

**EXPLANATORY MEMORANDUM TO**  
**THE NATIONAL HEALTH SERVICE (TRAVEL EXPENSES AND**  
**REMISSION OF CHARGES) (AMENDMENT) REGULATIONS 2013**

**2013 No. 1600**

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 These Regulations amend the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (the TERC Regulations) so as both to update the provisions of those Regulations that refer to the student funding arrangements that apply in Scotland and Wales, and to extend the existing arrangements for providing exemption from NHS charges, and assistance with travel costs, to people in receipt of Universal Credit to the period beginning on 1st November 2013 and ending on 5th April 2014.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Context**

4.1 Section 1(4) of the National Health Service Act 2006 (“the 2006 Act”) enshrines the principle that services provided in England as part of the health service must be free of charge, except in so far as the making and recovery of charges is expressly provided for by or under any enactment wherever, passed. Many of the statutory powers to levy health service charges are contained in Part 9 of the 2006 Act, but Part 9 also makes provision allowing regulations to be made for the remission and repayment of such charges – and for dealing for dealing with some related matters, for example payment of travel expenses.

**5. Territorial Extent and Application**

5.1 This instrument applies to England.

**6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

- What is being done and why

### Student Funding Arrangements

7.1 The TERC Regulations provide that people receiving certain means-tested benefits, for example income support, are automatically entitled (“passported”) to free prescriptions, dental treatment, wigs and fabric supports, sight tests and vouchers towards the cost of glasses or contact lenses, and payment of travel costs to hospital.

7.2 The TERC Regulations also provide a “safety net” known as the National Health Service Low Income Scheme (LIS). Help from the scheme is based on an assessment of a person’s ability to pay in the light of their financial resources at the time a claim is made or charge was paid. The calculation of entitlement is based on Income Support arrangements, plus net housing costs and council tax where a person is personally liable to pay. The TERC Regulations modify the Income Support (General) Regulations 1987 for the purpose of the calculation of low income scheme entitlement.

7.3 A student studying in England who applies for help with health costs will have taken into account in their LIS assessment any grant or loan to which they are entitled under the regulations of their home country. The funding arrangements in England, Wales and Northern Ireland are broadly similar, with students entitled to a grant and/or loan to help with living costs based on the same criteria, for example level of parental income. The thresholds for entitlement and amounts payable may vary in each country. Where a student qualifies for a grant, the amount of loan available is reduced on a sliding scale, depending on the cohort of the student (which year they began their course).

7.4 The LIS policy is to disregard any part of the student grant that is not taken into account when entitlement to a student loan is assessed, i.e. the amount that does not erode the loan. These Regulations update the references to the student funding regulations that apply for students from Wales. The existing references to the student funding arrangements in England and Northern Ireland do not need updating.

7.5 The student funding arrangements in Scotland are slightly different. A student from Scotland, studying in England, might be entitled to a Young Students’ Bursary or an Independent Students’ Bursary, based on qualifying conditions, which include the family income level. These Regulations set out that these bursaries should be disregarded in any application to LIS in the same way as the excess is for students from the other home countries. The amounts of these bursaries are set out in guidance issued by the Student Awards Agency for Scotland each year. In addition, because the maximum amounts of the student loans that students from Scotland can take out varies, all the students are assessed on the basis that they receive the maximum amount that would be payable to someone on their course – that is, all students, essentially, are treated as having the same student loans as those that are payable to students from backgrounds with the lowest family income levels. Generally speaking, students from higher income backgrounds are entitled to smaller loans, and the

inclusion of a notional amount to the calculation of their entitlement to Help with Health costs means that they are not inadvertently treated as 'poorer' than students from the lowest income backgrounds.

## **Universal Credit**

7.6 The TERC Regulations are amended to extend passported entitlement to remission of NHS charges, and assistance with travel costs to receive NHS treatment on referral, to those receiving Universal Credit (and their partners and any children for whom they are responsible) up to 5 April 2014.

7.7 The Welfare Reform Act 2012 provides for the introduction of Universal Credit. The Universal Credit Pathfinder launched on 29th April in areas of Greater Manchester and Cheshire and the progressive national roll-out will commence from October 2013. During the initial period of roll out all recipients of Universal Credit (and their partners and the children for whom they are responsible) will be entitled to:

- Free NHS prescriptions
  - Free NHS dental treatment
  - Free wigs and fabric supports
  - Assistance with the costs of travel to an NHS appointment on referral by a primary care practitioner (e.g. doctor, dentist or optician). (In addition, separate amending regulations will give access to free sight tests and optical vouchers for this group).
- Consolidation

7.8 Consolidation of the TERC Regulations will be considered in the light of the further amendments to them as Universal Credit is extended.

## **8 Consultation Outcome**

8.1 No consultation has taken place, as this instrument does not alter existing policy.

## **9. Guidance**

9.1 No guidance has been prepared for this instrument. The National Health Service Business Services Authority (NHS BSA) will need to note the amendments when dealing with claims under the Low Income Scheme when made by a student. The Department of Health Website will be updated to reflect the extension to the arrangements for those receiving Universal Credit during the second phase of the introduction of Universal Credit.

## **10. Impact**

10.1 An Impact Assessment has not been prepared for this instrument. No impact on business, charities or voluntary bodies is foreseen.

10.2 There is no cost to the public sector.

**11. Regulating small business**

11.1 There is no additional burden to business.

**12. Monitoring and Review**

13.1 References to student funding arrangements may require updating annually. A further amendment to TERC regulations will be required to cover the arrangements for passported entitlement to free prescriptions, dental treatment, wigs and fabric supports, sight tests and vouchers towards the cost of glasses or contact lenses, and payment of travel costs to hospital, for Universal Credit recipients from 6 April 2014.

**13. Contact**

**Gina Jones** at the Department of Health Tel: 020 7972 2954 or e-mail: [gina.jones@dh.gsi.gov.uk](mailto:gina.jones@dh.gsi.gov.uk) can answer any queries regarding the instrument.