Doctors of the World UK

Safe Surgeries peer-to-peer training

Understanding migrant rights to NHS care

Focus on secondary care

LEARNING AIMS

1. Understand what is meant by: refugee, asylum seeker and undocumented migrant;
2. Understand entitlement to NHS care in England;
3. Be aware of the barriers faced by migrants in accessing NHS care;
4. Have an awareness of good practice to improve access to NHS care;
5. Be able to talk about why access to healthcare for migrants (and everyone) is important.

DOCTORS OF THE WORLD UK

- Primary care clinic in East London for people with difficulty accessing mainstream NHS;
- Mobile clinic outreach across London;
- Staffed by volunteer GPs, nurses & support workers;
- Advocacy service for GP registration and secondary care;

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Influencing health policy and practice.

WHO COMES TO THE CLINIC?

- 1,617 patients attended the DoTW clinic in 2017.
- Patients had been in UK on average 6 years before coming to us.
- 89% were not registered with a GP.
- 29% living in unstable accommodation
- 70% living below poverty line.

EXERCISE 1: DEFINING TERMS

Asylum seeker	Someone who enters or stays in the UK without the documents required under immigration regulations. They usually have ‘no recourse to public funds’.
Refugee	A person whose asylum application has been unsuccessful.
Refused asylum seeker	Someone whose asylum application has been successful; the Government recognises they are unable to return to their country of origin owing to a well-founded fear of being persecuted for reasons provided for in the Refugee Convention 1951 or European Convention on Human Rights.
Undocumented migrant	A person who has left their country of origin and applied for asylum in another country but whose application has not yet been concluded.

EXERCISE 1: DEFINING TERMS

Asylum seeker

Refugee

Refused asylum seeker

Undocumented migrant

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A person whose asylum application has been unsuccessful.

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A person who has left their country of origin and applied for asylum in another country but whose application has not yet been concluded.

WHO ARE UNDOCUMENTED MIGRANTS?

‘Undocumented’ migrants find themselves without the right documents for a variety of reasons, often beyond their control.

People who don’t claim asylum due to lack of legal advice

Refused asylum seekers

People who came to UK to work without a visa

People whose visa has expired (student/ working)

People who came to the UK as children with undocumented parents

Survivors of trafficking

People on spousal visas whose relationship breaks down

Domestic workers on expired visas which their employer doesn’t renew

ACCESSING HEALTHCARE:

1. Primary care

PRIMARY HEALTHCARE: BARRIERS

Key barriers to care identified in 2018 study include:

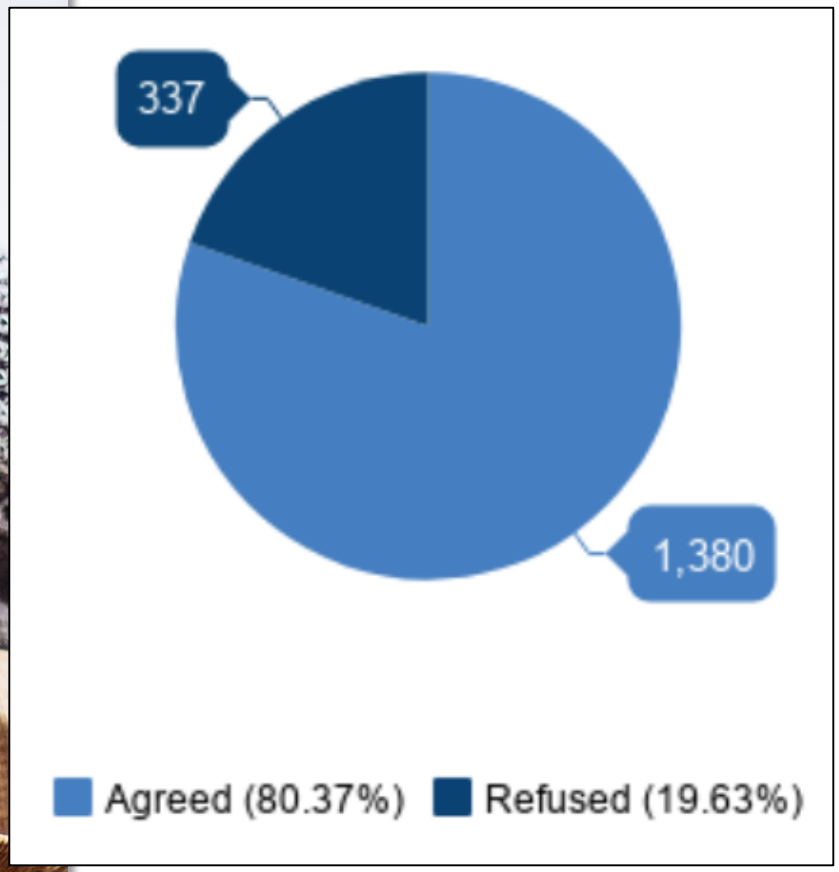
- Refusal due to lack of ID / proof of address;
- Language barriers;
- Refusal by NHS staff;
- Lack of information for patients;
- Fear of being pursued by the Home Office.

