



# Eligibility for NHS treatment for overseas visitors, and citizens of other countries

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## 1 Introduction

I originally put this document together on behalf of the East and West Surrey Health Authorities, because one of the responsibilities of the (then) Surrey Communicable Disease Control Service was to handle immigration forms sent by the ports about people who are moving into Surrey. Some of these may require screening for tuberculosis, and all might require medical treatment while in the UK.

Occasionally we encounter problems when people are refused registration by GPs. I therefore undertook to establish what the guidance was regarding eligibility for treatment in the NHS.

Since this document was first written the new GP contract has been introduced, the original key reference (HSC 1999/018) has gone “out of time”, and the systems by which GPs are paid for providing “immediately necessary” and “emergency” treatment” have been changed.<sup>1</sup> Revised guidance has been published, and the basic facts about eligibility for NHS treatment have not changed (as the underlying legislation has not been amended).<sup>2</sup>

**The Health Protection Agency is a new independent organisation dedicated to protecting people’s health. It brings together the expertise formerly in a number of official organisations, and it works in partnership with the National Radiological Protection Board**

## 2 If people have problems registering with a GP

Anybody who is entitled to free NHS treatment is entitled to register with a GP. If they expect to move out of the practice area within three months they should be registered as a "temporary resident".

GPs do not have to accept anybody onto their list, or to give any reason for refusing to admit anybody to their list.\* That said, if they are refusing to accept anybody onto their list because they have misunderstood the eligibility criteria, then they may be happy to change their minds once they have been reassured that they may provide NHS treatment.

The Primary Care Agency (on behalf of the PCTs in Surrey) can allocate people to a GP if they are eligible for NHS treatment (see above) but cannot find a GP who will accept them. Should this be necessary, the person should contact:

Primary Care Agency  
187 Ewell Road  
Surbiton  
Surrey KT6 6AU  
Tel 020 8335 1400, Fax 020 8335 1401

## 3 How to decide if somebody is eligible for NHS treatment.

People are eligible for NHS treatment, like any UK citizen, if they are "ordinarily resident" in the UK (see section 3.1 below).

European economic area (EEA) nationals carrying Form E128 are also fully eligible for NHS treatment. (see section 3.2 on page 3).

People who are visiting the UK, but who are not "ordinarily resident" in the UK are entitled to "immediately necessary treatment" from a GP.

Visitors to the UK may carry a Form E112, which entitles them to seek treatment for a specific condition – see DH guidance for details.<sup>2</sup>

### 3.1 Residence in the UK

Health services circular HSC 1999/018 refers mainly to people who are not classified as resident. It states (in paragraphs 2 and 3):

*The National Health Service is primarily for the benefit of people who live in this country. It is therefore considered that eligibility to receive free medical treatment should relate to whether a person is ordinarily resident in the United Kingdom (UK) and not to nationality, the payment of National Insurance contributions or taxes.*

*The courts have decided that a person is regarded as "ordinarily resident" in the UK if he or she is lawfully living in the UK voluntarily and for a settled purpose as part of the regular order of his or her life for the time being. A person must have an*

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\* The new GMS contract states (clause 181) "The contractor shall only refuse an application [to join the practice list] if it has reasonable grounds for doing so which do not relate to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition"

Clause 182 defines not living in the practice area as reasonable grounds. Surrey PCTs would not accept being a new entrant per se as reasonable grounds

GMS practices are different, with more discretion; but it would be unreasonable of them to decline to register a patient just because they are a new entrant.

*identifiable purpose for his or her residence here and that purpose must have a sufficient degree of continuity to be properly described as settled. It is unlikely that anyone coming to live in the UK, intending to stay for less than 6 months, will fulfil these criteria.*

I also called the Department of Health's advice line (020 7210 4850). The advice I received seems consistent with [HSC 1999/018](#) (and confirmed in more recent publications).<sup>1 2</sup> The rule of thumb they gave was that somebody is 'ordinarily resident' if both of the following apply:

- They will be in the UK for at least 6 months.
- Their passport is open-ended – allowing them to stay for at least 1 year, without any restrictions.

