New regulations on charging migrants will have a severe impact upon public health

Briefing by the NAT (National AIDS Trust), August 2017, in response to *'The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017'* which will further deter undocumented migrants from accessing healthcare and could have serious consequences for public health, all at a greater cost to the NHS. These changes have been laid before Parliament and will become law without debate unless there is an objection from either House.

NAT is a policy and campaigning organisation dedicated to transforming the UK's response to HIV.

Background

Some people in the UK are not entitled to free NHS hospital care. This includes short-term visitors, undocumented migrants, and some asylum seekers whose claims have been refused. There are already processes in place for hospitals to identify and bill patients for their care. The Government has made new regulations[i], laid before Parliament just two days before recess, (1) extending NHS charges to community healthcare services and (2) placing a legal requirement for all hospital departments and all community health services to ascertain a patient's eligibility for free care, which could include asking for passports and proof of address, and charge up front for healthcare, refusing non-urgent care where a patient cannot pay.

Extending charges into community services and to non-NHS providers

From August 2017, healthcare charges will be introduced for services provided by all community health organisations in England except GP surgeries. From October 2017, non-NHS providers of NHS care will be required to identify chargeable patients. Any organisation receiving NHS funding will be legally required to check every patient before they receive a service to see whether they should pay for their care and, in some circumstances, patients will be charged for accessing these services.

Which NHS services are free for everyone?

- *All GP services.*
- *Accident and Emergency*
- *Family planning services, compulsory mental health care, and treatment for a range of communicable diseases that might pose a public health risk and treatment provided in a sexually transmitted diseases clinic.*
- *Treatment of a physical or mental condition caused by torture, female genital mutilation, domestic violence or sexual violence when the patient has not travelled to the UK for the purpose of seeking such treatment.*

Health services affected by extending charges

- *Community Midwifery*
- *Community Mental Health Services*
- *Termination of Pregnancy services*
- *District Nursing*
- *Support Groups*
- *Advocacy services*
- *Specialist services for homeless people and asylum seekers*

Department of Health have confirmed recently that Health Visiting and School Nursing will not be chargeable services

Providers: Providers will include NHS organisations, community interest companies and charities. These services are often specifically commissioned to reach marginalised communities and individuals unlikely to seek out NHS care. The introduction of charges undermines the vital role they play in protecting public health and safeguarding children and vulnerable adults. As we read the Regulations, public health services commissioned through Local Authorities, which include public mental health and drug and alcohol services, will also be affected, although it would be desirable to have clarity on this point.

Anticipated savings: The anticipated financial saving for the NHS is small (£200,000 a year[ii]), based on little evidence and likely to be overestimated. The cost to community services could be extensive if we take into consideration additional administrative time to check paperwork. or the cost of the chaos and confusion that will stop people accessing services.

Introduction of upfront charging
From October 2017, every hospital department in England will be legally required to check every patient's eligibility for free care, potentially asking for paperwork before treating them, to see whether they are an overseas visitor or undocumented migrant and should pay for their care. Every patient, British citizen or person under immigration control, will be asked about their residency status and will need to prove they are entitled to free NHS care. Pilots requesting all patients to provide two forms of identity prior to appointments are being carried out in 20 hospital trusts across England. The obligation to check patient eligibility may apply to services also exempt from charging on public health grounds, such as infectious disease departments and HIV clinics (we are seeking clarification on this issue).

If a patient cannot prove that they are entitled to free care, they will receive a bill for their treatment and will have to pay it in full before they receive any treatment other than that which is 'urgent' or 'immediately necessary'.

The Regulations also introduce an obligation on Trusts to record if a patient is not entitled to free NHS secondary care on their NHS number. This measure, and up-front charging, were not included in the Department of Health's 2016 consultation on NHS cost recovery and therefore have not received public scrutiny.

What does this mean for public health?

The Government excludes the diagnosis and treatment of all infectious diseases from NHS charges. There are clear public health reasons for this to be so. Public Health England in recent correspondence with NHS Digital regarding migrant healthcare stated that 'communicable disease control requires easy and early access to clinical investigations, screening, diagnostic testing, treatment and preventative measures'[iii].

Checking patient's paperwork: The new regulations requiring NHS Trusts by law to charge patients upfront, meaning that Trusts will need to check every patient's eligibility (potentially asking for paperwork before treating them), and then recording their chargeability status against their NHS number, mean even more people in need of healthcare will be deterred from accessing it. There is already significant fear among migrants that the information they share with the NHS will be used to trace them for immigration offences[iv].

