

EXPLANATORY MEMORANDUM FOR
THE NATIONAL HEALTH SERVICE (TRAVEL EXPENSES AND REMISSION OF
CHARGES) AMENDMENT REGULATIONS 2005

2005 No.26

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

2. Description

2.1 Regulations to amend the NHS (Travel Expenses and Remission of Charges Regulations) 2003 in respect of the calculation of certain aspects of entitlement to the NHS Low Income Scheme for single people aged 60 or over and lone parents aged 60 or over.

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

3.1 None

4. Legislative Context

4.1 These Regulations are made under sections 83A and 126(4) of the National Health Service Act 1977 and amend the National Health Service (Travel Expenses and Remission of Charges) 2003 (TERC Regulations) to make clear that in calculating entitlement to help with health costs:

(a) the personal allowance applicable to single people aged 60 and over also applies to lone parents aged 60 and over; and

(b) a disregard from earnings of £20 per week applies when the claimant (or partner if he has one) is aged 60 and over.

The desired effect was not achieved when the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 were consolidated into the above instrument nor when it was amended by the National Health Service (Travel Expenses and Remission of Charges) Amendment Regulations 2004.

5. Extent

5.1 This instrument applies to England only.

6. European Convention on Human Rights

6.1 The Minister of State, Rosie Winterton, has made the following statement regarding Human Rights:

* Free NHS prescriptions, dental treatment, sight tests, wigs and fabric supports and full value optical voucher and payment of travel costs cost receive NHS treatment under the care of a consultant.

In my view the of provision of the National Health Service (Travel Expenses and Remission of Charges) Amendment Regulations 2004 are compatible with convention rights.

7. Policy Background

7.1 Entitlement to means tested help with health costs (*) for those who are not automatically entitled through receipt of a qualifying benefit (eg income support) is calculated in accordance with arrangements set out in the TERC Regulations. These largely rely on the arrangements set out in the Income Support (General) Regulations 1987 for the calculation of requirements and resources and the comparison between them. Entitlement for people aged 60 and over continues to be calculated in accordance with the Income Support Regulations but these are modified via the TERC Regulations to reflect the more generous approach for this age group as set out in the State Pension Credit Regulations 2002. In particular, requirements include personal allowances (for single people, lone parents and couples) for people aged 60 and over at a higher rate than for those aged under 60 and the weekly disregard from earnings is higher in respect of people aged 60 and over.

This instrument restores the policy intention in respect of the rate of personal allowance for lone parents aged 60 and over and in respect of the rate of weekly disregard from earnings for people aged 60 and over.

The problem was identified by one claimant in Scotland (where the legislation is the same as in England) and examination of the English regulations revealed a similar shortcoming.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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