

EU Citizens access to health care

The NHS operates a residence-based healthcare system and not every person is entitled to free NHS treatment in Wales. Provision of free NHS treatment is on the basis of being ordinarily resident and is not dependent upon nationality, payment of UK taxes, national insurance (NI) contributions, being registered with a GP, having an NHS number or owning property in the UK. Ordinarily resident means, broadly speaking, living in the UK on a lawful and properly settled basis for the time being.

Citizens of the European Economic Area (EEA) currently qualify as being ordinarily resident by virtue of moving to the UK. Citizens of non EEA areas may be subject to immigration control and are only considered ordinarily resident when they have permanent right to remain. If they are planning a temporary stay of more than six months they may have to pay the UK health surcharge.

EEA and non EEA citizens who are not ordinarily resident are treated as overseas visitors for the purposes of access to health care. Charges may be applicable for overseas visitors accessing healthcare.

The EEA consists of the 27 EU countries plus Iceland, Liechtenstein and Norway. Switzerland has a separate agreement which applies the EEA regulations to Switzerland.

Access to health care

Some NHS services provided in NHS trusts are **free to everyone** regardless of the status of the patient. The current list includes:

- a. treatment given in an accident and emergency department or casualty department. This exemption from charges ceases once the patient is admitted to a ward or given an out patient appointment. For example, where emergency treatment is given elsewhere in the hospital e.g. intensive care or coronary care, it is chargeable – it is the location that is exempt, not the type of treatment;
- b. treatment given elsewhere than at a hospital, or treatment given by someone who is not either employed by or under the direction of NHS Wales;
- c. family planning services;
- d. certain diseases where treatment is necessary to protect the wider public health. This exemption from charge will apply to the diagnosis even if the outcome is a negative result. It does not apply to any secondary illness that may be present even if treatment is necessary in order to successfully treat the exempted disease. For example, if a patient has TB and HIV only the treatment of TB is without charge, the treatment of HIV is chargeable.

The exempt diseases are;

Acute encephalitis	Plague
Acute poliomyelitis	Rabies
Amoebic dysentery	Relapsing fever
Anthrax	Rubella
Bacillary dysentery	Salmonella infection
Cholera	Severe Acute Respiratory Syndrome (SARS)
Diphtheria	Scarlet fever
Food poisoning	Smallpox
Leprosy	Staphylococcal infections
Leptospirosis	Tetanus
Malaria	Tuberculosis
Measles	Typhoid fever
Meningitis	Typhus
Meningococcal septicaemia (without meningitis)	Viral haemorrhagic fevers
Mumps	Viral hepatitis
Ophthalmia neonatorum	Whooping cough
Pandemic Influenza	Yellow fever
Paratyphoid fever	

- e. treatment given in, or as the result of a referral from, a sexually transmitted diseases clinic. For HIV/AIDS this exemption only applies to the initial diagnostic test and any associated counselling.
- f. treatment given to people detained under the provisions of the Mental Health Act 1983;
- g. treatment given for mental health problems as part of a court probation order.

Access to healthcare specific to visitors from EEA and Switzerland

Visitors from the EEA and Switzerland are covered for healthcare under the EC Social Security Regulations. These regulations cover:

- a. "insured" EEA nationals, stateless persons or refugees, their family members and the survivors (irrespective of nationality) of these groups of people, coming from an EEA member state.
- b. "insured" Swiss or EU nationals, stateless persons or refugees, their family members and the survivors (irrespective of nationality) of these groups of people, coming from Switzerland.
- c. non-EEA Nationals legally resident and insured in any EU country (except Denmark).

Visitors from the EEA and Switzerland are exempt from charges for **all necessary treatment**.

