

Explanatory Memorandum to: The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) (No.2) Regulations 2008

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.

These Regulations amend the definition of “family” in regulation 2 of the principal Regulations and amend regulation 5 (entitlement to full remission and payment) to provide that a person who is receiving income-related employment and support allowance will be entitled to full remission of an NHS

charge and the full payment of NHS travelling expenses without needing to make a claim for such payment or remission.

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 new income-related employment and support allowance are not included in the principal Regulations with effect from 27 October 2008 (when the new benefit is introduced) 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.

The Secretary of State for Work and Pensions has made Regulations under the Welfare Reform Act 2007 (the Act which introduced the new benefit) which extended to England, Wales and Scotland; the Employment and Support Allowance (Consequential Provisions) (No.3) Regulations 2008 (S.I. 2008/1879) has made some, but not all the amendments which are required to give incorporate the new benefit into the principal Regulations as they apply in relation to Wales.