



No Recourse to Public Funds Network

## NHS healthcare for migrants with NRPF (England)

This factsheet summarises what NHS healthcare migrants with NRPF can access in England, whether this will be chargeable, and the new Immigration Health Charge.

For full details please refer to the legislation that is referenced and the Department of Health's [Guidance on operating the overseas visitors charging regulations](#) (March 2015).

Healthcare is a devolved matter and so different charging exemptions apply in Wales, Scotland and Northern Ireland, although the Immigration Health Charge still applies to migrants who are intending to reside in those parts of the UK.

NHS treatment is not a '[public fund](#)' for immigration purposes, so migrants subject to the 'no recourse to public funds condition' are not prohibited from accessing NHS services.

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### Free healthcare services

**Primary healthcare** can be accessed by all, regardless of immigration status, and is delivered through GP practices, NHS walk-in centres, dentists, pharmacists and optometrists. Such services may be delivered within the community. Some of these services, such as prescriptions, are chargeable, although there may be assistance for people on a low income. (See below: **Help with funding for NHS Prescriptions and other services**).

Additionally, migrants cannot be charged for certain NHS services set out in regulation 9 of the **National Health Service (Charges to Overseas Visitors) Regulations 2015**:

- Accident and emergency (A&E) services up until the point that the person is accepted as an inpatient. A&E services provided at an outpatient appointment are chargeable.
- Services provided outside of an NHS hospital, unless the staff providing the services are employed by or working under the direction of an NHS hospital
- Family planning services (not including pregnancy termination)
- Diagnosis and treatment of contagious diseases (specified in the Regulations, Sch.1)
- Diagnosis and treatment of sexually transmitted infections

- Treatment of a physical or mental condition caused by torture, female genital mutilation, domestic violence or sexual violence when the patient has not travelled to the UK for the purpose of seeking such treatment. Chapter 7 of the Department of Health's [Guidance](#) confirms how the hospital may identify this.

## **GP Treatment**

GPs have the discretion to accept any person, including migrants, to be fully registered as an NHS patient to receive free treatment. GPs may also register a migrant as a temporary resident for free treatment if that person is in the practice's area between 24 hours and three months. There is no minimum time period that a migrant needs to be in the UK before a GP can register them.

GPs have a duty to provide emergency or immediately necessary treatment free of charge even if the patient is not registered at the practice.

Registration may be refused if the patient lives outside of the GP's catchment area or the practice has closed its list. However, a practice cannot refuse to register a patient unless it has reasonable and non-discriminatory grounds for doing so, and must provide a decision in writing. Grounds for refusal must not relate to race, gender, social class, age, religion, sexual orientation, appearance, disability, or a medical condition.

[NHS Choices](#) provides information about how to register with a GP.

Some minor illnesses or injuries can be treated at [NHS walk-in centres](#) or at a [minor injuries unit](#) without the need for prior GP registration.

## **Help with funding for NHS Prescriptions and other services**

Prescriptions and some other NHS services are free for people that are receiving certain welfare benefits. However, migrants with NRPF in receipt of local authority support will not receive free prescriptions unless they fall into one of the other groups that are exempt from paying prescription charges, which includes those who are: 60 or over, under 16, age 16-18 and in full-time education, pregnant, or have had a baby in the previous 12 months and have a valid maternity exemption certificate.

Migrants in receipt of local authority support, who are not exempt from paying prescription charges, may be entitled to full or partial help through the [NHS Low Income Scheme](#).

The NHS Low Income Scheme covers:

- NHS prescriptions
- NHS dental treatment
- Sight tests, glasses and contact lenses
- Travel to receive NHS treatment
- NHS wigs and fabric supports

To apply, the migrant must obtain an HC2 certificate by submitting an HC1 form, which can be requested through the [NHS choices website](#).

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## Chargeable healthcare services

**Secondary healthcare**, i.e., treatment or services provided by a hospital, such as emergency or planned medical care or surgery, is chargeable, unless the service is one that is exempt under the **National Health Service (Charges to Overseas Visitors) Regulations 2015**. (See above: **Free healthcare services**).

The NHS body providing the treatment is legally responsible for making the decision to charge a patient. Section 175 of the **National Health Service Act 2006** allows for charges to be made for services that are provided to anyone who is not **ordinarily resident** in the UK, and refers to such people as 'overseas visitors'. Migrants who are not ordinarily resident in the UK and who are not exempt from charging must pay for secondary healthcare.

