

2019 No. 42

HEALTH AND PERSONAL SOCIAL SERVICES

The Provision of Health Services to Persons Not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2019

Made - - - -

8th March 2019

Coming into operation in accordance with regulation 1(2)

The Department of Health^(a) in exercise of the powers conferred by Articles 42, 106(b) and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972^(b), in conjunction with the Department of Finance^(c), makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Provision of Health Services to Persons Not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2019.

(2) These Regulations come into operation on exit day.

(3) In these Regulations—

“exit day” has the meaning given in section 20 of the European Union (Withdrawal) Act 2018^(d);

“the principal Regulations” means the Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015^(e).

Amendment of regulation 2

2. In regulation 2(1) (interpretation) of the principal Regulations—

(a) before the definition of “general health services” insert—

““EEA National” means a national of an EEA State;

“exit day” has the meaning given in section 20 of the European Union (Withdrawal) Act 2018;”;

(b) after the definition of “HSC trust” insert—

““immigration rules” means the rules laid before Parliament under section 3(2) (general provisions for regulation and control) of the Immigration Act 1971^(f);”;

(c) for the definition of “treatment the need for which arose during the visit” substitute—

““treatment the need for which arose during the visit” means

(a) see 2016 c. 5, s1(5)

(b) S.I. 1972/1265 (N.I. 14)

(c) see 2016 c. 5, s1(4)

(d) 2018 c. 16

(e) S.R. 2015 No. 27

(f) 1971 c. 77

- (a) diagnosis of symptoms or signs occurring for the first time after the visitor's arrival in Northern Ireland; or
- (b) treatment, provided that the visitor has not travelled to Northern Ireland for the purpose of seeking that treatment, which in the opinion of a medical practitioner or dentist employed by, or under contract with, the Board or a HSC Trust, is required promptly for a condition which arose, or became acutely exacerbated, after the visitor's arrival, or which, but for the treatment, would be likely to become exacerbated,

which cannot wait until the visitor can reasonably be expected to return to the visitor's country of ordinary residence.”.

Revocation of regulation 7

3. Omit regulation 7 (visitors exempt from charges – EU Rights) of the principal Regulations.

Amendment of regulation 8

4. For regulation 8 (visitors exempt from charges – reciprocal agreements) of the principal Regulations substitute—

“8. No charge may be made or recovered in respect of any services forming part of health services to a visitor where those services are provided in circumstances covered by a reciprocal agreement—

- (a) with a country or territory specified in Schedule 2; or
 - (b) with an EEA State or Switzerland,
- where that agreement comes into effect on or after exit day.”.

Regulations 8A, 8B and 8C

5. After regulation 8 insert—

“Visitors exempt from charges – frontier workers

8A.—(1) No charge may be made or recovered in respect of any services forming part of health services, provided to a visitor who is a relevant frontier worker.

(2) In paragraph (1) “relevant frontier worker” means a person who—

- (a) on or after exit day, is pursuing in Northern Ireland activity as an employed or self-employed person which the person began to pursue there before exit day;
- (b) resides in an EEA State or Switzerland; and
- (c) returns to their residence in that EEA State or Switzerland (as the case may be) daily or at least once a week.

Visitors exempt from charges – retired frontier workers

8B.—(1) No charge may be made or recovered in respect of any services forming part of health services for the continuation of treatment which began to be provided on or before exit day, to a visitor who is a relevant retired frontier worker.

(2) In paragraph (1)—

“continuation of treatment” means the continued investigation, diagnosis or treatment of an illness;

“relevant retired frontier worker” means a person who before exit day, had pursued in Northern Ireland an activity as an employed or self-employed person, and who had terminated that activity immediately upon receipt of either a United Kingdom state

pension or benefit payable because that person can no longer work due to ill health or disability.

Visitors exempt from charges – posted workers

8C.—(1) No charge may be made or recovered in respect of any services forming part of health services, provided to a visitor who is a relevant posted worker.

(2) In paragraph (1) “relevant posted worker” means—

- (a) a person who before exit day, was pursuing in the United Kingdom activity as an employed person on behalf of an employer which normally carries out its activities there and who was posted by that employer to an EEA State or Switzerland to perform work on that employer’s behalf; or
 - (b) a person who before exit day, was pursuing in the United Kingdom activity as a self-employed person, and who went on to pursue similar activity in an EEA State or Switzerland; and
- the duration of such activity does not exceed twenty-four months.”.

Amendment of regulation 14

6. In regulation 14 (visitors exempt from charges – long term visits by United Kingdom pensioners) of the principal Regulations—

- (a) in paragraph (b), for “another” substitute “an”; and
- (b) in paragraph (c), for “another” substitute “an”.

Regulations 21A, 21B and 21C

7. After regulation 21 (visitors exempt from charges for treatment the need for which arose during the visit only) of the principal Regulations insert—

“Visitors exempt from charges – Irish or British citizens ordinarily resident in the Republic of Ireland

21A. No charge may be made or recovered in respect of any services forming part of health services, consisting of treatment the need for which arose during the visit, provided to a visitor who is ordinarily resident in the Republic of Ireland and who is—

- (a) an Irish citizen; or
- (b) a British citizen.

