



RCN Policy and International Department
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Consultation on migrant access and financial contribution to the NHS in England

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Background

The Government announced in the Queen's Speech in May 2013 that it would be putting forward a number of proposals relating to immigration, including plans to curb access to free NHS services for temporary migrants.

The Government is also concerned about the number of patients, already subject to charging, who are either not identified or not followed up for payment. It estimates that currently Trusts in England invoice chargeable overseas patients for between £35 and £55 million, although only about 40% is recovered. However there is no accurate data on the overall costs to the NHS, and what figures are available may also include visiting UK nationals, for example¹.

The Department of Health England (DHE) has now issued a consultation "*Sustaining Services, Ensuring Fairness*"² with options covering which overseas migrants should be charged in future, which health services they should be charged for, how these charges should be made and better recovered for those patients already expected to pay.

The new proposals do not cover migrants from within the European Economic Area (EEA)³ for whom there are separate EU reciprocal arrangements, although the consultation contains suggestions on reducing the UK's net payments.

The DHE consultation starts from the perspective that UK health systems are very generous to overseas visitors, that there are increasing strains on NHS budgets and that the NHS should be a national not an international health service. It also acknowledges that the NHS is not good at identifying and charging those who aren't eligible for free treatment and that the scale of the issue is unknown. It has therefore commissioned an independent audit to assess NHS use by visitors and migrants, which will report in autumn 2013

A complementary consultation, "*Controlling Immigration – Regulating Migrant Access to health Services in the UK*"⁴ has been issued by the Home Office as some of the proposals would require changes to immigration rules, in particular a new qualifying test for eligibility to free NHS services as a "permanent" resident and the introduction of a migrant health levy for "temporary" migrants.

The DH consultation covers England only, however, the Government believes the arrangements as a whole should apply across the whole of the UK. The Home Office consultation on the specific changes to immigration rules is UK wide and discussions are taking place with devolved administrations on these issues. The deadline for responding to both consultations is **28 August 2013**.

¹ Parliamentary Question: *Health Services: Foreign Nationals*, 5 July 2013. Column 835W

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210438/Sustaining_services_ensuring_fairness_consultation_document.pdf

³ The European Economic Area (EEA) comprises the countries of the European Union (EU), plus Iceland, Liechtenstein and Norway. Switzerland is not a member of the EEA but has also signed up to EU legislation on the internal market and free movement of people so is included.

⁴ <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/34-healthcare/consultation-health.pdf?view=Binary>

Overarching Principles

The Department of Health consultation outlines four principles on which it thinks any changes should be founded:

- **A system that ensures access for all in need.** People should not be denied necessary treatment to prevent risks to life and permanent health.
- **A system where everyone makes a fair contribution to the NHS**
- **A system that is workable and efficient** that enables the NHS to recover charges but NHS staff should not act as immigration control and clinical staff should not be diverted from treating patients
- **A system that does not increase inequalities** in particular ensuring the needs of vulnerable and disadvantaged patients are protected.

Who should be charged?

Currently non-EEA migrants are eligible for free access to NHS treatment who are legally ordinarily resident in the UK. The Government is proposing to change this so that free access only applies to those who are permanently resident. This new qualifying residence would be based on a permanent migrant having been awarded *indefinite leave to remain* in the UK.

Free access in future would also include others with a right to permanent residence under certain conditions, such as expatriates and other former UK residents who have paid national insurance contributions for a minimum period – such as seven years. This would apply whether they were visiting or returning to live in the UK. Currently UK expatriates are not automatically entitled to free NHS treatment when visiting.

Other non-EEA migrants, i.e. those with limited leave to remain up to five years, would in future be expected to contribute to their healthcare costs, whether students, workers or family members of existing UK citizens⁵. The consultation defines them as temporary migrants. Currently these groups become eligible for free NHS services fairly quickly.

Temporary visitors from outside the EEA, (i.e. those coming for less than six months) would continue to be required to pay for any healthcare.

