

## Access to NHS treatment (in England) for UK nationals working as missionaries overseas: Guidance on meeting the Ordinary Residence Test – revised Sept 2021

### Introduction

The *NHS (Charges to Overseas Visitors) Regulations 2015* came into force on 6 April 2015 and have implications for access to free secondary NHS healthcare in England for UK nationals working overseas as missionaries. Please see our [webpage](#) for further details.

The decision has been made to continue the basis of the NHS as a residence based healthcare service and so, **the key (and only) criteria as to whether or not mission partners working overseas will be entitled to access to secondary NHS care (for their stays in England) without charge, is whether they can be deemed ‘ordinarily resident’ (OR) during their times in the UK** (for further information about OR see *Understanding Ordinary Residence*).

A ‘tool’ has been created which will be used by Overseas Visitor Managers in hospitals to help determine ordinary residence, and includes a number of questions that will be asked of mission partners when visiting the UK and accessing NHS secondary healthcare. The guidance below is based on the questions that are included in the tool, and can be used to help guide your organisation/church in ensuring as much as possible is in place to help your mission partners meet the OR test. Please note that mission partners don’t need to meet every single aspect in order to be deemed OR, but the more they can meet the stronger their case should be (although some aspects might be weighted more than others).

However, please note that the longer a mission partner is out of the country, or the more repeated temporary assignments they have had over the years, the more difficult it will be to prove OR. Note also that it is impossible to give absolute certainty regarding the outcome of the OR test - each person will be dealt with on a case-by-case basis at the discretion of the Overseas Visitor Manager in each NHS Trust.

- Ensure your mission partners are on an appropriate contract or ‘agreement’ with you which clearly shows that their posting overseas is for a finite period. Ensure they have a copy of the contract and provide them with a letter from you as a UK based organisation for which they have gone overseas, that confirms that their assignment or series of assignments is temporary.
- Make sure your mission partners are making regular and significant stays in the UK (but care needs to be taken on overall time in any 365 day period due to the new rules in relation to tax liability for periods in the UK).
- Make sure that mission partners spend a reasonable amount of time in the UK when they do stay (a quick visit - for example to attend a wedding or for a short holiday - is highly unlikely to be deemed ‘a settled purpose’). If they are planning to stay in the UK for 6 months or more this may well help strengthen their case for OR.
  - However, having said this it is important to note that a person can be ordinarily resident in two countries at once if their pattern of travel and other indicators are assessed as fulfilling OR status - in which case they will also be entitled to free care during short visits to England. But note that every time a new course of treatment is needed, the individual will be assessed again.
- If possible, ensure your mission partners can provide an address *of their own* in the UK where they are currently staying, and if so, have copies of utility bills and council tax at this address. If they are renting then they need to provide a copy of the tenancy agreement in their name.

- If they are not staying at their 'own' address, encourage your mission partners to have a firm address as their base in the UK (even if they also need to travel whilst here), proof of this address, and for example proof that they can receive post there. It is acceptable for this to be the home of family or friends that they are temporarily residing in. If this is also the address to which their UK bank statements are normally sent, even better.
  - Make sure your mission partners have a definite purpose for their visit to the UK and that there is a reason for them being in the UK (other than for healthcare) which indicates they are now properly settled here and intend to live here as part of the regular order of their life for the time being. For instance, if your mission partners are employed or self-employed whilst in the UK and working for you during their time in the UK as part of their normal pattern, provide proof of this.
  - Encourage your mission partners to place their children in school for their time here, and have proof of this.
  - Ensure mission partners have the appropriate evidence for any of the above points as applicable ready and available, and in addition:
    - If they own a home in the UK, have proof of ownership (even if they are not currently staying in their own home, it may be taken as an indication of their intention to return to the UK as their base in the future).
    - A copy of their passport – in case there is a question over nationality.
    - Mission partners need to be careful in the words they use to describe their situation – for instance, it could help to talk about 'coming home', 'I am in the UK because this is my home apart from when I am temporarily overseas', etc. - as appropriate and applicable, and as honestly describes their current situation.
    - Have their NHS number available (and if possible, proof of this).
  - Please note that not all NHS Trusts seem to be aware of the [Guidance](#) (pages 27-30 especially) and the supporting [tool](#). Trusts are expected to use the guidance and tool that are made available to them to determine OR (rather than their own methods). Mission partners should be strongly encouraged to ask the person determining their OR status to refer to these when making their decision.
  - Please also note that nationality is important - a non EEA national subject to immigration control also needs Indefinite Leave to Remain in order to pass the OR test. So, for instance, if a non-EEA spouse who does not have ILR is coming to the UK for 6 months or more, they will have to pay an immigration surcharge on top of their visa application - which will entitle them to free NHS care and costs £200 per person per year. This is slightly reduced for students and their families. If they are coming to the UK for less than 6 months, they are not entitled to free secondary care.
  - If a mission partner knows that they will need secondary care during their stay in the UK, they *could* contact the Overseas Visitor Manager at the relevant hospital/NHS Trust in advance to discuss their situation. However, the OVM would probably not be able to provide confirmation without full evidence and may not be willing to provide an assurance on entitlement until faceto face. But it could be helpful to both parties.
  - If your mission partners are returning to the UK to settle permanently, as stated on this [gov.uk webpage](#): "Citizens who return to the UK on a settled basis will be classed as ordinarily resident, and will be eligible for free NHS care immediately". Having proof of the following will help their case:
    - having ended insurance policies, utility contracts etc. in the country where they were previously
    - transfer of assets to the UK
    - shipping of goods to the UK
    - end of employment in the other country
    - selling their house or ending a rental agreement in the other country
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