

EXPLANATORY MEMORANDUM TO
THE NATIONAL HEALTH SERVICE (EXEMPTION FROM CHARGES,
PAYMENTS AND REMISSION OF CHARGES) AMENDMENT AND
TRANSITIONAL PROVISIONS REGULATIONS 2014.

2014 No. 2667

1. This explanatory memorandum has been prepared by Department of Health and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations amend The National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (SI 2003/2382, as amended) (“the TERC Regulations”), the National Health Service (Optical Charges and Payments) Regulations 2013 (“the Optical Charges Regulations”) and the Primary Ophthalmic Services Regulations 2008 (“the POS Regulations”) to:

- (i) extend the period of exemption from NHS charges, NHS travel expenses, and entitlement to free sight tests and vouchers towards the cost of optical appliances, for people receiving Universal Credit in the early stages of the roll-out of Universal Credit under the Welfare Reform Act 2012 during the period 29 April 2013 to 31 March 2015.
- (ii) restrict entitlement to those receiving Universal Credit at the time a travel cost was incurred, a sight test provided, optical voucher issued or NHS charge levied, and to remove from the existing provision entitlement for a member of a couple, where that member is not included in an award of Universal Credit.
- (iii) provide a transitional provision for those who qualified by virtue of the existing provision, i.e. those in receipt of an award of Universal Credit during the period 29 April 2013 to 31 October 2014, to preserve entitlement to a repayment where a travel cost, cost of a sight test, related costs for glasses or contact lenses were incurred or NHS charge levied before 1 November 2014.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The TERC Regulations make provision for people who are in receipt of certain state benefits or on low incomes to be reimbursed for travel expenses incurred in receiving certain NHS services and to be exempt from certain NHS charges.

4.2 The Optical Charges Regulations provide for optical vouchers to be given to eligible members of the public to help with the cost of glasses or

contact lenses and set the level of that help, and provide for payments to be made to eligible persons to contribute towards sight tests

4.3 The POS Regulations provide for eligible persons to receive sight tests under the NHS Act 2006.

4.4 The Welfare Reform Act 2012 provides for the introduction of Universal Credit, which is now one of the eligible grounds for help with certain NHS charges, travel expenses, eye tests and optical appliances in the TERC Regulations, Optical Charges Regulations and the POS Regulations

5. Territorial Extent and Application

5.1 These Regulations apply to England only.

6. European Convention on Human Rights

As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

Universal Credit

7.1 By virtue of the TERC Regulations, Optical Charges Regulations and POS Regulations, NHS patients in England who are in receipt of state benefits or on low incomes are effectively exempted from NHS charges and NHS travel costs, and eligible to NHS sight tests and vouchers towards optical appliances if they meet certain qualifying criteria. These criteria already benefit people receiving Universal Credit in DWPs early roll-out of Universal Credit under the Welfare Reform Act 2012, and certain of their family members.

7.2 The TERC regulations are amended to extend income based remissions for those involved in the early roll-out of Universal Credit to 31 March 2015. The Welfare Reform Act 2012 provides for the introduction of Universal Credit. This new benefit will incorporate all current means tested working age benefits (in work and out of work) into a single payment system, Universal Credit. For the early roll-out period only, all recipients of Universal Credit (and their partners and children named in an award) will be entitled to:

- Free NHS prescriptions
- Free NHS dental treatment
- Free wigs and fabric supports
- Assistance with the costs of travel to an NHS appointment on referral by a doctor, dentist or optician.

7.4 The TERC Regulations, the Optical charges Regulations and the POS Regulations are amended to restrict entitlement until March 2015 to a qualifying person actually in receipt of Universal Credit. This ensures that entitlement to the remissions and assistance listed above ends once a person moves off Universal Credit.

7.5 The TERC Regulations, the Optical Charges Regulations and the POS Regulations are amended to remove reference to a member of a couple not included in an award of Universal Credit. The original amendment to the TERC Regulations, the Optical Charges Regulations and the POS Regulations included a provision for members of a couple who are not part of the UC claim. This was to reflect the way that UC Regulations had been set out and to make sure that we were not excluding anyone whom we wished to protect.

7.6 However, we now understand that this wording, in the Universal Credit Regulations 2013, is to exclude, from UC, partners who are living abroad or members of a polygamous marriage (who may be eligible to claim UC as a single person) and does not have any wider application. Consequently, this provision is not required.

7.7 This instrument also makes transitional provision in respect of travel costs, cost of a sight test, related costs of optical appliances or NHS charges levied before 1 November 2014, allowing those who qualified during the period 29 April 2013 to 31 October 2014 to make a claim for repayment.

Consolidation

7.8 Further amendments are likely to be needed to the TERC Regulations as Universal Credit is rolled out further. The Department intends to consolidate the TERC Regulations in 2015/2016.

8. Consultation outcome

8.1 The Department of Health is not required to consult on these Regulations.

9. Guidance

9.1 Relevant health care professionals and the public will be advised of the extension of arrangements for those included in the early stages of the roll-out of Universal Credit by way of the NHS Choices Website, and the Drug Tariff.

10. Impact

10.1 An Impact Assessment has not been prepared for these Regulations. No impact on business, charities or voluntary bodies is foreseen.

11. Regulating small business

11.1 Dental and GP practices are affected by these Regulations but their terms of service are exempt from the Small Firm Impact Test as these practices are considered as part of the public sector due to their provision of primary dental and medical services for the NHS. Remission of charges for drugs, appliances and other items, and NHS optical vouchers and the arrangements for the provision of free sight tests, all do however impact upon arrangements for the remuneration of NHS services provided by small businesses that are not part of the public sector, including firms employing up to 20 people. However, remission of charges, and entitlement to vouchers and free tests all relate to aspects of the remuneration of NHS service providers

that it would not be practical or appropriate to vary, as between contractors, according to their operational turnover or size. This is to ensure the application of agreed nation-wide NHS terms of service, where this is in the interests of both contractors and patients. Assistance with NHS travel costs for those who meet the criteria set out in the TERC Regulations is provided by the NHS Business Services Authority; NHS Trusts or NHS Clinical Commissioning Groups, and as such there is no impact as these are not considered to be small businesses.

12. Monitoring & review

12.1 The arrangements provided in these Regulations for Universal Credit will be reviewed prior to April 2015.

13. Contact

Gina Jones at the Department of Health Tel: 020 7972 2954 or email: gina.jones@dh.gsi.gov.uk can answer any queries regarding the instrument.