A guide for NHS clinicians in England, based on Department of Health and Social Care guidance.

This guide supports NHS doctors to ensure that their patients’ human rights are protected while in their care. The right to health is protected by various international instruments ratified by the UK. Ensuring that patients access urgent treatment is also crucial to upholding their rights to life and freedom from inhumane or degrading treatment (Human Rights Act 1998, art. 2, 3). These legal protections apply to everyone, no matter what their immigration status, and bind all UK public authorities.

The following patients are exempt from charges:
- Refugees, asylum seekers, & their dependents;
- Refused asylum seekers receiving section 95 support, section 4 support or support under the Care Act;
- Children looked after by a local authority;
- Victims, & suspected victims, of modern slavery;
- Survivors of torture, FGM, domestic or sexual violence (for treatment needed as a result of their experience of violence);
- Those receiving treatment under the Mental Health Act;
- Prisoners and those held in immigration detention.

A PATIENT IS IDENTIFIED AS INELIGIBLE FOR FREE TREATMENT WHEN ACCESSING AN NHS SERVICE TO WHICH CHARGES APPLY

Some secondary care services, like A&E, are exempt from charges. See DHSC guidance for the full list.

Do any patient group exemptions apply? See Box A

NO

Is the patient’s treatment URGENT or IMMEDIATELY NECESSARY? See Box B

NO

Provider charges the full estimated costs of treatment upfront and does not begin treatment until this is received.

Provider should write to patient and their GP, explaining the decision to withhold care and the channels available to challenge the decision. The provider should reassess if their assumed date of return passes or condition worsens.

YES

Clinician completes Clinician Patient Assessment Form to record classification of urgency

Treatment should not be prevented or delayed, even if the patient cannot pay.

Provider will issue a bill for the cost of treatment. If the patient will struggle to repay their debt, provider should offer to set up a manageable repayment plan and signpost them to a debt advice service.

Inform the Overseas Visitors Manager of the exemption so that the patient is not charged and/or is refunded in full.

‘Urgent’ care is care that cannot wait until they can leave the UK.*
- Should take into account pain, disability, and the risk of the delay exacerbating their condition.
- For undocumented migrants, assume they may not be able to return within 6 months.

‘Immedieatly necessary’ care is care that:
- is life saving;
- will prevent a condition becoming life-threatening or;
- will prevent permanent serious damage.

*See page 2


Box A: Patient Group Exemptions

Box B: Definitions
You are being asked to decide if care is, or will become, urgent in the time before a patient returns home. This means that a condition that may not be urgent for a person who is likely to leave the UK within the next couple of months, may be considered urgent for a patient who is not likely to leave in the next 6 months.

What does the guidance say?

For undocumented migrant patients, including failed asylum seekers, the likely date of return may be unclear, and will have to be assessed on a case-by-case basis, including their ability to return home. Some may be prevented by travel or entry clearance restrictions in their country of origin, or by other conditions beyond their control.

For some cases relating to undocumented migrants, it will be particularly difficult to estimate their return date. Relevant bodies may wish to estimate that such patients will remain in the UK initially for 6 months, and the clinician can then consider if treatment can or cannot wait for six months, bearing in mind the definitions of urgent and non-urgent treatment given above. However, there may be circumstances when the patient is likely to remain in the UK longer than six months, in which case a longer estimate of return can be used.

DHSC. 2017. Guidance on implementing the overseas visitor charging regulations.