Most people on effective treatment for HIV are no longer infectious, meaning they cannot pass the virus on. Impact on willingness to access HIV, hepatitis or TB services even if free means that more

people will remain infectious. Where people present to secondary care and are refused treatment because they cannot pay, opportunities will also be lost to diagnose communicable diseases.

Cost to the NHS: If someone living with HIV chooses not to engage with healthcare because they are being asked to prove their eligibility for free care or asked for identification documents, and therefore remain infectious, it is likely that more people will contract HIV. Lifetime cost of treatment for HIV is around £360,800[v]- deterring and charging migrants is counterproductive.

Extending charges (drug services): With the extension of chargeable services to public health services commissioned by local authorities, drug and alcohol services will become chargeable. The consequences of these services charging could be severe. As it stands, in the UK around 1 in 100 people who inject drugs is living with HIV[vi].

The continuing success of low rates of transmission within the community of people who inject drugs can only be assured if everyone has free and equal access to harm reduction. For example, access to needle and syringe programmes prevents the spread of blood-borne viruses, and taking opioid substitution therapy is associated with better adherence to HIV medication amongst people who inject drugs. Drug-related deaths are the highest on record[vii], and without the support of drug services, more people will be vulnerable to serious harm and death.

Prevention: For the NHS to be sustainable it must prevent people from becoming seriously ill in the first place. This was recognised in the NHS Five Year Forward View, which states 'the future health of millions of children, the sustainability of the NHS, and the economic prosperity of Britain all now depend on a radical upgrade in prevention and public health.'[viii] These regulations run counter to this approach, undermine prevention, and will mean a greater burden of health inequality for migrants, to the detriment of everyone and our healthcare service.

RECOMMENDATIONS

The Regulations should be withdrawn. The Government should carry out and make public the results of:

- an assessment of the impact of extending charges into community services on vulnerable groups
- an assessment of the impact of upfront charging and checking patient paperwork on access to services, public health, and health outcomes and patient waiting times, including an evaluation of the ongoing pilots taking place in hospital trusts
- an impact assessment evidencing the proposed Regulations will not breach the Secretary of State for Health's duty to reduce health inequalities under the Health and Social Care Act 2012
- a public consultation on the parts of the Regulations not included in the 2016 consultation on NHS cost recovery: upfront charging and recording information against NHS number (consistent identifier).

On the completion of the above, any regulations to extend charging into new areas of care and / or introduce upfront charges should:

- exempt all services that protect public health, including public mental health services, drug and alcohol treatment services and community midwifery services
- exempt all services provided by charities or community interest companies
- exempt asylum seekers whose claims have been refused, as is the situation in Northern Ireland and Scotland

- be accompanied by Department of Health guidance for hospitals and doctors 1) outlining how to implement the Regulations in a way that is not discriminatory and does not violate human rights or increase health inequalities and 2) confirming that routine identity documents checks should not be carried out in services where NHS charges do not apply, such as infectious disease services.

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[i] The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017 from: http://www.legislation.gov.uk/uksi/2017/756/contents/made

[ii] Impact Assessment: Visitor and Migrant Cost Recovery – Amending and Extending the Charging Regulations from: ''https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/630516/Cost_Recovery_IA.pdf

[iii] NHS Digital, National Back Office (NBO) review, PHE response: Feb 2017, from: https://www.parliament.uk/documents/commons-committees/Health/Correspondence/2016-17/Correspondence-Memorandum-Understanding-NHS-Digital-Home-Office-Department-Health-data-sharing.pdf

[iv] Thomas F, Aggleton P, Anderson J. "If I cannot access services, then there is no reason for me to test": the impacts of health service charges on HIV testing and treatment amongst migrants in England. AIDS Care. 2010;22(4):526–31

[v] Nakagawa F et al. *Projected lifetime healthcare costs associated with HIV infection*. PLOS One 10(4): e01205018, 2015. From: http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0125018

[vi] Public Health England, HIV in the UK 2016 report, from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/602942/HIV_in_the_UK_report.pdf

[vii] Office for National Statistics (ONS), 2017: https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsrelatedtodrugpoisoninginenglandandwales/2016registrations

[viii] NHS, Five Year Forward View, October 2014, from: https://www.england.nhs.uk/wp-content/uploads/2014/10/5yfv-web.pdf