



Ein cyf/Our ref : MA-EM-0021-23

Elin Jones MS
Llywydd
Senedd Cymru
Cardiff Bay
CARDIFF
CF99 1SN

31 January 2023

Dear Llywydd,

The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2023 (“the 2023 Regulations”)

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument will come into force on 1 February 2023, less than 21 days after it has been laid. A copy of the instrument and the Explanatory Memorandum that accompanies it are attached for your information.

The 2023 Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 (“the Principal Regulations”). The Principal Regulations set the framework for charging persons who are not ordinarily resident in the UK for hospital treatment which is provided in Wales.

Regulation 4D(1) of the Principal Regulations provides that a person who makes a late application to the EU Settled Scheme (“EUSS”) will not be charged for relevant services which are provided while their application is being determined. However, regulation 4D(4) of the Principal Regulations further provides that if the application is unsuccessful then they will be charged for the provision of those relevant services that were received during the period that their application was made and the date on which the application was finally determined.

Having reviewed the policy on charging of late EUSS applicants, I am of the view that the charging for treatment under Regulation 4D(4) of the Principal Regulations, of late EUSS applicants whose application is subsequently rejected, does not reflect the provisions of Article 18 of the Withdrawal Agreement (“WA”) and Article 17 of the EEA EFTA Separation Agreement (“SA”).

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

The 2023 Regulations remove the requirement to charge unsuccessful late applicants to the EUSS for NHS treatment received during the period that their application was under consideration and require that any charges for such services: if made, must not be recovered; or if paid, must be repaid.

Though discussions with the Local Health Boards indicate that no individuals in Wales have been charged or are due to be charged for treatment in this regard, the 2023 Regulations have been made urgently in order to ensure that no unnecessary charges are made (in the event that it transpires that charges are payable), and also to ensure that the Principal Regulations reflect the WA and SA.

I am copying this letter to the Minister for Rural Affairs, North Wales and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Russell George MS Chair of the Health and Social Care Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services