Source: Equality & Human Rights Commission. *The lived experiences of access to healthcare for people seeking and refused asylum*. 2018.

REGISTRATION REFUSED

A study on access to GP registration in England

Update 2017



Of 1,717 attempts by DOTW to register patients with a GP in 2017, **1/5 were wrongly refused**.

Excludes catchment area/closed list refusals.

NHS England

PRIMARY CARE ENTITLEMENT

Primary Medical Care Policy and Guidance Manual (PGM)

- Nationality and immigration status are ***not*** relevant to GP registration and do not have to be reported:

  "anybody in England may register and consult with a GP without charge".

- Lack of proof of address/ID are ***not*** reasonable grounds to refuse registration.

Source:
Primary Medical Care Policy and Guidance Manual (NHS England, 2017)

WHY ARE THESE PROTECTIONS IMPORTANT?

- Some patients living in the practice area will be unable to prove it.
- Some patients will not have any proof of ID.
- Immigration status queries deter undocumented patients.
- Fear of being reported to the Home Office is justified.
- The universal right to health(care) is protected by international and UK law.

ACCESSING HEALTHCARE

2. Secondary care

CASE STUDY: OMAR

- Omar (17) came to the DOTW clinic in 2016.
- He and his family had come to the UK from Somalia for a better life.
- He had been living undocumented in London for 4 years.

CASE STUDY: OMAR

- 3 years before he came to us, Omar's GP had found a tumour in his shoulder.
- The GP had referred Omar to hospital for treatment.

IS OMAR ENTITLED TO SECONDARY CARE?

Department of Health

Guidance on implementing the overseas visitor charging regulations

CHARGING IN SECONDARY CARE

POLICY CONTEXT: A ‘HOSTILE’ NHS?

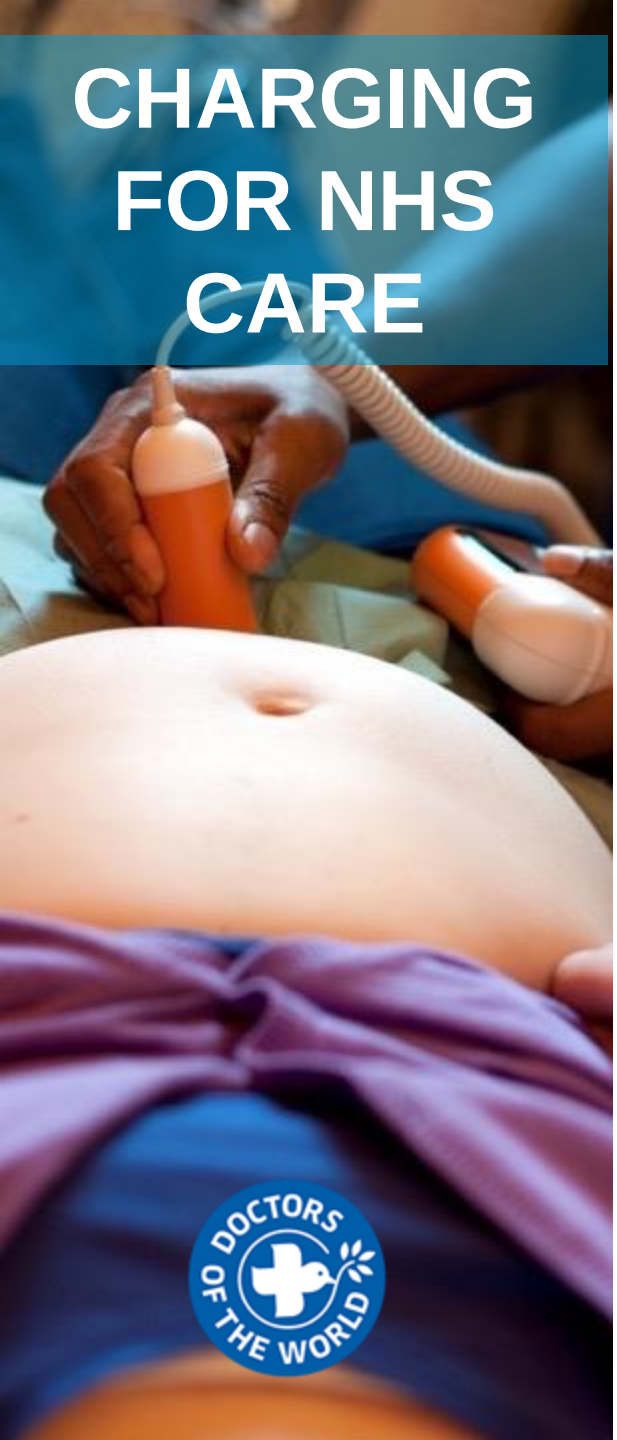
Immigration Act 2014:

