

Constitutional and Legislative Affairs Committee

CLA(4)-01-12

CLA66

Constitutional and Legislative Affairs Committee Report

Title: The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2011

Procedure: Negative

These Regulations amend the National Health Service (Charges to Overseas Visitors) Regulations 1989 by updating, by the addition of Jersey, the list of countries or territories with which the UK Government has entered into a reciprocal health care arrangement. The Regulations also introduce exemptions from charges for NHS treatment (for the period 9 July 2012 to 12 September 2012) for members of the Olympic and Paralympic Games Families taking part in the 2012 Olympic and Paralympic Games.

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

Under Standing Order 21.3(ii) (matters giving rise to issues of public policy likely to be of interest to the Assembly) the Assembly is invited to pay special attention to the following instrument.

Members may wish to note that in December 2009 the then Minister for Health and Social Services notified the Committee of the cessation in March 2009 by the Department of Health of the bilateral agreement which had been in place between the UK and the Channel Islands. The cessation of the agreement was given effect to by The National Health Service (Charges to Overseas Visitors) (Amendment) (No.2) (Wales) Regulations 2009 - SLC353 refers.

It is not clear from the Explanatory Memorandum why a bilateral agreement is to be reinstated with Jersey, nor does the Explanatory Memorandum indicate why a similar arrangement is not being reinstated with the other Channel Islands. Nor is it clear whether Wales is alone in reinstating the agreement with Jersey. An explanation as to why the Welsh government is now reinstating the bilateral agreement with Jersey would be welcome.

**Legal Advisers
Constitutional and Legislative Affairs Committee**

19 December 2011

The Government has responded as follows:

**The National Health Service (Charges to Overseas Visitors)
(Amendment) (Wales) Regulations 2011**

In response to your Committee's report CLA66, I set out below further information on the points raised.

The UK government agreed a reciprocal healthcare agreement with the State of Jersey effective from April 2011. The earlier 'agreement' was rescinded in 2009. Under the previous agreement the UK was charged for the costs of treatment for UK visitors to Jersey and the UK charged Jersey for the cost of treatment for visitors to the UK from Jersey. The Department of Health (DH) estimated that there was a net loss to the UK Administrations of several million pounds under the terms of this agreement. Jersey did not co-operate with the required exchange of data regarding patient numbers and treatment costs and the decision was made to cancel the agreement.

DH negotiated a new agreement with Jersey under which no money would be exchanged. This brings Jersey into line with other countries and territories with which the UK has reciprocal Healthcare Agreements. The devolved administrations were consulted prior to the new agreement being entered into and all supported the new agreement. The new reciprocal agreement has also been implemented by Northern Ireland and Scotland.

It is probable that there will be a net financial gain for Wales under the new agreement as historically the number of visitors from Jersey requiring immediate and necessary treatment in Wales is small. Figures are not available from Jersey as to how many visitors from Wales required immediate and necessary treatment when visiting Jersey.

The reciprocal agreement between the UK and Guernsey was terminated in 2009. The situation with Guernsey is more complicated as healthcare covered by reciprocal agreements, that is immediately necessary treatment including A & E, is not free for local residents. If Guernsey was to enter into a reciprocal healthcare agreement with the UK which is similar to the one that the UK has entered into with Jersey, Guernsey would have a difficult situation where UK visitors would receive free healthcare whereas Guernsey residents would be charged.

At present Guernsey is not willing to enter into a reciprocal healthcare agreement with the UK which includes the provision that no money is exchanged between administrations.

Even though not one of the Channel Islands, the Committee may be interested to know the position regarding the Isle of Man. The original agreement between the UK and the Isle of Man was due to end in March 2010 but was extended until September 2010. A new agreement was implemented on 1st October 2010 so there has always been a reciprocal healthcare agreement in place with the Isle of Man.