### Ordinary residence

The Department of Health's [Guidance](#) states that a person will be ordinarily resident in the UK *'when that residence is lawful, adopted, voluntary and for settled purposes as part of the regular order of their life'* (section 3.7).

Additionally, section 39 of the **Immigration Act 2014** requires nationals of countries outside of the EEA to have settled status, for example, indefinite leave to remain, in order to be ordinarily resident for the purposes of healthcare charging.

Therefore a non-EEA national migrant, who does not have settled status in the UK, will be charged, unless an exemption applies.

### Migrants exempt from secondary healthcare charging

Full details of the exemptions are set out in the **National Health Service (Charges to Overseas Visitors) Regulations 2015**, and in the Department of Health's [Guidance](#).

In some cases an exemption can extend to family members who require treatment. A family member is defined at Regulation 25(1) as a spouse or civil partner or a child for whom the migrant has parental responsibility. Generally, the family member must be lawfully present but Regulation 25 must be referred to as additional requirements apply depending on the exemption. If the exemption does not extend to a family member requiring treatment then the family members must fall under an exempt category in their own right.

The following table sets out the categories of exemptions and indicates whether the exemption may also apply to family members.

Reg.	Exempt category	Can exemption extend to family members?
10	Migrants who have extant leave to enter or remain having paid the <b>Immigration Health Charge</b> , or who are exempt from paying the health charge (unless exempt because they are visiting the UK for less than 6 months) or where the charge has been waived or refunded. (See below: <b>Immigration Health Charge</b> ).	No, unless they are a child that is age 3 months or less and has never left the UK since birth.

11	Migrants who applied for or were granted over six months leave to enter or remain prior to 6 April 2015.	No, unless they are a child that is age 3 months or less and has never left the UK since birth.
12	Entitlement under EU Regulations, an EU agreement or other EU right	Yes
13	Where there would be an entitlement to services under the Social Security Coordination Regulation for UK state pensioners residing in the EEA or Switzerland	Yes
14	When a reciprocal healthcare agreement applies to a national or resident (as specified) of a country listed in Schedule 2 of the Regulations & Chapter 10 of the Department of Health's <a href="#">Guidance</a> .	No
15(a)	Granted refugee status or humanitarian protection	No
15(b)	Asylum seekers whose claim has not been determined	No
15(c)	Asylum seekers in receipt of section 95 Home Office support	No
15(d)(i)	Refused asylum seekers in receipt of section 4 support	No
15(d)(ii)	Refused asylum seekers in receipt of section 21 National Assistance Act 1948 support from a local authority. (NB There is currently no reference in the Regulations to the Care Act 2014).	No
15(e)	A child looked after by a local authority under section 22(1) Children Act 1989	No
16	Victim of human trafficking	Yes
17	When exceptional humanitarian reasons apply to a migrant who has been granted leave to enter outside of the Immigration Rules. See the Regulations for more detail about when this applies.	No
18	Detained, under guardianship, or subject to community treatment under the Mental Health Act 1983 or detained under an authorised deprivation of liberty under specified sections of the Mental Capacity Act 1985.	No
19	Prisoners and immigration detainees	No
20	Members of the armed forces and crown servants	Yes
21	NATO forces	Yes
22	Recipients of war pensions and armed forces compensation scheme	Yes

23	Employees on ships registered in the UK	No
24	Treatment is for a need which arose during the visit. See the Regulations for more detail about when this applies.	No

There is no blanket exemption for migrants in receipt of financial support from a local authority. Therefore, migrants with NRPF who are likely to be subject to charging are:

- Visa overstayers
- Illegal entrants
- Refused asylum seekers who are not in receipt of asylum support (this includes those in receipt of local authority assistance under section 17 Children Act 1989)
- Visitors with less than six months leave to enter

### When secondary healthcare can be provided to migrants who are subject to charging

Normally, secondary healthcare will only be provided once the patient has paid the charge for this upfront. However, if a migrant requires immediately necessary or urgent treatment then they can receive this prior to making any payment, as set out in Chapter 8 of the Department of Health's [Guidance](#).

**Immediately necessary treatment** is that which a patient needs:

- to save their life; or
- to prevent a condition from becoming immediately life-threatening; or
- promptly, to prevent permanent serious damage from occurring.

All maternity treatment, including routine antenatal treatment, is to be treated as being immediately necessary.

