors charging regime. Posters and leaflets explaining the charging Regulations are being developed and will be available from the Department of Health later in 2004. Once available Overseas Visitors Managers should ensure that these are displayed throughout the trust where people have an opportunity to read them. These leaflets are also being issued to GP surgeries so it may be helpful to encourage your local GPs to display them in their waiting areas.

3.7 Overseas Visitors Managers may also want to consider establishing formal contacts with local GPs. GPs have discretion to accept any person, including overseas visitors, to be either fully registered as a NHS patient, or as a temporary resident if they are in an area between 24 hours and three months. Being registered with a GP, and having a NHS number, does not give a person automatic entitlement to access free NHS hospital treatment. It can be helpful to ensure that local GPs understand this, and identify in the referral letter any patient whom they refer to hospital who is known to them to be an overseas visitors and may be liable for charges. (The circular of guidance for general practitioners ***HSC 1999/018*** is available on the DH website at **www.dh.gov.uk/PublicationsAndStatistics/LettersAndCirculars/fs/en** To search within COIN go to the **Letters and Circulars Library** and link on that page.

3.8 Overseas Visitors Managers should be ready to provide more formal briefing events for all members of staff who come into contact with patients including medical staff, for example at staff induction courses. These training sessions need to be repeated at intervals to ensure that new members of staff understand the work of the Overseas Visitors Manager and the role they themselves may have to play.

3.9 Regular contacts with local community relations organisations can also be valuable. These may help to explain that charges apply only to visitors to the UK and not people who are ordinarily resident here. This could avoid misunderstandings about

the availability of free health care to family visitors who do not meet any of the exemptions.

CHAPTER FOUR:

THE BASELINE QUESTIONS

Avoiding discrimination

4.1 Article 14 of the European Convention on Human Rights, which is now incorporated into UK law in the Human Rights Act 1998, prohibits discrimination against a person in the exercise of their rights under the Convention, on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

4.2 It is therefore important that no person is discriminated against in the application of the Regulations when establishing ordinary residence. The only thing that is relevant is residence and this cannot be judged from external appearance, or name, or language, or nationality, or past or present payment of National Insurance contributions or taxes.

4.3 The way to avoid accusations of discrimination is to ensure that everybody is treated the same way. It is not racist to ask someone where they have lived for the last 12 months as long as you can show that **all** patients – regardless of their address, appearance or accent – are asked the same question. The answer to that question will result in others needing to be asked, but again you will not be breaking any laws as long as those questions are asked solely in order to apply the Regulations consistently.

4.4 Trusts need to ensure that all staff involved with the identification and interviewing of potentially liable patients should be properly advised of their role and provided with adequate training.

Asking the baseline questions

4.5 Anyone who has lived lawfully in the UK for at least 12 months immediately preceding treatment is exempt from charges, so the baseline question continues to be based on this and is:

> "Where have you lived for the last 12 months?"

However, because the exemption now expressly applies only to those living here lawfully, you need to follow this first question with another:

> "Can you show that you have the right to live here?"

4.6 These questions need to be asked every time a patient begins a new course of treatment at the hospital and is entered onto the trust's records for in-patient or out-patient care, either on paper or computer and either by administration or ward staff, in order to comply with the Regulations. The system should allow the questioner to record either that the patient has lived in the UK for 12 months or that there is some doubt. In all cases where the patient has not lived here for 12 months, or there is an element of doubt (for example because they have been unable to provide

satisfactory evidence of their right to live here) the patient should be referred for interview by the Overseas Visitors Team. The questioner should inform the patient that he or she will be further interviewed.

4.7 This does mean that booking-in staff, ward clerks etc, will need to be prepared to ask for basic supporting evidence. The flow chart at para 4.15 shows how the baseline questions process should work, together with examples of the sort of evidence that would help confirm both that someone had been living in the UK for twelve months and that they were entitled to do so. Being unable to provide evidence does not mean that someone can or should be refused treatment, only that they should be referred to the Overseas Visitors Team for further investigation.

4.8 To minimise delays and possible problems when booking in, consideration should be given to the preparation of a pro-forma that could be included with all out-patient and in-patient appointment letters. This pro-forma should explain that patients should expect to be asked questions to confirm their entitlement to free treatment, and ask them to bring one or two pieces of evidence with them. Checking will then be a relatively quick and simple matter that need not add more than a few seconds to the booking in process.

4.9 Patients who have been abroad for up to three months of the year immediately preceding treatment can still be regarded as ordinarily resident (see para 6.2, "calculating period of residence"). It is important that administration staff are aware of this easement. However, where a person has spent more than 3 months of the 12 abroad the case should be referred for further interview whatever explanation is provided at this stage. It is not, however, necessary for the patient to have been living at the same address in the UK for the whole 12 months – they can have been living anywhere, or be of no fixed abode, as long as they have been staying somewhere within the UK for the last year.

4.10 In some departments, catering for very elderly or mentally confused patients, the baseline questioning may be inappropriate or unworkable. In these cases admissions staff should still be aware of the possibility of patients being chargeable and should notify the Overseas Visitors Team of any patient who, on the information they have, may be an overseas visitor.

4.11 Patients can qualify for NHS treatment without charge through the eligibility of their relatives. For example the husband of a female patient may be entitled or the wife of a male patient. Dependant children may qualify through one or both of their parents. It will not usually be appropriate for this decision to be made at initial administration and such potential cases should be referred for interview by the Overseas Visitors Team.

4.12 Where it is established that a patient has not lived in the UK for the last 12 months, or has not lived here lawfully:

- the patient should be told immediately, where possible, that they will need to be interviewed to establish their eligibility for NHS treatment;

- the person who identifies the patient as potentially liable should contact the Overseas Visitors Team immediately and arrange for an interview to take place.

Wherever possible, that interview should take place before treatment begins, particularly where it is non-urgent elective treatment (for definition of non-urgent treatment see para 3.1). But if, in the opinion of medical staff, the treatment is needed urgently it should always go ahead without delay;

- where it is not possible for a patient to be referred for immediate interview by the Overseas Visitors Team a note should be placed **inside** the medical records to alert other members of staff to the patient's potential liability for charges. A suggested form of words is as follows:

PATIENT MAY NOT BE ORDINARILY RESIDENT IN UNITED KINGDOM

This patient may not normally be resident in the United Kingdom and has been referred for further interview by the Overseas Visitors Team. The patient may be liable to pay for any treatment received. The patient has been informed.

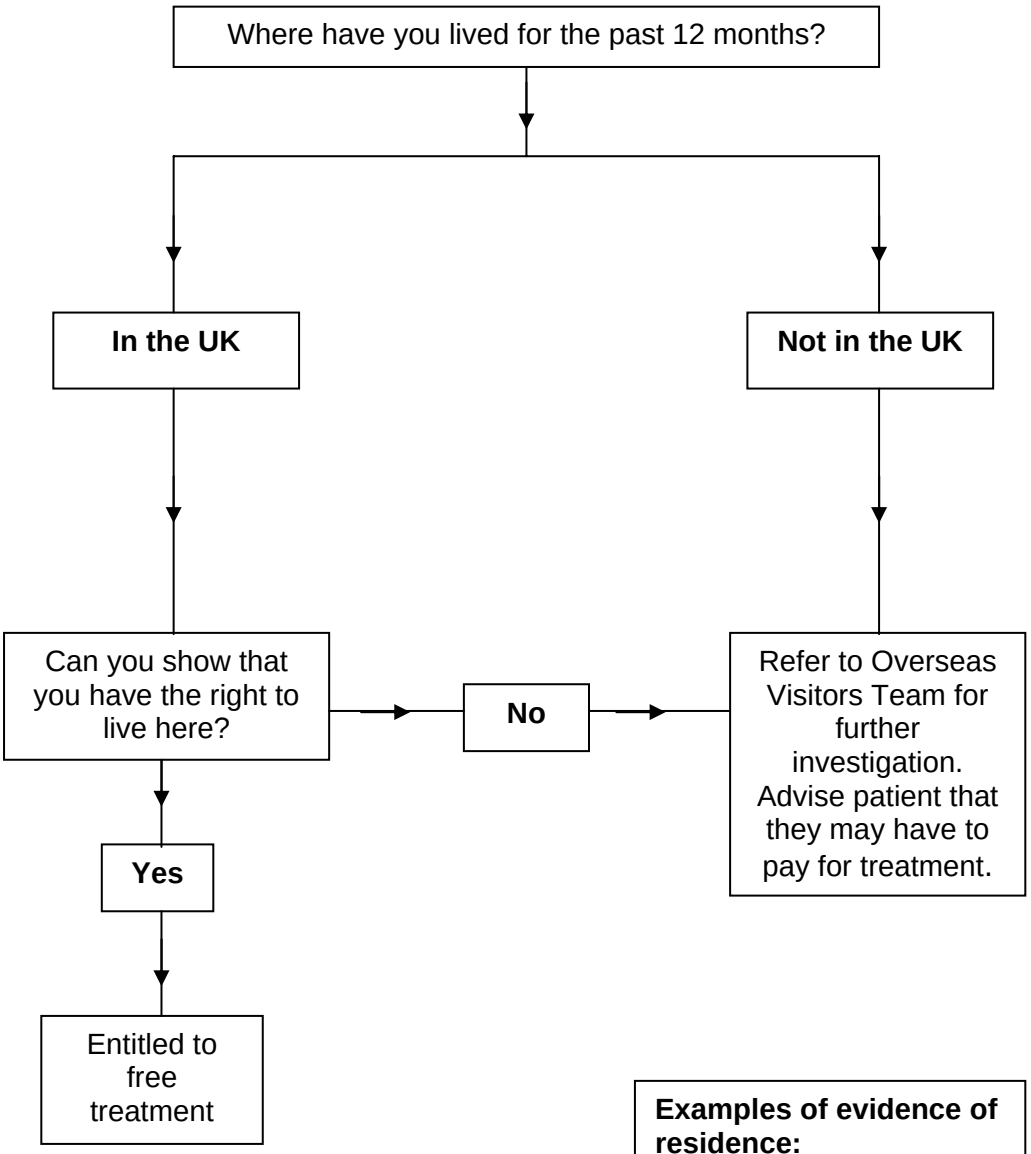
For further information contact: [Overseas Visitors Team number]

4.13 Treatment given in accident and emergency departments is exempt from charges and so baseline questioning need not be undertaken until the patient is referred for further out-patient or in-patient care. In settings where questioning could be inappropriate for example, direct admission to critical care, or psychogeriatric wards or wards for mental health patients, then admitting staff should alert the Overseas Visitors Team of any patient who, on the information before them, could potentially be liable for charges.

Things not to do at this stage

4.14 The vast majority of patients will not be liable for charges. The purpose of asking the baseline questions at this stage is to quickly identify that majority in a way that avoids discrimination and to ensure that all patients who may be liable for charges are identified. It is not intended that staff completing administration forms should do anything other than ask the baseline questions and alert the Overseas Visitors Team if necessary. There is no need and no question of staff at this stage asking supplementary questions or carrying out detailed investigations themselves.

4.15 **BASELINE QUESTIONS**



Examples of evidence of residence:

- Housing contracts
- Utility bills
- Bank statements

Examples of evidence of right of residence:

- Birth certificate
- Passport
- Entry clearance documents
- Ancestral visa

CHAPTER FIVE:
THE INTERVIEWS

Appropriate skills

5.1 Trusts should ensure that all staff involved with the identification and interviewing of potentially liable patients are properly advised of their role and provided with adequate training. Staff involved in interviewing patients should have a thorough understanding of the Regulations and guidance together with training on interviewing techniques and handling difficult situations. Staff can sometimes be confronted with distressed, angry or abusive patients and/or relatives. They should be fully trained on the trust's policy for dealing with violent or potentially violent situations.

Timeliness of interview

5.2 It is important that patients are aware as soon as possible that there may be a charge for treatment. Further details on what charges to apply can be found at para 8.4. Whilst it may not be always practicable for interviews to happen immediately Overseas Visitors Managers should make every effort to ensure that a member of their team sees potentially liable patients as soon as they possibly can. Failure to do so, resulting in a bill being presented to a person who was not aware that they were liable, could result in accusations of maladministration.

The main interview

5.3 This should take place in private and, wherever possible, before treatment has started. The interviewer should begin by explaining that people not ordinarily resident in the UK can, in some circumstances, be liable for the cost of their treatment. The interviewer should explain that the interview is taking place because the patient indicated during the process of administration (or because admissions staff have indicated) that he or she may not normally live in the UK, or has been unable to show that they have the right to live here. Some patients will be clear that they are not normally resident here but others may dispute the assessment. The first issue to explore during the interview, therefore, is whether the patient may be ordinarily resident even though they have not lived here for twelve months.

