

Access to NHS England for missionaries (UK nationals) FAQs

(Answers provided by the Department of Health and, where noted, Clare Redstone, GP and Travel Health Doctor, InterHealth Worldwide.)

What about UK nationals living overseas who have worked for the NHS in the past, are still contributing to a NHS pension scheme, paying NI contributions etc., may even be volunteer British consul wardens overseas. Would they have to pay?

If they are returning to reside – then no. If they are in some way employed by the UK government overseas then they still have an exemption from charges. If not, then the key criteria is whether or not they will pass the OR test. It will depend on all their circumstances – for instance, is their time overseas temporary and finite, has there been a pattern of returning to the UK, have they retained a base in the UK (e.g. an address to which they return regularly) and so on. The OR test is the main test.

The problem is that most missionaries currently don't know whether or not they will be counted as OR. This is a real fear for people and they want certainty. Is there a way they can know in advance if they will be counted as OR or not?

There is no absolute rock certainty that can be applied here – it has to be about thinking through the issues fully, and the types of evidence and indicators that will help. For instance – the less time someone is out of the country, the stronger the indication that they have OR – for example a few months as opposed to five years. Is there a maintained pattern of movement of returning to their home base at the end of or between assignments – a series of intended returns? Do they have letters and documents from their employer which demonstrate that the period of employment is intended to be finite and the person still considers themselves to be a UK resident?. Do they still have property here? Is their time out of the UK on a limited basis? How many indicators can the person fulfil? Something like two years out of the country, followed by two months here, followed by another two years out, two months back could possibly indicate OR (this is just one example).

How can we help our mission partners to know what sort of things are going to be asked?

The ordinary residence tool has now been published and can be found on this gov.uk webpage: <https://www.gov.uk/government/publications/guidance-on-overseas-visitors-hospital-charging-regulations>. It has been modified after meetings with Global Connections network representatives so it includes in its considerations the types of scenario mission partners might find themselves in e.g. a pattern of returns to the UK, if there is another reason why they don't have an apparently settled address in the UK, why the person is out of the UK and so on. If as a mission community we think of other appropriate questions and examples that could be incorporated, the tool can possibly be amended.

If a mission partner had a two years away, two months back, two years away pattern of working, is there a 'sliding scale' on this as well? That is, if they are now on their seventh or eighth placement for example, would this negatively affect their ability to be deemed OR?

If there is a pattern for 6, 7, 8 or more contracts it is likely that this would need to be investigated more as they may appear to have emigrated. It would be even more important for other indicators to be there and to demonstrate that during the two month period that they have fully returned to the UK. The fewer indicators there are the more difficult it is going to be.

At what point of service delivery will the issue of OR be addressed? Is the Guidance for the administrators rather than the caregivers?

In the case of urgent or immediately necessary care, that care will not be withheld or delayed whilst assessments are made. But ideally these questions would be taking place at the start of any new course of treatment – for example they would take place *before* an outpatient appointment. In the case of an emergency, discussions will take place at the most appropriate medical point. They would take place as early in the process as possible for two reasons – the patient needs to clearly know what their options are (and the potential charges that might come their way), and the hospital needs to know who they should charge.

Missionaries in Spain – would they be eligible for completely free treatment as any other EEA national coming to the UK?

If they are insured under the Spanish healthcare system and entitled to a Spanish EHIC card, then like any Spanish national they should be covered under EU regulations for medically necessary care. For pre-planned care, they may need prior approval from the Spanish health authorities through the 'S2' form route. If they are not under the Spanish healthcare system then the OR test will decide if they are eligible to free care.

If free care is denied, what is the appeal process?

They would have to raise a complaint with the hospital / NHS trust itself (via the patient liaison service or NHS England) who would look in a more detailed way at the case. There is no external appeals body – it is a matter for the NHS trust to resolve internally.

[*Note from Global Connections:* It is really important that we begin to build up a picture of how the new Regulations work out in practice with relation to missionary access to NHS secondary healthcare – both those who are deemed Ordinarily Resident as well as those who are not. Please let us know your experiences by completing our [simple survey](#) which should take just a few minutes to complete (please note that we will **not** be requesting any names or medical information in this survey).]

If there are two identical cases and one hospital says yes and another no, is there a role for the Department of Health to step in?

There is no role for the DoH in such cases. Occasionally they have been asked for their opinion and occasionally give it. There is potentially some scope unofficially but it is not a function of the DoH.

Within Europe if missionaries are covered by, for example, the French, Spanish or German system and therefore entitled to free medically needed care – if there is more of an ongoing need for care, would that need to be considered under the new Regulations?

The EHIC would cover care needed if the person has fallen ill whilst in the UK and then needs other care as a result. What it doesn't cover is pre-planned treatment, someone specifically seeking healthcare in the UK. In that case the person would have to fill in an S2 (used to be an E112) - a form to apply to the French/Spanish/German authorities, so that that country agrees to fund the pre-planned treatment in the UK. The UK would then seek reimbursement from that country.

