



No Recourse to Public Funds Network

## NHS healthcare for migrants with NRPF (England)

This factsheet summarises what NHS healthcare migrants with no recourse to public funds ([NRPF](#)) can access in England and whether this will be chargeable. 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](#).

Healthcare is a devolved matter; different charging exemptions apply in Wales, Scotland and Northern Ireland and are not covered here.

**NHS treatment is not a [public fund](#) for immigration purposes, so migrants subject to the NRPF condition are not prohibited from accessing NHS services.**

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### 1. Free healthcare services

#### (a) Primary healthcare

Primary healthcare is delivered through GP practices, NHS walk-in centres, dentists, pharmacists and optometrists. Such services may be delivered within the community and can be accessed by all, regardless of immigration status. Some of these services, such as prescriptions, are chargeable, although people on a low income can apply for financial assistance - see section **1(a)(ii)**.

#### (i) GP Treatment

GPs have the discretion to accept any person, including a migrant, to be fully registered as an NHS patient in order to receive free treatment. GPs may also register a migrant as a temporary resident for free treatment if the migrant 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 they can register with a GP.

GPs have a duty to provide emergency or immediately necessary treatment free of charge, and 14 days of cover after such treatment is provided, even if the patient is not registered.

Due to the difficulties many migrants have experienced in accessing GP services, NHS England now provides [guidance](#) on GP registration, which confirms that registration may only be refused if:

- the patient lives outside of the GP's catchment area, or
- the practice has closed its list in agreement with the NHS commissioner, or
- the practice has other reasonable grounds, providing these do not relate to race, gender, social class, age, religion, sexual orientation, appearance, disability, or a medical condition.

NHS England also confirms that there is no requirement to prove identity, address or immigration status; inability to provide identity or residence documentation would not be reasonable grounds to refuse to register a patient.

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

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

#### **(ii) Help with funding for NHS prescriptions and other primary services**

The following primary NHS services are chargeable:

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

Some, or all of these services, will be provided free of charge to people 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
- holding a medical exemption certificate because they have a certain [medical condition](#)

For more details, and to find out exactly what services will be free to each group, see the NHS information, [help with health costs](#).

Migrants with NRPF who are in receipt of local authority support will not receive free prescriptions unless they fall into one of the exempt groups. However, those who are not exempt from paying for some or all of these services may be entitled to full or partial help through the [NHS Low Income Scheme](#).

To apply, the migrant must obtain an HC2 certificate by submitting an HC1 form, which can be requested from [NHS choices](#). Note that they should not select that they are in receipt of benefits, otherwise the application is likely to be refused.

## **(b) Other services which must be provided free of charge**

Migrants cannot be charged for NHS services that are 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 such cases.
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## **2. Chargeable healthcare services**

### **(a) Secondary healthcare**

Secondary healthcare is treatment or services provided by a hospital, such as emergency or planned medical care or surgery, and is chargeable, unless the treatment that the migrant is requesting is exempt from charging – see the list at section **(1)(b)**.

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 – see sections **2(a)(i) and (ii)**.

#### **(i) Ordinary residence**

Nationals of a country that is outside of the European Economic Area (EEA) must have settled status, for example, indefinite leave to remain, in order to be ordinarily resident in the UK for the purpose of healthcare charging. This requirement is set out in section 39 of the **Immigration Act 2014**.

For EEA nationals, British Citizens and migrants from outside of the EEA who have settled status, the hospital will consider whether they are ordinarily resident, i.e. 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'* (section 3.7 of the Department of Health's [Guidance](#) and [additional guidance](#) on lawful residence).

See also the Department of Health's [tool](#) to help the NHS determine whether a person who is British or has settled status in the UK is ordinarily resident.

**Non-EEA national migrants who do not have settled status in the UK will be charged for hospital treatment, unless an exemption applies – see section 2(a)(ii).**

**(ii) Migrants exempt from secondary healthcare charging**

The exemptions are set out in the **National Health Service (Charges to Overseas Visitors) Regulations 2015**, and further detail is provided 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 any 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.

<b>Reg.</b>	<b>Exempt category</b>	<b>Can exemption extend to family members?</b>
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 this is because they are visiting the UK for six months or less) or where the charge has been waived or refunded – see section 3.	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)(iii)	Refused asylum seekers being provided with accommodation under Part 1 of the Care Act 2014.* Confirmation of this from the local authority will be required (see paragraph 7.35 of the Department of Health’s <a href="#">Guidance</a> ).	No
15(e)	A child looked after by a local authority as defined by section 22(1) Children Act 1989	No
16	Victim of modern slavery (including a victim of 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

\*This exemption was added on 1 February 2016; previously only refused asylum seekers supported by a local authority under section 21 National Assistance Act 1948 were exempt, even though this legislation has not applied in England since 1 April 2015, when the Care Act 2014 came into force. The Department of Health's [Guidance](#) provides details of charging arrangements for this group prior to 1 February 2016 at paragraph 7.33