**Urgent treatment** is that which clinicians do not consider immediately necessary, but which nevertheless cannot wait until the person can be reasonably expected to return home. Clinicians may base their decision on a range of factors, including the pain or disability a particular condition is causing, the risk that delay might mean a more involved or expensive medical intervention being required, or the likelihood of a substantial and potentially life threatening deterioration occurring in the patient's condition if treatment is delayed until they return to their own country.

**Non-urgent treatment** is routine elective treatment that could wait until the patient can return home. Relevant NHS bodies do not have to provide non-urgent treatment if the patient does not pay in advance and should not do so until the estimated full cost of treatment has been received.

Only clinicians can determine whether treatment is immediately necessary, urgent or non-urgent. Failure to provide immediately necessary treatment may be unlawful under the **Human Rights Act 1998**.

If no payment is made before immediately necessary or urgent treatment is administered then the NHS is still required to recover this after the treatment has been provided.

## What to do when a migrant is refused secondary healthcare

If a migrant believes that they should receive free healthcare but they are told they must pay, or has been refused what they believe to be immediately necessary or urgent treatment, then they should seek legal advice from a solicitor specialising in community care law. Even if a migrant does not fall under one of the exemptions, there may be scope for challenge if they are refused treatment but believe that the exemptions are discriminatory and do not comply with **the Equality Act 2010**. To find a legal adviser see:

- [UK government's list of legal aid providers](#)
- [The Law Centres Network](#)

## Refusals of leave to remain

Paragraph 322(12) of the Immigration Rules allows for applications for leave to remain to be refused when a migrant has an NHS debt of £1000 or more that has not been paid. This refusal is discretionary and the Home Office's Modernised Guidance, [General grounds for refusal: considering leave to remain](#), states that a refusal can only be made if a check reveals there are outstanding charges, not solely on the basis that NHS treatment has been received. However, there does not appear to be any information about when the Home Office may use its discretion not to refuse leave to remain when there is an unpaid debt.

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## Immigration Health Charge

The **Immigration (Health Charge) Order 2015** sets out details of the Immigration Health Charge that is payable by migrants making applications for limited leave to enter or remain in the UK, on or after 6 April 2015, and lists the categories of applications that are exempt from the charge in Schedule 2. The Home Office refers to this as the Immigration Health Surcharge.

Migrants applying for leave to remain must first obtain an Immigration Health Surcharge reference number by completing an online form, even if certain exemptions from paying the charge apply. (See below: **Exemptions from the Immigration Health Charge**).

The Immigration Health Charge will be calculated as follows:

- £200 per year for the maximum period of leave which could be granted under the Immigration Rules (students and their dependants will be charged £150 per year).
- If this period of leave includes part of a year that is six months or less, the amount payable for that part of a year is half the specified amount, i.e. £100.
- If the period of leave includes part of a year that is more than 6 months, the full annual amount is payable.

This means that the charge will be £500 (£200 x 2.5 years leave) per applicant for applications made under the family and private life Rules or outside of the Immigration Rules, and will need to be paid each time leave to remain is extended.

If an immigration application is submitted without an Immigration Health Surcharge reference number confirming that the charge has been paid or the person is exempt from paying it, then the application will be deemed to be invalid and will not be processed by the Home Office.

The Home Office has discretion to reduce, waive or refund all or part of the charge, but no further details of the circumstances when this may apply are provided in any published guidance. The Home Office has informed us that this is a general power which will be exercised case by case on an exceptional basis.

We have been advised by the Home Office that if an applicant is exempt from paying a fee for their immigration application under the [fee waiver policy](#), they will also be exempt from paying the Immigration Health Charge, however no reference to this is made in any published information about the Health Surcharge and it currently appears not to be possible to obtain an Immigration Health Surcharge reference number on this basis.

More information is available on the [gov.uk](http://gov.uk) website:

- [Information: Pay for UK healthcare as part of your immigration application](#)
- [Online application for an Immigration Health Surcharge reference number](#)

### Exemptions from the Immigration Health Charge

Schedule 2 of the **Immigration (Health Charge) Order 2015** sets out the categories of applications which are exempt from the health charge, as follows:

- Entry clearance for leave to enter lasting six months or less\*
- Entry clearance for visitors\*
- Tier 2 Intra-company Transfer Migrants and their dependants
- Any application for leave to remain made a child being looked after by a local authority under section 22(1) of the Children Act 1989, or equivalent legislation in Scotland, Wales and Northern Ireland.
- An asylum or humanitarian protection claim and dependants\*
- A claim under Article 3 of the European Convention on Human Rights and dependants\*
- An application for leave to remain as a victim of human trafficking and dependants\*
- Destitution Domestic Violence Concession and dependants\*
- Dependant of a member of HM Forces
- Dependant of a member of a force exempt from immigration control
- Application made on the basis of EU rights\*
- Any application made by a New Zealand or Australian national
- Any application made by a British Overseas Territory Citizen resident in the Falkland Islands\*

\* Applicants falling under these exempt categories are not required to obtain an Immigration Health Surcharge reference number before making their immigration application. (See above: **Immigration Health Charge**).