Visitors with UK reciprocal healthcare entitlements before exit day

21B.—(1) No charge may be made or recovered in respect of any services forming part of health services, consisting of treatment the need for which arose during the visit, provided on or after exit day to a visitor who is ordinarily resident in an EEA State or Switzerland, was ordinarily resident there immediately before exit day and either—

- (a) immediately before exit day held a valid UK reciprocal healthcare document; or
- (b) at the time that the treatment which constitutes the relevant services was provided, would have been eligible to be issued with a UK reciprocal healthcare document if exit day had not occurred.

(2) In this regulation—

“competent member State” means a competent member State within the meaning of regulation (EC) 883/2004;

“insured person” means an insured person within the meaning of regulation (EC) 883/2004; and

“UK reciprocal healthcare document” means an S1 healthcare certificate, A1 healthcare certificate, European Health Insurance Card or equivalent document issued by a competent institution in the United Kingdom to an insured person for whom the United Kingdom, immediately before exit day, was or would have been the competent member State.

EU Exit: transitional arrangements

21C.—(1) No charge may be made or recovered in respect of any services forming part of health services provided on or after exit day to a visitor who is ordinarily resident in an EEA State or Switzerland, as part of a course of planned treatment which was authorised before exit day in accordance with regulation (EC) 883/2004.

(2) No charge may be made or recovered in respect of any services forming part of health services consisting of treatment the need for which arose during the visit, provided on or after exit day to a visitor whose visit to Northern Ireland began before exit day and who held either—

- (a) a European Health Insurance Card issued by the competent institution of an EEA state (other than the United Kingdom) or Switzerland which was valid when—
 - (i) the visit began; and
 - (ii) the need for treatment arose; or
- (b) a Provisional Replacement Certificate issued by the competent institution of an EEA State (other than the United Kingdom) or Switzerland which was valid when the treatment was provided.

(3) No charge may be made or recovered in respect of any services forming part of health services provided to a visitor who is an EEA national or Swiss national who began receiving an education or training in the United Kingdom before exit day where those services—

- (a) consist of treatment the need for which arose during that education or training (taking account of the nature of the treatment and the expected duration of the education or training); and
- (b) are provided on or after exit day but before the end of that education or training.

(4) No charge may be made or recovered in respect of any services forming part of health services provided before 31st December 2020 to a person who is a visitor by virtue of section 39 of the Immigration Act 2014^(a) and who is eligible for leave to remain under Appendix EU to the immigration rules^(b).

(5) Paragraph (4) applies whether or not the person has applied for leave to remain under Appendix EU to the immigration rules.”.

Amendment of regulation 22

8. In regulation 22 (family members of visitors) of the principal Regulations—

- (a) before paragraph (1)(a) insert—
 - “(za) regulation 8C (visitors exempt from charges – posted workers);”;
- (b) in paragraph (4) for “if that other visitor” to the end of the paragraph substitute—
 - “if that other visitor is exempt from charges under any of the following regulations—
 - (a) regulation 8 (reciprocal agreements);
 - (b) regulation 21(1)(a) or (b) (treatment the need for which arose during the visit only);

^(a) 2014 c. 22

^(b) Appendix EU was amended by the statement of changes in immigration rules presented to Parliament on 7th March 2019 (HC 1919)

- (c) regulation 21B (visitors with UK reciprocal healthcare entitlements before exit day);
- (d) regulation 21C(3) (transitional arrangements for visitors receiving an education or training following exit day).”;
- (c) after paragraph (4), insert—

“(4A) No charge may be made or recovered in respect of any services forming part of health services consisting of treatment the need for which arose during the visit, provided to a visitor who is a member of the family of another visitor and who is lawfully present in the United Kingdom if that other visitor is exempt from charges under any of the following regulations—

 - (a) regulation 8A (visitors exempt from charges – frontier workers);
 - (b) regulation 21A (visitors exempt from charges – Irish or British citizens ordinarily resident in the Republic of Ireland).”; and
- (d) in paragraph (6) omit the words “an enforceable EU right or”.

Amendment of regulation 24

9. In regulation 24 (visitors to whom general health services shall be available) of the principal Regulations—

- (a) after paragraph (1)(c) insert—

“(ca) regulation 8A (visitors exempt from charges – frontier workers);

(cb) regulation 8B (visitors exempt from charges – retired frontier workers), but only for the continuation of treatment which began to be provided on or before exit day;

(cc) regulation 8C (visitors exempt from charges – posted workers).”;
- (b) after paragraph (1)(o) insert—

“(oa) regulation 21C(3) (transitional arrangements for visitors receiving an education or training following exit day) subject to the visitor residing in Northern Ireland for the duration of the education or training.”;
- (c) in paragraph (1)(p) after “(family members of visitors)” insert—

“, except for family members exempt from charges under—

 - (i) regulation 22(4)(c);
 - (ii) regulation 22(4)(d), subject to the visitor residing in Northern Ireland for the duration of the education or training;
 - (iii) regulation 22(4A).”;
- (d) omit paragraph (1)(q); and
- (e) after paragraph (2) insert—

“(3) in this regulation “continuation of treatment” has the meaning given in regulation 8B(2).”.