Ordinarily resident

5.4 An overseas visitor is defined in the Regulations as a person not ordinarily resident in the UK. "Ordinarily resident" is not defined in the NHS Act 1977. The concept was considered by the House of Lords and although the case being considered was concerned with the meaning of ordinary residence in the context of the Education Acts the decision is generally recognised as having a wider application. The House of Lords interpretation should, therefore, be used to help decide if a person can be considered ordinarily resident for the purposes of the NHS Act 1977 and the overseas visitors charging Regulations.

5.5 In order to take the House of Lords judgement into account, when assessing the residence status of a person seeking free NHS services, trusts will need to consider

whether they are:

living lawfully in the United Kingdom voluntarily and for settled purposes as part of the regular order of their life for the time being, whether they have an identifiable purpose for their residence here and whether that purpose has a sufficient degree of continuity to be properly described as "settled".

5.6 Trusts need to make a judgement as to whether a patient is ordinarily resident in the light of the circumstances of that individual patient. But there are several elements which all need to be satisfied. For example, a person who has the right of abode or who has been given leave to remain and has an identifiable purpose for their visit may not meet the "settled" criterion if they are only here for a few weeks. Alternatively, someone may be here legally, for several months, but with no identifiable purpose. But it is for the trust to decide whether the criteria are met. There is no minimum period of residence that confers ordinarily resident status. In the past the Department of Health has suggested that someone who has been here for less than 6 months is less likely to meet the "settled" criterion but it is important to realise that this is only a guideline, not a deadline.

5.7 The question of ordinarily resident status is the first and most fundamental issue to resolve, because if a patient is classed as ordinarily resident then the charging Regulations do not come into play, even if the patient has only been in the UK for a few days or weeks. The Secretary of State has no powers to charge for NHS treatment someone who is ordinarily resident in the UK.

5.8 A person who is ordinarily resident will be so in their own right, and it is not transferable to other family members. Therefore if a spouse or civil partner of someone who is ordinarily resident normally lives overseas and requires treatment during a visit to the UK they will not be ordinarily resident or automatically entitled to free treatment just because their spouse or civil partner is. The trust must establish whether the spouse or civil partner meets one the categories of exemption in their own right or is liable to be charged.

5.9 Where a child who normally lives overseas is visiting an ordinarily resident parent they can take on the ordinarily resident status of their parent if the parent can show that the child lives with both parents e.g. they have joint legal custody.

Overseas visitors

5.10 If questioning at the interview results in the interviewer deciding that the patient cannot be deemed ordinarily resident, they must then be treated as an overseas visitor. The next stage of the interview therefore needs to be to establish if he or she can be exempted from charges because they fall into one of the categories for exemption listed in the Regulations, described at Chapter 6.

5.11 Where a patient claims to be covered by one of the exemption categories, or indeed claims to be ordinarily resident, the trust is required, by provision of the Regulations, to "make such enquiries as it is satisfied are reasonable in all the circumstances", to confirm that is the case. It is for the patient to satisfy the trust of the validity of their claim to free treatment and the trust is entitled to ask for supporting documentary evidence, as long as it does not behave unreasonably. Where the patient cannot support their claim, the trust may take the decision to charge for treatment. However in making this decision trust should take account of the individual circumstances

and judge each case on its own merits. For example, in some cases it will be easier for the patient to provide evidence than in others. The patient can claim reimbursement at a later date providing that sufficient evidence can be produced to show that he or she was entitled to free treatment at the time it was given.

5.12 An overseas visitor exempt from charges is normally liable for other statutory NHS charges, such as those for prescriptions, on the same basis as an UK resident. However some charge exempt patients will also be exempt from statutory prescription charges, for example asylum seekers, and will be issued with an HC2 (certificate for full help with health costs). However, having an HC2 does not mean the patient is automatically exempt from charges under the charging Regulations.

What is acceptable evidence?

5.13 The onus is on the patient to provide whatever evidence he or she thinks is appropriate to support their claim. However, examples of types of acceptable evidence are listed with each exemption from charge in Chapter 6. These examples are only a guide and should not be taken as comprehensive lists. Patients may provide other evidence that is equally valid, and interviewers should be prepared to be flexible. Certainly it would not be reasonable to reject evidence out of hand simply because it is not listed in this guidance. Access to NHS services is through residence not nationality and interviewers should avoid questions relating to immigration status unless it is strictly relevant e.g. asylum seekers or those claiming to be from a country with which we hold a bilateral healthcare agreement. Interviewers can ask to see passports or visa entry documents, such as work permit/student visa, where appropriate.

5.14 In general, patients will be able to provide satisfactory documentary evidence e.g. pension details, letters from employers or colleges etc to support their claim. Where, however, the patient does not have the evidence to hand an interviewer may be asked to either accept confirmation from a reputable third party e.g. a letter from a solicitor or, in some cases, to accept the word of the patient without supporting evidence. What level of evidence is acceptable is entirely a matter for the trust in the light of the individual patient's circumstances. Providing the trust can demonstrate, if need be, that it has acted reasonably in **all** cases it is unlikely to encounter criticism.

Using the IND telephone helpline

5.15 There may be occasions where patients produce entry clearance documents that are not familiar to Overseas Visitors Managers. In these cases the Immigration and Nationality Directorate (IND) have provided a general telephone 'helpline' **0208 253 6712**. This service will provide trusts with advice on interpreting different types of entry visas and visa stamps. This service will **not** provide trusts with details of a specific individual's immigration status. Under **no circumstances** should any medical information be divulged.

Using the IND secure fax

5.16 In exceptional circumstances and when all other avenues of establishing entitlement have been exhausted, it may be necessary to establish the immigration status of a person. This might include establishing whether a failed asylum seeker has exhausted all their appeal processes, or cases where a hospital comes across a person who appears to be in the country without the proper authority. In these exceptional cases, enquiries about

immigration status can be sent to the IND via a separate, secure fax number. It is vital that patient confidentiality is not breached, therefore this service can **only be used** in cases where the patient's permission has been obtained. For further information on patient confidentiality see **confidentiality** (Chapter 9-A-Z). Under no circumstances should any medical information be divulged.

5.17 IND will only accept requests submitted on the appropriate form, attached as Appendix 3 (this form can be downloaded from the Department of Health finance Manual **http://www.info.doh.gov.uk/doh/finman.nsf>*NHS Trusts Detailed Guidance/Chapter 31/Appendix 3*)**, and from trusts who are listed on the secure fax number directory held by the Department of Health. IND will endeavour to respond to requests within 3 working days and replies will only be returned to the trust's secure fax number. Trusts can obtain the IND secure fax number by contacting the DH Overseas Visitors Policy Team on **0113 2545819** or by e-mail to **overseasvisitors@doh.gsi.gov.uk.**

5.18 In cases where a patient refuses to give their permission to contact IND and has not provided valid evidence to support their claim to be living lawfully in the UK trusts can decide to levy a charge.

5.19 Where a patient gives their permission and it is established their status has changed for example, a person whose claim for asylum has been unsuccessful, if that person has completed 12 months residency then any ongoing course of treatment will continue to given free of charge but any new course of treatment for a different condition will be chargeable. If that person has not completed 12 months residency then charges will apply immediately.

5.20 Trusts should ensure that they direct all immigration enquiries via the helpline and secure fax number. Any other Home Office/IND contact numbers that are currently in use should be disregarded.

Complaints

5.21 Where a NHS patient is unhappy with the care they have received it is right that they, or someone on their behalf and with their consent, can use the NHS complaints procedure. Overseas Visitors Managers need to ensure that they and NHS charged patients are aware of the complaints procedure and that there are effective operational links with the organisation's complaints manager, which reflect the extant guidance on managing complaints.

CHAPTER SIX:

HOW TO APPLY THE REGULATIONS

6.1 There are ten main Regulations and these are explained below. Overseas Visitors Teams are advised to maintain a library of the full text of current Regulations. Further advice on issues arising from the Regulations can be found in Chapter 9 – A –Z directory.

Regulation 1

6.2 This Regulation provides some definitions of the words and terms used in the other Regulations. Those which will be most useful on a daily basis are:

calculating the period of residence - the Regulation provides that when calculating a period of residence a person can be out of the UK for up to three months before it is taken into consideration. For example, if someone has lived in the United Kingdom for the twelve months immediately preceding their treatment but has spent three months of that time on holiday abroad they can still be considered to have spent the last twelve months in the UK. The period of absence can be calculated cumulatively, ie 3 separate periods of 1 month abroad during the last 12 months should be counted as a total of three months abroad. However, the new exemption for UK state pensioners who spend up to six months a year living in an another EEA member state means that the three month limitation does not apply to them. They are covered under Regulation 4A (see para 6.36);

child - for the purposes of the Regulations a child is someone under the age of 16 or under 19 and still at school or college and in respect of whom child benefit would be payable;

member of the family - this applies only to people from European Economic Area (EEA) countries and Switzerland and allows each participating country to nominate its own definition of a member of the family. The information as to who is covered will be contained in the family's copy of form E111, however there is no formal requirement for visitors from EEA countries to produce a form E111 in order to obtain immediately necessary treatment;

overseas visitor – means any person of any nationality not ordinarily resident in the United Kingdom.

treatment - the definition makes clear that treatment is to include services needed by pregnant women and also services which prevent or diagnose illness;

treatment the need for which arose during the visit – this applies to treatment needed where the diagnosis of a condition is made when first symptoms arise during a visit to the UK. It also applies where, in the opinion of a doctor or dentist employed by the trust, treatment is needed quickly to prevent a pre-existing condition increasing in severity. It does not include routine monitoring of an existing condition such as diabetes. It should be noted that this is not quite the same definition for those covered by EC Regulations (see para 7.5);

walk-in centre – means a centre at which information and treatment for minor conditions is provided to the public.

Regulation 2

6.3 This Regulation states when and how a trust should make a charge for treatment and how it should recover the money. It places a **legal obligation** on trusts to determine whether the Regulations apply to any overseas visitor they treat. It is therefore also necessary to confirm whether every patient is ordinarily resident, in order to know whether the patient is to be dealt with as an overseas visitor. Where a person is not ordinarily resident the trust must make reasonable enquiries into the circumstances of that person to determine if they meet one of the categories of exemption or are liable to pay charges. The enquiries must be reasonable with regard to all the circumstances of the individual case, including the person's illness or injury. If the trust determines that the patient is chargeable then, again, this Regulation **requires** the trust to make and recover a charge for any treatment provided. It is not optional, nor do trusts have the authority to waive the charge.

6.4 Where a person is claiming exemption from charges it is their responsibility to prove they are entitled to that treatment free of charge. Therefore when making its enquiries the trust is entitled to ask for documentary evidence to support a claim for free treatment. However they must take into consideration the individual circumstances of each case and the fact that it will be easier to provide evidence in some circumstances than others.

6.5 If, in the light of its enquiries, the trust decides the person is not eligible for free treatment or the person has not provided sufficient evidence to support their claim then the trust must levy a charge and take all reasonable measures to recover it from the patient.

6.6 The trust must give the person paying the charge a receipt for the amount paid.

Regulation 3

6.7 Some NHS services provided in NHS trusts are free to everyone regardless of the status of the patient. This Regulation says what these services are. The current list includes:

a. treatment given in an accident and emergency department or casualty department. This exemption from charges ceases once the patient is admitted to a ward or given an out patient appointment. For example, where emergency treatment is given elsewhere in the hospital e.g. intensive care or coronary care, it is chargeable – it is the location that is exempt, not the type of treatment;

b. treatment given in a walk-in centre providing services similar to those given at an accident and emergency department. This means that walk-in centres providing services similar to those provided in A&E departments should not charge overseas visitors who have been referred on from an A&E department;

c. with the exception of (b) above, treatment given elsewhere than at a hospital, or treatment given by someone who is not either employed by or under the direction of the trust. This means that some services provided in the community will be chargeable only where the staff are employed by a trust (for example District Nurses employed by the local PCT) but not where they are employed by a general practitioner (for example practice nurses);

d. family planning services;

e. certain diseases where treatment is necessary to protect the wider public health. This exemption from charge will apply to the diagnosis even if the outcome is a negative result. It does not apply to any secondary illness that may be present even if treatment is necessary in order to successfully treat the exempted disease. For example, if a patient has TB and HIV only the treatment of TB is without charge, the treatment of HIV is chargeable.