In addition to legal obligations relating to EEA nationals, the UK also has wider reciprocal healthcare arrangements with other countries for temporary visitors to the UK, and under its humanitarian obligations the UK grants free NHS care to refugees, asylum seekers, children in local authority care, and victims of human trafficking. These arrangements would continue.

⁵ The proposed categories of temporary migrant to be included are: tier 1, 2, 4, 5 and family migrants

Overseas prisoners and detainees are also currently exempt and would remain exempt as they clearly cannot be expected to access healthcare in their home country whilst detained.

What would be charged for?

The most significant change is the proposed extension of charging to primary care both for temporary visitors, who until now have been chargeable for hospital services at the point of use, and for any temporary migrants who are not covered by the alternative levy proposals outlined below. Charging for access to primary care services would also be extended to illegal immigrants. In relation to NHS prescriptions, ophthalmic and dental services where there are a number of groups exempt from charging DHE is consulting on whether charging those migrants in these groups is practicable.

For secondary care, the consultation proposes that elective treatment should only be provided after full payment for those subject to charging.

Currently A&E services and emergency GP consultations are not charged for although any subsequent inpatient emergency treatment can be charged. However, treatment must not be delayed or denied if there is no prior payment.

The consultation considers the pros and cons of charging a visitor a basic fee when accessing these emergency services. Australia has such a system, but there are concerns that it could deter people from seeking timely treatment and would increase administrative burdens. Major differences in charging regimes between GP and A&E services could affect the relative use of these services.

The DHE is also looking at excluding temporary migrants who have paid the health levy, from free access to certain treatments, such as IVF, cosmetic surgery and organ transplantation.

There are a range of services that would remain free of charge for all migrants, particularly those with public health implications, including treatment of infectious diseases and STIs, including HIV disease and for those detained under the mental health act.

The consultation highlights the fact that there are currently no powers for charging overseas patients accessing NHS treatment delivered outside NHS hospitals. This includes community based treatment provided by the NHS and others, hospital or elective care services provided by non-NHS providers and continuing care provided by the NHS or others, e.g. rehabilitation services. The consultation is proposing that NHS services should be chargeable on a similar basis, regardless of who provides that service or where it is provided.

Summary of proposed future charging arrangements

	Access to primary medical care		Access to secondary care	
	<i>Current</i>	<i>Proposed</i>	<i>Current</i>	<i>Proposed</i>
Illegal migrants	Free	Charged	Charged – but limited entitlement checks undertaken in practice	Charged – with new eligibility checks at NHS registration
Short-term visitors (those with less than 6 months permission to be in the UK)	Free	Charged	Charged – but limited entitlement checks undertaken in practice	Charged – with new eligibility checks at NHS registration
Temporary migrants	Free	Charged but would be allowed to access NHS services free at the point of use, on payment of a migrant health levy or production of medical insurance for privately provided healthcare.	Free	Charged but would be allowed to access NHS services free at the point of use, on payment of a migrant health levy or production of medical insurance for privately provided healthcare. (Note: in respect of the health levy, certain expensive, discretionary treatments may be chargeable).
Permanent residents	Free	Free	Free	Free

Source: *Controlling immigration – regulating migrant access to NHS services*, pp 4-5

How would migrants be charged?

A review commissioned by the DHE in 2012 found that there were significant problems in the current system of hospitals directly invoicing patients at the point of treatment both practically and culturally, and particularly given the relatively small number of patients.

The consultation therefore proposes two alternatives for the new category of temporary migrants:

- Compulsory healthcare insurance scheme for temporary migrants which would be set up between the NHS and insurers
- A migrant health levy, which all temporary migrants would have to pay on entry to the UK, which would allow them to access NHS services for free. The DHE is consulting on the level of these payments (proposing at least £200 annually) and certain migrants could be exempted if they had comprehensive private medical insurance.

