

Explanatory Memorandum to the National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2020

This Explanatory Memorandum has been prepared by Health and Social Services Group and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2020 and I am satisfied that the benefits justify the likely costs.

Vaughan Gething AM

Minister for Health and Social Services

4 February 2020

PART 1

1. Description

These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 (SI 1989/306) (the Principal Regulations).

The Principal Regulations allow Local Health Boards (LHBs) in Wales to recover charges from overseas visitors who are not ordinarily resident in the United Kingdom (UK) for certain categories of healthcare provided to them in Wales, unless the overseas visitor, or the service they receive, falls within an exemption.

These Regulations are being made to address the public health risk of Wuhan novel coronavirus (2019-nCoV).

2. Matters of special interest to the Legislation, Justice and Constitution Committee

The SI is being laid under the 'Negative Procedure' and comes into force the day it is laid and does not follow the 21 day convention, so that in advance of cases of the Wuhan novel coronavirus (2019-nCoV) being confirmed in the UK, the NHS can take steps in preparation to reduce the public health risk and in the knowledge that they are not breaking the law, should the need arise to diagnosis and treat an overseas visitor. In these circumstances the shortened period is considered necessary and justifiable.

3. Legislative background

The instrument is being made under section 124 of the National Health Service (Wales) Act 2006 (the 2006 Act) which confers a power on the Welsh Ministers to make regulations for the making and recovery of charges from persons who are not "ordinarily resident" in Great Britain for NHS services.

The instrument is also being made under section 203(9) and (1) of the 2006 Act.

4. Purpose and intended effect of the legislation

Amendments to the Principal Regulations ensure that NHS services for any overseas visitor who requires diagnosis or treatment for Wuhan novel coronavirus (2019-nCoV) is provided without charge to that overseas visitor.

5. Consultation

No public consultation was undertaken due to the urgency required to introduce this change of policy. The purpose of the instrument is to address the public health risk of Wuhan novel coronavirus (2019-nCoV) and allow the NHS to take steps in preparation and to treat overseas visitors without charge in the knowledge that they are not breaking the law.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

Two options have been considered:

Option 1: -Do nothing, retain the National Health Service (Charges to Overseas Visitors) Regulations 1989 (SI 1989/306) as currently in force.

Option 2: - Amend the National Health Service (Charges to Overseas Visitors) Regulations 1989.

Option 1: Do nothing, retain The National Health Service (Charges to Overseas Visitors) Regulations 1989 (SI 1989/306) as currently in force

In the event that an overseas visitor who is not eligible for NHS-funded care (i.e. those not ordinarily resident, who have not paid the immigration health surcharge or do not have other charging exemption) presents themselves for diagnosis or treatment of Wuhan novel coronavirus (2019-nCoV) at an NHS hospital they would be chargeable for those NHS services.

Cardiff Airport does not have a direct flight to China unlike other airports in the UK, however, it does have links to two key Hub airports, in Amsterdam and Doha. The volume of visitors from China travelling to Wales who will have not paid the immigration health surcharge as part of their visa requirement is low, as most Chinese visitors in Wales are here to study and will have paid the surcharge, which allows visitors to access the NHS the same as an ordinary resident in Wales, at no charge.

Option 2: - Amend the National Health Service (Charges to Overseas Visitors) Regulations 1989

The objective of the amendment is to not discourage overseas visitors who may arrive in Wales with symptoms of the Coronavirus attending NHS services for diagnosis and treatment.

To protect and reduce the public health risk to Welsh citizens, the principle regulations have to be amended to exempt Wuhan novel coronavirus (2019-nCoV) from being chargeable.

In reducing the risk to the wider public it makes an effort to minimise the potential pressure on the NHS thus ensuring beds and staff are available for planned elective treatment and not diverted.

The number of visitors who could be chargeable without this exemption to the principle regulations is expected to be very low. What treatment would be necessary for a patient diagnosed with Wuhan novel coronavirus (2019-nCoV) is unknown at this stage. There is the potential for an additional burden on the existing baseline allocation for the cost of treating Wuhan novel coronavirus

(2019-nCoV), which are unquantifiable as numbers and treatment necessary is unknown. However, any such costs need to be balanced against the cost to the NHS if such chargeable patients did not come forward for treatment because of concern over ability to pay and potentially creating a wider public health risk.

LHBs will continue to receive the current annual allocation of £822,000 (subject to inflationary increase) from Welsh Government for the treatment of overseas visitors who are not chargeable. The cost of universally exempt services, such as A&E attendance, to all patients has been deemed to be met by from the LHBs baseline allocations.