- Extended ‘hostile environment’ for undocumented migrants into schools, banks and the NHS.

Since 2017, obligatory upfront charging in hospitals and NHS / non-NHS community health services.

Sharing of patient data with the Home Office w/o patient consent is inherent to charging regime.

Looking ahead: DH has announced intention to charge in **primary care** and further consult on charging in **A&E.**



1. Chargeability in depends on immigration status. ‘Undocumented’ migrants (incl. refused asylum seekers) are charged 150% of cost to NHS.
2. Charges must be paid before treatment (otherwise treatment withheld).
3. “*Urgent or immediately necessary*” treatment to be provided regardless of ability to pay (billed for after).
4. Some services are exempt: *A&E, some infectious diseases (not co-morbidities) and family planning (except TOP)*
5. Some groups are exempt…

GROUPS EXEMPT FROM CHARGES

- Refugees and asylum seekers;
- Some refused asylum seekers, i.e. those receiving
  - *s.95 – destitute families*
  - *s4(2) – destitute and unable to return to country of origin;*
- Survivors of trafficking (only if ‘proven’);
- Survivors of sexual or domestic violence, FGM, torture
  - *only for treatment related to experience of violence;*
- Children looked after by a local authority;
- People being treated under the Mental Health Act;
- People held in immigration detention.

URGENT OR IMMEDIATELY NECESSARY CARE

- Must be given regardless of ability to pay.
- **Only clinicians can make this assessment.**
- Maternity services are always “immediately necessary”.

Source: Guidance on implementing the overseas visitor charging regulations, p. 64-65.

IMMEDIATELY NECESSARY

Life saving, will prevent a condition becoming life-threatening or will prevent permanent serious damage.

URGENT

- Cannot wait until they can leave the UK.
- Should take into account **pain**, **disability**, and the **risk of the delay** exacerbating their condition.
- For undocumented migrants assume may not be able to return **within 6 months**.