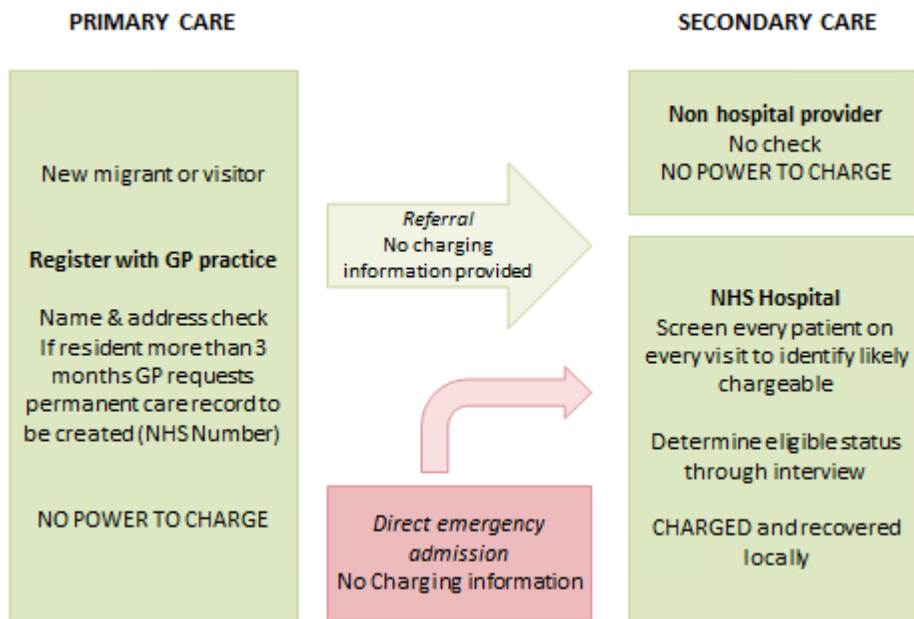
Temporary visitors would continue to be charged at point of use of service.

The new system would need to ensure that chargeable patients were identified at the first point at which they register with the NHS, (separately from and as proposed before registering with a GP), and then be tracked through the system as they went on to access other services. It would mean that any initial registration would consider eligibility for free treatment, with access to information from other government agencies and this information would need to be available to all subsequent providers.

The new arrangements would apply to migrants first registering with the system in future and would not be retrospective, at least for the duration of any current visa.

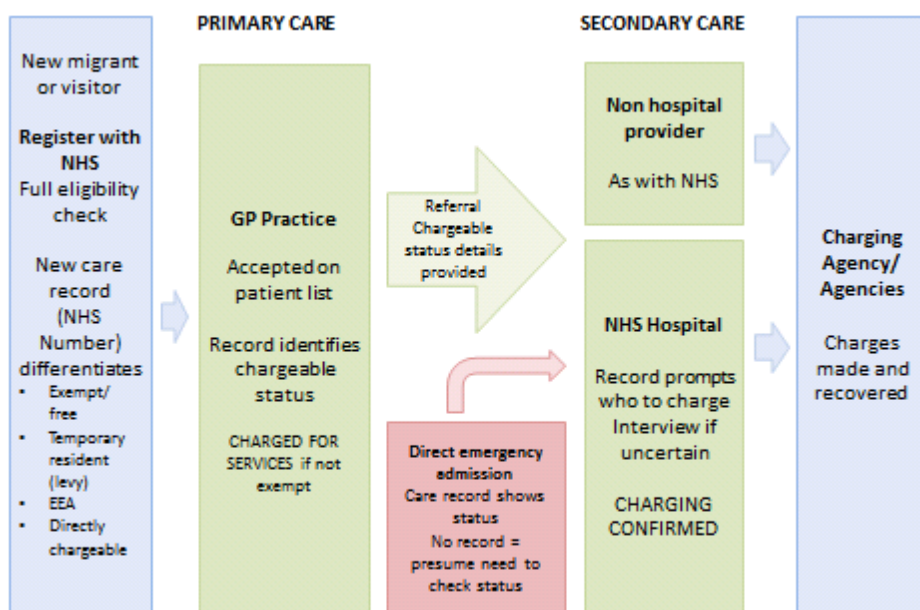
The DHE also wants the service to build on innovative practices in some London Trusts to effectively identify chargeable patients across the whole patient pathway. They are looking at a “pooled” resource to undertake initial NHS registration (rather than individual GP practices) and a payment per consultation or annual service fee for primary care services, for those who are chargeable.