This means;

- diagnosis of symptoms or signs occurring for the first time after the visitor's arrival in the UK; and
- any other treatment which, in the opinion of a medical or dental practitioner employed by or under contract with a Local Health Board (LHB) is required promptly for a condition which:
 - arose after the visitor's arrival; or
 - became acutely exacerbated after his arrival; or
 - would be likely to become acutely exacerbated without treatment; or
- the treatment of chronic conditions, including routine monitoring.
- maternity services, including antenatal and post natal services for up to fifteen weeks after the birth of the child, providing the reason for visiting the UK was not specifically to give birth. To visit the UK specifically to access maternity services would require the referral via an E112 form.

The European Health Insurance Card (EHIC) entitles the holder to all necessary treatment but not to elective treatment. It is not a requirement to be in possession of the card to receive necessary treatment. The EHIC confers the right to access state-provided healthcare at a reduced cost, or sometimes for free, on the same basis as a resident of that country.

The following visitors from the EEA and Switzerland are fully exempt from charges, unless they have visited the UK specifically for treatment:

- industrial injuries beneficiaries are fully exempt for treatment of any conditions resulting from their industrial injury or occupational disease;
- unemployed persons;
- EEA and Swiss students: Students from EEA member states or Switzerland, who are temporarily studying in the UK (i.e. for 6 months or less) need to produce a European Health Insurance Card (EHIC) to establish their entitlement to **full** NHS treatment. Students studying for more than 6 months will be exempt from charges (see para 6.14) so will not need to produce an EHIC.

Individuals living in an EEA country or Switzerland who receive an exportable UK pension, contribution-based Employment Support Allowance or another exportable benefit, may be entitled to state healthcare paid for by the UK. They would need to apply for a certificate of entitlement known as an **S1 form**.

There are separate arrangements for people from other EEA countries and Switzerland who wish to visit the UK specifically to receive treatment. These patients will need to obtain the prior authorisation of their social security institution, which bears the cost. These persons will be referred via an **E112 form**, which must be presented on arrival. This is also known as the **S2 scheme**.

EU Directive 2011/24/EU on the application of patients' rights in cross-border healthcare: The EU Directive route is similar to referral through an E112 form, but the individual is required to identify and purchase healthcare and to apply for a reimbursement from their own local health board.

Access to health care for visitors from other countries

Generally overseas visitors from non-EU countries are required to pay for their secondary healthcare except for emergency treatment, public health exemptions etc.

Overseas visitors who are staying in the UK for a period of longer than 6 months for specific purposes eg study are required to pay the UK health surcharge as part of their visa approval. Payment of the health surcharge means that the individual will receive secondary healthcare free of charge on the same basis as a UK resident for the duration of their leave to remain in the UK.

The UK also has bilateral health care arrangements with a number of countries. Some of these arrangements cover nationals only and some cover nationals and residents of those countries. Persons who can demonstrate nationality or residency of these countries should be treated as exempt for treatment for which the need arose during a visit to the UK. The level of access can be variable for these arrangements.

Implications of transition from EU membership

On leaving the EU it is assumed that the UK will also leave the EEA. If negotiations result in the UK remaining in the EEA in a similar way to Iceland, Liechtenstein and Norway then it is possible there could be no change in access to healthcare for visitors (to and) from other EEA countries.

It is also possible that the UK could negotiate special access, in a similar way to Switzerland. Again, in this situation it is likely there would be no change in access to health care for visitors (to and) from other EEA countries.

The UK could seek to arrange bilateral health care arrangements with individual EEA countries. These agreements would need to be individually agreed with member states. Alternatively, the UK could introduce a health surcharge for EU citizens.

If special access to the EHIC system or bilateral health care arrangements are not negotiated at UK level, then it is possible that Wales could independently seek such arrangements. Further work would need to be done to consider the viability of this should it be deemed unlikely the UK will seek arrangements or is unsuccessful in negotiating them.

Should no arrangements be made, then visitors to Wales from the EU would have the status of other overseas visitors for whom there is no bilateral arrangement ie they would be chargeable outside of any charging exemptions. They would not be entitled to the free healthcare in Wales (the UK) under the EHIC system, the S1/2 system or EU Patient Mobility Directive route. They would still be eligible for NHS services which are free to everyone.