



Aneurin Bevan University Health Board

Overseas Visitors Policy

N.B. Staff should be discouraged from printing this document. This is to avoid the risk of out of date printed versions of the document. The Intranet should be referred to for the current version of the document.

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1. Introduction/Overview

Aneurin Bevan Health Board (ABUHB) has a legal obligation to levy charges to overseas visitors (OSV) who have received healthcare services with ABUHB.

This policy sets out the processes to be followed for identifying and charging overseas visitors where charges are applicable.

2. Policy Statement

Not everyone is entitled to free NHS hospital treatment in Wales. Overseas visitors must be identified and assessed for eligibility for free NHS treatment and those not entitled must be charged for services received. This document provides a framework within which staff can identify patients from overseas who may be chargeable for the treatment they receive in the NHS.

3. Aim/Purpose

The aim of the policy is to provide guidelines to ABUHB staff on the identification and treatment of overseas patients in order for the Health Board to meet its legal obligations. The policy provides guiding principles for staff to ensure that all overseas visitors are identified and that income relating to overseas visitors is maximised and collected from the individual or body liable.

4. Objectives

The objectives of this policy are to:

- Set out which departments and frontline staff are covered by this policy.
- Set out the process for staff to identify overseas visitors by specifying a series of questions that should be asked of all patients.
- Make it clear that a treatment which is considered by clinicians to be immediately necessary must never be withheld from an overseas visitor, even when that overseas visitor has indicated that they cannot pay.
- Set out the role of the Overseas Patient Manager in determining the applicability and value of charges depending on the country of origin of the patient.
- Provide a basis for charging to ensure that the Health Board is reimbursed for the full cost of treatment.

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- Once identified as a chargeable overseas episode, the process to ensure payment is collected.

5. Scope

This policy relates to the process of overseas visitor identification, determination of the applicability and level of charges and the recovery of charges from a chargeable overseas episode of care with ABUHB. As such it affects:

All staff that admit patients through the following departments:

- Emergency
- Wards including surgical assessment unit and medical assessment unit
- Outpatient
- Antenatal clinic
- Maternity

Staff that determine the applicability and level of charges:

- Overseas Visitors Manager and their staff

Staff that recover charges:

- Finance Department

5.1. Statutory Framework

The statutory provisions which enable NHS Wales to charge for overseas visitors are found in Section 124 of the National Health Service Act (Wales) Act 2006 (the 2006 Act). Authority to make regulations and charges is devolved to National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Function) Order 1999. These also give the Assembly powers to calculate such charges on any appropriate commercial basis.

The Immigration Act 2020 defines the meaning of 'ordinary residence' and allows the Home Secretary to introduce an immigration health charge (known as the Health Surcharge) to be paid by non-EEA residents, who apply to reside temporarily in the UK for 6 months or longer.

Department of Health 'NHS (Charges to Overseas Visitors) Regulations 2015 and (Amendment) Regulations 2017'- obliges relevant NHS bodies to make reasonable enquiries regarding the residence of and liability for charges in order to make and recover charges when it determines that a patient is not entitled to free NHS hospital care.

5.2. Other Statutory Obligations that apply

This policy must be implemented within the Health Board's statutory obligations in relation to the statutory framework as detailed above. In addition, NHS bodies are subject to other legal duties when exercising their functions to levy charges.

Below is a list of key legal duties relative to the identification and charging of OSVs, with which the Health Board must comply. The list is not exhaustive:

Human Rights Act 1998

This prohibits discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The Equality Act 2010

Under the Equality Act 2010, relevant NHS bodies, as public authorities, have a general equality duty in the exercise of their functions.

5.3. Overlap with other legal provisions

There are occasions where patients may be affected by other legal provisions:

- Injuries as a result of criminal actions – patients may be eligible to claim compensation from the Criminal Injuries Compensation Authority. It is for the patient to pursue such a claim and the recovery of charges should not be suspended pending the outcome of a claim.
- Injuries as a result of road traffic accident and personal injury – the amount that insurers are required to pay to NHS bodies, where charges have been made to an overseas visitor are zero.

If there is any doubt whether charges should be levied, then legal services should be contacted to seek legal advice as soon as possible.

