

**CAMPAIGN ON  
ACCESS TO FREE HIV TREATMENT AND CARE FOR ALL IN THE UK**

*We are asking organisations to agree the following motion and to notify their support to the National AIDS Trust or Terrence Higgins Trust. The motion is followed by a briefing on the reasons we are campaigning for this change to NHS Regulations. Further information can be obtained from Joe Murray ([joe.murray@nat.org.uk](mailto:joe.murray@nat.org.uk)) and Lisa Power ([lisa.power@tht.org.uk](mailto:lisa.power@tht.org.uk)).*

*An e-petition calling for access to free HIV treatment and care for all in the UK is available for individuals to sign at <http://petitions.pm.gov.uk/freeHIVtreatment>. This e-petition will be presented to the Government on World AIDS Day, 1 December 2007.*

**We, the undersigned, call on the Government to amend the *NHS (Charges to Overseas Visitors) Regulations 1989* in order to exempt HIV treatment and care from NHS charges regardless of residency status. We believe that the current charging regulations are a danger to both individual and public health and result in increased and unnecessary costs to the NHS.**

**We also support the call to maintain a free initial health assessment for all in the primary care setting in order to establish need and level of urgency of treatment.**

*Supported by*

AAEGRO	HIV i-Base
African HIV Policy Network	Interact Worldwide
AIDS Trust Cymru	Leicestershire AIDS Support Services
All Party Parliamentary Group on AIDS	Médecins du Monde UK
AVERT	National AIDS Trust
Bedfordshire Body Positive	National Children's Bureau
Black Health Agency	Pan Afrique
Boaz Trust	Positive East
Bromley Positive Support Group	The Positive Place
The Brunswick Centre	Refugee Action
Centre for African Families Positive Health	Sahir House
DHIVERSE	Staffordshire Buddies
Freshwinds	Terrence Higgins Trust
George House Trust	Worcester AIDS Foundation

## **BACKGROUND BRIEFING**

This briefing seeks to explain:

- the recent changes in entitlement to NHS services for migrants to the UK.
- the impact these changes are already having on public and individual health.
- the concerns expressed by many clinicians and other HIV experts.
- practical proposals to counter these unintended but serious consequences.

### **Situation up to April 2004**

Prior to April 2004, NHS treatment of all kinds was available free of charge to anyone who could show that they had been in the UK for more than 12 months. It was also available free to anyone currently applying for asylum or for leave to remain. This situation, while not ideal, ensured that anyone who was clearly a long stay resident of the UK, no matter how they became so, would receive the health treatment they needed. The Regulations governing NHS charging, and a number of key exemptions to them, were enshrined in the NHS Act 1977 and the NHS (Charges to Overseas Visitors) Regulations 1989. The exemptions included universal free treatment for a range of conditions on public health grounds. These included TB and all sexually transmitted infections except for HIV. For HIV, you had to wait 12 months to access free NHS services.

However, in response to media and political agitation about “treatment tourism” and the cost to the NHS of people allegedly arriving in the UK for the sole or primary purpose of exploiting the UK health system, new restrictions were imposed on all hospital services from April 2004. These new regulations meant that treatment for HIV (or for anything else not specially mentioned in the 1989 Amendment) should not be provided without charge for certain categories of people. This was despite the lack of any research showing the existence or extent of “treatment tourism” in HIV. Although HIV was repeatedly named in the media as an example of treatment tourism, the only piece of extant research indicated that the reverse was true. Most migrants were unlikely to be aware of their status until they had been in the UK for more than nine months (THT/GHT 2003).

We are also awaiting the outcome of a related consultation by the Government on reducing eligibility to primary care services. If the outcome of this consultation parallels that for the acute sector, anyone excluded from free NHS services will not even be able to access primary care for an initial assessment of their health needs to determine whether they are in emergency need. We believe that this would damage individual and public health and lead to a reversal of the recent reduction of waiting times and improved conditions in Accident & Emergency Departments.

