EXPLANATORY MEMORANDUM TO

The National Health Service (Travel Expenses and Remission of Charges) Amendment (No.2) Regulations 2006

2006 No.2171

1. This explanatory memorandum has been prepared by Department of Health and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These regulations contain a range of amendments to the National Health Service (Travel and Expenses and Remission of Charges) Regulations 2003 ("the TERC Regulations").

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 These regulations amend the TERC Regulations to make changes to the way in which students' resources will be calculated for the purposes of calculating whether they are entitled to help with NHS travel expenses and NHS charges under the TERC Regulations. The amendments reflect changes to student funding arrangements which have been made in England, and in Wales, Northern Ireland and Scotland in relation to students who will be studying in England and therefore will be eligible to make a claim under the TERC Regulations.

5. Extent

5.1 This instrument applies to England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, so no statement is required.

7. Policy background

7.1 The TERC Regulations provide that people receiving income support, income based jobseekers allowance, pension credit guarantee credit and working tax credit with child tax credit or child tax credit on its own (where gross annual income for tax credit purposes is below £15,050) are automatically entitled to free prescriptions,

dental treatment, wigs and fabric supports and sight tests, full value of optical vouchers and payment of travel costs to hospital. That is, they are "passported" to entitlement.

7.2 The TERC Regulations also allow for modification of the Income Support (General) Regulations 1987 in order to provide a "safety net" for those who are not automatically "passported". The "safety net" is known as the National Health Service Low Income Scheme (LIS). Help from the scheme is income related and based on an assessment of a person's ability to pay in the light of their financial resources at the time a claim is made or charge was paid.

7.3 The calculation of entitlement is based on Income Support arrangements, plus net housing costs and council tax where a person is personally liable to pay.

7.4 If a person's income does not exceed their assessed weekly requirements by more than half the cost of a prescription charge a full help certificate (HC2) is issued which provides the same help as "passporting" (see para 7.1). However, when a person's income is more than half the cost of a prescription charge above their assessed weekly requirements, a certificate for limited help (HC3) is issued which shows how much they are expected to contribute towards health costs, but does not include assistance with the payment of prescription charges.

7.5 These Regulations modify the Income Support (General) Regulations 1987 in their application to the TERC Regulations and provide that whenever English students, or students from Wales and Northern Ireland who are studying in England, make a LIS claim then there shall be disregarded from their grant income any sum in excess of that which would be taken to reduce the maximum maintenance loan when calculating their resources to be taken into account when assessing the claim.

7.6 For Scottish students who are studying in England and make a LIS claim then only any "additional loan" paid under regulation 10 of the Education (Student Loans) (Scotland) Regulations 2000 is to be disregarded from their loan when calculating their resources since the education funding support available in Scotland differs from that in England, Wales and Northern Ireland.

7.7 These Regulations also provide that grant income be treated as covering the same period as a loan, i.e. 52 weeks rather than the period of study. This is another modification of the IS Regulations that provide that the grant is treated as resource over the period of study (generally 39 weeks).

7.8 The purpose of these changes is to try to ensure that those students from a lower income household are not disadvantaged when making a claim under LIS. The amount of maintenance grant reduces as household income increases leaving less excess money in the "pocket" of the student. The net effect is that "poorer" students actually receive slightly more financial support and are therefore less likely to qualify for help with health costs.

7.9 The grant interacts with the student loan in so far as the loan is abated (£1 for £1) by a proportion of any maintenance grant that the student from a lower income household may be entitled to up to a maximum amount (as determined in the Regulations) .

7.10 By disregarding any excess income above the maximum the student from a lower income household would be deemed to have the same total level of DfES financial support as a student from a higher income household.

7.11 The revised system of student support will require the production of award notices for the grant and loan (the latter to confirm that no grant has been awarded). The loan will be divided by 52 to arrive at weekly income whereas the grant will be divided by the number of weeks from the start of the first term to the end of the final term in each year.

7.12 From the LIS operational point of view the number of weeks varies and these calculations (as well as necessitating production of award notices) would slow down assessment productivity and increase the possibility of error.

7.13 These Regulations enable that LIS claims attribute both grant income and loan over the same period and will enable assessment of claims to be both more timely and more accurate.

7.14 These Regulations will be laid during Parliamentary recess. It is necessary to do this because the Regulations need to come into force on 1 September 2006 so that new students starting university in September will benefit from the changes to the way that students' entitlement to help with health costs will be calculated. The Regulations could not be laid sooner because we had to wait until one of the sets of Regulations which implements changes to student funding, the Education (Student Support) Regulations (Northern Ireland) 2006, which we refer to in these Regulations, was made before we could finalise these Regulations.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector is in terms of a small (unquantifiable) loss of revenue from charge income.

8.3. There is no cost to the public.

9. Contact

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