5.4. Interpretation of charging regulations

Guidance on implementing hospital charges for overseas visitors can be found in the 'The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2020. Guidance relating to Biometric Residency Permits can be found in The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) (EU Exit) Regulations 2020

6. Main Policy

6.1. Main Principles of the Policy

The charging and applicability criteria for overseas visitors is complex and therefore it is unrealistic to expect frontline staff who admit patients to be fully conversant with all rules. The main principle of this policy is to make frontline staff aware of how to identify an overseas visitor or possible overseas visitor and log them onto the Administration Systems for Patients (Myrddin, Clinical Work Station (CWS) and Symphony) with an overseas postcode, and charging status unknown. The Overseas Visitors Manager or their staff will then follow up all patients identified as overseas visitors or possible overseas visitors in order to determine the final assessment of whether the patients should be charged or whether an exemption applies.

In addition the Overseas Visitors Manager will ensure that a comprehensive programme of awareness training is undertaken with the relevant frontline staff groups that are charged with the responsibility of identifying potential overseas visitors.

6.2. Process for identification of Overseas Visitors

A key principle of this policy is that all patients are treated consistently and asked the same series of questions to determine whether or not a patient is identified as an overseas visitor. Discriminatory measures such as racial profiling must not be used.

The rules for charging vary according to which country the patient is resident in and therefore the rules are complex. As such it will be for frontline staff to identify whether or not a patient is an overseas visitor or possible overseas visitor and for the Overseas Visitors Manager or their staff to determine charges. It is for the Overseas Visitors Manager to determine the final status and charges for potential overseas visitors initially identified by frontline staff.

6.2.1. Operational guidelines

In order to avoid discrimination, all patients must be asked how long they have lived in the UK. Emergency Department (ED) treatment is free for all, but if the patient is admitted, or requires further treatment or outpatient appointment, charges must be made. To ensure that any chargeable treatment is identifiable, the following steps must be followed in all cases:

Emergency Department (ED)

ED treatment is free for all regardless of whether they are resident in the UK. Once a patient has been admitted to a ward or has been given an outpatient appointment, charges must be made. Therefore a patient's residence status must be established at the earliest opportunity.

When registering patients for treatment ask all patients:

- How long have you lived in the UK?
- If the answer is less than 6 months or you are unsure about the answer, tell the patient:
 - All treatment in ED is free for everyone, but if you require further treatment in hospital, this may be chargeable.
 - You will be contacted by the overseas visitor department to check your NHS eligibility status.
- Record the patient on Myrddin with an overseas post code and charging status unknown.
- Record the patient's home address if provided.
- If the patient offers any documentation regarding their eligibility, immigration or visitor status (Passport, Visa, EHIC, National ID Card, Biometric Residency Permit, NI or NHS number), scan these to CWS and Myrddin.
- Inform the overseas visitor department
OverseasVisitors.ABB@wales.nhs.uk
- Triage and treat the patient as usual.

All other admissions and outpatients

When registering patients for clinic appointment or admitting a patient to for treatment, ask all patients:

- How long have you lived in the UK?
- If the answer is less than 6 months or you are unsure about the answer tell the patient:
 - You will be contacted by the overseas visitors department to check your NHS eligibility.
- Record the patient on Myrddin with an overseas postcode and charging status unknown.
- Record the patient's home address if provided
- If the patient offers any documentation regarding their eligibility, immigration or visitor status (Passport, Visa, EHIC, National ID Card, Biometric Residency Permit, NI or NHS number), scan these to CWS and Myrddin.

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- Inform the overseas visitor department
OverseasVisitors.ABB@wales.nhs.uk

6.2.2. Determining the Applicability and Value of Charges for Identified Overseas Visitors

The Overseas Visitors Manager (OVM) is the designated person to oversee the implementation of the Charging Regulations.

