

Explanatory Memorandum to: The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) (No.2) Regulations 2011 ('the Regulations')

This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Children and is laid before the National Assembly for Wales in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) (No.2) Regulations 2011.

Lesley Griffiths
Minister for Health, Social Services and Children
Date :31 July 2011

Description

The Regulations will amend the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 / 1104(W.116) ('the Principal Regulations').

Matters of special interest to the Constitutional and Legislative Affairs Committee

The Regulations amend the Principal Regulations, which make provision so that people who are either in receipt of certain state benefits or who are on low income are able to obtain the remission and repayment of certain charges, which would otherwise be payable under the National Health Service (Wales) Act 2006, and the payment of travelling expenses incurred in obtaining certain NHS services (NHS travelling expenses) ('the Low Income Scheme').

The Principal Regulations modify the provisions of the Income Support (General) Regulations 1987 (SI 1987/1967) ("*the IS Regulations*") for the purpose of calculating income, capital and requirements to establish whether individuals are entitled to the remission of charges and the payment of travelling expenses.

Certain amounts of student maintenance grants are disregarded in calculating the entitlement of students to the payment of travel expenses and remission of charges under the principal Regulations. The disregard is currently achieved by referring to the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2009 (SI 2009 / 2737 (W.235)) ("*the 2009 Regulations*").

The 2009 Regulations have been revoked by the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations (SI 2011 / 148 (W.32)) ("*the 2011 Regulations*") which will be applicable to the academic year 2011 / 12. The 2011 Regulations set out

the relevant amount of Grant or Loan available to students who are domiciled in Wales. These regulations apply to the Academic year 2011 / 2012.

The Assembly Learning Grants and Loans (Higher Education) (Wales) (No2) Regulations (SI 2011 / 886 (W.130)) (“the 2011 No2 Regulations”) apply to the academic year 2012 / 13.

The Regulations therefore provide that the reference to the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2011 (SI 2011 / 148 (W.32)) ceases to have effect on 1 September 2012 (i.e. the end of the academic year 2011 / 12); and the reference to the Assembly Learning Grants and Loans (Higher Education) (Wales) (No2) Regulations (SI 2011 / 886 (W.130)) has effect thereafter.

Legislative Background

These Regulations are being made in exercise of powers conferred by sections 130, 131, 132 and 203(9) and (10) of the National Health Service (Wales) Act 2006.

These Regulations are subject to the negative resolution procedure.

Purpose and intended effect of the legislation

Policy Background

Income based entitlement to help with health costs may be available through the NHS Low Income Scheme (“*the LIS*”) to those who are not automatically entitled through receipt of a pass-porting benefit such as income support. Students may apply under the LIS for help with paying health costs and travel expenses associated with travel to hospital.

The Principal Regulations modify the provisions of the IS Regulations for the purpose of calculating income, capital and requirements to establish whether individuals are entitled to the remission of charges and the payment of travelling expenses. In the modification of the IS Regulations the Principal Regulations refer to the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2009 which set out the relevant amount of grant or loan available to students who are domiciled in Wales, and this amount is used in the assessment of a LIS claim made by a student.

Operations Services, a part of the National Health Service Business Services Authority (“*the BSA*”), administers the LIS on behalf of all four home nations. The processing system within Operations Services applies the LIS rules to all the applications received with variations relating to student grant or loan amounts. This arrangement was developed before devolution, when the Department of Health was the department responsible for the NHS (Travel Expenses & Remission of Charges) Regulations.

Objective

These Regulations amend the Principal Regulations in order to ensure the most recent amounts of student grant or loan, as set out in the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2011 (for the academic year 2011 -12) and the Assembly Learning Grants and Loans (Higher Education) (Wales) (No2) Regulations 2011 (for the academic year 2012 - 2013), are applied in making an assessment of a claim under the LIS.

The Regulations also update the reference to the Student Support Information Guide issued by the Student Awards Agency for Scotland and make one minor correction to the English version of the principal Regulations and two to the Welsh version of the principal Regulations.

Implementation

It is intended that these Regulations will come into force on 1 September 2011.

If these Regulations were not made or were subsequently annulled then the Principal Regulations would refer to the incorrect regulations. This would lead to the Operations Services (a part of the BSA) processing claims from students domiciled in Wales based on the incorrect amounts for grants and loans and not the current ones as set out in the Assembly Learning Grants and Loans (Higher Education) (Wales) Regulations 2011 (in relation to the academic year 2011 / 12); and the Assembly Learning Grants and Loans (Higher Education) (Wales) (No2) Regulations 2011 (in relation to the academic year 2012 / 13).

It would also mean that the Principal Regulations would refer to the wrong guide issued by the Student Awards Agency for Scotland and this would lead to Operations Services processing claims incorrectly.

Consultation

There has been no consultation with stakeholders because these are technical changes to the Principal Regulations and these regulations do not alter existing policy; they simply enable the correct amount of student grant or loan to be applied in the assessment of a student's claim for help with health costs made under the LIS.

Regulatory Impact Assessment

These Regulations have no impact on the statutory duties (sections 77 – 79 Government of Wales Act 2006) or impose any additional burdens upon the statutory partners (sections 73 – 75 of that Act).

A Regulatory Impact Assessment has not been prepared for these Regulations because they have no impact on business, charities or voluntary bodies.