The exempt diseases are:

Acute encephalitis
Acute poliomyelitis
Amoebic dysentery
Anthrax
Bacillary dysentery
Cholera
Diphtheria
Food poisoning
Leprosy
Leptospirosis
Malaria
Measles
Meningitis
Meningococcal septicaemia (without meningitis)
Mumps
Ophthalmia neonatorum
Paratyphoid fever
Plague
Rabies
Relapsing fever
Rubella
Salmonella infection
Severe Acute Respiratory Syndrome (SARS)
Scarlet fever
Smallpox
Staphylococcal infections
Tetanus
Tuberculosis
Typhoid fever
Typhus
Viral haemorrhagic fevers
Viral hepatitis
Whooping cough
Yellow fever

f. treatment given in, or as the result of a referral from, a sexually transmitted diseases clinic. For HIV/AIDS this exemption only applies to the initial diagnostic test and any associated counselling. The NHS (Venereal Diseases) Regulations 1974 and the NHS Trusts and Primary Care Trusts (Sexual Transmitted Diseases) Directions 2000 prevent the disclosure of any identifying disease other than

to a medical practitioner (or to a person employed under the direction of a medical practitioner) in connection with, and for the purpose of, either the treatment of the patient and/or the prevention of the spread of the disease. This **does not mean**, however, that sexually transmitted diseases clinics do not have to apply the hospital charging Regulations**.** The Regulations place a legal obligation on **all** secondary care providers to establish whether a person is entitled to NHS hospital treatment free of charge and if not apply a charge. Therefore, where a patient is found to be HIV positive and treatment, including drugs, is needed, the hospital or sexually transmitted diseases clinic need to have systems in place to establish if that patient is ordinarily resident or, if not, exempt from charges;

Where, in a clinical opinion, the treatment is immediately necessary then it should not be withheld or delayed while a patient's status is being established. However at some point eligibility must be established, and if the patient is not exempt charges will apply and payment should be pursued. Where the treatment required is not urgent and the patient is chargeable payment should be handled in the same way as for anyone else seeking non-urgent treatment, ie payment obtained before treatment begins (see para 3.1).

g. treatment given to people detained under the provisions of the Mental Health Act 1983;

h. treatment given for mental health problems as part of a court probation order.

Regulation 4

6.8 This Regulation specifies the circumstances in paras 6.12 to 6.37 where an overseas visitor will be exempt from paying charges. It also provides that the spouse/civil partner and any children under the age of 16 (or under 19 if still at school or college) of such an overseas visitor will also be exempt in certain circumstances.

6.9 For **paras 6.12 to 6.32** this exemption only applies to spouses or civil partners and children where they are either

- in the UK with the exempt person for the duration of the exempt person's visit. If the spouse or civil partner and children are travelling independently of the exempt person, the exemption does not extend to them and they will be chargeable (unless exempt in their own right), or

- living permanently with the exempt person if they have come to the UK on a settled basis e.g to work.

6.10 For circumstances set out in **paras 6.33 to 6.37** the spouse or civil partner and any children under the age of 16 (or under 19 if still at school or college) will be exempt **in their own right** even when their spouse or civil partner or parent are not in the UK with them

Examples of evidence*:*

- will have appropriate entry clearance issued by HO
- Anything that will prove residency or in country for length of exempt spouse or civil partner stay e.g. children are attending school, application/granted benefit, banking details, name on rent book, travel documents.

The list of exemptions

6.11 People who are in the UK (including some parts of our off-shore territories) and are:

6.12 **engaging in employment** with an employer who has his principle place of business in the UK or is registered in the UK as a branch of an overseas company, or who are engaging in employment as a self employed person whose principle place of business is in the UK. It is not sufficient to have the right to work here, they must be actually in work;

Examples of evidence*:*

- *if not an EEA national or Switzerland then must have a valid work permit or;*
- *if EEA national or Switzerland proof of nationality;*
- *proof that employment is based in UK, e.g confirmation from employer, for self employed invoices or receipts;*
- *proof of employment – e.g. recent letter from employer or contract of employment or current wage slip, for self employed invoices or receipts*.

6.13 **working as a volunteer** providing services similar to health or social services;

Examples of evidence*:*

- *if not an EEA national of Switzerland then must have valid entry clearance or;*
  - *if EEA national or Switzerland proof of nationality e.g. passport, EEA residence permit;*
  - *letter from organisation where working as volunteer to confirm what type of service is being provided.*

6.14 **pursuing a full time course of study** which is of at least six months' duration, or is of less than 6 months' duration but is substantially funded by the UK government.

6.15 Visas for overseas students are usually issued so as to allow the student to settle in before their course starts, and to give them time to wind up their affairs, attend graduation ceremonies etc before returning home. The exemption from charges should cover these periods as well as the duration of the course itself. If a student stops attending their course of study for no discernible reason, and is unable to offer evidence that they intend to return, or take up a new course, then they are acting outside of their visa entry clearance and this exemption from charge ceases to apply. Where treatment is being provided over a long period of time it is reasonable for trusts to check at intervals that the student is still attending their course.

6.16 As with other exemption categories, the spouse or civil partner and children of an exempt overseas student will also be exempt provided that they are living with the student on a permanent basis. However, students are generally advised not to bring their families over with them until they are themselves properly settled, with accommodation organised etc. Therefore, the fact that the spouse or civil partner and family did not enter the UK at the

same time as the exempt student would not normally need to be interpreted as meaning that they are not living with them permanently at the time when treatment is sought.

6.17 There are a number of short courses and academic fellowships which are either wholly or substantially funded by various UK Government Departments. Students on these sorts of courses are also exempt from charges, even if the course lasts less than 6 months. In this context, "substantially" should be taken as meaning at least 35% government funded, but may be as much as 100% in some cases;

Examples of evidence:

- *if not an EEA national or Switzerland then will have a valid student visa or;*
- *if EEA national or Switzerland proof of nationality – passport, EEA residence card;*
- *proof of attendance on a qualifying course of study, or that such a course of study has recently been completed – confirmation from university or college or:*
- *proof of attendance on a substantially UK government funded course – confirmation letter from government body confirming successful candidate and confirmation of attendance from university or college.*

6.18 **taking up permanent residence**. This will include British nationals or people with right of abode who return to the UK to resume their permanent residence. Anyone who has been granted leave to remain by the Home Office will also be entitled to take up permanent residence.

6.19 Someone who has entered the country on a temporary basis, for example on a visitor's visa, but subsequently makes an application to be allowed to remain **permanently** will remain liable for charges unless and until that application is granted. There should be no reimbursement of charges paid between the date of application and the grant of leave to remain.

Examples of evidence*:*

- *resuming permanent residence – anything that will confirm their intention is to reside permanently e.g. children are attending school, looking for work, job seeker's allowance, application/granted benefit, sale of goods and properties overseas, receipts to show shipping of goods;*
- *leave to remain – will have appropriate entry clearance issued by HO, or stamp in passport. If documentation unclear ring IND helpline for confirmation (see para 5.15).*

6.20 People who have been **living lawfully in the UK for 12 months** immediately before requiring treatment, except where the patient was originally granted leave to enter the UK for the purpose of undergoing private medical treatment or has been given special leave to enter on humanitarian grounds by provision of Regulation 6A (see para 6.39);

6.21 Where an overseas visitor living lawfully in the UK has been paying for treatment being received, those charges should cease once they have completed 12 months of lawful residence.

6.22 Where an overseas visitor has been living in the UK for more than 12 months and is receiving a course of treatment free of charge and it is subsequently established that their residence was not lawful (eg illegal immigrant), or was lawful but their status has changed

(eg an asylum seeker whose application has finally failed, including all appeals), they cannot be charged for the course of treatment they were receiving at the time their status was determined. That remains free of charge until completed. They must, however, be charged for any new course of treatment. If that is routine elective treatment then payment should be handled in the same way as for anyone else seeking non-urgent treatment, ie payment should be obtained before treatment begins (see para 3.1).

***Examples of evidence**:*

- *Proof lawfully in UK – e.g. has right of abode, leave to enter documents issued by HO, visitors visa/work permit/student visa etc is still valid.*
- *Period of residence – utility bills, housing contracts, (but note that the patient does not need to have been resident at the same address for the whole 12 months).*

6.23 **Refugees and asylum seekers** who have made a formal application with the Home Office which has not yet been determined. A refugee is someone who has been granted asylum in this country.

6.24 The fact that the exemption for asylum seekers only lasts until their claim is determined means that trusts should be prepared to check that the application is still on-going at intervals if treatment is being provided over a long period. If the claim is finally rejected (including appeals) before the patient has been in the UK for 12 months, they cannot be charged for a course of treatment they were receiving at the time their status was determined. That remains free of charge until completed. They must, however, be charged for any new course of treatment. If that is routine elective treatment, then payment should be handled in the same way as for anyone else seeking non-urgent treatment, i.e. payment should be obtained before treatment begins (see para 3.1). Once they have completed 12 months residence they do not become exempt from charges.

***Examples of evidence**:*

- *ARC issued by HO.*

*Where an ARC is over 12 months old trusts should check that the card is still valid, via the IND secure fax number. The asylum seeker's permission to do so must be obtained and IND will not accept faxes that do not contain the patient's signature. An example of the fax sheet to be used can be found at Appendix 3, and forms can downloaded from the Department of Health Finance Manual which can be accessed via the internet at **http://www.info.doh.gov.uk/doh/finman.nsf>NHS Trusts Detailed Guidance>Chapter 31>Appendix 3**. Full instructions on how to use this service can be found at para 5.16. If permission is refused then trusts can take the decision to apply charges until the asylum seeker produces further evidence that their claim is still on-going.*

- *Confirmation from Home Office of refugee status having been granted;*
- *Confirmation from Home Office that asylum application is still under consideration.*

6.25 **People working on ships registered in the UK**.

See Seamen and Women (Chapter 9 A-Z)

Examples of evidence:

- *Proof of employment; e.g. letter from employer, contract of employment*;
- *Evidence of where the vessel is registered, eg from ship's owner*.

6.26 **People who receive UK war pensions**.

Examples of evidence:

- *Proof of pension – pension book/slip, letter from Ministry of Defence or Department for Work and Pensions.*

6.27 **Diplomats posted to the UK**. This includes staff working in embassies etc in the UK, but does not include diplomats from embassies in another country who happen to be visiting the UK on business or on holiday.

Examples of evidence:

- *Confirmation of diplomatic position in the UK, letter from embassy confirming posting.*

6.28 **People working abroad for not more than 5 years**, as long as they have lawfully lived for ten continuous years in the UK at some point.

The patient will be exempt from charges for any treatment received during short term visits (eg leave) during the five year period, but once they have been living and working abroad for more than 5 years they will no longer be exempt, unless they can show they are returning to the UK to take up permanent residence.

Examples of evidence

- *Proof of ten years continuous residence e.g. previous job, schools attended, previous address(es);*
- *Proof of employment - letter from employer, contract of employment;*
- *Proof have not been out of UK more than 5 years – letter from employer or history of employment, passport stamps.*

6.29 People who **work abroad in another EEA country** or Switzerland and who pay compulsory (not voluntary) National Insurance in the UK.

Examples of evidence

- *Proof of employment in another EEA Country or Switzerland - e.g. letter from employer, contract of employment;*
- *Confirmation that NI payments are being made, and that they are compulsory not voluntary (voluntary payments top up UK State Pension) - may come from Inland Revenue or from DWP or from appropriate Northern Irish authorities.*

6.30 People who are from **other European Economic Area countries or Switzerland and who have been referred to the UK for specific treatment**. They must have a form E112 issued by the state health authority in their 'home' country that covers (or insures) them for the treatment being provided. Treatment should not be started without a valid E112, unless it is immediately necessary.

Examples of evidence:

- *They will be in receipt of an E112.*

******* FILL IN IGA FORM AND RETURN TO LEEDS NORTH EAST PCT (see para 7.28)*******

6.31 **Prisoners** i.e. anyone who has been de detained under provision of section 43(1) the Prison Act 1952 or anyone who as been detained under provision of the Immigration Act 1971.

Examples of evidence:

- *They will have been referred by the appropriate authorities.*

6.32 People who are from one of the countries with which we **hold bilateral healthcare agreements and who are here to receive specific treatment** with the agreement of their home country. The patient will have documentation to confirm the treatment to be provided and that their "home" country will pay for it. Treatment should not be started in the absence of that documentation, unless it is immediately necessary.

*****FILL IN IGA FORM AND RETURN TO LEEDS NORTH EAST PCT (see para 7.28)*****

Examples of evidence:

- *They will be in receipt of formal confirmation to cover them for their treatment.*

6.33 **Members of Her Majesty's UK forces**.

Examples of evidence:

- *Proof serving member of HM forces – will have valid HM forces ID card, confirmation from MOD.*

6.34 ***UK civil servants working abroad*** but who were recruited in the UK.

