

Towards Universal Health Coverage:

The Legal Coverage for Undocumented Migrants in the United Kingdom

Authors

Benjamin Bradley - benjamin.bradley@etu.unige.ch, Chan Pang Yang - chan.yang@etu.unige.ch

Background

The **right to health**, being a fundamental human right, is universal and based upon the principle of non-discrimination; however the equal treatment of all persons is often not upheld for **undocumented migrants**. This poster will address the **legal health coverage** undocumented migrants are entitled to within the **United Kingdom (UK)**, how this coverage works in reality and how it withstands against the UK's international legal obligations.

Population of Undocumented Migrants Within the UK (1)



Undocumented Migrants in the UK

The Illegal Migration Act 2023 (6)

Definition of an undocumented migrant

In the UK, there is **no universally accepted legal definition of an "undocumented migrant"**. The term broadly refers to individuals who are in the UK without a legal right to be so, these conditions are defined in the Illegal Migration Bill (2023)(6).

International Agreements Ratified by the UK

Name of Agreement	Provisions on the Right to Health
Universal Declaration of Human Rights (UDHR) 1948	"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care..." (Article 25)
European Convention on Human Rights (ECHR) 1950	"Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally..." (Article 2)
International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966	"recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health." and including steps to realise this right (Article 12)

Legal Healthcare Entitlements of Undocumented Migrants within the UK

The National Health Service (NHS)(Charges to Overseas Visitors) Regulations 2015 (5)

Primary Services - Free

Within the UK **primary health services** are **free of charge** to all whether registered with a GP as an NHS patient or not. Primary care services include GP treatment, GP and nurse consultations, community pharmacies and certain dental and optometry services (5).

Treatments free of charge also include:

- Accident and emergency services
- Services for some communicable diseases
- NHS services provided for COVID-19
- Services relating to sexually transmitted infection
- Family planning services
- Services for treating a physical or mental condition caused by torture, female genital mutilation, domestic violence or sexual violence

Secondary Services - Paid

For **secondary services**, one must be **lawfully living in the UK** on a properly settled basis to be entitled to **free healthcare**. Undocumented migrants as a collective group are not ordinarily residents or a group with specified exemption and are therefore **required to pay** for their care (5).

Charge payable to undocumented migrants is 150% of the service cost

Section 7 paragraph 3 of the charging regulations states that, the charge payable in respect of each relevant service provided to an overseas visitor shall be equal to the tariff for that relevant service multiplied by 150 percent (5).

Payment must be received in advance

"(3.1A) before providing a relevant service in respect of an overseas visitor, **a relevant body must secure payment** for the estimated amount of charges to be made under paragraph (1) for that relevant service **unless doing so would prevent** or delay the provision of an **immediately necessary service; or an urgent service** (5).

NHS Bodies will report a > £500 debt to the Home Office

If a debt greater than £500 is outstanding against a patient, the providing NHS body will report this to the Home Office Immigration Department (3). This can then have implications for a person's migration application or status and has added consequence for deportation following the introduction of the Illegal Migration Bill 2023 (6). The Immigration Act of 2014 also prohibits banks from opening current accounts of individuals without leave to enter or remain within the UK (4).

Conclusion

The principle of non-discrimination is a cornerstone of international human rights law, emphasising that the right to health is universal and must be applied equally to all individuals, regardless of their status (2). The UK's approach to healthcare for undocumented migrants presents:

Significant discrepancies with its obligations under international treaties such as the ICESCR

Barriers to accessing healthcare which disproportionately impact undocumented migrants

The undermining of the fundamental principle of non-discrimination enshrined in international human rights law

Although the concept of **progressive realisation** acknowledges that the full achievement of economic, social, and cultural rights, including the right to health, may be **constrained by resource limitations**, it **does not excuse states from the obligation to take measures** to guarantee these rights (2). The NHS (Charges to Overseas Visitors) Regulations 2015, represents a regression rather than progression. To truly align with its international obligations, the UK needs to reassess and amend these policies to ensure equitable and non-discriminatory healthcare access for all individuals, irrespective of their legal status.

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2. Díaz-Bertrana, C., Smith, A., Salehi, D., & Levoy, M. (2022). The Right to Health for Undocumented Migrants. PICUM. https://picum.org/wp-content/uploads/2023/08/The-right-to-health-for-undocumented-migrants_EN.pdf
3. National Health Service Act 2006 c.4. Available from: <https://www.legislation.gov.uk/ukpga/2006/41/contents>
4. Immigration Act 2014 c.22. Available from: <https://www.legislation.gov.uk/ukpga/2014/22/contents/enacted>
5. The National Health Service (Charges to Overseas Visitors) Regulations 2015 No.238. Available from: <https://www.legislation.gov.uk/uksi/2015/238/contents/made>
6. Illegal Migration Act 2023 c.37. Available from: <https://www.legislation.gov.uk/ukpga/2023/37/contents/enacted>



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