Once it is established that a patient is an overseas visitor, or their status is uncertain, the Overseas Visitors Department (OVD) must be informed by entering an overseas postcode and charging status unknown on Myrddin. The Overseas Visitors Department will view a download of this information each day (Monday to Friday) to identify patients requiring a follow up interview. The Overseas Visitors Department will follow up within 3 working days where possible

The OVD will then determine the patient's status in the UK following the steps below:

Step 1

Determine if the patient is insured by another member state

The UK is able to recover the cost of treatment provided to any patient who is insured by another EEA state or Switzerland, including those patients who are ordinarily resident in the UK or covered under another exemption category. All patients should be asked if they have an EHIC, S1 or S2. It is possible that a patient may be ordinarily resident in the UK but continue to be insured by another state (and costs can still be recovered).

If the patient is not insured by another member state proceed to step 2.

Step 2

Determine if the patient is ordinarily resident in the UK

All patients must be assessed against the test for ordinary residence in the UK.

The OVD must determine whether a patient is ordinarily resident in the UK. Ordinary residence is essentially a three-fold test (four-fold for non EEA residents), assessing whether the individual:

- Is lawfully in the UK.
- Is here voluntarily.
- Is properly settled for the time being; and
- In the case of non-EEA nationals subject to immigration control, has indefinite leave to remain (ILR) in the UK.

If the patient is ordinarily resident in the UK they must not be charged.
If the patient is not ordinarily resident in the UK, proceed to step 3.

Step 3

Determine if the patient is covered by an exemption in the Charging Regulations or if the patient is liable for charges

Patients who are not ordinarily resident in the UK and are not insured by other European Economic Area (EEA) or Switzerland need to be assessed against exemptions in the charging regulations (Resource Number 1, see sections 7.3.6 – 7.3.7).

Step 4

Make and recover charges from chargeable overseas visitors

Where treatment is non-urgent or elective, the Health Board should obtain payment or collect a deposit in advance of providing treatment.

ABUHB must comply with their legal duties when asking questions of patients. In particular, they must avoid discriminatory measures or practicing racial profiling to identify chargeable patients or cherry-picking which patients to question.

6.2.3. When not to withhold hospital treatment from those not entitled to free treatment

Immediately necessary treatment must be provided to a person even if they have not paid either in full or a deposit or have indicated that they cannot pay. Only clinicians can make an assessment as to whether a patient's treatment is immediately necessary.

Immediately necessary treatment is that which a patient needs promptly:

- To save their life; or
- To prevent a condition from becoming immediately life threatening; or
- To prevent permanent serious damage from occurring

Due to the severe health risks associated with conditions such as eclampsia and pre-eclampsia and in order to protect the lives of both mother and unborn baby, all maternity services, including routine antenatal treatment must be treated as immediately necessary.

Treatment which is not immediately necessary, but is nevertheless classed as urgent by clinicians, as it cannot wait until the overseas visitor can return home, should also be provided regardless of the patient's ability to pay.

Patients should be made aware that their treatment is chargeable at the earliest opportunity. Every effort should be made to obtain payment or a deposit in the period before treatment starts.

Whilst urgency of treatment is a matter for clinical judgement, this does not mean that treatment should be unlimited. In many cases a patient may be stabilised allowing them to be safely discharged. This should be done where possible unless ceasing or limiting treatment would precipitate deterioration of the patient's treatment.

Non-urgent treatment is routine, elective treatment that could wait until the patient leaves the UK. Such treatment does not have to be provided if the patient does not pay in advance.

Non-urgent, or elective, treatment should not begin until full payment has been received.

6.2.4. Exempt services and the individual

This section summarises services which are free of charge to patients, and to groups of individuals who are entitled to receive healthcare on the same basis as an otherwise ordinarily resident person.

Exempt Treatment

Except where the overseas visitor has travelled to the UK for the purpose of seeking that treatment, the following services are free at the point of use for all patients.

A charge cannot be made or recovered from any overseas visitor for:

- Accident and emergency (A&E) services, this includes all A&E services provided at an NHS hospital, e.g. those provided at a walk-in centre or urgent healthcare centre. This does not include those services provided after the overseas visitor has been accepted as an inpatient, or at a follow-up outpatient appointment, for which charges must be levied unless the overseas visitor is exempt from charge in their own right;
- Services provided outside an NHS hospital, unless the staff providing the services are employed by, or working under the

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- direction of, an NHS hospital;
- Family planning services (does not include termination of pregnancy);
 - Diagnosis and treatment of specified infectious diseases, (refer to guidance);
 - Diagnosis and treatment of sexually transmitted infections; (refer to guidance);
 - Treatment required for a physical or mental condition caused by:
 - torture;
 - domestic violence; or
 - sexual violence.