Examples of evidence

- *Proof of employment and where recruited e.g. letter from employer confirming employment and stating where recruitment took place.*

6.35 People working abroad for **the British Council or the Commonwealth Grave Commission** who were recruited in the UK.

Examples of evidence

- *Proof of employment and where recruited e.g. letter from employer confirming employment and stating where recruitment took place.*

6.36 People working abroad, where their **post is financed in part by the UK Government** in agreement with another government or public body.

Examples of evidence

- *Evidence to confirm nature of employment e.g. letter from employer confirming employment and funding arrangements.*

6.37 People acting as **Missionaries** overseas for an organisation principally based in the United Kingdom, regardless of whether they are drawing a salary or wage or receiving any kind of funding or financial assistance from that organisation.

Examples of evidence:

- Proof that the missionary is carrying out duties overseas for a relevant organisation based in the UK, e.g. a confirmatory letter from the organisation.

Regulation 4A

6.38 This is a new Regulation introduced by the NHS (Charges to Overseas Visitors) (Amendment) Regulations 2004. It concerns people who are in receipt of a UK State pension and who reside both in the UK and another EEA Member State. As long as they spend at least six months of the year living in the UK, and are not registered as resident in another EEA Member State, they remain exempt from charges for treatment they receive while living here. This exemption does not apply if they are living in a non-EEA country during the period they are away from the UK. This exemption extends to the spouse or civil partner and children of the exempt pensioner as long as they are living in the UK with him or her on a permanent basis for the period of residence in the UK.

Examples of evidence:

- *Proof in receipt of UK state pension, not a private or occupational pension- pension slip or pink card BR 464 issued by DWP or letter from DWP or appropriate Northern Irish authority;*
- *Evidence to support period spent living in UK – eg bank details showing withdrawals in EEA and UK, details of travel documents;*
- *Proof not registered as resident elsewhere – eg confirmation that E121 form has not been activated. Patients should be encouraged to obtain this themselves from DWP, but if unavoidable, trusts can ring DWP on 0191 218 7547 as a last resort.*

Regulation 5

6.39 Regulation 5 lists categories of overseas visitor who are exempt from charges for treatment the need for which arises during a visit to the UK (see full definition of treatment the need which arises during a visit at para 6.2 for non-EEA countries or para 7.5 for patients from EEA countries and Switzerland). This exemption applies to:

a. nationals, or refugees, or stateless persons and their family members resident in EEA member states and Switzerland;

Examples of evidence*:*

- *Confirmation EEA national, or refugee of EEA member state – passport, EEA residence card, from 1 June 2004 EHIC (see para 7.15);*

******* FILL IN IGA FORM AND RETURN TO LEEDS NORTH EAST PCT (see para 7.28)*******

b. UK state pensioners who are living in a non EEA country (or an EEA country and Switzerland for more than six months each year) but who have either lived lawfully in the UK for ten continuous years at some point or have been employed by the UK government for ten continuous years. This exemption extends to their spouse or civil partner or children if they are visiting the UK at the same time as the exempt person;

Examples of evidence:

- *Confirmation in receipt of UK state pension (not private or occupational pension) – pension slip, pink form BR 464, confirmation from DWP;*
- *Evidence of where they normally reside.*

c. people from non-EEA countries with which we hold bilateral healthcare agreements (see para 7.19 for full list);

Examples of evidence*:*

- *Confirmation either national or resident, whichever is appropriate for country. For countries providing healthcare for nationals – passport;, for countries providing healthcare for residents proof of residency - documentation showing address details.*

*******FILL IN IGA FORM AND RETURN TO LEEDS NORTH EAST PCT (see para 7.28)*******

d. nationals from Turkey who are genuinely without resources to pay a charge for their treatment;

Examples of evidence*:*

- *Proof of nationality – passport*
- *Evidence of inability to pay*

e. people who have lawfully lived for ten continuous years in the UK at some point but who are now living in a member state of the EEA or Switzerland, or a non EEA country (other than Israel) with which we have a bilateral healthcare agreement;

***Examples of evidence**:*

- *Proof lived ten continuous years – gives previous address details, confirms attended school, details of previous employment;*
- *Proof living in EEA member state or Switzerland or a non EEA country*
- *Address details.*

f. an authorised child or an authorised companion accompanying someone deemed exempt from charges under regulation 6A.

Examples of evidence:

- *Will have appropriate documentation from the Home Office*.

Regulation 6

6.40 This regulation provides for free treatment to be given to a person who is serving with the armed forces of a country which is part of NATO, but only where that treatment cannot be readily provided by either his or her own medical services or the UK armed forces medical service. (See para 7.34 for further information on NATO countries)

Example of evidence:

- *Will be in receipt of appropriate documentation.*

Regulation 6A

6.41 This is a new Regulation introduced by the NHS (Charges to Overseas Visitors) (Amendment) Regulations 2004. It allows the Secretary of State for Health to designate an individual as exempt from charges on exceptional humanitarian grounds, as long as certain specified criteria are met. This designation can only be made by the Secretary of State. It is envisaged that the powers will only be used very rarely, where there is a clear humanitarian imperative to do so (for example, the UK is responsible for causing the injury needing treatment). As far as trusts are concerned, their role in the context of the charging Regulations is to establish whether such a determination has been made, not to make the determination themselves.

6.42 Where such a determination is made, the patient will be allowed to be accompanied by an authorised companion (which need not be their spouse or civil partner, or even a relative if, for example, the patient is an orphaned child) and any authorised children, who will be exempt from charges for treatment the need for which arises while they are here, but not for other treatment.

Examples of evidence

- *The trust will be advised that the appropriate determination has been made and supporting documentation will be provided (although in an emergency this may arrive after the patient).*

Regulation 7

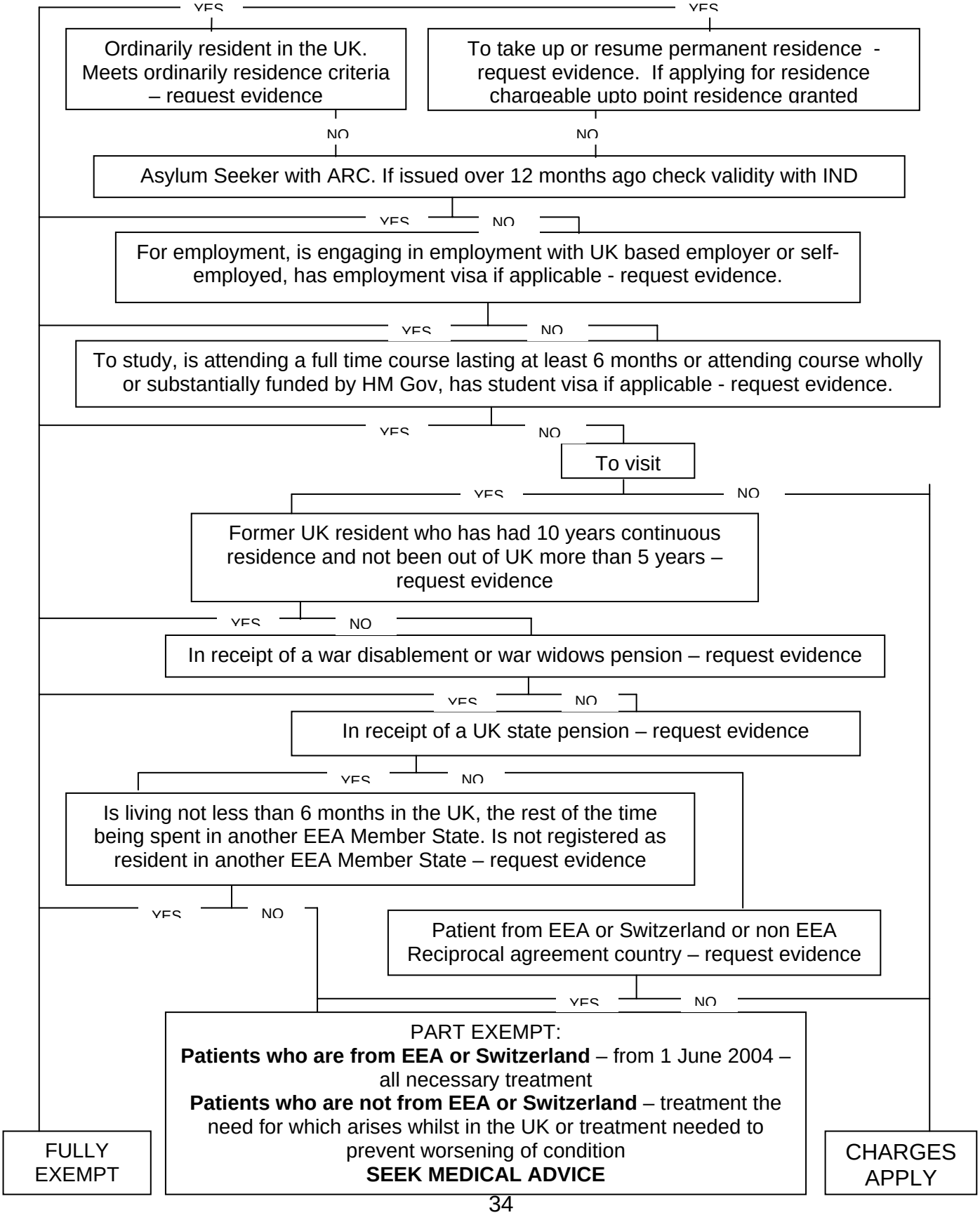
6.43 This Regulation specifies who is liable to pay the NHS charges once a patient has been identified as liable from charges. In the vast majority of cases, this will be the patient. There are only two exceptions:

- seamen or women (see Chapter 9 A-Z) – the liable person is the owner of the ship;
- aircrew – the liable person is the employer.

Regulation 8

6.44 This Regulation concerns repayment of NHS charges where the person who paid them provides evidence that at the time he or she received the NHS services they were exempt. The person has to provide to the satisfaction of the trust a receipt for the money already paid, a signed declaration in support of his or her claim and such evidence in support of the claim as the trust requires. Where these conditions are met, any charges recovered should be repaid.

6.45 **WHY IS THE PATIENT IN THE UK?**



CHAPTER SEVEN

Bilateral healthcare arrangements

Introduction

7.1 There are two types of bilateral health care arrangements in place. The first applies between all the member states of the European Economic Area (EEA), plus Switzerland. These arrangements are governed by the European Community (EC) Social Security Regulations (Regulations (EEC) 1408/71 and 574/72).

7.2 The second is between the UK and individual countries with which it has bilateral healthcare agreements. Some of these agreements only cover nationals of a country visiting the UK. Other agreements cover all residents of a country who visit the UK.

The European Economic Area (EEA) and Switzerland

7.3 The European Economic Area is made up of the 27 member states of the European Union (EU) (i.e. Austria, Belgium, Bulgaria, Cyprus (Southern), Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden and the UK) plus Iceland, Liechtenstein and Norway.

Switzerland has a separate agreement with the European Union which, in effect, applies Regulations 1408/71 and 574/72 to Switzerland.

Visitors from the EEA and Switzerland

7.4 **Who is covered for health care under the EC Social Security Regulations?**

a. ”insured” **EEA nationals, stateless persons or refugees**, their family members and the survivors (irrespective of nationality) of these groups of people, coming from an EEA member state.

b. ”insured” **Swiss or EU nationals,** stateless persons or refugees, their family members and the survivors (irrespective of nationality) of these groups of people, coming from Switzerland.

c. **non-EEA Nationals** legally resident and insured in any EU country (except Denmark).

EEA and Switzerland – all necessary treatment during the visit

7.5 The above groups of people are exempt from charges for “all necessary treatment”. This means:

- diagnosis of symptoms or signs occurring for the first time after the visitor’s arrival in the UK;

- any other treatment which, in the opinion of a medical or dental practitioner

employed by or under contract with a Primary Care Trust (PCT) is required promptly for a condition which:

- arose after the visitor's arrival; or
- became acutely exacerbated after his arrival; or
- would be likely to become acutely exacerbated without treatment;
- the treatment of chronic conditions, including routine monitoring.

It should be noted that this is not the same as the definition for those not covered by EC regulations (see para 6.2).

In the case of maternity services, women who fall into one of the groups in para 7.4 are covered for all maternity care, i.e. antenatal and postnatal care, for up to 15 weeks after the birth of the child, providing the reason for their visit to the UK was not specifically to give birth or to receive maternity treatment. If they do come to the UK specifically to give birth or receive maternity treatment then they will need to have been referred here using an E112 form.