*'An OVM might come across a failed asylum seeker who was provided with relevant services between 6 April 2015 and 31 January 2016 and who was, at that time, supported under Part 1 of the Care Act 2014 by the provision of accommodation. In this circumstance, any outstanding charges already made to such a person should be cancelled and any charges for such services not yet made, should not be made. In the event that the Department of Health becomes aware that charges have been made and recovered prior to 1 February 2016, the Department will look at the particular facts of the case and consider whether a refund of those charges can and should be made. Consideration will be undertaken on a case by case basis. Failed asylum seekers who were supported by section 21 before it was repealed will continue to be exempt from charge even though they are now supported by the provision of accommodation under the Care Act 2014.'*

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 deemed to be 'overseas visitors,' and therefore subject to charging, are:

- Visa overstayers
- Illegal entrants
- Refused asylum seekers who are not in receipt of asylum support (unless they are receiving local authority support under the Care Act 2014, and this support started prior to 1 April 2015)
- Visitors with leave to enter for a period of six months or less

### **(iii) 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.

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.

**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.

For more information see chapter 8 of the Department of Health's [Guidance](#).

### **(iv) What to do when a migrant is refused secondary healthcare**

If a migrant believes that they should receive free healthcare but are told they must pay, or is 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](#)

### **(v) 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 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. There are circumstances when the Home Office may decide not to refuse leave to remain when there is an unpaid NHS debt, but these are not set out in the guidance.

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### 3. Immigration Health Charge

The **Immigration (Health Charge) Order 2015** sets out details of the Immigration Health Charge that, since 6 April 2015, must be paid by migrants making applications for limited leave to enter or remain in the UK, and lists the categories of applications that are exempt from this charge in Schedule 2. The Home Office refers to this as the Immigration Health Surcharge. The Immigration Health Charge also applies to migrants who are intending to reside in Wales, Scotland and Northern Ireland, even though they may be exempt from having to pay for secondary healthcare under the charging regulations that apply in those administrations.

#### (a) Applying for the Immigration Health Charge

Migrants applying for limited 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 section **3(b)**.

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, and people applying for entry clearance under the Tier 5 Youth Mobility Scheme 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 (when this is required), then the application will be deemed to be invalid and will not be processed by the Home Office.

Migrants applying for indefinite leave to remain (ILR) are not required to pay the Immigration Health Charge, as once ILR is granted, they are likely to be ordinarily resident in the UK and will receive free healthcare on that basis – see section **2(a)(i)**.

See the following Home Office information:

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

## **(b) Exemptions from the Immigration Health Charge**

### **(i) Exempt applications**

Schedule 2 of the **Immigration (Health Charge) Order 2015** sets out the applications which can be made without paying the Immigration 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 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 section **3(a)**.

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.

### **(ii) Fee waiver applications**

We have been advised by the Home Office that if an applicant is qualifies to make their immigration application free of charge under the [fee waiver policy](#) they will not be required to pay the Immigration Health Charge:

*“.. where the applicant applies for a fee waiver via the FLR(O)/FLR(FP) form, they are not required to pay the NHS surcharge or obtain an IHS reference number. If the fee waiver application is approved, the applicant will be asked to provide their biometrics and their leave to remain application will then be considered. If the fee waiver application is refused, the applicant can submit a charged application and pay the NHS surcharge, or reapply for a fee waiver on the basis of additional information/evidence or a subsequent change in circumstances.” (19 June 2015)*

Note that there is no reference to this in any published Home Office information about the Immigration Health Charge.

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## 4. EEA & Swiss nationals

Section 2.4 of the Department of Health's [Guidance](#) sets out the steps that hospital staff 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.

### (a) EHIC cards

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 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, 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.

### (b) Ordinary residence

If an EEA or Swiss national is ordinarily resident in the UK then they will not be subject to charging for secondary healthcare - see section **2(a)(i)**. There is no requirement for them to have a permanent right of residence but they must have the right to reside in the UK – see the Home Office Modernised Guidance: [EEA nationals qualified person](#).

### (c) Charging exemptions

If the EEA national is not ordinarily resident or does not have an EHIC card then, if a charging exemption applies to the EEA national, they will not be charged- see section **2(a)(ii)**. If no exemption applies, then the EEA national will be charged for treatment.

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## 5. British Citizens visiting the UK

British Citizens will receive free secondary healthcare if they are ordinarily resident in the UK - see section **2(a)(i)**. However, those that live abroad and are visiting the UK may be liable to be charged. Section 3.13 and chapter 6 of the Department of Health's [Guidance](#) provides further information about when a person who has recently arrived in the UK can be considered to be ordinarily resident.

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 section **4(a)**.

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## 6. Other providers of 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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## 7. 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](#)

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

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

[Immigration \(Health Charge\) \(Amendment\) Order 2016](#)

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

### Guidance

Department of Health, [Guidance on overseas visitors hospital charging regulations 2015](#) and related documents <<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 England: Patient Registration](#)

<<https://www.england.nhs.uk/commissioning/wp-content/uploads/sites/12/2015/11/pat-reg-sop-pmc-gp.pdf>>

[NHS: Help with health costs](#) <<http://www.nhsbsa.nhs.uk/792.aspx>>

[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: [Immigration Health Surcharge reference number](#)

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

Home Office Modernised Guidance, [EEA nationals qualified person](#)

<<https://www.gov.uk/government/publications/european-economic-area-nationals-qualified-persons>>