

NHS treatment for missionaries working overseas

March 2007

stewardship[®]

PO Box 99, Loughton, Essex, IG10 3QJ

t: 08452 26 26 27

e: enquiries@stewardship.org.uk

w: www.stewardship.org.uk

This Briefing Paper and others like it are provided free of charge and help a great many churches and charities. Their development involves many hours of dedicated professional expertise both from within and outside of Stewardship. They are provided at our own cost as part of our mission to equip you.

If you find the material in this Briefing Paper to be of value, we would invite you to respond in the following ways:

- Subscribe to receive our email bulletins at our website, www.stewardship.org.uk; and
- Tell others in your church or charity about our resources.

If you regard the material to have been of particular help and significance to you in your work (for example using it to inform a church or charity group/network) perhaps you would consider making a financial gift to Stewardship in appreciation (though please feel under no obligation).

CONTACT DETAILS

Stewardship

PO Box 99, Loughton, Essex IG10 3QJ

t 08452 26 26 27 or 020 8502 5600

f 020 8502 5333

e enquiries@stewardship.org.uk

w www.stewardship.org.uk

Stewardship is the operating name of Stewardship Services (UKET) Limited, a registered charity no. 234714, and a company limited by guarantee no. 90305, registered in England

© Copyright Stewardship 2007

COPYRIGHT

This publication is the copyright of Stewardship. We want our resources to have the maximum impact, therefore you are welcome to reproduce or otherwise distribute this material in whole or part. We simply ask two things: (1) there must be no use for commercial gain, and (2) Stewardship is clearly acknowledged with the following wording "Reproduced with permission from Stewardship. www.stewardship.org.uk". If extracts are to be used in another context, permission should be sought in advance by emailing enquiries@stewardship.org.uk or telephoning 020 8502 5600. Thank you.

DISCLAIMER

Whilst every care has been taken in the preparation of this material, Stewardship cannot be responsible for action taken or refrained from in reliance thereon. It is recommended that appropriate professional advice be sought in each relevant individual circumstance.

table of contents

	Page
1 Introduction	2
2 Legal Background	2
3 Scope of the new law	2
4 How the law has changed	2
5 What the new law says	2
6 Interpretation and Practical Considerations	3
7 Further Guidance	4

1 Introduction

This Briefing Paper outlines changes to the law which came into force on 15th January 2007. It affects missionaries working abroad that come back to the UK for treatment under the National Health Service (NHS).

2 Legal Background

Law in the UK provides that NHS bodies should charge 'overseas visitors' for any NHS hospital treatment provided to them. An overseas visitor is defined as someone not ordinarily resident in the United Kingdom.

Providers of NHS hospital services have a legal obligation to identify patients who are overseas visitors (as defined), and to charge them for any treatment provided unless they qualify for exemption.

The law provides for a range of exemptions from charges. Some of these relate to services themselves, such as treatment provided solely in an accident and emergency department, or treatment for certain specified diseases. Others relate to the individual circumstances of the overseas visitor. The change in the law referred to above provides for a *new individual exemption for missionaries* and also covers their spouse or civil partner and dependent children.

3 Scope of the new law

The new law applies to treatment sought at hospitals in England only. Whether or not parallel laws are brought into force elsewhere in the UK is a devolved matter.

4 How the law has changed

Prior to 15th January 2007, missionaries working abroad were subject to a 5 year limit on how long they could spend away. After that time, they would no longer be exempt from charges if they returned to the UK in need of hospital treatment. The Government have however accepted that the nature of missionary work represents a special case and have therefore granted unconditional exemption.

5 What the new law says

The new law is contained in a Statutory Instrument 2006/3306 entitled 'The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2006.

It gives unconditional exemption from NHS hospital charges to missionaries:

- where they are working outside the United Kingdom, as a missionary
- for an organisation that is established in the United Kingdom.

Importantly, this is regardless of whether the missionary derives a salary or wage from the organisation, or whether or not they receive any type of funding or assistance from the organisation for the purposes of working overseas for that organisation.

The exemption extends to the spouse, civil partner or child of the overseas visitor.

6 Interpretation and Practical Considerations

Meaning of the word 'Missionary'

The regulations contain no definition of the word 'missionary'. We are advised by the Department of Health that, during drafting, consideration was indeed given to including a definition. However, it was concluded that doing this would be unhelpful in as far as a definition, applied strictly, could easily operate to exclude people that the regulations were intended to help.

In applying the regulations, we are advised that it will be for individual hospitals (and ultimately, the Department) to assess the merits of a claim to missionary status on a case by case basis. This may turn on how the sending organisation describes itself and how it views the status of the claimant. For example, a church that sends an individual overseas as part of a Christian teaching ministry is likely to view that individual as being a missionary. He or she is also likely to be recognised as such by people in general. But, what of a development worker sent by a UK Christian relief fund? This may turn on their precise role and the organisational and individual motivation behind going overseas.

The Department of Health have advised us that the general wish of most hospital trusts will be to be helpful and generous in their interpretation where the claimant is a UK National (for which see comment under 'Residency Qualification' below).

'Working' as a Missionary

A question arises as to the interpretation of the phrase "...working outside the United Kingdom, as a missionary". We raised this with the Department of Health given that many missionaries do not work under a contract of service (employment contract) or indeed a contract for services (self employed contract). Many missionaries are 'sent by' a missionary organisation but otherwise have to raise their own support.

The Department understand the range of arrangements that exist between missionary organisations and 'their' missionaries. The law specifically contemplates this is allowing exemption regardless of the salary, wage or funding arrangements.

So how does a missionary demonstrate that they are 'working for' a UK based charity? The decision to grant exemption from charges for treatment rests with the Overseas Visitors Manager (OVM) (sometimes referred to as the Paying Patients Manager (PPM)) at individual hospitals.

Missionaries seeking treatment are therefore advised to have some form of evidence to hand to present to the hospital when seeking treatment. If they are formally employed by the mission, the right to exemption is clear cut. In other cases, the mission can confirm their link with the missionary by providing whatever evidence there is that the missionary 'works for them'. For example, the mission may provide them with accommodation on location or may provide other forms of non financial support.

If the missionary is still not satisfied with the decision, they should ask the OVM (or PPM) to refer the matter to the Department of Health for advice. In practice this will be to the Overseas Visitors Team. We are advised that claimants should not make a direct approach to the Department of Health.

Residency qualification

The regulations as presently drafted do not appear to have any residency qualifications. So, an overseas national sent to a location outside of the UK by a UK based missionary organisation would appear to qualify for free treatment.

We raised this with the Department of Health and were advised that this was an oversight. They intend to amend the regulations at a suitable opportunity. This is likely to mean that claimants will have to have been resident in the UK for a continuous period of 10 years at some point in the past. This requirement may be met, for example, as a child who grew up in the UK.

7 Further Guidance

The Department of Health have indicated that they will update their existing Guidance to Overseas Visitors and the revised Guidance will be published on their website. At the time of writing, this update is still awaited. Readers are advised to periodically check by clicking onto:

www.dh.gov.uk/en/Policyandguidance/International/OverseasVisitors/index.htm