Please note that some people – including, for example, some *au pairs* from non EU countries – might have passports or visas stamped with a statement that they are not entitled to state benefits. This does NOT apply to NHS treatment if they meet the eligibility criteria above.

Refugees (including asylum-seekers – see section 3.3 below) are regarded as “ordinarily resident”.

Immigration officials report some new entrants to the Surrey office of the Health Protection Agency (on behalf of the PCTs), so that they can be offered screening for e.g. tuberculosis. Only people who will be staying in the UK for over six months are notified to us, so if a patient attends a practice with a letter from the health protection unit asking them to register with the practice, it can be assumed that they are bona fide examples of people who are eligible for NHS treatment.

### **3.2 Visitors from EEA member states carrying Form E128**

In paragraphs 18 & 19, regarding visitors from EEA member states carrying Form E128, [HSC 1999/018](#) states (and confirmed in more recent publications) states<sup>1 2</sup>:

*This form ... applies to two groups of EEA nationals only:*

- *workers posted temporarily to another member state and any members of their family who accompany them; and*
- *students temporarily in another member state to study and any accompanying members of their family.*

*For people in these two groups who come to the UK, form E128 will give entitlement under the NHS to necessary treatment for any condition, that is their entitlement is not restricted to treatment that is immediately required. Routine treatment for on-going conditions existing before arrival in the UK cannot be excluded, and such patients should, in effect, receive full health care under the NHS on the same terms as UK residents. They may either be accepted by the GP of their choice, or be assigned to a GP by the Health Authority. As an NHS patient, the overseas visitor carrying form E128 should not be treated on a private, paying basis.*

### **3.3 Refugees**

In paragraph 27 [HSC 1999/018](#) (and confirmed in more recent publications) states<sup>1 2</sup>:

*A refugee given leave to remain in the UK should be regarded as ordinarily resident. A refugee who is in the UK awaiting the result of his application to remain in this*

*country should also be regarded as ordinarily resident because he or she is residing lawfully for a settled purpose.*

### **3.4 Other**

The HSC includes detailed information on the entitlements of overseas visitors who are not technically “resident” in the UK (not repeated here).

#### **3.4.1 Emergency or immediately necessary treatment**

Treatment within an accident and emergency department, or emergency/immediately necessary treatment from a GP is free to overseas visitors.<sup>3 4</sup>

*“Under the new GMS contract or PMS agreement, a practice is required to offer free NHS treatment to anyone who requests it, if, in the opinion of a clinician, it is immediately necessary. This is essential treatment, which in the clinical judgement of a health care professional cannot be delayed or avoided.”*<sup>3, para 16, p16</sup>

#### **3.4.2 Sexually transmitted diseases**

No charge is made for the treatment of sexually transmitted diseases, except for HIV. Diagnosis and counselling are provided free for HIV, but not treatment.<sup>4</sup>

#### **3.4.3 Public health Schedule I diseases**

No charge is made for the treatment of notifiable diseases public health (control of disease) act 1984, section 10 (1984 c. 22) and Public health (infectious diseases) regulations 1985 (S.I. 1985/434): Cholera, Food poisoning, Plague, Relapsing fever, Smallpox, and Typhus.<sup>5</sup>

#### **3.4.4 Detainees**

Anybody detained by the criminal courts (including on probation), or under the mental health act, is eligible for free NHS treatment.

#### **3.4.5 Others.**

The “rules” are not entirely clear for interventions such as immunisation against infectious diseases, and screening for tuberculosis, where the purpose is at least partly to protect the health of the population.

## **4 Appendix I: References**

1. Department of Health. Overseas visitors' eligibility to receive free primary care: a clarification of existing policy together with a description of the changes brought in by the new EC health care form E128. London, 1999.
2. DH/HSCD-ACCESS-PC. Proposals to exclude overseas visitors from eligibility to free NHS primary medical services: a consultation. London: Department of Health, 2004. [www.dh.gov.uk/Consultations](http://www.dh.gov.uk/Consultations)
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- eligibility to free NHS primary medical services: a consultation*. London: Department of Health, 2004:15-18. [www.dh.gov.uk/Consultations](http://www.dh.gov.uk/Consultations)
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