Migrants applying for indefinite leave to remain (ILR) are not required to pay the Immigration Health Surcharge, as once ILR is granted, they will be ordinarily resident in the UK and will receive free healthcare on that basis. (See above: **Ordinary Residence**).



## EEA & Swiss nationals

Section 2.4 of the Department of Health's [Guidance](#) sets out three steps that a hospital should undertake when checking an EEA or Swiss national's liability for charging. If one of these steps applies to the EEA or Swiss national then they should not be charged.

(1) If the EEA or Swiss national has a valid European Health Insurance Card (EHIC) or Provisional Replacement Document (PRC), they will not be subject to charges for medically necessary treatment. Nationals of the Republic of Ireland only need to provide proof of residence in Ireland.

The EHIC covers all 'medically necessary treatment'. This is defined in chapter 9 of the Department of Health's [Guidance](#) and includes maternity care and dialysis. The EHIC card allows the NHS to recover the costs of treatment from the relevant EEA country, even if they are ordinarily resident in the UK or exempt from charging under another category. Therefore all EEA and Swiss nationals are likely to be asked to provide an EHIC card, even if the treatment they are requesting is not subject to charging.

Note that non-EEA nationals legally resident in any EU country (except Denmark) will also receive free medically necessary treatment if they have an EHIC.

Different rules apply for pre-planned treatment. See chapter 9 of the Department of Health's [Guidance](#) for more information.

(2) If a national of any of these countries is ordinarily resident in the UK then they will not be subject to charging for secondary healthcare. There is no requirement for them to have settled status. (See above: **Ordinary residence**).

(3) Whether any charging exemptions apply to the EEA national. (See above: **Migrants exempt from secondary healthcare charging**).

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## British Citizens visiting the UK

British Citizens will receive free secondary healthcare if they are ordinarily resident in the UK. However, those that live abroad and are visiting the UK may be liable to be charged. See section 3.13 and chapter 6 of the Department of Health's [Guidance](#) for further information about whether such a person can be considered to be ordinarily resident in the UK.

If a British Citizen is resident in an EEA country and has an EHIC card that was issued in that country, then they will be insured for medically necessary treatment. (See above: **EEA & Swiss nationals**).

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## Non-NHS medical care for migrants

Some charitable and voluntary organisations provide medical services for migrants, although these are limited and tend to be specific to a particular region. Organisations assisting migrants include:



- [Doctors of the World](#) (Clinics in Bethnal Green and Hackney, London)
- [Freedom from Torture](#) (For survivors of torture. Clinics in: London, North West, North East, West Midlands & Scotland)

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## Sources and further information:

### Legislation

[National Health Service Act 2006](#)

[Human Rights Act 1998](#)

[Equality Act 2010](#)

[Immigration Act 2014](#)

[National Health Service \(Charges to Overseas Visitors\) Regulations 2015](#)

[Immigration \(Health Charge\) Order 2015](#)

<[www.legislation.gov.uk](http://www.legislation.gov.uk)>

### Guidance

Department of Health, [Guidance on overseas visitors hospital charging regulations 2015](#) (updated 25 March 2015) <<https://www.gov.uk/government/publications/guidance-on-overseas-visitors-hospital-charging-regulations>>

[NHS Choices: How do I register with a GP?](#)

<<http://www.nhs.uk/chq/Pages/1095.aspx?CategoryID=68&SubCategoryID=158>>

[NHS Choices: Low Income Scheme](#)

<<http://www.nhs.uk/NHSEngland/Healthcosts/Pages/nhs-low-income-scheme.aspx>>

Home Office Modernised Guidance, [General grounds for refusal: considering leave to remain](#)

<<https://www.gov.uk/government/publications/general-grounds-for-refusal-considering-leave-to-remain>>

[Home Office information: Pay for UK healthcare as part of your immigration application](#)

<<https://www.gov.uk/healthcare-immigration-application>>

[Home Office online application for an Immigration Health Surcharge reference number](#)

<<https://www.immigration-health-surcharge.service.gov.uk/payment/start>>

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