What if someone is visiting the UK but staying in someone else's home (e.g. because their house is rented out or because they don't actually own their own home)?

We have tried to cover this in the guidance (by giving an example of someone staying with close friends or family). However, primarily all the indicators need to be assessed together before a decision can be reached.

Will there be any reports on the cost benefits of this programme of cost recovery?

An evaluation exercise will be undertaken to see how effective the cost recovery is, but please note it is much more focused upon recovering costs from others than from within the missionary / humanitarian sector.

Is the charge of 150% designed to bring the rates in line with those charged in the private health sector?

They are set at a level so that they are similar to the private sector, but they don't match it fully.

When someone goes for secondary care and is assessed, will they be told before their treatment what the outcome is and whether or not they will be charged (and what those charges will be)?

Best practice is that potential chargeability is discussed as soon as appropriate, so that the patient is clear about the options before them. However, people should always take into account the unpredictable nature of medical care. For example, they may be quoted the usual cost of planned surgery, but if there is a serious complication, costs may be very much higher.

What about those who have been longer term overseas? Perhaps they have been overseas for 12-15 years or more, and it is just not practical to be coming back to the UK every two years for instance. Are there some questions in the tool that carry more weight than others? Or is there a 'percentage pass rate' to the questions?

The questions are not weighted specifically – but in reality some may have greater weight than others. The imprecise nature of assessing OR is a benefit, but also a flaw. It does mean that there is room for generosity in some cases. However, for those in such a scenario above it is unlikely that they would be considered OR. It would certainly be more difficult to demonstrate that they are OR here if their clear pattern of behaviour suggests they are resident only in another country. It may be that some specific circumstances would help, but it is important to realise that individuals in such a situation will find it harder to be deemed OR, especially if their times back in the UK have been very brief.

What about those who fall sick overseas and need to be repatriated to the UK – how will they be treated? For example, someone diagnosed with cancer.

If the person's normal circumstances would have meant they would have been deemed OR in the UK then they should be fine, even if they have specifically returned for health matters.

In addition, if someone is repatriated to the UK and will now be settled here indefinitely due to their circumstances (they are 'returning home') – they would immediately become eligible for free healthcare. There is no period built into the OR test so it can apply immediately.

There is a concern around consistency between different NHS Trusts. Because the tool is 'flexible' in its interpretation then different Trusts could come to different conclusions. Will there be any way of monitoring this?

There are no plans at the moment to do any monitoring. This is not a role for the Dept of Health and generally the DoH don't get to know of such cases. If the DoH is presented with evidence that this is happening regularly and the situation could be helped by further guidance or assistance, then they could consider working on this.

A&E is primary care – but when does this become secondary care?

This becomes secondary upon admission to hospital. That is when the automatic exemption for A&E care ceases, or at a follow-on outpatient appointment

Is it fair to say that coming back for 6-12 months will be better for gaining OR status?

A longer time is much better – the tool refers to 6 months as a guideline (although 6 months is not hard and fast in determining OR).

What are the rules concerning being registered with a GP here and living overseas?

Practices have some degree of discretion under the contract regulations about whether to register [an overseas visitor]. Practices, if their list of patients is open, may accept overseas visitors as temporary residents, if they will be in the area for 24 hours to three months, or may accept an overseas visitor's

application for inclusion in their patient list. (This information can be found on the [BMA website](#).) GPs can also opt to treat patients privately. But please note that being registered with a GP is not a link through to free NHS hospital care - in law there is no link between the two.

If prescriptions are needed for ongoing care – how does that work?

This is not linked to the OR test as that only applies to secondary care. But there is guidance that prescriptions should not be issued for significant periods of time because of health monitoring issues and it becoming medically unwise for the GP to prescribe for significant periods of time. So, a GP is not supposed to give an NHS prescription if the person is out of the country for more than 3 months, but if the GP is happy that it is medically safe then they can give 3 months NHS prescription, and also a private prescription for an appropriate period. (For example, they might give 9 months private prescription for the contraceptive pill along with the 3 month NHS prescription.) (Clare Redstone mentioned that this is one of those situations where Interhealth may be able to fill the gap – again as long as it is medically wise to do so.)

Given that up until now missionaries have been given an exemption and not needed to be careful about their comings and goings, how far back will OVMs enquire in terms of travel patterns etc.?

OR is now the key criteria (and this has nothing to do with the previous exemption). The OVM will look at the reasons why the person is not usually in the UK.

Can you retain your OR status once granted?

Every time a new course of treatment is needed, the individual will be assessed again.

Does giving birth and complications in pregnancy fall into the 'primary' category?

No, these would be seen as secondary care.

