



Who has to pay?

How NHS overseas visitor charges apply to migrants and asylum seekers in England

The National Health Service (NHS) is free to anyone who is 'ordinarily resident'¹. Those who are not ordinarily resident in the UK can be charged for using some NHS services.

There are exemptions from NHS charges for specific types of treatment and also specific groups of people. In addition, there are rules to make sure that no one is denied life-saving and urgent treatment (but some patients will still be asked to pay for this treatment).

This is a factsheet about the NHS in England. However, HIV and sexual health testing, treatment and care is available free of charge from the NHS throughout the UK, regardless of immigration status².

Types of treatment which are always free

NHS overseas visitors charges apply to most secondary care (hospital services) – but some NHS services are always free:

- HIV and sexual health services are freely available to all, regardless of immigration or residency status. This includes testing, seeing a doctor and any medicine you may need for your HIV or other sexually transmitted infection.
- Primary care services (e.g. seeing a GP doctor or nurse) in England are not subject to NHS overseas visitor charging rules. The Government has talked about introducing charging in primary care but this has **not** been implemented. This means primary care is free to all.
- Treatment for other communicable diseases, including TB, is freely available, regardless of immigration or residency status.
- Treatment provided in A&E (accident and emergency) is free. This doesn't include any treatment as an inpatient (e.g. if you get admitted to hospital overnight or are sent for surgery straight from A&E) – only the treatment you get directly in A&E is exempt from charges.

Understanding who is 'ordinarily resident'

People who are 'ordinarily resident' in the UK should not be charged for using any NHS services. Under the Immigration Act 2014, anyone who is subject to visa control **cannot** be considered ordinarily resident for the purposes of NHS access. This means that **only** UK nationals, EEA nationals and people with indefinite leave to remain (ILR, sometimes called 'permanent residence') can be considered ordinarily resident.

¹ Most people who use the NHS are asked to pay a small 'prescription charge' for any medication they need, as well as to contribute to the cost of NHS dental care.

² In Scotland and Northern Ireland, HIV is exempt from charges under the law; in Wales this happens in practice. Information on charging in Scotland: http://www.nhs.uk/pages/contact/overseas_visitors.php ; Wales: <http://gov.wales/topics/health/publications/health/guidance/implementation/?lang=en> ; Northern Ireland: <http://www.migrationni.org/living-in-northern-ireland#health>. UK-wide guide to charges: <https://www.citizensadvice.org.uk/healthcare/help-with-health-costs/nhs-charges-for-people-from-abroad/>



However, not **all** people with ILR, UK or EEA citizenship will automatically meet the test. Someone must be able to show they are actually resident in the UK at the time they are seeking hospital treatment. Those who are not currently living in the UK may be charged for their hospital treatment.

The health surcharge

The Immigration Act 2014 also introduced a new health surcharge, which certain migrants must pay. Once the health surcharge has been paid the migrant should be treated as if they are 'ordinarily resident' and will not have to pay any NHS overseas visitors charges.

The health surcharge only applies to non-EEA nationals³ who are subject to visa control. It is paid to the Home Office as part of visa applications for those coming to the UK as 'temporary migrants' (stays of more than 6 months). The health surcharge is paid upfront and in full for each year covered by the visa. It applies to people come to work or reunite with family (who will pay £200 per year), or to study (£150 per year). Evidence that a visa holder has paid the surcharge will appear on their NHS record, which will be created automatically as part of the surcharge payment process.

People who are already living in the UK and applying for permission to stay (including an extension of an existing visa) will also need to pay the health surcharge to get this extension.

Groups who may have to pay NHS overseas visitors charges

The following groups may be asked to pay for secondary care:

- Anyone who should have paid the health surcharge but has not done so (or where payment has expired)
- Undocumented migrants
- Refused asylum seekers who are not getting any support from the Home Office or their local authority
- People on visitor visas
- Visa overstayers
- UK nationals who are not 'ordinarily resident'
- EEA nationals who are not 'ordinarily resident' and who cannot show an EHIC card or other evidence that they are entitled to healthcare in their home country.

Anyone in these categories will always get free sexual health and HIV treatment.

Exemptions from NHS overseas visitors charges

In addition to people who are 'ordinarily resident', there are groups of people who will not have to pay NHS charges for **any** secondary care (hospital) treatment. These groups are:

- Those who have paid the health surcharge (see above for more details)
- Anyone who is insured for healthcare in another EEA member state or Switzerland⁴
- Refugees⁵
- Asylum seekers⁶
- People getting section 95 support from the Home Office
- Refused asylum seekers who are getting the following support:
 - » support under section 4(2) from the Home Office

³ Nationals of Australia and New Zealand do not have to pay the health surcharge.