Amendment of Schedule 2

10. In Schedule 2 (countries or territories in respect of which the United Kingdom Government has entered into a reciprocal agreement) to the principal Regulations—

- (a) after “Falkland Islands” insert “Faroe Islands”;
- (b) after “Gibraltar” insert “Iceland”;
- (c) after “Kosovo” insert “Liechtenstein”;
- (d) after “New Zealand” insert “Norway”; and
- (e) after “St. Helena” insert “Switzerland”.

Sealed with the Official Seal of the Department of Health on 8th March 2019



Mark Lee
A senior officer of the
Department of Health

Sealed with the Official Seal of the Department of Finance on 8th March 2019



Emer Morelli
A senior officer of the
Department of Finance

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Provision of Health Services to Persons Not Ordinarily Resident Regulations (Northern Ireland) 2015 (“the principal Regulations”) which make available, to visitors in Northern Ireland, certain health services under the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)), at a charge determined by the Department of Health.

Regulation 1 contains commencement, citation, and interpretation provisions.

Regulation 2 amends regulation 2 of the principal Regulations to insert definitions of “EEA National”, “exit day”, and “immigration rules” and also amend the definition of “treatment the need for which arose during the visit”.

Regulation 3 revokes regulation 7 (visitors exempt from charges – EU rights). That regulation provides exemptions from charges for those with entitlements arising under enforceable EU rights which will cease to apply following the UK’s exit from the European Union.

Regulation 4 substitutes regulation 8 of the principal Regulations to provide an exemption from charges for visitors who are from an EEA State or Switzerland if a reciprocal health care agreement has been concluded with that state.

Regulation 5 inserts new regulations 8A, 8B and 8C into the principal Regulations.

Regulation 8A provides an exemption from charges for frontier workers who work in Northern Ireland (and began doing so before exit day) but reside in an EEA State or Switzerland, to which they return on at least a weekly basis.

Regulation 8B provides an exemption from charges for retired frontier workers who began treatment immediately before receiving their relevant benefit.

Regulation 8C provides an exemption from charges for posted workers.

Regulation 6 amends regulation 14 (visitors exempt from charges – long term visits by United Kingdom pensioners) of the principal Regulations to remove references to “another EEA State”.

Regulation 7 inserts new regulations 21A, 21B and 21C into the principal Regulations.

Regulation 21A provides an exemption from charges in respect of treatment, the need for which arises during a visit, for visitors who are Irish or British citizens ordinarily resident in the Republic of Ireland.

Regulation 21B provides an exemption from charges in respect of treatment, the need for which arises during a visit, for visitors who are in possession of a valid UK reciprocal healthcare document before exit day. This will include pensioners who live in an EEA State or Switzerland and hold an S1 certificate.

Regulation 21C provides the exemptions from charges which will apply on a transitional basis to visitors from an EEA State or Switzerland (a “relevant visitor”) in consequence of the UK’s exit from the European Union.

Regulation 21C(1) provides an exemption from charges for treatment received by a relevant visitor on or after exit day which is part of a course of treatment which was authorised before exit day under Article 20 of regulation (EC) 883/2004.

Regulation 21C(2) provides an exemption from charges for treatment provided to a relevant visitor on or after exit day if the visit started before exit day and the treatment would have been covered before exit day by the relevant visitor’s European Health Insurance Card.

Regulation 21C(3) provides an exemption from charges for relevant visitors who began receiving an education or training in the United Kingdom before exit day. The exemption applies until the end of the student’s course.

Regulation 21C(4) provides an exemption from charges for EU nationals and their family members who live but are not ordinarily resident in the United Kingdom. The exemption will apply to such a person if they were living in the United Kingdom before exit day and are eligible for leave to remain under Appendix EU to the immigration rules.

Regulation 8 makes consequential amendments to regulation 22 of the principal Regulations following the revocation of regulation 7 and the insertion of regulations 8A, 8C, 21A, 21B and 21C(3). Regulation 22 extends certain exemptions under the principal Regulations to the family members of visitors who are eligible for those exemptions.

Regulation 9 makes amendments to regulation 24 of the principal Regulations following the revocation of regulation 7 and the insertion of regulations 8A and 21C(3). Regulation 24 extends certain exemptions under the principal Regulations to access general health services for visitors who are eligible for those exemptions.

Regulation 10 amends Schedule 2 to the principal Regulations to add the Faroe Islands, Iceland, Liechtenstein, Norway, and Switzerland to the list of countries and territories with which reciprocal health care agreements have been concluded.

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