

Explanatory Memorandum to: The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) Regulations 2009

This Explanatory Memorandum has been prepared by the Department for Health and Social Services and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

Description

These Regulations make changes to the NHS (Travelling Expenses and Remission of Charges) Regulations (Wales) 2007.

Matters of special interest to the Subordinate Legislation Committee

The Regulations were consolidated in 2007.

Legislative Background

Sections 130, 131, 132 and 203(9) and (10) of the National Health Service (Wales) Act 2006 enable the Welsh Ministers to make Regulations that deal with the payment of NHS travelling expenses and the remission of certain NHS Charges. This instrument will follow the negative resolution procedure. This means that it will be made and laid before the National Assembly for Wales but should not be brought into force until at least 21 (calendar) days from the date of laying. However, in addition, there is a 40 (calendar) day period which also commences from the date of laying whereby a Member may table a motion seeking the annulment of the instrument. Unless an annulment motion is tabled, there shall be no debate of this instrument in Plenary.

Purpose and intended effect of the legislation

The principal Regulations make provision so that people who are either in receipt of certain state benefits or who are on a low income are able to obtain the remission or repayment of certain charges which would otherwise be payable under the National Health Service (Wales) Act 2006 ("NHS charges") and the payment of travelling expenses incurred in obtaining certain NHS services ("NHS travelling expenses").

In calculating a person's resources and requirements under the principal Regulations in order to establish whether a person can claim entitlement to the remission of NHS charges and the payment of NHS travelling expenses, a modified version of the Income Support (General) Regulations 1987 is applied (the NHS Low Income Scheme). This arrangement was developed before devolution, when the Department of Health was the lead Department for the purposes of the NHS (Travel Expenses & Remission of Charges) Regulations 1988. The Department of Work and Pensions are also involved in the process of applying modifications to the Income Support Regulations for the purposes of the Low Income Scheme.

Changes are now required to the TERC Regulations to implement further modifications to the Income Support (General) Regulations 1987 in respect of the treatment of Employment and Support Allowance (ESA) for the purposes of the calculating eligibility under the Low Income Scheme (LIS).

Amending the TERC Regulations will ensure that equity of access to help with NHS charges is maintained.

Consultation

There has been no consultation with stakeholders because these are technical changes to the Regulations.

Regulatory Impact Assessment

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

Summary

If the Regulations are not made and references to the Employment and Support Allowance (ESA) are not included in the principal Regulations with effect from 10 February 2009 persons who would otherwise have been entitled to receive remission of the relevant NHS charges and payment of NHS travelling expenses will not be able to do so.