

## **Update on i) new arrangement for Visitor Categories and ii) certain victims of Female Genital Mutilation**

### **Action for OVMs:**

- **Before 6 April 2015 – consider those on student visitor visas of 11 months, who were treated before this date, exempt from charge (under previous Regulations). Also, those on ‘Parents of child’ visitor visas may have been ordinarily resident here and thus are also entitled to free NHS hospital treatment**
- **Between 6-23 April 2015 – consider those on student visitor visas and those on Parents of child visit visas chargeable**
- **From 24 April 2015 – do not charge those on the above types of visa whilst the visa is valid; they come under surcharge arrangements**
- **From 6 April 2015, where treatment has been provided as a consequence of FGM to a woman who suffered that mutilation outside the UK before 30 October 2003, raise an invoice but do not pursue the patient for payment.**

### **i) New arrangement for Extended Visitor Categories**

#### **Position Now**

Currently all individuals entering the UK on a visitor visa, classed under Part 2 of the Immigration Rules, are exempt from paying the surcharge. These visitors are directly chargeable at 150% of tariff for NHS healthcare under the National Health Service (Charges to Overseas Visitors) Regulations 2015 (the Regulations), unless an exemption from charge category applies. Prior to 6 April 2015 (when the Regulations came into force), those on extended student visitor visas (issued with 11 month visas) were likely to have been exempt from charge on the basis of being a student, whilst Parents of child visa holders (issued with 12 month visas) were likely to have passed the ordinary residence test. From the 6 April this is no longer the case for either group and such visitors are chargeable for services they receive during 6 – 23 April 2015 (inclusive).

#### **Arrangements from 24 April 2015**

The Home Office are introducing changes on 24 April 2015 to simplify the visitor rules. From this date all visitors will apply for their visas under Appendix V: Immigration Rules for visitors. Appendix V replaces the existing Part 2 of the Immigration Rules (the rules).

Extended student visitors (issued with 11 month visas) and Parents of a Tier 4 child (issued with 12 month visas) will no longer be classed as visitors under the rules and applications for these visas will be made under Part 3 and Part 7 of the rules, respectively. From 24 April therefore, these applicants will fall within surcharge

scope, but the requirement to pay it will be waived until August 2015 (once changes have been made to update the name of these visas).

Extended student visitors will be rebranded 'short term students (11 months)' and applications will be made under Part 3 of the rules. From August, visa holders will be issued with a student BRP/visa rather than a visitor BRP/visa. However, there will be a transitional period in which these changes are introduced and the Home Office will not charge these individuals the surcharge until around August 2015. In the meantime, the Home Office will waive the surcharge requirement for this category. By waiving the surcharge requirement, extended student visitors will be exempt from NHS charges under regulation 10 of the Regulations.

Parents of Tier 4 child will move to Part 7 of the rules. The same transitional arrangements as for extended student visitors will apply and the Home Office will waive the surcharge for such applicants until August 2015 when the changes to the rules are fully implemented. Consequently, from 24 April 2015, holders of parents of tier 4 child visas will also be exempt from NHS charges under regulation 10 of the Regulations.

From August 2015 short-term students and parents of a Tier 4 child will be required to pay the surcharge on the same basis as other migrants applying for leave to enter or remain in the UK for more than 6 months. Having paid the surcharge, these categories will be exempt from NHS charges under regulation 10 of the Regulations.

### **Transitional Arrangements**

Until 24 April 2015: extended student visitors or parents of Tier 4 child are chargeable under the National Health Service (Charges to Overseas Visitors) Regulations 2015. Visas or BRPs will be marked 'student visitor' or "parent of child".

24 April – August 2015: short terms students (11 months) or parents of Tier 4 child will be waived from the surcharge and therefore exempt from charge under the Regulations. Visas or BRPs will still be marked 'visitor'. Where a BRP forms part of the immigration application, the individual will be pre-registered on the Spine with a green banner on the Summary Care Record application to demonstrate that they are able to access the NHS on the same basis as an ordinarily resident person. They will be entitled to free NHS hospital care.

August 2015 onwards: short terms students (11 months) or parents of Tier 4 child will be required to pay the surcharge and therefore exempt from charge under the Regulations. Visas or BRPs will be marked as short-term student or Parent of Tier 4 (Child) student. Individuals will be pre-registered on the Spine with a green banner on the Summary Care Record application to demonstrate that they are able to access the NHS on the same basis as an ordinarily resident person. They will be entitled to free NHS hospital care.

### **Other Visitor Categories**

From 24 April 2015 none of the visitor categories that sit under the new Appendix V (visitors) of the rules will be subject to the surcharge. They will be directly chargeable for health services, as now. This includes:

- Academic visitors (12 months)

- Private medical visitors (not exceeding 6 months or 11 months)
- Visitors undertaking the Professional Linguistic Assessment Board (PLAB) test (up to 6 months), formerly in Part 3 of the Rules

### **Correction to the Guidance on implementing the overseas visitor hospital charging regulations 2015**

Paragraph 5:27 of the Department of Health's guidance says that *'there is one exceptional category of individuals who will be issued a BRP but who are chargeable for NHS services. This is a small number of visitors who are permitted to stay for longer than six months but less than a year (including academic visitors, student visitors and private medical visitors). These people will have BRPs, but will not have paid the health surcharge and should be subject to NHS overseas visitor charges (unless a different exemption in the Charging Regulations applies). Their BRPs will be marked to demonstrate their 'visitor' status.'*

Due to the changes outlined above please be aware that student visitors permitted to stay for more than six months will, between April 24 and August 2015, be issued with a visa/BRP that is marked 'visitor' but will be exempt from NHS charge as they have been waived from the surcharge.

### **ii) Victims of Female Genital Mutilation**

The Charging Regulations introduced new exemption from charge categories for treatment needed as a consequence of certain types of violence, including FGM. Unfortunately a drafting error has been identified in the Regulations, the effect of which means that treatment needed as a consequence of FGM performed outside the UK before the Female Genital Mutilation Act came into force on 30 October 2003, is inadvertently excluded from the new exemption. An incoming Government will take the decision on if to amend the Regulations to include FGM inflicted in these combined circumstances. Until this time, this treatment is chargeable to overseas visitors not otherwise exempt. NHS providers are advised to raise the invoice, but not to try to recover the charge from the patient until a future Government decides how to deal with this situation. Patients who have remained inadvertently chargeable for the consequences of FGM should be treated sensitively as regards charging.

Treatment needed as consequence of FGM that was performed in the UK, or performed outside the UK after 30 October 2003 remains exempt from charge as of 6 April 2015.