EEA and Switzerland - full exemption where patient has NOT come expressly for treatment

7.6 The following categories of "insured" EEA and Swiss residents, and of stateless persons and refugees living in EEA countries and Switzerland, are fully exempt unless they have come expressly for treatment, (in which case see paragraph 7.7):

- industrial injuries beneficiaries (including persons receiving benefit in respect of an occupational disease) are fully exempt for treatment of any conditions resulting from their industrial injury or occupational disease;
- unemployed persons.
- EEA and Swiss Students: Students from EEA member states or Switzerland, who are temporarily studying in the UK (i.e. for 6 months or less) need to produce a European Health Insurance Card (EHIC) to establish their entitlement to **full** NHS treatment. Students studying for more than 6 months will be exempt from charges (see para. 6.13) so will not need to produce an EHIC.

EEA and Switzerland - expressly here for treatment

7.7 There are separate arrangements under Articles 22(1)(c) and 55(1)(c) of Regulation (EEC) 1408/71 for people from another EEA country or Switzerland who want to come to the UK expressly to seek treatment. These patients will need to obtain the prior authorisation of their social security institution, which bears the cost. The institution is obliged to grant authorisation only if the treatment is provided under the legislation of the applicant's state of residence and can not be made available in the home state "without undue delay".

7.8 A person who has obtained permission from his social security institution to seek treatment in the UK will be issued with a Form E112 or, much more rarely, (for a person authorised to come for treatment of an industrial injury or

occupational disease) Form E123. They must make advance arrangements for their treatment and be given the same clinical priority as NHS patients i.e. if there is a waiting list they are subject to it. Patients referred under E112/E123 arrangements will continue to be covered for all necessary treatment for any other conditions. (For definition of all necessary treatment see para 7.5)

7.9 To avoid the complications that may occur if a patient authorised to seek NHS treatment in the UK is inadvertently treated privately, hospitals and consultants are advised to establish when accepting such referrals whether the treatment should be at the cost of the patient's social security institution or at the patient's own cost.

7.10 Where a hospital has agreed to accept a patient under these arrangements but on arrival the patient cannot produce Form E112 or Form E123 only treatment that is immediately necessary should be provided without charge. The patient can pay for the treatment and if this is the case they should be charged as a NHS Charged Patient not a private patient. (For further information on NHS Charged Patients see para 8.1). If the relevant E form is subsequently received the charge should be refunded. If the form has not been received by the time the patient is discharged from hospital he should be told to take the matter up with his social security institution.

Documentary evidence

7.11 The European Health Insurance Card (EHIC) was introduced by member states of the EEA and Switzerland from 1 June 2004. The EHIC entitles the holder to "all necessary treatment" but not to elective treatment. The EHIC replaced forms E110, E111, E119 and E128 which ceased to be valid from 1 January 2006. Therefore, the EHIC also provides cover to international transport workers, an unemployed EEA or Swiss insured person seeking work and their family members and posted workers.

7.12 Possession of an EHIC is not a requirement to be able to receive "all necessary treatment" free of charge. A passport, identity card or, for refugees and stateless persons, a travel document, which proves that they are "insured" in their country of residence is also sufficient evidence of entitlement to "all necessary treatment".

7.13 Patients from EEA countries and Switzerland may also produce a temporary "mobility form" which is a limited validity form for those who have misplaced/had their EHIC stolen. Patients who allege such loss or theft should be advised to contact their card-issuer in their country of residence.

7.14 The UK has accepted responsibility for the healthcare of persons from other EEA countries and Switzerland who are employed by Her Majesty's Government (e.g. locally employed staff in UK embassies in EEA countries and Switzerland). Such persons will be in possession of a letter issued by the Foreign and Commonwealth Office, to provide evidence of their entitlement to obtain free NHS treatment.

Definition of "member of family"

7.15 The definition of "member of family" varies from country to country. For UK nationals and former UK residents, it means spouse, civil partner and child up to 16 years of age, or between 16 and 19 if in full-time education at school or

college of further education in the UK, but not at university or otherwise in higher education. Where residents of other member countries seek treatment for members of their family, they should be asked if the persons concerned (who may for example be aged parents) are counted as "members of the family" under the rules of the member state they are "insured" in. This also applies to residents of Switzerland.

Other issues

7.16 It should be noted that:-

a. Denmark excludes the Faroe Islands and for European Union purposes excludes Greenland. However a bilateral healthcare agreement between the EU and Greenland allows Greenland nationals visiting EEA countries to receive immediately necessary treatment under state health care;

b. Andorra, Monaco, San Marino and the Vatican City are **NOT** part of the European Economic Area;

c. the UK sovereign base area in Cyprus does not count as part of the UK in this context, nor as part of the European Union;

d. European Community (EC) law is not yet operable in the Northern part of Cyprus. (It only applies in Southern Cyprus). Therefore, visitors from Northern Cyprus are not covered by the EC Regulations.

e. for the purposes of health care, relations between the UK and Gibraltar are governed by a bilateral healthcare agreement (see para 7.23). The EC Regulations do not apply;

f. for the purposes of the relevant EC Regulations:-

France includes the overseas departments of Guadeloupe, Martinique, Guyane (French Guiana), Reunion and St. Pierre and Miquelon;

Spain includes the Balearic Islands, Canary Islands, Ceuta and Melilla;

Portugal includes the Azores and Madeira.

Non-EEA countries with bilateral healthcare agreements with the UK

7.17 The countries or territories with which the UK has bilateral health care agreements are listed in paragraph 7.19. Most of these agreements provide for immediately necessary treatment for conditions arising or becoming acutely worsened during a temporary visit (For definition of treatment the need for which arises see para 6.2). Some also provide for a limited number of referrals to the UK specifically for the treatment of pre-existing medical conditions.

The non-EEA bilateral healthcare agreement countries and territories

7.18 The UK has bilateral health care arrangements with these countries:

Anguilla	**Kazakhstan***
Armenia*	**Kirgizstan***
Australia	**Macedonia***
Azerbaijan*	**Moldova***
Barbados	**Montenegro***
Bosnia*	**Montserrat**
British Virgin Islands	New Zealand*
Channel Islands	Russia*
Croatia*	**Serbia***
Falkland Islands	**Slovenia ***
Georgia*	**St. Helena**
Gibraltar*	**Tajikistan***
Iceland	**Turkmenistan***
Isle of Man	**Turks and Caicos Islands**
	Ukraine*
	Uzbekistan*

Countries with an asterisk (*) have agreements covering their nationals and UK nationals only. The others cover all residents, irrespective of nationality. It is for non-nationals resident in an "all residents" country to produce evidence of their residential status. Iceland is an EEA member state but the bilateral healthcare agreement also covers non-EEA nationals resident in Iceland. The agreements covering "nationals" only applies where nationals are living in their own country, not if they are living in another country with which the UK holds a bilateral healthcare agreement.

7.19 Persons who can present a passport, residence permit, identity card or social security card showing that they are either nationals or residents as appropriate of any of these countries should be treated as exempt from charges in respect of treatment the need for which arose during a temporary visit to the UK. (For definition of treatment the need for which arises see para 6.2)

Non-EEA - expressly here for treatment

7.20 Under the terms of the bilateral arrangements with those countries highlighted in **bold text** e.g. **Armenia, Azerbaijan,** exemption also applies to citizens or nationals who have been referred to the UK specifically for NHS treatment. Normally the referrals can be made only when the countries do not have adequate facilities to provide the treatment needed.

7.21 The number of referred patients from Malta who are treated free under these arrangements is governed by a strict quota and is monitored by the Department of Health. Arrangements exist by which hospitals are notified in advance of patients authorised to come under these arrangements. The Maltese High Commission in London allocate quota numbers to patients referred to the UK under these arrangements. When the quota is exhausted, further patients may be referred to the UK by the health authorities of Malta; these should be charged under the hospital charging Regulations as NHS charged patients and not as private patients.

7.22 In the case of referrals from Gibraltar, the Channel Islands and the Isle of Man, these will be commissioned through a PCT. In the case of Gibraltar and the Channel Islands this is Lambeth PCT and, for the Isle of Man, West Cheshire PCT. These PCTs hold allocations from the Department for meeting the costs of treating these referrals. The costs of any referrals in excess of the Departments allocations will be settled between the overseas authority and the relevant commissioning PCT directly.

7.23 Referrals for treatment from Armenia, Azerbaijan, Georgia, Kazakhstan, Kirgizstan, Moldova, Tajikistan, Turkmenistan, Ukraine and Uzbekistan are handled by the Department of Health and are extremely rare.

7.24 For all patients who are referred for NHS treatment as in paragraphs 7.20 to 7.23 above, advance arrangements for their acceptance should be made and the patients must be given the same priority as patients living in the UK.

7.25 The British Overseas Territories of Anguilla, the British Virgin Islands, Montserrat, St Helena and Turks & Caicos Islands can refer four patients each, per year, specifically for treatment. Referral arrangements are made through Leeds Primary Care Trust. (See para 7.31 for their contact details)

7.26 For nationals of Serbia, Montenegro, Bosnia, Croatia, Macedonia and Slovenia, all hospital treatment is exempt from charges but the Department of Health would like to be informed when a patient has come to the UK specifically to seek treatment. A suggested pro-forma is listed at Appendix 4.

Copies of Appendix 4 should be sent to:

The Department of Health
International Division
Cross Border Health Care (Finance Team)
Area 327
Wellington House
133-155 Waterloo Road
London
SE1 8UG

Income Generation Audit (IGA) forms

7.27 When treatment is provided under the bilateral healthcare arrangements (both EEA and Switzerland and non-EEA countries) trusts will need to fill in an IGA form as well as invoicing their host PCT. This will include when “all necessary treatment” or treatment the need for which arose during a visit was provided, E112 referrals and where a patient from a non-EEA country is referred to the UK by special arrangement specifically for the treatment of a pre-existing medical condition as described in paragraphs 7.21 to 7.24.

7.28 The purpose of the IGA form is to gather information on the numbers and costs of treating bilateral healthcare patients so that the UK can seek reimbursement for the cost of providing treatment. Therefore, it is vital that these forms are completed and returned to Leeds Primary Care Trust so that NHS monies can be recovered and ploughed back to provide NHS services.

7.29 The full cost of treatment should be recovered. To calculate the cost trusts should use the latest Non-Contract Activity guidance at

www.dh.gov.uk/paymentbyresults.

7.30 Full instructions on how to complete IGA forms can be found in the Department of Health Finance Manual which can be accessed via the internet at **http://www.info.doh.gov.uk/doh/finman.nsf** ***>NHS Trust Detailed Guidance>Chapter 22>Appendix 1***. Future requirements for IGAs are currently under consideration so please check Chapter 22 of the Finance Manual periodically for the current position.

IGA forms should be returned to:

Leeds Primary Care Trust
Overseas Visitors Section (Finance)
Sycamore Lodge
7a Woodhouse Cliff
Leeds
LS6 2HF

For general enquiries telephone **0113 305 9790 or 305 9795**

Other international arrangements

7.31 There is a limited social security bilateral healthcare arrangement with Israel under which a person entitled to industrial injuries benefit in Israel is fully exempt from NHS charges for treatment arising from his industrial injury or occupational disease. It will be for the visitor to produce proof of entitlement.

7.32 The European Convention on Social and Medical Assistance has been largely superseded by the UK's system of bilateral arrangements. However, it would apply if a Turkish national in the UK required treatment the need for which arose in this country and was unable to pay. (For the definition of treatment the need for which arises see para 6.2).

7.33 The eligibility of North Atlantic Treaty Organisation (NATO) and attached civilians stationed in the UK is governed by the NATO (Status of Forces) Agreement 1955. The countries to which this applies are Belgium, Canada, Czech Republic, Denmark, France, Germany, Greece, Hungary, Iceland, Italy, Luxembourg, Netherlands, Norway, Poland, Portugal, Spain, Turkey, UK and the USA. The only NATO country to have bases in the UK and maintain substantial members of service personnel here is the USA, but members of the armed forces of the other countries may spend time on duty in the UK.

7.34 NATO personnel stationed in the UK and their spouses, civil partners and children are expected to use their own or UK armed forces hospitals where this is practicable, but if they use NHS hospital facilities, (e.g. because they are significantly more accessible to the patient) they are exempt. Where NATO personnel, or their spouses, civil partners or children, have been in the UK for 12 months, the normal rules for exemption apply.

Residence Rights of persons from EEA member states including the "accession" member states

7.35 Where a person from an EEA member state comes to the UK to live, rather than just to visit, trusts should not use the bilateral arrangements. Such people can reside lawfully in the UK when exercising one of five EU treaty rights –

employment; self-employment; job-seeker; student; self sufficient. Self-sufficient means not being reliant on public funds (NB – public funds does not include NHS treatment). Therefore they can either be considered ordinarily resident here or fully exempt from charges for hospital treatment (including elective treatment) under an exemption category (taking up permanent residence, legally employed etc). They will be classed as part of the local population and IGA forms should not be completed.

