

## **Explanatory Memorandum to: The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) Regulations 2014.**

This Explanatory Memorandum has been prepared by the Department of Health and Social Services and is laid before the National Assembly for Wales in accordance with Standing Order 27.1.

### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) Regulations 2014.

*Mark Drakeford*

Minister for Health & Social Services

26 April 2014

### **Description**

The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) Regulations 2014 ("the Regulations") amend the NHS (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (SI 2007/1104 (W.116)) ("the Principal Regulations"), which provide for reimbursement of travel expenses and remission of NHS charges for dental and optical treatment, by exemption or part payment, for persons on low incomes through the NHS Low Income Scheme (LIS).

The Regulations amend the Principal Regulations to increase, for those persons living in a residential care home, the capital limit (ie capital disregard threshold) as it is applied in the calculation of entitlement to exemption from health costs under the LIS.

### **Matters of special interest to the Constitutional and Legislative Affairs Committee**

None.

### **Legislative Background**

The Regulations amend the Principal Regulations which provide for payment of travel expenses and remission of NHS dental and optical charges for, amongst others, persons on low incomes, by reference to limits on their income and capital.

The amendments made by the Regulations increase, for those persons living in a residential care home, the capital limit (ie capital disregard threshold) as it is applied in the calculation of entitlement to exemption or partial exemption from charges for NHS dental and optical charges and payment of travelling expenses under the LIS. The capital limit is increased to £24,000 which brings the limit into line with the capital threshold for liability to pay residential care costs of £24,000 which is contained in the National Assistance (Sums for Personal Requirements) (Assessment of Resources) and Social Care Charges (Wales) (Miscellaneous Amendments) Regulations 2014.

For those individuals in receipt of funding for residential care, this benefit is passported to the LIS. In effect, it assumes that the Local Authority has assessed the individual for eligibility; therefore no further assessment is required to receive LIS benefits. The capital limit (capital disregard threshold) must therefore be the same for the LIS as for residential care.

The National Assistance (Sums for Personal Requirements) (Assessment of Resources) and Social Care Charges (Wales) (Miscellaneous Amendments) Regulations 2014 came into force on 7 April 2014 and it is imperative that the amendment made by the Regulations comes into force on 20 May 2014 to maintain parity with the capital limits relating to the provision of residential care.

These Regulations are being made in exercise of powers conferred by sections 130, 131, 132 and 203(9) and (10) of the National Health Service (Wales) Act 2006.

These Regulations are subject to the negative resolution procedure.

## **Purpose and intended effect of the legislation**

### Policy Background

Income based entitlement to help with health costs may be available through the LIS to those who are not automatically entitled through receipt of a passporting benefit such as income support. In the main, the Principal Regulations rely on modifications to the Income Support (General) Regulations 1987 to calculate eligibility for such entitlement taking into account factors such as a person's income and capital.

The NHS Business Services Authority ("the NHSBSA") administers the LIS on behalf of the England, Scotland and Wales. The NHSBSA applies a single set of LIS rules to all applications received with small variations relating to capital limits.

### Objective

These Regulations amend the Principal Regulations in order to increase , for those persons living in a residential care home, the capital limit (i.e. the capital disregard threshold) as it is applied in the calculation of entitlement to help with health costs for travelling expenses and NHS optical and dental charges from £23,250 to £24,000 from 20 May 2014.

This will maintain parity with the relevant capital disregard limit relating to the provision of residential care in the National Assistance (Sums for Personal Requirements) (Assessment of Resources) and Social Care Charges (Wales) (Miscellaneous Amendments) Regulations 2014 which was, with effect from 7 April 2014, also increased to £24,000.

## **Implementation**

It is intended that these Regulations will come into force on 20 May 2014.

## **Consultation**

There has been no consultation with stakeholders because these are technical changes to the Principal Regulations and these Regulations do not alter existing policy; they simply increase an existing capital limit to bring the capital limit into line with the capital limit for liability to pay residential care costs .

## **Regulatory Impact Assessment**

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As these Regulations make a technical change to the Principal Regulations to uplift the capital limit, and there is no change in policy, it was not considered necessary to carry out a Regulatory Impact Assessment as to the likely costs and benefits of complying with these Regulations.

These Regulations have no impact on the statutory duties (sections 77 – 79 Government of Wales Act 2006) or impose any additional burdens upon the statutory partners (sections 73 – 75 of that Act).

## **Summary**

These Regulations will ensure parity between capital disregards utilised in Health legislation and Social Services legislation that is made by the Welsh Ministers.