CASE STUDY: OMAR

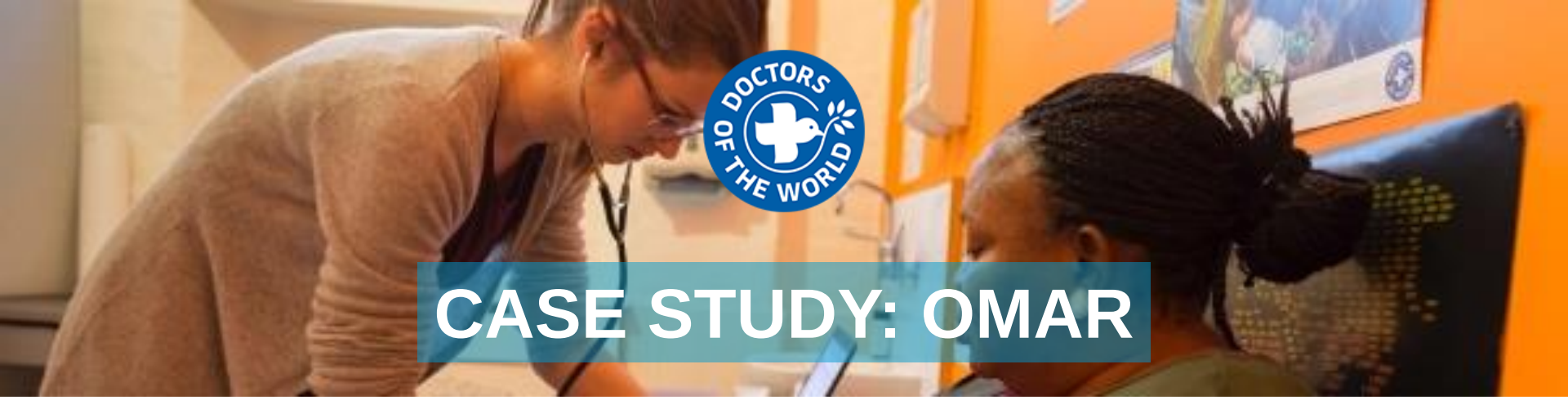
- At the hospital the Overseas Visitors Manager identifies Omar as an undocumented migrant.
- The hospital refuses treatment unless Omar's family pays in advance.
- They cannot afford to pay and request to pay in instalments is denied.
- Omar is discharged without treatment.

IS THE OVERSEAS VISITORS MANAGER CORRECT?

CASE STUDY: OMAR

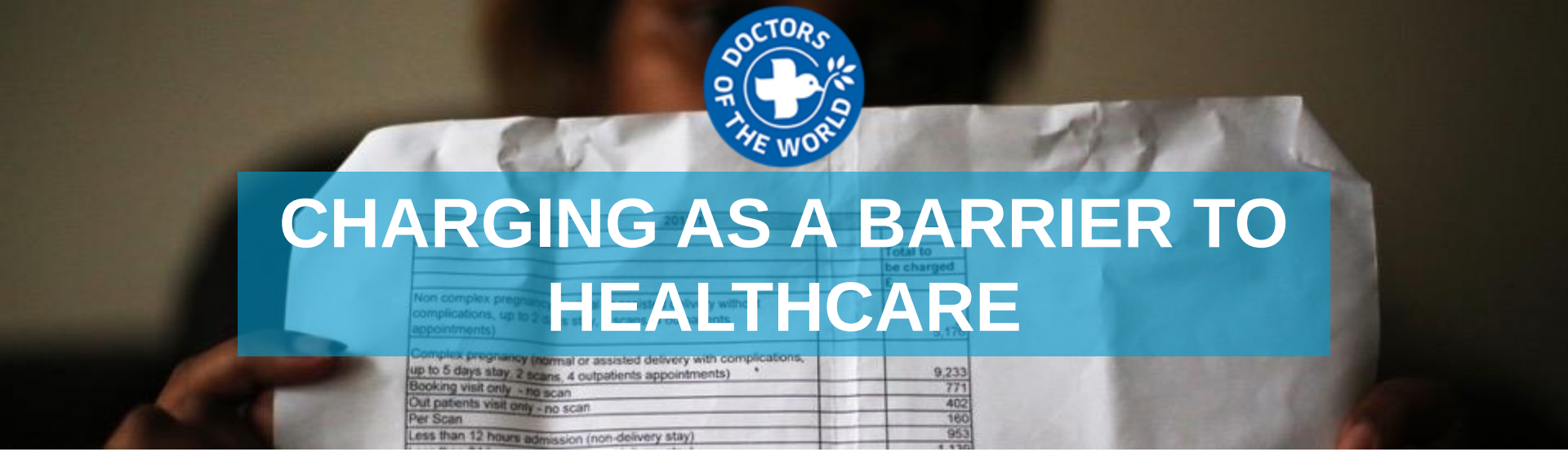
As an undocumented migrant he ***is*** chargeable. But:

- Clinician had discretion to identify the treatment for his tumour as ‘immediately necessary’.
  - ➢ *Omar could be treated first and pay later.*
- The OVM had the discretion to set up a manageable payment plan, allowing his family to pay in instalments.



CASE STUDY: OMAR

- Following discharge, Omar's GP issued repeat prescriptions for painkillers.
- Omar came to DOTW's clinic 3 years later in constant pain, dependent on painkillers and with visible wasting of his left arm.
- Following a challenge by DOTW, the hospital finally agreed that treatment was U/IN and began treatment.