A8 Countries

7.36 On 1 May 2004 ten countries acceded to the European Union. Of these, eight became known as the A8 member states (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia). People from these A8 member states have exactly the same residence rights in the UK as those from the original 15 EEA member states (and Malta and Southern Cyprus – the two other member states that acceded to the EU on 1 May 2004) as long as they are exercising one of their EU treaty rights.

7.37 The only exception to this is where someone from one of the A8 member states is seeking to reside here for the purposes of exercising their employment EU treaty right. Such a person can only reside here legally under such circumstances if, within 30 days of starting work, they are registered on the Worker Registration Scheme. Once they have completed 12 months of continuous and registered employment they no longer need to be registered. If they cease employment in less than 12 months then they will no longer have any right of residence as a worker.

Bulgaria/Romania – A2 Countries

7.38 Bulgaria and Romania joined the EU on 1 January 2007. From that date, Bulgarian and Romanian nationals will be able to move and reside freely in any EU Member State (including the UK). They will have a right of residence in any Member State for their first 3 months of residence on an unrestricted basis and remain legally resident in that state as long as they wish, if exercising a treaty right as a student, a self-employed person, or if they are not economically active but are self-sufficient. But they will not have a right to reside in the UK as a worker or jobseeker. Those wishing to take employment in the UK may require prior approval before starting work.

7.39 In most cases, a Bulgarian/Romanian national will need a worker authorisation document in the form of a "worker accession card" to be engaged in lawful employment. Alternatively, if they are in an exempt category, they may be entitled to a registration certificate confirming that they have unrestricted access to the labour market. For example, A2 nationals who have been working with permission, and without interruption, in the United Kingdom for a period of 12 months ending on or after 31 December 2006 will be exempt from requiring a worker accession card. This may be the case if, for example, they are already present in the United Kingdom as a work permit holder or in some other category that confers permission to take employment (for example, if they are here as a student and have been in part-time employment continuously for 12 months).

7.40 Alternatively, once an A2 national has completed 12 months continuous employment as the holder of a worker accession card, they can obtain a blue registration certificate confirming their unrestricted access to the labour market.

7.41 Bulgarian and Romanian students in the United Kingdom on the other hand, may engage in employment for up to 20 hours a week. However, if they wish to do so, they must first obtain a (yellow) registration certificate confirming that they are exercising a Treaty right as a student. They will be required to demonstrate that they are enrolled at a genuine educational institution. If they wish to work for more than 20 hours a week, they will need to obtain an accession worker card for this purpose. For more information see the Immigration and Nationality Directorate website at www.ind.homeoffice.gov.uk.

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CHAPTER EIGHT:

FINANCIAL MATTERS

NHS Charged Patients

8.1 Patients charged under the Regulations are **NHS CHARGED PATIENTS.** They should not be confused with private patients. Unlike private patients NHS Charged Patients are liable to pay for their treatment even where an undertaking to pay has not been obtained.

8.2 The treatment of NHS Charged Patients is subject to the same clinical priority as other NHS patients. The beds they occupy are not pay beds and consultants cannot charge them for their services. The full cost of any drugs prescribed in hospital, including HIV/AIDS drugs, needs to be charged.

8.3 It is important to note that being in possession of an HC2 certificate does not exempt a patient from charges for hospital treatment. A patient should be assessed in accordance with the Regulations and if found to be liable charges will apply; this will include the full cost of drugs including HIV/AIDS drugs.

How much to charge

8.4 Trusts should recover the full cost of the treatment given to an overseas visitor. To calculate the cost trusts should use the latest Non-Contract Activity guidance at www.dh.gov.uk/paymentbyresults.

8.5 Where the patient is from an EEA country and Switzerland or non-EEA bilateral healthcare agreement country, trusts will need to complete an IGA form using the costing outlined at para 8.4. For full instructions on IGA forms see para 7.27.

And when to charge it

8.6 It is important that charge-liable overseas visitors are identified as early as possible in their dealings with the hospital in order to reduce the incidence of failure to pay and to protect NHS resources. In the context of charging overseas visitors, when to charge can be considered in terms of the urgency of the treatment needed:

immediately necessary treatment – if the opinion of the clinicians treating the patient is that treatment is immediately necessary then it must not be delayed or withheld while the patient's chargeable status is being established. There is no exemption from charges for "emergency" treatment (other than that given in an accident and emergency department - see para 6.7 (a)) but trusts should always provide immediately necessary treatment whether or not the patient has been informed of, or agreed to pay, charges. Not to do so could be in breach of the Human Rights Act. While it is a matter of clinical judgement whether treatment is immediately necessary, this should not be construed simply as meaning that the treatment is clinically appropriate, as there may be some room for discretion about the extent of treatment and the time at which it is given, in some cases allowing the visitor time to return home for treatment rather than incurring NHS charges. When providing immediately necessary treatment clinicians should be asked to complete an advice from Doctors or Dentists form at Appendix 1:

urgent treatment – where the treatment is, in a clinical opinion, not immediately necessary, but cannot wait until the patient returns home. Patients should be booked in for treatment, but the trust should use the intervening period to establish the patient's chargeable status. Wherever possible, if the patient is chargeable, trusts are strongly advised to seek deposits equivalent to the estimated full cost of treatment in advance of providing any treatment. Any surplus which is paid can be returned to the patient on completion of treatment. When providing urgent treatment clinicians should be asked to complete an advice from Doctors or Dentists form at Appendix 1;

non-urgent treatment – routine elective treatment which could in fact wait until the patient returned home. The patient's chargeable status should be established as soon as possible after first referral to the hospital. Where the patient is chargeable, the trust should not initiate treatment processes, eg by putting the patient on a waiting list, until a deposit equivalent to the estimated full cost of treatment has been obtained. Any surplus which is paid can be returned to the patient on completion of treatment. This is not refusing to provide treatment, it is requiring payment conditions to be met in accordance with the charging Regulations before treatment can commence.

8.7 Where a trust provides treatment in advance of payment it will be helpful, particularly if debt recovery action becomes necessary, to ask the patient to sign an undertaking to pay. The overseas visitors will be liable to pay the debt whether or not they sign and undertaking to pay form. See Appendix 2 for an example of an undertaking to pay form.

Methods of payment

8.8 Trusts can accept payment by any method acceptable to them. There may be cases where patients cannot pay in advance of receiving treatment but offer some form of guarantee that their costs will be met by a third party. Examples are patients with travel healthcare insurance or patients being sponsored by an employer or government. In each case the trust must decide whether or not to accept the risk of providing treatment in advance of receiving payment. If the trust has no experience of dealing with such matters it may be advisable to take specialist advice either from trusts own legal advisers or from a company specialising in debt collection.

8.9 In all cases the patient remains liable for the cost of treatment. Trusts should be wary of dealing directly with third parties unless agreements have been reached on billing and currency. Some overseas insurers demand itemised billing or pay in local currencies which with fluctuating exchange rates can leave trusts with a shortfall on income. The problems will be minimised if the patient pays the trust directly and then recovers the cost themselves.

8.10 Where the overseas visitor has received treatment as an in-patient, trust finance departments need to ensure that they are able to issue invoices promptly, perhaps at very short notice, in order to ensure that the invoice can be presented, wherever possible, before the patient leaves the hospital.

Value Added Tax

8.11 All charges to overseas visitors are exempt from VAT.

Deceased patients

8.12 The patient is solely liable for the debt therefore where a patient dies without making or completing payment to the trust no-one else becomes liable for that debt. Trusts should seek repayment from the patient's estate if possible but otherwise the debt will need to be written off (see para 8.16). An offer from relatives or another person to meet the debt can be accepted but should not be actively sought, nor is it acceptable to pursue relatives of a deceased patient for recovery of a debt for which they have no legal liability.

Newborns

8.13 Where a baby is born in hospital mother and child are charged as a single patient. If one of them is transferred to another department, for example neo-natal care, the charge will continue to accumulate to recover the full costs of treating both of them. If one is discharged and the other remains in hospital the charge will continue to accumulate to recover the cost of treating the one remaining. If one of them is transferred to a different hospital then that hospital will then be responsible for recovering the costs of any treatment they provide. This will result in two separate bills being issued.

Calculation of length of stay

8.14 For in-patients the day of admission and the day of discharge count together as a single day. Thus someone admitted on a Monday and discharged the following Friday should be treated as having been an in-patient for 4 days.

The accounts

8.15 There is currently no requirement for income from overseas patients to be separately identifiable in the trust accounts. However trusts should keep their own financial records of overseas patient debt including the total amount of prepayment before treatment, invoices raised, the amounts recovered, the amounts outstanding and the debt written off. The Department of Health recommends that this should be kept under review at senior management level as there may be occasional requests by the Department for information including any emerging patterns or problems.

Writing off overseas debt

8.16 Reasonable measures must be taken to pursue overseas visitors debt. Trusts are strongly recommended to consider employing the services of a debt recovery agency that specialise in the recovery of overseas debt. There is some evidence that trusts who do so are significantly more successful in recovering overseas visitors debt. In cases where all reasonable steps have been taken to recover, or where the patient has subsequently died, the trust can decide to write it off. It is not acceptable not to bother raising an invoice for treatment provided to a chargeable overseas visitor simply because it is believed that they are unable to pay.

8.17 The Regulations provide that overseas visitors bad debt cannot be waived and any unrecoverable debt needs to be written off and properly recorded and identified in NHS trust accounts. Overseas visitors debt must be recorded as Losses and Special Payments overseas visitors' bad debt in trusts' accounts. It is extremely important that overseas visitor bad debt is properly and accurately

reported in the accounts, no matter what the level of that debt may be. It is only through accurate recording that the scale of unrecovered debt can be known. Full instructions on how to write of overseas debt can be found in the Department of Health Finance Manual which can be accessed via the internet at **http://www.info.doh.gov.uk/doh/finman.nsf** >***NHS Trust Detailed Guidance>Chapter 12 Losses and Special Payments>Appendix 1 categories of loss>part 3 bad debt and claims abandoned.***

CHAPTER NINE:

BUT WHAT ABOUT…..?
An A to Z guide to terms and less usual circumstances

Abortion - see *Termination of pregnancy.*

AIDS - see *HIV.*

Ambulance services - the Regulations do not apply to ambulance services. These should be provided free of charge where they are part of the patient's clinical need.

Artificial limbs - see *Prosthetic services*

Asylum seeker – a person who has made a formal application to the Home Office for recognition as a Refugee under the 1951 UN Convention and its 1967 Protocol Relating to the Status of Refugees.

A person who has made a formal application for asylum in the UK will be issued with an Immigration and Nationality Directorate (IND) Application Registration Card (ARC). This card contains a photograph of the asylum seeker, details such as their name and an electronic chip containing biometrics information.

Where an asylum seeker has had an initial application for refuge refused he or she has rights of appeal. They will continue to be entitled to hospital treatment without charge until the system of appeal has been exhausted. See para 6.23 for advice on how to establish whether an asylum seeker's case is on-going.

Au pairs - au pairs are not employed as such and are therefore not automatically eligible for free treatment. Au pair is a technical term applied by the Home Office when granting entry to the UK, usually for a minimum of two years, and it can apply only to people from certain countries. Many of these countries have bilateral healthcare agreements with the UK or are EEA member states or Switzerland and so the au pair will be eligible for any treatment the need for which arises during the visit. Alternatively an au pair who is coming to the UK for a reasonable length of time and a settled purpose could be said to be ordinarily resident. The trust will have to decide each case on its own merits and in the light of the individual's circumstances.

Authorised child - a child of a person who has been given leave to enter the UK with a parent who has come to the UK for specified treatment under provision of Regulation 6A; or a child of an authorised companion of such a person given leave to enter the UK. There may be several authorised children travelling with the exempt person or their authorised companion. An authorised child is eligible for free treatment the need for which arises while they are here.

Authorised companion – a person who has been given leave to enter the UK to accompany a person who has come to the UK for specified treatment under provision of Regulation 6A. There will normally only be one authorised companion, and they will be eligible for treatment the need for which arises while they are here

Baseline questions – all trusts should have systems in place to ask all patients

beginning a new course of treatment at the hospital the baseline questions. Where a person's answers to the baseline questions indicate they may be chargeable, they must be referred for a second interview with a trained member of staff (eg Overseas Visitors Manager) to establish eligibility.