6.2.5. Exempt categories of person

The categories of overseas visitors listed below are exempt from NHS charges.

Exempt categories of person are listed below:

- Those who have paid the health surcharge or are covered by transitional arrangements.
- Those with an enforceable EU right to free healthcare.
- Vulnerable patients and those detained.
- Government employees and war pensioners.
- Those covered by reciprocal healthcare agreements, other international obligations and employees on UK registered ships.

The Health Board may recover costs from the Department for Works and Pensions (DWP) for patients with an enforceable EU right to free health care.

6.2.6. Health Surcharge

From April 2015, an immigration health charge (referred to in this policy as the health surcharge) is payable by non-EEA nationals who apply for a visa to enter or remain in the UK for more than six months. People with indefinite leave to remain in the UK and those not subject to immigration control (e.g. diplomats posted to the UK) are not liable to pay the surcharge, but may be ordinarily resident and entitled to free NHS healthcare on that basis.

Payment of the health surcharge entitles the payer to NHS-funded healthcare on the same basis as someone who is ordinarily resident. On paying the health surcharge, patients will be issued with a Biometric Residency Permit (BRP) and this should be shown when accessing healthcare. Holders of a BRP are entitled to free NHS services,

including NHS hospital care, **except** for services for which an ordinary resident must also pay, such as dentistry.

There are some circumstances under which individuals will be exempt from the surcharge. The exemption applies to the period of leave to enter or remain in the UK.

6.2.7. Countries with reciprocal arrangements

The UK has reciprocal healthcare agreements with some non-EEA countries. Overseas visitors who can present evidence that they are nationals, citizens or lawful residents of one of these countries should be treated as exempt from charges in respect of treatment that the relevant agreement entitles them to.

Within the reciprocal agreements there are a number of variations in the level of free treatment afforded to visitors travelling to the UK. Generally, only immediate medical treatment is to be provided free of charge, to allow the overseas visitor to return home for other needs. Also, the agreements do not usually apply when the person has travelled to the UK for the purpose of obtaining healthcare.

6.3. Charging Patients and Recovering Payment

6.3.1. Basis for Charging

In the absence of Welsh guidance on the basis for charging, the English approach provides a degree of consistency. Charges should be based on costing, by specialty x 150%.

No further charges should be made even where they relate to costs incurred as a result of the fact that the patient is an overseas visitor (e.g. translation etc). The only exception to this is when an inpatient episode lasts more than 17 days in which case a daily charge, in line with the Non Contracted Activity (NCA) daily charge should be made.

6.3.2. The Process to Ensure Payment is made

Once an overseas visitor has been identified and/or has received a chargeable treatment, the OVD should request a 100% deposit for treatment from the patient. The patient should be given letter OSV 4.1 (100% deposit for OSV treatment, APPENDIX 2) and the OVD must send a copy to Finance Department.

Where monies cannot be recovered at this time the OSV should sign an undertaking to pay and provide their home address. A billing request

must be sent to the Accounts Receivable section to allow an invoice to be raised. The chargeable patient remains liable for charges for their (chargeable) treatment even if they do not sign an undertaking to pay.

The Finance Department – Accounts Receivable section must raise invoices for overseas patients promptly and often at short notice in order to ensure wherever possible that an invoice can be presented before the patient is discharged. The Accounts Receivable department will act in line with the Health Board's Accounts Receivable Financial Control Procedure in their processes to recover income. This FCP can be found on the Health Board's intranet site.

Any charges made to overseas visitors must be recorded in the accounts to separately identify income from overseas patients.

Chargeable patients are liable to pay for their treatment even where an undertaking to pay by a third party or sponsor has been received (e.g. the patient has travel or health insurance or is sponsored by an employer or government). Before billing a third party (e.g. insurer or sponsor) rather than the individual, the risk that the third party will not pay must be considered.