CHARGING AS A BARRIER TO HEALTHCARE

1. Fear makes people avoid healthcare:

Patients fear ID checks & unaffordable bills. Debts are reported to Home Office – *affects immigration applications.*

2. **Confusion about the rules and poor practice:**

Clinicians wrongly deny care and gatekeeping by admin staff.

3. Bills and debt collection:

Research shows that some hospitals have resisted repayment plans and patients are chased by bailiffs, in some cases causing great distress (EHRC, 2018).

“I don’t have money – I don’t work, I don’t have money to pay them. That makes me too stressed, because all the time I receive letter I have to pay this bill.”

A woman seeking asylum in Nottingham.

“I don’t want this asthma attack because I don’t know what I’ll find at the hospital. I’m living in fear... I feel I need a case worker with me.”

Esther, a stateless woman in Nottingham, living in the UK since 2000.

“I never received any maternity care... I was so scared I didn’t ask about pregnancy care. Being part of the system would enable charges to be brought against me, and I also was afraid about deportation.”

A woman in London who had been refused asylum

Source: Equality & Human Rights Commission. *The lived experiences of access to healthcare for people seeking and refused asylum*. 2018.

Why is migrant access to healthcare important?

WHY IS ACCESS TO HEALTHCARE IMPORTANT?

It's a matter of public health.

- Communicable diseases;
- Drug and alcohol treatment.

It makes financial sense.

- Prevention and early detection;
- Admin costs of checking & charging;
- Health inequalities cost.

It's enshrined in human rights law & NHS principles.

- UK is bound to "give equal access to the **right to health** for all persons" (CESC, art.12).
- NHS treatment "based on clinical need, not ability to pay" (1948).

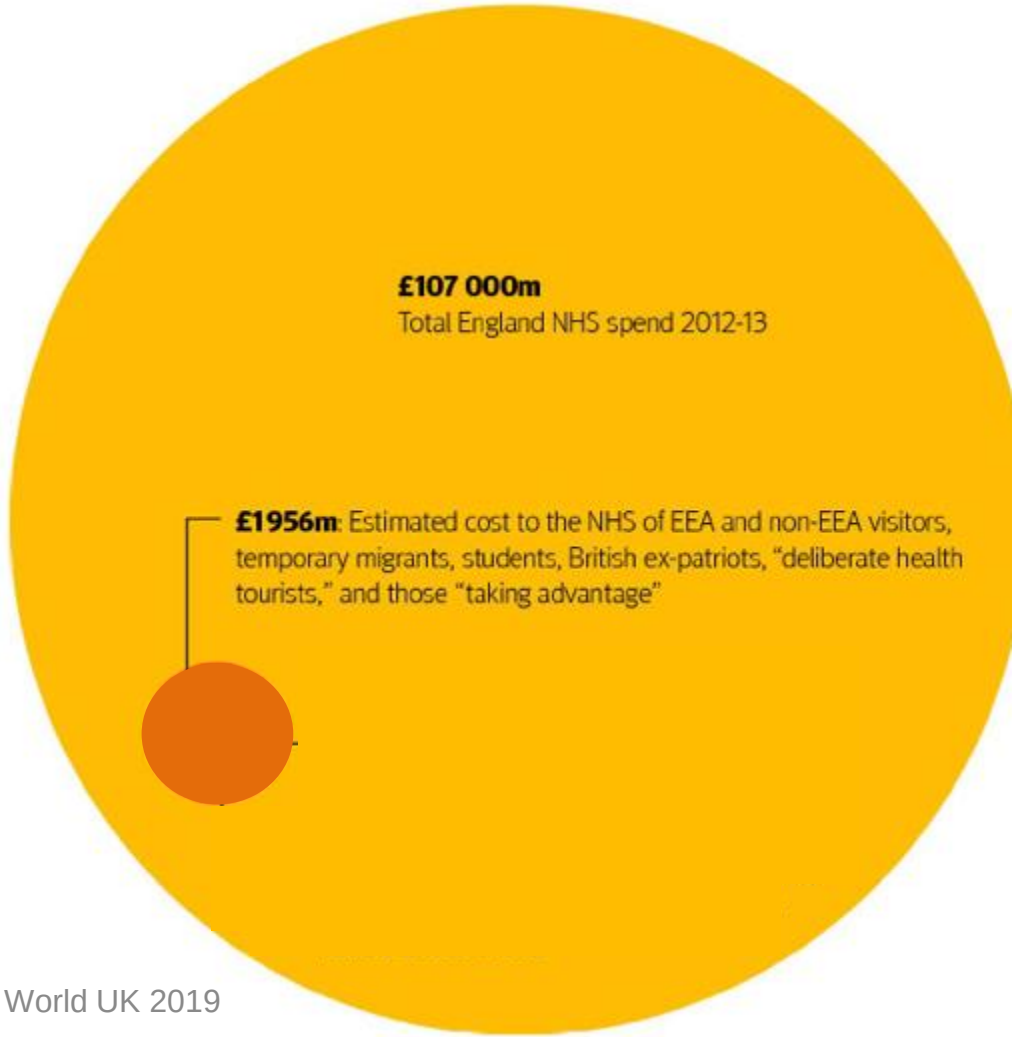
'COST RECOVERY' or 'HOSTILE ENVIRONMENT'?

