

## **Explanatory Memorandum to: The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) Regulations 2012**

This Explanatory Memorandum has been prepared by the Welsh Government's Department for Health, Social Services and Children and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and 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 2012.

Lesley Griffiths AM  
Minister for Health and Social Services, one of the Welsh Ministers  
DATE : 9 March 2012

### **Description**

These Regulations amend the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (S.I. 2007/1104 (W.116)) (*"the Principal Regulations"*).

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

There are no matters of special interest to note.

### **Legislative Background**

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

The amendments made by these Regulations bring the capital limit applicable under the Principal Regulations into line with similar amendments (*"the residential care amendments"*) made by the National Assistance (Assessment

of Resources and Sums for Personal Requirements) (Wales) (Amendment) Regulations 2012, for use in calculating charges for residential care.

The residential care amendments relating to capital limits will come into force on 9 April 2012 and it is imperative that the amendments made by these Regulations also come into force on that date.

These Regulations are being made in exercise of powers conferred by sections 130, 131, 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 NHS Low Income Scheme ("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.

Operations Services, a part of the NHS Business Services Authority, administers the LIS on behalf of the home nations. The processing system within Operations Services applies a single set of LIS rules to all the applications received with small variations relating to capital limits.

This arrangement was developed before devolution, when the Department of Health was the department responsible for the NHS (Travel Expenses & Remission of Charges) Regulations.

### Objective

These Regulations seek to amend the Principal Regulations in order to increase the capital limit of £22,500 to £23,550 from 9 April 2012.

## **Implementation**

It is intended that these Regulations will come into force on 09 April 2012.

If these Regulations were to be annulled then the failure to implement the changes to the Principal Regulations would result in Operations Services continuing to process claims from persons resident in Wales based on last year's capital limits, meaning that claimants will not benefit from the proposed uplift.

## **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.

## **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 that equity of access to help with NHS charges is maintained across the devolved administrations. The regulations will also ensure parity between income disregards utilised under different arrangements in Health and Social Care within the Welsh Government will be maintained.