

Explanatory Memorandum to: The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) Regulations 2007

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

This Explanatory Memorandum makes 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 and these are the first set of amending Regulations.

Legislative Background

Sections 130, 131, 132 and 203(9) and (10) 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

Income based entitlement to help with health costs may be available through the NHS Low Income Scheme (LIS) to those who are not automatically entitled through receipt of a passporting benefit such as income support. In the main, these regulations rely on the Income Support (General) Regulations 1997 (IS Regulations) for the calculation of income, capital and requirements.

The Prescription Pricing Division (PPD) administers the LIS on behalf of all four home nations. The processing system within PPD Patient Services applies a single set of LIS rules to all the applications received with very small variations relating to capital limits. With these small exceptions it is not possible to process applications from Wales differently from applications from England, Scotland or Northern Ireland.

This arrangement was developed before devolution, when the Department of Health was the lead Department for the NHS (Travel Expenses & Remission of Charges) Regulations.

The changes made by these amendments Regulation will – (“the 2007 Regulations”) -

- Modify Schedule 1 to the 2007 Regulation to provide that any additional loan, the eligibility of which is set out in the Student support in Scotland Guide issued by the Student Awards Agency for Scotland, and which is paid under the Education (Student Loans) (Scotland) Regulations 2007, should be disregarded in the calculation of a student's income for the purposes of calculating entitlement under the NHS LIS;
- Modify Schedule 1 to the 2007 Regulations to provide that in respect of a voluntary payment made to a student only £20 of that payment is to be disregarded in calculating that student's income for the purposes of calculating entitlement under the NHS LIS. The 2007 Regulations already modify the meaning of "voluntary payment" to exclude certain payments made to students (see the entry to regulation 65 in Table A in Schedule 2 to the 2007 Regulations);
- amend the 2007 Regulations to increase the lower capital limit, used as the basis for calculating entitlement to the payment of travel expenses and the remission of charges, for those people living permanently in residential care under those Regulations.

Implementation

Since devolution we have striven to maintain parity on policy with regard to the income disregards and other matters, although there has been some variance in providing more generous capital limits.

If no legislation is made the Prescription Pricing Division (PPD) will continue to process Welsh claims based on last year's capital limits, meaning that claimants won't benefit from the proposed uplift.

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

These Regulations, if enacted will ensure that equity of access to help with NHS charges is maintained across the devolved administrations in respect of the treatment of additional loans paid under the Education (Student Loans) (Scotland) Regulations 2007 and the treatment of voluntary payments for students when calculating entitlement under the NHS LIS. The Regulations will also increase the lower capital limits used for the calculation of entitlement under the NHS LIS for certain persons living permanently in residential care.