Current charging system



Source: *Sustaining services, ensuring services*, p 41

Potential future charging system



Source: *Sustaining services, ensuring services*, p 42

As part of the more robust charging system DHE is also looking at better recovery of healthcare costs from the European Economic Area. This includes:

- better recording of NHS treatment claimed in the UK under the European Health Insurance Card and pensioner registration schemes
- ceasing reimbursement of co-payments for UK citizens, which the UK is not required to make
- and reducing payments to other member states for healthcare costs for UK state pensioners living in other countries, given that they would be able to retain entitlement to NHS treatment if returning home.

Key Issues

The consultation covers two distinct issues. Firstly it covers better recovery of costs from overseas visitors currently eligible for charging, whether due to an unplanned or a planned healthcare need. This includes recovery of costs for EEA citizens from their respective social security systems. The size of these groups and level of unrecovered costs is unknown as chargeable patients are often not identified when accessing care.

Secondly, the consultation extends both the scope of charging (particularly to primary care and other non-hospital NHS commissioned services and A&E) and the categories of migrants to be expected to make a financial contribution through insurance or health levy (those here on fixed visas). In future this would include overseas nursing students and overseas staff working in the NHS who do not have unlimited right to remain. Figures are not yet available on how much these groups cost the NHS currently.

In order to operate as a comprehensive system the proposals would require a modified system of universal NHS registration for all so that visitors/migrants and their charging status could be tracked throughout the healthcare system. However, the proposals acknowledge that this would need to be done on a pooled basis e.g. by NHS England (or their equivalents in the devolved countries), rather than by requiring individual GP practices to administer the arrangements.

Tell us What you Think

We are keen to gather views from our members about the key elements of the Government's proposals and, in particular how these may impact on nursing:

- 1) What are members' views on the 4 principles underpinning the consultation (outlined on page 3 of this briefing)?
- 2) What are your views on the changes proposed to charging arrangements (summarised on page 5) including:

- a) the requirement for “temporary” migrants to make a financial contribution?
 - b) extending charging to primary care?
 - c) extending charging to emergency A&E or emergency GP services?
 - d) extending charging to other NHS services provided outside NHS hospitals (e.g. community based treatment, or NHS funded hospital or elective care from non-NHS providers)?
- 3) Do you have any views on the pros and cons from a nursing perspective of any of the proposed policy changes?

Please send responses to these questions and any wider comments you have by Wednesday 14 August to Susan Williams, RCN Senior International Adviser at susan.williams@rcn.org.uk

Further Reading

Department of Health (2013) *Sustaining services, ensuring fairness - A consultation on migrant access and their financial contribution to NHS provision in England*, July 2013
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210438/Sustaining_services_ensuring_fairness_consultation_document.pdf

Department of Health (2013) *Sustaining Services, Ensuring Fairness - Evidence to support review 2012 policy recommendations and a strategy for the development of an Impact Assessment*, July 2013
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Home Office (2013), *Controlling Immigration – Regulating Migrant Access to Health Services in the UK - Consultation document*, July 2013
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/34-healthcare/consultation-health.pdf?view=Binary>

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/213015/GUIDANCE-October-2012-FINAL.pdf

Department of Health (2012), *Review of Overseas Visitors Charging – Summary Report*, April 2012
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/210439/Overseas_Visitors_Charging_Review_2012_Summary_document.pdf