## **Situation from April 2004**

New NHS charging regulations were introduced in April 2004 after consultation, but without any research or evidence base. Amongst other changes, some genuinely beneficial (long stay students, for instance, can now access NHS services without charge after six months instead of twelve) the twelve month rule was removed. This change means that long stay visitors, anyone in the UK without documentation, and anyone refused asylum or leave to remain, but not removed from the UK, are liable to be charged for any NHS services other than those provided in an emergency (usually interpreted as those available at A&E departments) or those outlined in the 1989 exemptions.

It is clear that these changes to the regulations are causing hardship. Current research refutes the myth of treatment tourism and finds that measures imposed actually prevent vulnerable people, including pregnant women, from accessing vital treatment. It is also clear in the case of HIV that, while charges imposed may result in a small short term cost reduction to local NHS budgets, in the longer term they are highly likely to have a negative effect in all three major areas – the public purse, public health and individual health. From cases already referred to the coordinators of this campaign, the following concerns arise:

- Individuals co-infected with TB and HIV (a relatively common combination for African people) have been told that, while their TB treatment is free, the HIV treatment necessary to ensure that their TB treatment is effective will be charged for. This has resulted in at least three cases where patients have left the hospital before the end of their course of TB treatment, risking the development of multi-drug resistant TB (which is transmissible) and returning to the community still able to transmit TB.
- At least two pregnant women (and anecdotally more) have been told they will be charged (and thus effectively refused) for temporary HIV treatment to prevent transmission of HIV to their unborn child.
- Patients taken to hospital as emergencies have not been informed of possible subsequent charges, usually several thousand pounds, until their discharge from hospital. In at least one case, they have subsequently been refused access to their medical records (needed to apply for leave to remain) unless they paid a large bill first.
- Those without legal residency status from communities with high prevalence of HIV have begun to ask why they should bother to test for HIV if they cannot obtain treatment for it. Whilst we believe there is almost always good reason to know one's diagnosis and thus be able to make informed decisions about both health and sexual behaviour, this view is gaining currency amongst migrant communities and is impacting on testing campaigns targeting them.
- There have already been several cases known to us of misinterpretation of the regulations to refuse treatment to those entitled, and other cases where manner

of questioning has discouraged people entitled to services from re-attending for them.

- Although there is evidence that some NHS staff have not pursued charges, there have already been examples of debts being handed over to collection companies for pursuance. Where people have no legal means of employment and are effectively destitute, this is not only a waste of time and money but an enormous stress upon the already unwell individuals pursued.
- Health inequalities are already emerging between people accessing different clinics with differing interpretations of the new regulations.

In the longer term, the organisers of this campaign have the following concerns:

- It is unlikely that charging for treatment (and thus effectively refusal of it) will encourage people refused asylum to return to countries they have been determined to leave, many of which have even less health infrastructure and free treatment than they would receive on emergency grounds in the UK.
- People with HIV unable to access antiretroviral treatment and associated services will be more infectious than if on treatment. They will also be less likely to access services designed to support safer sexual behaviour and avoidance of onward transmission.
- Community discussion of charging regulations will discourage people, including some entitled to free NHS services, from coming forward to any kind of support services.
- People with progressive immune deterioration resulting from HIV will need to access emergency services multiple times, with increasing frequency and severity, resulting in many cases in far higher incident costs than a simple ongoing prescription for antiretrovirals. Annual cost of antiretroviral therapy is now under £10,000; one week's stay in intensive care can cost almost as much, and this could be repeated many times, given the high standard of emergency medical care in the UK.
- People co-infected with HIV and other STIs will be able to access free treatment for gonorrhoea or chlamydia, but not for HIV, which is the more serious (and potentially fatal) condition transmissible by the same route.

For further information and advice on charging, please refer to the joint National AIDS Trust and Terrence Higgins Trust document "Will I have to pay?" by visiting [www.nat.org.uk/document/253](http://www.nat.org.uk/document/253) or [www.tht.org.uk/willihavetopay](http://www.tht.org.uk/willihavetopay).

**September 2007**