Would a newly born infant be seen as automatically OR if one or more of their parents are?

Pragmatically, yes. If they have just been born in this country then they have not lived anywhere else.

Pregnancy and giving birth is a very important issue for our community. If the person can prove OR then fine, but if someone is not sure and returns for the birth of a child and then actually resides for quite a long time for a 'settled purpose' – will they then be OK?

It comes back to looking at whether all of the indicators indicate OR. If fully settled in another country, and the person hasn't really returned to the UK much, then perhaps not. But if they have maintained their base, returned regularly for short stays, and met other OR indicators etc. then they should be fine. Even if the person is planning to settle for a 6 month period but the other indicators are not there it might be difficult. But if, for instance there was a period of maternity leave and a cessation of work in the other country then they this might pass the OR test on that basis.

The guidance says that an individual can be OR in two places at once - what does this mean?

The current guidance has been amended to make this clearer. The fact that you are resident in another country does not mean that you cannot remain OR here. For example, there are people who have dual residency e.g. living in Spain in the winter. Such people would still pass the OR test even if spending more time in the other country. It may well appear that they reside there – working there, well established in their communities etc. but may still be considered a resident here.

Where is the OR tool?

The ordinary residence tool has now been published and can be found on this gov.uk webpage: <https://www.gov.uk/government/publications/guidance-on-overseas-visitors-hospital-charging-regulations>

What will trigger the OR assessment itself?

There will now be some baseline questions of every patient embarking on a new course of treatment (perhaps reception staff might be asking these questions / the completion of the pre-attendance form for those seeking outpatient care / or information gathered after emergency treatment.). The answers to these baseline questions may trigger a further investigation by the OVM e.g. where the person has lived for the last year, whether they are a UK or EEA national etc.

A report from the BBC on 13.4.2015 talked about the need for people to produce a passport when going for treatment – are they correct?

No, this information is incorrect. Note that having a UK passport will *not* mean automatic access to free secondary care. However, it would be advisable for individuals knowing they are likely to be questioned on their OR status to have a number of helpful documents with them. It will be important that organisations help their mission partners with appropriate documentation.

Does a British passport play any role in the process?

It could do if it was not clear whether the person had right of abode.

Have any specific financial targets been set for cost recovery?

Yes, we hope to recover up to £500 million by the middle of the next parliament. Most will be gained from the new surcharge requirement for non-EEA temporary migrants, correctly capturing EHIC info and charging other EU countries for healthcare given, and also from the 150% tariff cost for visitors to the UK.

Many of us don't receive hard copies of things like utility bills these days. Will it be acceptable to print off something online?

I would be very surprised if not.

The BBC also reported on 13.4.2015 on a 'standard tariff of costs' – is the available so that we can see what costs might be for different courses of treatment?

Yes, see www.gov.uk/government/publications/national-tariff-payment-system-2014-to-2015 (It would appear that the tariff for 2015-16 has not yet been published.)

Our understanding is that there are no changes in the other three nations approach to overseas visitors' access to the NHS. Currently missionaries still have an exemption from charges in Wales and NI, and although they have never had an exemption in Scotland in practice they have not been charged. Is this set to continue?

It is not possible to say what the other nations will do, though in the past Wales has often followed England. We wait to see if any changes are made, but currently it appears the above practice is what is happening.

Can people be charged retrospectively? For instance if, for whatever reason the hospital didn't question someone regarding their OR status before the start of treatment.

Charges *can* be applied retrospectively, regardless of when identified – but the hospital would have to explain why.

One is not allowed to pay class 2 Voluntary Development Worker Overseas NI contributions unless ordinarily resident in the UK. Would proof of paying this then prove that the government, in the form of HMRC, considered one ordinarily resident?

Different Government departments may have different criteria in determining residency and the fact that HMRC could consider someone ordinarily resident for tax purposes does not necessarily mean that they will be OR for healthcare purposes. An NHS body when considering whether a person is

ordinarily resident in the UK should use the three-fold test (four-fold for non-EEA nationals), assessing whether that individual:

- (i) Is lawfully in the UK;
- (ii) Is here voluntarily – it will be rare for a person not to be in the UK voluntarily; and
- (iii) Is properly settled here for the time being; and
- (iv) In the case of non-EEA nationals subject to immigration control, has ILR in the UK.

In the case of not being considered ordinarily resident, will primary care at a GP surgery (the bit always free of charge) include tests such as blood tests and allow medicine to be prescribed and paid for at the normal rate of prescription fees like everybody else?

Services that are considered to be primary care services will remain free of charge to those that are registered either as a full NHS patient, or a temporary resident NHS patient if they are to be in an area for between 24 hours and three months. This is with the exception of prescriptions that will be charged at the NHS prescription charge for an NHS patient (unless a person is entitled to free prescriptions).

May 2015