⁴ Not all EEA nationals will be automatically exempt from all charges – to get free treatment someone must be 'ordinarily resident' or show an EHIC card or other proof that they have state health insurance

⁵ This includes people granted asylum, humanitarian protection or temporary protection by the UK

⁶ Anyone with an open claim for asylum, humanitarian protection or temporary protection



- » section 21 of the National Assistance Act 1948 from Local Authorities⁷
- Children who are looked after by a Local Authority
- Victims, and suspected victims, of human trafficking⁸
- Prisoners and those in immigration detention
- Anyone receiving compulsory treatment under a court order or who is detained in an NHS hospital or deprived of their liberty⁹
- Those covered by reciprocal agreements with other nations

Process for applying charges

Most hospitals have at least one Overseas Visitors Manager (OVM), who is responsible for administering NHS overseas visitors charges. Patients who may be liable for charges will be interviewed by the OVM who will try to establish if they are chargeable by asking questions about their residency status.

For treatment which is not considered 'immediately necessary' (please see below) or urgent – that is, for elective treatment – the hospital may try to secure payment before the treatment is provided.

In cases where this is not appropriate (e.g. for immediately necessary treatment or when someone is unconscious), the patient will be given a bill for treatment after it was given. The hospital will normally expect to recover these charges within a few months, so if the patient is unable to manage this financially it is important to tell the hospital as soon as the bill is issued. People on low incomes may be able to set up an affordable payment plan.

What the hospital will charge for treatment

There are rules setting out how much a hospital can bill a chargeable patient for their treatment. The bill should be based on the cost of the treatment to the NHS. Patients who are charged under NHS Overseas Visitors rules should not be billed as a private patient.

EEA nationals who are chargeable (because they are not ordinarily resident and/or because they are not insured in their home country) will be asked to pay the 'EEA overseas tariff' which is set at 100% of the cost to the NHS trust.

Non-EEA nationals who are chargeable (because they are not ordinarily resident and/or have not paid the migrant health surcharge) will be asked to pay the 'non-EEA overseas tariff', which is set at 150% of the cost to the NHS trust¹⁰.

Immediately necessary and urgent treatment

There are types of treatment which should never be denied or delayed, even for chargeable migrants.

The first are treatments which are considered **immediately necessary**. It is up to the doctor to decide whether a course treatment is immediately necessary or not. The definition they use is any treatment which is needed immediately in order to save someone's life or to prevent a condition becoming life-threatening. It also includes treatment which must be given promptly to prevent serious damage from occurring. When treatment is immediately necessary the hospital **cannot refuse to treat a patient or ask for payment before treatment**. However, they may ask for payment afterwards.

⁷ The National Assistance Act 1948 has been replaced by the Care Act but the exemption remains

⁸ As determined by the UK Human Trafficking Centre or the Home Office. Their spouse/civil partner and any children under 18 who are lawfully present in the UK will also be exempt.

⁹ Under the Mental Health Act 1983 or the Mental Capacity Act 2005

¹⁰ For a detailed breakdown of the tariff, please see pp105-119 of the NHS guidance: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418634/Implementing_overseas_charging_regulations_2015.pdf



There is also **urgent** treatment. 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. This is always up to the doctor to decide. Payment may be sought prior to providing urgent treatment, but the treatment should **never be delayed or withheld** because the hospital is trying to get this payment.

Charges for maternity care

All aspects of maternity treatment are considered 'immediately necessary' by the Department of Health, and should never be refused or delayed. This includes routine ante-natal appointments.

However, some women will later be billed their maternity care, based on their residency status.

Impact of NHS debt on future immigration applications

Under immigration rules, people who have an unpaid NHS debt of more than £500 will generally have future applications to enter or stay in the UK refused.

Those who pay the debt within three months or are keeping up with a 'reasonable payment reschedule' will not have their debt held against future applications. This makes it even more important for those on low incomes to contact the hospital if they will struggle to pay their treatment bill.

Data sharing between the Home Office and the NHS

Hospitals and the Home Office may share limited information about patients to help manage the system of NHS charges. For example, the Home Office will provide the NHS with information about people who have paid the migrant health surcharge. The NHS may also contact the Home Office to confirm someone's residency status, to help them understand if someone may or may not be chargeable.

In addition, if someone has an unpaid NHS debt of above £500 this information will be sent to the Home Office (see above for more details). However, personal medical information relating to treatment provided will **not** be shared with the Home Office (for example, HIV status).

When residency status changes

If someone's visa expires or your asylum claim is refused and they are already getting free NHS care for a specific condition, they will continue to get this same course of treatment free of charge.

Further information and advice for people who have been charged

THT Direct has trained advisors and is free to call from all UK landlines and most UK mobiles: 0808 802 1221 (10am-8pm Monday to Friday).

The Department of Health publishes official guidance on implementing NHS overseas visitors charges: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418634/Implementing_overseas_charging_regulations_2015.pdf