Cost burden of migrants is widely exaggerated.

Tiny proportion of NHS budget (DH estimate 1.83% for ALL migrants/expats)

No cost-effectiveness evidence for the charging regime.

No equality impact assessment carried out.



GOOD PRACTICE TIPS

- ✓ Use an interpreter.
- ✓ Use clinical discretion to classify treatment as ‘urgent or immediately necessary’, when appropriate.
  - ➢ *For transparency, complete DH form certifying decision.*
- ✓ Identify group exemptions. *Always ask about violence.*
- ✓ Encourage engagement with treatment despite charges.
- ✓ Be conscious of fears around bills & Home Office.
- ✓ Question trust policy on protecting vulnerable patients: *transparent decision making; use of payment plans; training for OVMs and clinicians?*

Source: Upfront Charging Operational Framework, Dept. of Health 2017

[Insert trust logo/letterhead]

Dear Doctor .....

NAME OF PATIENT .....

Date of birth ...../...../..... Hospital number .....

We have determined that this patient is an overseas visitor as defined in the National Health Services (Charges to Overseas Visitors) Regulations 2015. As such, the patient is liable for charges as an overseas visitor unless and until there are any applicable changes in their situation.

Government advice to safeguard NHS resources is to obtain payment where possible before treatment is given. In this case, the patient has declared that he/she will not be able to pay prior to receipt of the treatment.

However, relevant NHS bodies[1] must also ensure that treatment which clinicians consider to be immediately necessary is provided to any patient, even if they have not paid in advance. **Failure to do so may be unlawful under the Human Rights Act 1998.** Urgent treatment which clinicians do not consider immediately necessary, but which nevertheless cannot wait until the person can be reasonably expected to return home, should also be provided to any patient, even if deposits have not been secured.

The patient is likely to return home on or around ...../...../.....

You are asked to provide your considered clinical opinion and tick one of the declarations.

- ☐ Having made the appropriate diagnostic investigations, I intend to give treatment which is **immediately necessary** to save the patient's life/prevent a condition from becoming immediately life-threatening or needed promptly to prevent permanent serious damage occurring. All maternity treatment is considered immediately necessary.
- ☐ Having made the appropriate diagnostic investigations, I intend to give **urgent** treatment which is not immediately necessary to save the patient's life but cannot wait until the patient returns home. If the patient's ability to return changes I will reconsider my opinion.
- ☐ Having made the appropriate diagnostic investigations, I do not intend to provide treatment unless payment is made in advance, since the patient's need is **non-urgent** and it can wait until they return home. If the patient's ability to return changes I will reconsider my opinion.
- ☐ I must make further investigations before I can assess urgency.

Where treatment is given (or has been given already), the relevant NHS body is obliged to raise an invoice for the cost of such treatment, and to recover the cost of treatment where possible. Debts are written off by this hospital as losses where unrecoverable.