Civil partners - The Civil Partnership Act 2004 came into force on 5 December 2005, providing legal recognition of the union of same-sex partners who sign a registration document and giving them parity of treatment in a range of matters with heterosexual married couples. Unions comparable to civil partnerships authorised under the legislation of other countries must also be recognised. Therefore, civil partners must be treated in exactly the same way as spouses are in relation to the charging regime. **See also Spouse or civil partner (and children)**

Community services - some services delivered in the community will be subject to charge as services forming part of the health service when the staff delivering the service are employed by a trust covered by the Regulations. Where similar services are provided by staff not employed by NHS trusts, e.g. staff directly employed by a GP, for example a District nurse, then the hospital charging Regulations do not apply.

Confidentiality - where a hospital becomes aware that a patient may be here without proper authorisation then a decision needs to be taken in the full light of the patient's circumstances as to whether his suspected immigration status should be reported. It is important that each case should be judged on its own merits. While there can be a public interest argument for reporting the patient's immigration status this needs to be weighed against not just medical confidentiality but also the medical needs of the patient and the wider public. Each case should be discussed with the trust's Caldicott Guardian before a decision is taken, and it would probably be advisable for trusts to seek advice from their own legal advisers.

Dependant children visiting an ordinarily resident parent - where a child who normally lives abroad is visiting a parent who is ordinarily resident in the UK, that child can take on the status of its parent if dual access or joint custody has been granted.

Dependants - for all patients, except those from other EEA member states, dependants are limited to marriage partner and children under the age of 16 or up to 19 if still at school and receiving child benefit. For EEA member states the accepted dependants of a person will be named on the relevant E form issued or other identity documents.

Dialysis - the Regulations, and therefore charges, apply where visitors to the UK require haemodialysis or peritoneal dialysis for the treatment of kidney failure.

Temporary visitors from the EEA countries and Switzerland (other than for medical purposes) i.e. on holiday or business, or for short term work, do not need an E112 to obtain dialysis treatment. This should be provided under the bilateral healthcare arrangements for immediately necessary treatment. This is subject to the patient making an advance booking and facilities being available at the time of treatment.

For non-EEA countries with which the UK holds bilateral healthcare agreements only Australia has made provision for dialysis treatment to be provided as immediately necessary treatment.

For visitors from countries outside of the EEA , Australia and Switzerland (including Channel Islands) the provision of dialysis treatment is not the responsibility of the NHS and the patients are liable for charges.

UK residents who enquire about the provision of dialysis whilst abroad should be directed to the NHS unit where they normally dialyse for information. For EEA countries an E111 form will cover the cost of treatment (in Spain visitors will be issued with a P10 form before their visit).

Domiciliary nursing - see *Community services*

Dual residence - a person with homes in more than one country may be considered ordinarily resident in the UK if they are likely to spend at least 9 months of the year living in the UK. However, if they are a person in receipt of a British state pension who spends not more than 6 months living in another EEA member state and not less than 6 months living in the UK then they will be exempt under Regulation 4A even though they spend more than 3 months in another EEA member state.

Employment - the Regulations do not define employment other than to make clear that self-employment is included, and that it must be with an employer based in the UK or at a registered UK branch of an overseas employer. Self-employed workers must show that their principle place of business is in the UK. Generally where there is a doubt that a person is genuinely employed it can be satisfied by asking to see documentary evidence from the employer, or in the case of a self employed person, a letter from a reputable bank or accountant or solicitor. Part-time work will also count although trusts may wish to satisfy themselves that the primary reason the person is in the UK is to work. Where for example a person has been admitted to the UK as a visitor and has not applied to switch to an employment category but has found employment that would not count.

Establishing Responsible Commissioner – full guidance can be found at: **http://www.dh.gov.uk/assetRoot/04/06/97/97/04069797.pdf**

General practitioners - the hospital charging Regulations do not apply to general practitioners. GPs are able to offer treatment to overseas visitors on a private basis but can also accept them as NHS patients. Such patients may receive an NHS registration card and number. This does **NOT** automatically entitle them to treatment without charge at a hospital, nor does the fact that they may have been referred to hospital by a GP. The trust remains responsible for checking that all patients – including those with NHS cards or numbers – are ordinarily resident in the UK or exempt from charges before treating them without charge.

Health visitors - see *Community services*

HIV - there is no charge for a diagnostic test and any associated counselling to establish if a patient is HIV positive. Any further treatment needed, including the full cost of drugs, for HIV or AIDS is liable to charges. If a liable patient is in possession of a HC2 certificate this does not exempt them from charges for drugs for HIV/AIDS treatment.

Hospital at Home - see *Community services*

Illegal immigrants - trusts may occasionally discover when establishing residence that a patient is in the UK without proper permission. This may be because they have entered the country on a visitor's visa that has since expired or they may have had an application for asylum refused but have not yet been removed from the country. In these cases charges may apply depending on the circumstances, particularly if they have been in the UK for more than 12 months (see para 6.23). See also

confidentiality.

Immediately necessary treatment – trusts need to treat patients in need of immediately necessary care regardless of their ability to pay. This may be because their condition is life-threatening, or because if treatment is not given immediately it will become life-threatening, or because permanent serious damage will be caused by any delay. It is a matter of clinical judgement which should not be second-guessed by administrative staff. However, in the interests of good audit management, the responsible health professional's reasons should be recorded in the patient's clinical notes and the request for advice from a doctor form at Appendix 1 should be completed. Where immediately necessary treatment takes place and the trust knows that payment is unlikely, treatment should be limited to that which is clinically necessary to enable the patient to return to their own country. This should not normally include routine treatment unless it is necessary to prevent a life threatening situation. Any charge payable for such treatment will still stand, but if it proves to be irrecoverable, then it should be written off. For full information on writing off debt see para 8.16.

Israel - there is no general bilateral healthcare agreement with Israel but a person entitled to industrial injuries benefit in Israel is fully exempt from NHS charges for treatment arising from his industrial injury or occupational illness (see para 7.32).

Maternity services - maternity services are not exempt from charges. However because of the severe health risks associated with conditions such as eclampsia and pre-eclampsia, maternity services should not be withheld if the woman is unable to pay in advance. The patient remains liable for charges and the debt should be pursued in the normal way.

Women from EEA countries and Switzerland are covered for all maternity care i.e. antenatal and postnatal care for up to 15 weeks after the birth of the child.

Women from non-EEA countries with which we have bilateral healthcare agreements are eligible to receive immediately necessary treatment in connection with their pregnancy, if an unexpected emergency arises during their visit. This applies irrespective of whether the pregnancy was first confirmed in the UK or elsewhere. However, if they come to the UK or remain in the UK to obtain routine antenatal care or deliver their baby then charges will apply, unless they are specifically referred to the UK under the agreement because of complications.

Midwifery - see *Community services*

Newborns - where a baby is born in hospital mother and child are charged as a single patient. If one of them is transferred to another department for example, neo-natal care, the charge will continue to accumulate to recover the full costs of treating both of them. If one is discharged and the other remains in hospital the charge will continue to accumulate to recover the cost of treating the one remaining. If one of them is transferred to a different hospital then that hospital will then be responsible for recovering the costs of the treatment they provide. This will result in two separate bills being issued.

NHS card or number – having an NHS card or NHS number **does not** give automatic entitlement to free NHS hospital treatment. Every patient's eligibility should be checked.

NHS charged patients – overseas visitors who are liable for charges are NHS charged patients. They should not be confused with private patients. They must receive the same priority as NHS patients. Unlike private patients NHS charged patients are liable to pay for their treatment even where an undertaking to pay has not been obtained.

No recourse to public funds – a stamp on some visitors passports. It does not apply to NHS treatment but prevents people from accessing UK social security benefits.

Non-urgent treatment – routine elective treatment which could in fact wait until the patient returned home. The patient's chargeable status should be established as soon as possible after first referral to the hospital. Where the patient is chargeable, the trust should not initiate treatment processes, eg by putting the patient on a waiting list, until a deposit equivalent to the estimated full cost of treatment has been obtained. Any surplus which is paid can be returned to the patient on completion of treatment. This is not refusing to provide treatment, it is requiring payment conditions to be met in accordance with the charging Regulations before treatment can commence**.**

Norwegian seafarers - a Norwegian national employed on a Norwegian registered vessel is exempt if brought to the UK for treatment on or from that vessel.

Observation wards - patients kept in observation wards attached to accident and emergency departments should not be charged unless and until they are formally admitted to hospital as an inpatient.

Offshore workers - a person working in UK territorial waters or in the UK sector of the Continental Shelf is exempt, as is an offshore worker working elsewhere on the Shelf if his employer or contractor has his principal place of business in the UK.

One year rule - there is no "one year rule" that says you have to have been in the UK for 12 months before you are entitled to free treatment. This should not be confused with the exemption for people who have been living lawfully in the UK for twelve months immediately preceding the date on which treatment is given. Someone who is ordinarily resident, or is exempt under one of the other exemptions, is entitled to free treatment from the day they arrive in the UK, there is no "qualifying" residence period.

Ordinarily resident - a common law concept considered by the House of Lords in 1982. Although the case being considered was concerned with the meaning of ordinary residence in the context of the Education Acts the decision is generally recognised as having a wider application. It should, therefore, be taken into account when deciding if a person can be considered ordinarily resident for the purposes of the NHS Act 1977 and the overseas visitors charging Regulations.

In order to take the House of Lords judgement into account, when assessing the residence status of a person seeking free NHS services, trusts will need to consider whether they are;

> **living lawfully in the United Kingdom voluntarily and for settled purposes as part of the regular order of their life for the time being whether they have an identifiable purpose for their residence here and whether that purpose has a sufficient degree of continuity to be properly described as "settled"**.

Overseas visitor - any person of any nationality who is not ordinarily resident in the UK.

Permanent residence - people taking up permanent residence in the UK are entitled to free hospital treatment. They must however have the legal right to live here permanently and trusts can ask to see evidence of that right. People who have the right to live here and who claim to be returning permanently to the UK after living abroad can be asked to provide evidence to support such a move – perhaps sale of property abroad; shipping of belongings; transfer of assets etc.

People who have made applications for permanent residence will be chargeable for hospital treatment up to the point they are granted leave to remain by the Home Office or until they have completed 12 months lawful residence and then charges will cease. Where a person applies to extend their current entry visa, only those claims that are made before the existing visa runs out will be considered as lawful residence. Where a person applies to extend their leave to remain after their current visa has expired then the calculation of 12 month's lawful residence starts from the date they reapplied.

Prisoner – anyone who has be detained under provision of section 43(1) of the Prison Act 1952 or anyone who as been detained under provision of the Immigration Act 1971.

Prosthetic services - the Artificial Limb and Appliance services are not provided under The NHS Act 1977, and the overseas visitors charges Regulations made under that Act cannot therefore apply to services provided by them. Patients who are liable for charges under the Regulations and who need artificial limbs or appliances must therefore obtain them privately.

Public purse - a term used in some travel documents to signify that the holder cannot access UK social security benefits. It does not prevent access to NHS treatment.

Refugee - a person who has been granted asylum by the UK government has been recognised as a refugee (a successful asylum seeker) and is exempt from charges.

Repatriation back to the UK – when a person goes to live outside of the UK the NHS ceases to have responsibility for their healthcare. If such a person is taken seriously ill the NHS is not responsible for funding their repatriation back to the UK. However if the patient's family make their own arrangements to repatriate the patient who on arrival will be resuming their permanent residence, then they will become entitled to access full NHS treatment from the date of their arrival. In cases where trusts are advised in advance that a patient is arriving they must make adequate arrangements to ensure that the patient receives the appropriate healthcare on their arrival back in the UK.

Repatriation to the overseas visitor's home country - where a person has received NHS treatment and has not been able to pay for that treatment and expresses a wish to return home NHS trusts can consider funding the cost of their repatriation if the cost of repatriation outweighs the cost of treating the patient and will therefore produce a cost saving for the trust and if the patient consents to return home. Trusts cannot force patients to accept repatriation.

Routine monitoring - will include the monitoring of conditions such as diabetes. Such provision of treatment would not be covered under the existing non-EEA bilateral healthcare arrangements and charges will apply. For further information on arrangements for EEA countries and Switzerland see para 7.5.

Seamen or women - a person working on an UK registered ship is exempt from charges. A person working on any other ship is exempt if he is ordinarily resident in the UK; or if he is from an EEA country or Switzerland or a non-EEA bilateral healthcare agreement country and his need for treatment arose in the UK (see Chapter 7) or on a voyage to the UK; or if he is a former UK resident and the five or ten year exemptions apply (see para 6.31)

Six month rule - there is no six month rule that says you have to have been in the UK for 6 months before you are entitled to free treatment. As a guideline only, the Department of Health has suggested that when determining whether someone is ordinarily resident, they may be less likely to meet the "settled" element of the criteria if they are going to be here for less than 6 months. However, a person intending to stay for less than six months should not automatically be deemed an overseas visitor for the purposes of the charging Regulations – it will depend on their overall circumstances and every case must be determined on its own merits.

