

**Explanatory Memorandum to: The National Health Service (Travelling Expenses and Remission of Charges) (Wales) (Amendment) Regulations 2010**

This Explanatory Memorandum has been prepared by the Health and Social Services Directorate General and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

This Explanatory Memorandum has been prepared by the Health and Social Services Directorate and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 24.1

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 2010

*Edwina Hart*

**Minister for Health and Social Services**

**9 April 2010**

**Description**

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

**Matters of special interest to the Constitutional Affairs Committee**

These Regulations amend the NHS (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 / 1104 (W.116), 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 2007 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 2010, for use in calculating charges for residential care.

The residential care amendments relating to capital limits will come into force on 12 April 2010 and it is imperative that the amendments made by these Regulations also come into force on that date; hence the need to breach the 21-day rule. The Minister for Business and Budget has written to the Presiding Officer notifying him of reasons pertinent to the breach.

## **Legislative Background**

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 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 the Income Support (General) Regulations (IS Regulations) for the calculation of income, capital and requirements.

Operations Services, a part of the Business Services Authority (BSA), administers the LIS on behalf of all four home nations. The processing system within Operations Services applies a single set of LIS rules to all the applications received with very 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 maintain the current upper capital limit of £22,000 and increase the lower capital limit of £20,750 to £22,000 from 12 April 2010 – thereby creating a single limit of £22,000.

## **Implementation**

It is intended that these Regulations will come into force on 12 April 2010.

If these Regulations were to be annulled then the failure to implement the changes to the Principal Regulations would result in Operations Services (a

part of the BSA) 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**

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).

A Regulatory Impact Assessment has not been prepared for these Regulations because they have no impact on business, charities or voluntary bodies.

### **Summary**

These Regulations, if made, will ensure that equity of access to help with NHS charges is maintained across the devolved administrations.