A decision must be made by the Overseas Visitors Department as to whether to accept such a risk.

The contracting department must provide DWP with the relevant EHIC information in all cases where EEA/Swiss patients are treated even if the treatment is exempt.

7. Resources

This policy is not exhaustive and must be implemented within the Welsh Government (and Department of Health for information on Biometric Residence Permit) Guidelines.

Below is a list of resources to help those dealing with identifying and collecting payment from Overseas Visitors.

1. Implementing the Overseas Hospital Charging Regulations (Guidance for Hospitals in Wales) 2009'

<http://howis.wales.nhs.uk/sites3/documents/743/wag%20guidance.pdf>

2. NHS (Charges to Overseas Visitors) Regulations 2015 and (Amendment) Regulations 2017'

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/771515/Guidance_on_implementing_the_overseas_visitor_charging_regulations.pdf

3. The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2020 (SI No 2020/113) adds Coronavirus to the list of diseases listed in Schedule 1.

<https://gov.wales/sites/default/files/publications/2020-05/the-national-health-service-charges-to-overseas-visitors-amendment-wales-regulations-2020.pdf>

4. The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) (EU Exit) Regulations 2020 (No. 2020/1607) preparing the UK to leave the EU.

<https://www.legislation.gov.uk/wsi/2020/1607/introduction/made>

For advice and further information relating to Aneurin Bevan Health Board overseas visitors, please contact the overseas visitors department by email on overseasvisitors.abb@wales.nhs.uk

8. Training

The OSM will establish a training program to facilitate the training of all those involved in the identification, assessment and income recovery relating to OSVs. This training will promote awareness of:

- OSV legislation.
- OSV Policy.
- Individual staff roles and responsibilities.
- The importance of OSV management within ABUHB.

Training for frontline staff involved in initially identifying overseas visitors will be provided by the OVD. This will concentrate on the main points of entry to NHS care (i.e. Emergency Department, Outpatient Departments, Maternity and Wards).

The OVM will keep a record of all staff for whom training has been provided and will provide training material for new staff (involved in identifying OSVs).

An online resource will be provided for staff wishing to obtain further information.

9. Equality

The department of health has carried out an equality analysis on the overseas visitors charging regulations and guidance. It summarises that:

"There are some differences within the charging regulations for some of the protected groups within the overseas visitor population. For the most part these are minor and justifiable based on international obligations or safeguarding welfare. The greatest differential is probably based on residence status, but this is inherent in a residency based healthcare system of entitlement".

The full assessment can be found by clicking the link below:

[DOH Equality analysis: the NHS \(Charges to Overseas Visitors\) Regulations 2015](#)

10. Audit

The policy be subject to periodic compliance review as part of the internal audit programme of the Health Board.

11. Review

Generally 3 years unless legislation requires differently.

Appendix 1



OSV 4.1

PP Office
St Woolos Hospital
Stow Hill
Newport
NP20 4SZ

T 07817 102503

E [overseasvisitors](mailto:overseasvisitors@abuhb.wales)

[Overseas Visitors Webpage](#)

[Recipient's Name]
[Position, Company]
[First address line]
[Second address line]
[Town/city Postcode]

[Date]

Dear [Name] ,

Your NHS treatment costs

As an Overseas Visitor to the UK the Health Board has determined that your treatment under the NHS is chargeable.

The cost of the treatment you have received / are to receive is **£[Price]** . This is the standard charge for your treatment.

This sum is a deposit in respect of your charges, which is non-refundable, regardless of early discharge, and is based on the cost of your treatment. It includes your inpatient stay on the specialist NHS ward (up to 17 days, after which a daily charge will be made), all medical and nursing care, drugs and dressings, diagnostics and any therapy required.

Credit/debit card payments can be made by telephone on **01495 765422** or by cheque made payable to "Aneurin Bevan University Health Board" and sent to PO Box 10, Income Recovery Section, Mamhilad House, Pontypool, NP4 0XG.

If you would like to discuss this or arrange to share any relevant information please contact the Overseas Visitors Department on 07817 102503.

Yours sincerely,

Overseas Visitors Manager