Date ...../...../..... Signed ..... (Doctor)

Date ...../...../..... Signed ..... (Overseas Visitors Manager)

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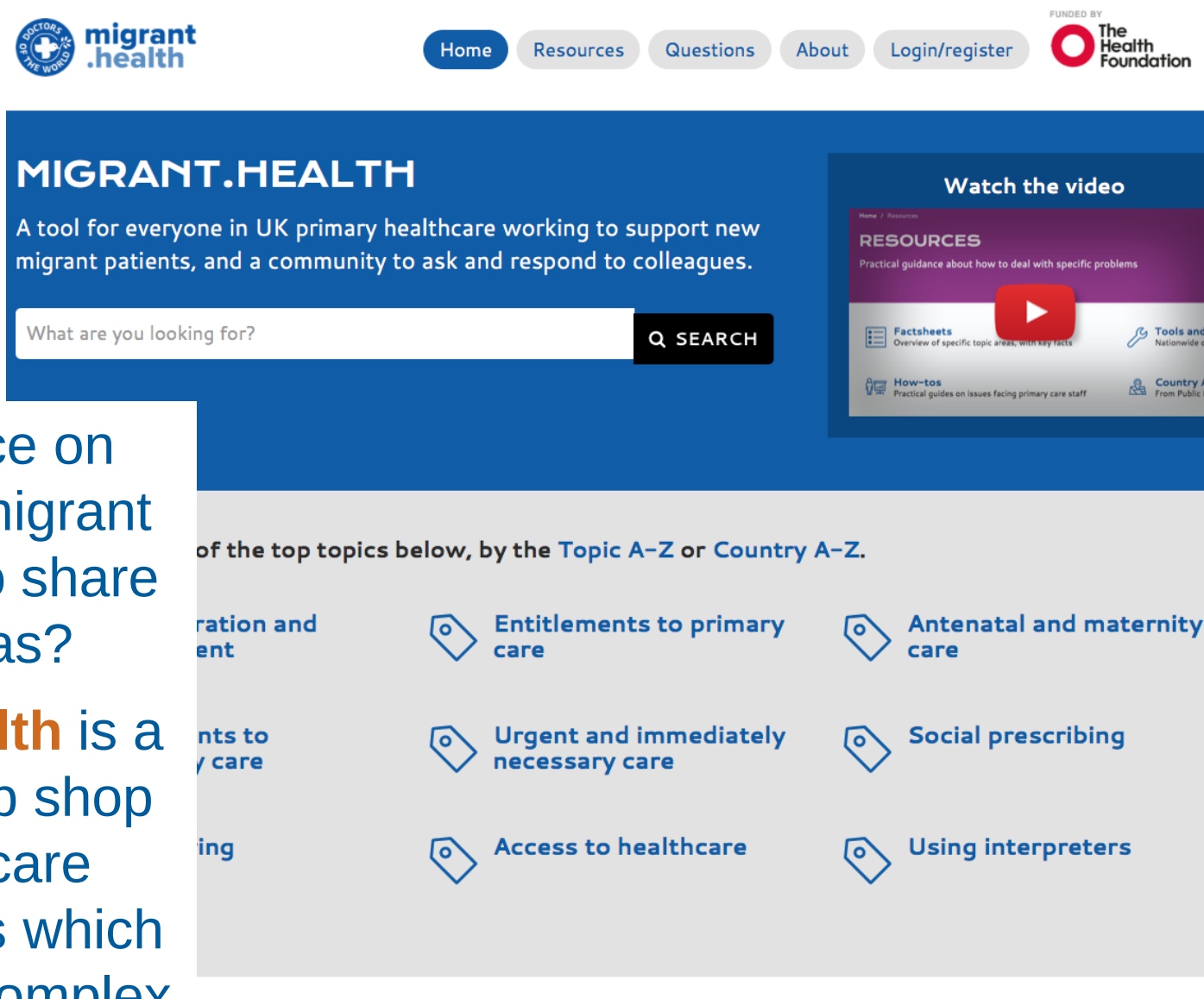
1 Relevant NHS bodies are NHS trusts, NHS foundation trusts, special health authorities (SpHAs) and local authorities in the exercise of public health functions.



Need advice on supporting migrant patients or to share good ideas?

migrant.health is a free one-stop shop for healthcare professionals which demystifies complex issues.

HELPFUL RESOURCES

1. DoTW UK tools for healthcare professionals:
    - Safe Surgeries toolkit and guidance;
    - Policy and practice explainers.
2. DH Guidance on charging
3. DH Upfront Charging Operational Framework
4. Equality & Human Rights Commission *Healthcare access guide for people seeking asylum* – rights-based guidance

This training resource was funded by:

Trust for London
Tackling poverty and inequality

Please complete the evaluation form: bit.ly/dotwp2p

For more information:

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