Sponsors - some people are allowed into the UK only because another person or authority has agreed to sponsor their stay here and guaranteed that they will not become a drain on the "public purse". The public purse does not include NHS costs and people who are sponsored can use the NHS. Most sponsored people will be here for a purpose which will entitle them to hospital treatment without charge but some may not be eligible. As the sponsor is not liable for NHS costs trusts may therefore wish to seek payment in advance of treatment from the patient, even where a sponsor indicates that he or she is willing to pay.

Spouse or civil partner (and children) - where a person is exempt from charges for NHS hospital treatment then so is their spouse or civil partner (but not a co-habitee or "common law" partner) and children under the age of 16, or 19 if in full time education when they are either:

- in the UK with the exempt person for the duration of the exempt person's visit; or

- living permanently with the exempt person if they have come to the UK on a settled basis e.g. to work.

In most cases (see paragraphs 6.8 – 6.10) the exempt person must be in the UK with their spouse or civil partner and/or children. For example if the eligible spouse or civil partner is exempted because of the working abroad rule and the non-eligible spouse or civil partner and children are visiting the UK without the eligible spouse or civil partner then they will not be exempt from charges should they need to access hospital services during their visit.

Where a person is ordinarily resident and their spouse or civil partner lives abroad, the spouse or civil partner will not be considered ordinarily resident on a visit to the UK. Unless they meet one of the exemptions from charge in their own right they will be liable to be charged. But for children see para 5.9. **See also Civil partners**

State pensions - the following are UK state pensions to which there is entitlement under the Social Security Act 1975 or the Social Security (Northern Ireland) Act 1975 and which could apply to a person living overseas:

- Retirement pension
- Attendance allowance
- Widow's benefit
- Industrial injuries disablement benefit
- Incapacity benefit
- Severe disablement allowance
- Guardian's allowance
- Disabled living allowance
- Carers allowance

Occupational pensions (including civil service pensions) are not "state pensions".

Students - people who are pursuing a full time course of study of not less than six months duration or people who are pursuing a full time course of study of any duration which is funded either wholly or substantially by the UK government See para 6.16 for interpretation of "substantially" in this context. A person here on a visitors' visa spending a few hours a week learning English is a visitor and not a student.

Termination of pregnancy - where a patient seeks termination of pregnancy and is liable for charges but unable to pay in advance the hospital may decline to provide the service and should advise the woman to seek termination in her own country. The only exception to this is where the woman's life is at risk. In these circumstances the termination should take place. The patient remains liable for charges and the debt should be pursued in the normal way.

Women from an EEA county and Switzerland or non-EEA bilateral healthcare agreement countries who come to the UK specifically to seek terminations will be liable for charges unless they have either, for EEA nationals, obtained an authorised form E112 from their own health institutions or, for non-EEA bilateral healthcare agreement countries, been specifically referred for treatment under the terms of the agreement.

Treatment the need for which arose during the visit - the limiting of access to treatment without charge to conditions which occur only whilst present in the UK or which in a doctor's opinion, although pre-existing, need immediate treatment to prevent deterioration. For patients from EEA and Switzerland see definition of treatment the need which arises at para 7.5.

Twelve month rule - see *One year rule*

UK Government-financed posts - people claiming exemption under this Regulation should be able to provide satisfactory documentary evidence of their entitlement. Recruitment must have taken place in the UK and will include people working for the Department for International Development and the British Volunteer Programme.

UK Government-financed students - people who are pursuing a full time course of study, of any duration, which is funded either wholly or substantially by the UK government. See para 6.16 for interpretation of "substantially". They will be able to provide satisfactory documentary evidence of their entitlement.

Unaccompanied minors - children of overseas visitors will rarely be exempt in their own right, but only via their parents' status. Thus where treatment is given to a child under the age of 16 who is in the UK without his or her parents it will be chargeable unless the treatment itself is exempt (e.g. provided solely in an A&E Department). The liability should be explained to the person in whose charge the child has been left (e.g. teacher, tour leader, host) and the bill handed to that person. Copies should be sent to the child's parents.

An exception to this is children from other EEA member states and Switzerland who will be eligible for free treatment the need for which arose during their visit (the E111 arrangements) as will children from non-EEA bilateral healthcare agreement countries.

A further exception is unaccompanied minors attending boarding school in the UK whose parents both live outside the UK. In this case the child will be classed as ordinarily resident while at school because in legal terms the school is acting *in loco parentis.*

Unemployed persons - there is no exemption for unemployed persons with the exception of people here under specific EEA arrangements. The person will have a copy of form E119.

Urgent treatment – where the treatment is, in a clinical opinion, not immediately necessary, but cannot wait until the patient returns home. Patients should be booked in for treatment, but the trust should use the intervening period to establish the patient's chargeable status. Wherever possible, if the patient is chargeable, trusts are strongly advised to seek deposits equivalent to the estimated full cost of treatment in advance of providing any treatment. Any surplus which is paid can be returned to the patient on completion of treatment.

Volunteers coming into the UK - exemption from charges is limited to people who are in the UK as volunteers providing services which are similar to health or social services. For example serving in a hospice or children's home. If there is doubt the local authority or PCT should be asked to confirm that it would regard the work being done as proper to its functions. Consideration should also be given, however, to the possibility that the nature of the voluntary work might mean that the volunteer could be considered to be ordinarily resident. The trust will have to decide each case on its own merits and in the light of the individual's circumstances

Volunteers from UK - people who leave the UK to spend time as a volunteer are not automatically entitled to return to the UK for free hospital treatment. Each case should be carefully considered. Only people working on a UK Government financed project (see 'UK Government-financed posts') are automatically entitled. Others may be if they are returning to take up permanent residence or meet the ordinarily residence criteria whilst in the UK. The trust will have to decide each case on its own merits and in the light of the individual's circumstances.

Waiving charges - no power has been given, in the Regulations or otherwise, for any person, including a trust chief executive or Government Minister, to waive charges which are due.

War pensions - the holder of UK war disablement pension is fully exempt from charges not just those relating to his or her injury. His or her spouse and children are also fully exempt. The holder of an UK war widow's pension is also exempt.

Write off Debt – where debt is unrecoverable trusts can write it off. However, trusts must first take all reasonable measures to recover the debt, including consideration of using a debt collection agency where larger amounts are involved. Overseas debt must be written off correctly. Full instructions on how to write of overseas debt can be found in the Department of Health Finance Manual which can be accessed via the internet at **http://www.info.doh.gov.uk/doh/finman.nsf** ***>NHS Trust Detailed Guidance>Chapter 12 Losses and Special Payments>Appendix 1 categories of loss>part 3 bad debt and claims abandoned***.

CHAPTER TEN:

List of appendices

Relevant forms

10.1 The forms you may find useful are:

- Appendix 1 - request for advice from doctor or dentist (see para 3.1 & 8.6)
- Appendix 2 - model undertaking to pay (see para 8.7)
- Appendix 3 - template for using immigration secure fax line (see para 5.15)
- Appendix 4 – proforma to advise Department of Health when people from Yugoslavia come to the UK specifically for treatment (see para 7.27)

These forms can be printed off from the Department of Health Finance Manual which can be accessed via the internet at **http://www.info.doh.gov.uk/doh/finman.nsf*****>Download Version>NHS Trusts – Detailed Guidance>Chapter 31>Appendix1/2/3/4***

10.2 You will also need form IGA to notify the Department of Health of treatment to a visitor from the EEA & Switzerland or a bilateral healthcare country. This form can be found on the Department of Health Finance Manual which can be accessed via the internet at **http://www.info.doh.gov.uk/doh/finman.nsf*****>NHS Trusts – Detailed Guidance>Chapter 22>Appendix 1***

10.3 A list of useful contacts can be found at Appendix 5.

APPENDIX 1

MODEL REQUEST FOR ADVICE FROM DOCTORS/DENTISTS

Dear Doctor……..

NAME OF PATIENT……

Date of Birth……Hospital Number……

This patient is an overseas visitor as defined in the National Health Services (Charges to Overseas Visitors) Regulations1989 as amended. Having interviewed the patient we found him/her to be liable for charges as an overseas visitor.

Government advice to safeguard NHS resources is to obtain payment where possible before treatment is given. In this case the patient also declared that he/she will not be able to pay for the treatment to be provided prior to receipt of the treatment. Would you therefore please tick one of the declarations below?

☐ I intend to give treatment which is immediately necessary to save the patient's life.

☐ I intend to give urgent treatment which is not immediately necessary to save the patient's life but cannot wait until the patient returns home.

☐ No treatment will be given unless payment is made.

Where treatment is given (or has been given already), the Trust is obliged to raise an invoice for the cost of any such treatment, and to pursue debt recovery procedures if necessary.

Date……. Signed…….(Doctor)

Date……..……..Signed…….(Overseas Visitors Manager)

APPENDIX 2

MODEL UNDERTAKING TO PAY

A. [To be completed in all cases where undertaking is required]

Name of patient……

Date of Birth……..……

UK address……..…

……..…

Home address……

……

B. [To be completed in addition to A, if a person giving the undertaking to pay is not the patient]

Name of person giving the undertaking……

UK address……..…

……

Home address……

……..……

Relationship to Patient ……..

C. DECLARATION

I undertake to pay ……..such sums as may be due to them in accordance with Regulations currently in force under Section 121 of the NHS Act 1977 in respect of NHS treatment provided for ……

Signed:……..……..…..Date:…..…..……

APPENDIX 3

NHS IMMIGRATION INFORMATION CONSENT FORM

TO: IMMIGRATION SECURE FAX LINE

Patient name ……

Date of Birth ……

Country of Origin ……

Date of Arrival in Country ……..

Purpose for being in UK ……..

Home Office Reference or ARC Number (if applicable)……

The patient authorises this request:

Signature of patient ……

FROM:

Name of Hospital ……

Name & Job title ……..

Please advise what this person's immigration status is

……

……

OR

Please advise whether this person's ARC is still valid……..

If no longer valid has asylum claim been

granted …… OR refused ……

APPENDIX 4

PERSON FROM YUGOSLAVIA I.E. SERBIA & MONTENEGRO COMING TO THE UK SPECIFICALLY FOR TREATMENT

Patient name ……

Address ……

……

……

National of: (Please tick which applies)

- Yugoslavia i.e. Serbia & Montenegro ☐
- Bosnia ☐
- Croatia ☐
- Macedonia ☐
- Slovenia ☐

Has come to the UK specifically for treatment.

Type of treatment required:

……...

……

……

……

APPENDIX 5

USEFUL CONTACTS

For advice and help on interpreting the Regulations, Trusts and members of the public can contact:

The Department of Health, Overseas Visitors Policy Team on **0113 2545819**

or by e-mail to overseasvisitors@doh.gsi.gov.uk

or visit their website at **www.dh.gov.uk/overseasvisitors**

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Information on guidance to General Practitioners can be found in:

HSC 1999/018 which is available on the DH website at **www.dh.gov.uk/PublicationsAndStatistics/LettersAndCirculars/fs/en**

For advice on interpreting travel documents and visas contact:

The Immigration and Nationality Directorate (IND) 'helpline' **0208 253 6712**.

Copies of Appendix 4 (nationals of Yugoslavia i.e. Serbia & Montenegro who come to UK specifically for treatment) (para 7.24 refers) should be sent to:

The Department of Health
International Division
Cross Border Health Care (Finance Team)
Room 620
Wellington House
133-155 Waterloo Road
London
SE1 8UG

Completed IGA forms (see para 7.29) and copies of expired Form E112 and E123 (see para 7.7) should be sent to:

Leeds North East Primary Care Trust
Overseas Visitors Section (Finance)
Sycamore Lodge
7a Woodhouse Cliff
Leeds
LS6 2HF

For general enquiries telephone **0113 3059790 or 30579795**

Full instructions on how to complete IGA forms can be found in the Department of Health Finance Manual which can be accessed via the internet at **http://www.info.doh.gov.uk/doh/finman.nsf**>***NHS Trust Detailed Guidance>Chapter 22>Appendix 1***.

Further information on writing off overseas debt (para 8.17) can be found:

in the Department of Health Finance Manual which can be accessed via the internet at **http://www.info.doh.gov.uk/doh/finman.nsf**>***NHS Trust Detailed Guidance>Chapter 12 Losses and Special Payments>Appendix 1 categories of loss>part 3 bad debt and claims abandoned.***