

Dear Colleague

INDIVIDUALS RECOGNISED AS REFUGEES OR GIVEN HUMANITARIAN PROTECTION FROM AUGUST 2005, AND THEIR CONTINUING EXEMPTION FROM NHS CHARGES

Purpose

1. To advise NHS healthcare providers that those granted limited leave to remain in the country in or after August 2005 as refugees or under humanitarian protection arrangements, remain exempt from NHS charges.

Background

2. Under the NHS (Charges to Overseas Visitors) (Scotland) Regulations 1989, as amended (the "Charging Regulations"), a person who has been accepted as a refugee in the United Kingdom is exempt from charges for all NHS hospital treatment. Within the context of the Charging Regulations, those given Humanitarian Protection status should be treated exactly the same as those given refugee status. It is evidence of either refugee status or Humanitarian Protection - documentation from the Home Office / UK Border Agency (UKBA) - that demonstrates that a person qualifies under this particular exemption category.

3. In the past, the UKBA gave those granted refugee status indefinite leave to enter or remain in the UK. However, since August 2005, the UKBA has given limited leave for five years to those granted refugee status or humanitarian protection. Therefore, those granted limited leave in or after August 2005 must now apply to the UKBA for indefinite leave to remain in the month before their leave expires. **However, this does not mean that those affected will necessarily cease to be refugees or people with Humanitarian Protection.**

4. Those granted refugee or Humanitarian Protection status remain entitled to free NHS hospital treatment; free dental examinations and free eye tests under the Charging Regulations, as long as they continue to hold qualifying status. **Exemption under the Charging Regulations does not, however, extend to any other type of care or treatment under general dental services, or to NHS optical vouchers.** Such dispensations are dependent on the individual's personal circumstances and their ability to meet the established qualifying criteria, in the same way as any person who is ordinarily resident in Scotland.

CEL 37 (2010)

4 November 2010

Addresses

For action or information as necessary

Chief Executives, NHS Boards (including Special Boards)
Medical Directors, NHS Boards
Directors of Nursing, NHS Boards
Primary Care Administrators, NHS Boards
Hospital Overseas Visitors Managers
Fraud Liaison Officers, NHS Boards
Primary Care Administrators
General Medical Practitioners
General Dental Practitioners
General Ophthalmic Practitioners

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5. In the minority of cases, where the individual has not yet made an application for indefinite leave to remain and their leave has expired, no action should be taken to charge for NHS hospital treatment. **While the Charging Regulations only apply to hospital treatment; dental examinations and eye tests, the same principles should be applied to general medical services provided by general practitioners.**

6. The UKBA is working to ensure that those refugees whose leave to enter or remain in the UK is about to expire apply to have it extended. If NHS healthcare providers, whether working in general medical services or hospital settings, come across a refugee whose leave has expired or is about to expire, it would be helpful if they could encourage them to submit an application for indefinite leave to remain as soon as possible.

Further Information

7. The appended UK Border Agency paper sets out the position. Refugees and those with Humanitarian Protection can find more information about applying for indefinite leave to remain on the UKBA website, including the relevant application form. They can also call the UKBA Immigration Enquiry Bureau on 0870 606 7766.

Yours sincerely



FIONA MONTGOMERY

Head of Patient Support & Participation Division



SETTLEMENT PROTECTION

IMPORTANT INFORMATION FOR ANYONE WHO WAS RECOGNISED AS A REFUGEE OR GIVEN HUMANITARIAN PROTECTION FROM AUGUST 2005.

If you were given five years limited leave as a refugee or with humanitarian protection you must apply to the UK Border Agency for indefinite leave to remain (ILR) before your leave expires.

How do I apply for indefinite leave to remain (ILR)?

To apply for indefinite leave to remain (ILR) you must send in your application form in the month before your leave is due to end. For example if it ends on 30 August 2010, your application should reach the UK Border Agency between 30 July and 30 August 2010.

It is important that you apply in time before your leave expires. This will ensure that:

- your case is considered quickly, and
- your leave continues.

You will continue to have full access to benefits and the right to work throughout the period your application is being considered.

The application form can be downloaded from the UK Border Agency website www.ukba.homeoffice.gov.uk/settlement/applicationtypes/completing_set_protection_route/

To guarantee delivery we recommend that you send your form and documents by registered post.

What evidence do I need to provide?

The evidence and document(s) required for your application are listed on the form. You may want to keep a copy of your immigration status document for your records.

Is there a fee for applying for indefinite leave to remain (ILR)?

No - there is no fee to submit an application.

Where can I get help on my application?

If you need help we recommend you use a solicitor or an advisor regulated by the Office of the Immigration Services.

A list of solicitors and advisors that are regulated by the Office of the Immigration Services Commissioner can be found at www.oisc.gov.uk

Your Local Law Centre or Citizens Advice Bureau may be also able to help you.

Legal Aid advice in England and Wales

The Community Legal Advice Service UK can advise on how to find a solicitor who gives advice funded by legal aid in England and Wales. They can be contacted on 0845 345 4 345 or www.communitylegaladvice.org.uk

Legal Aid advice in Scotland

The Scottish Legal Aid Board can advise on how to contact a solicitor funded by legal aid in Scotland. They can be contacted on 0131 2267061 or www.slab.org.uk

Legal Aid advice in Northern Ireland

The Northern Irish Legal Services Commission can advise on how to contact a solicitor funded by legal aid in Northern Ireland. They can be contacted on 02890 408888 or www.nilsc.org.uk

How will you contact me about my application?

You will receive an acknowledgement letter as proof of receipt within seven working days. Once your application has been decided the outcome will be sent via registered post and, if you are successful, your indefinite leave will be confirmed on a new status document. This will need to be kept safe, as it ensures access to services and mainstream benefits.

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