

Explanatory Memorandum to accompany the National Health Service (Dental Charges) (Wales) (Amendment) Regulations 2024

This Explanatory Memorandum has been prepared by the Primary and Community Care Division of the Directorate of Primary Care and Mental Health and is laid before the Senedd Cymru in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the National Health Service (Dental Charges) (Wales) (Amendment) Regulations 2024. I am satisfied that the benefits justify the likely costs.

Eluned Morgan MS
Minister for Health and Social Services

08 March 2024

1. Description

These regulations amend the National Health Service (Dental Charges) (Wales) Regulations 2006.

2. Matters of special interest to the Legislation, Justice and Constitution Committee

None.

3. Legislative background

The regulations will be made pursuant to powers under sections 125, 203 (9) and (10) of the National Health Service (Wales) Act 2006.

Sections 125 and 126 of the National Health Service (Wales) Act 2006 provide that the Welsh Ministers may make regulations to provide for the making and recovery of charges for relevant dental services. The National Health Service (Dental Charges) (Wales) Regulations 2006 provide for the making and recovery of charges for dental treatment and the supply of dental services.

This instrument will be subject to the negative resolution procedure.

4. Purpose & intended effect of the legislation

Prior to 2006, dental fees in Wales were increased each year in line with the Doctors' and Dentists' Review Body (DDRB) uplift to fees subject to a maximum patient charge of £354.00. Under the current system patient charges are reviewed annually and set independently of any recommendation made by the DDRB on increasing dentists' contract values.

From April 2006 until 2012 the decision was taken each year not to increase the level of patient charges in Wales which remained unchanged at: Band 1, £12.00; Band 2, £39.00; Band 3, £177.00; and an Urgent course of treatment £12.00. Charges were increased every year until 2020 with the exception of 2016. This will be the first increase since the COVID-19 pandemic.

The current levels in are as follows:

Band	Charge
Band 1 – Diagnosis, treatment planning and maintenance	£14.70
Band 2 – Treatment	£47.00
Band 3 – Provision of appliances	£203.00
Urgent treatment	£14.70

The purpose of these regulations is to facilitate the increase to the applicable charge payable for a Band 1, 2, 3 and Urgent courses of treatment from 1 April 2024. The Statutory Instrument concerns the principle of uprating statutory fees and not the introduction of a new or change in current policy.

Patient charges in Wales are currently significantly lower than in England. The UK Department of Health has not indicated whether patient charges will

increase in England from April 2024. Charges in England were increased last year and save for the pandemic years (2021/22 and 2022/23) have increased every year since 2006, with the exception of 2010.

Dental Patient Charges (example of care/treatment)	Wales 2023-24	England 2023-24	Difference £ / % higher
Band 1 (examination, x-rays, scale & polish)	£14.70	£25.80	£11.10 / 76%
Band 2 (fillings, extractions, root canal treatment)	£47.00	£70.70	£23.70 / 50%
Band 3 (crowns, dentures & bridges)	£203.00	£306.80	£103.80 / 51%
Urgent (urgent and out of hours)	£14.70	£25.80	£11.10 / 76%

People in Wales already pay charges for a range of services, including NHS dental care, domiciliary care and tuition fees – in most cases these are set at a level lower than in England and a range of exemptions are available for people on low incomes and for those on benefits.

With the Welsh Government Budget under such extreme pressure, we have needed to carefully consider whether additional funding can – and should – be raised by increasing charges for a range of services while we continue to ensure we protect those who are least able to afford higher charges.

Regulation 2 of the National Health Service (Dental Charges) (Wales) (Amendment) Regulations 2024 increases the current dental charge for Bands 1, 2, 3 and Urgent course of treatment. The new charges are as follows:

	Patient Charge	Increase	Increase (%)
Band 1	£20.00	£5.30	36.1
Band 2	£60.00	£13.00	27.7
Band 3	£260.00	£57.00	28.1
Urgent	£30.00	£15.30	104.1

It is important to note that revenue from dental patient charges is retained by health boards for investment in dental services.

5. Consultation

Please see part 2.

PART 2 – REGULATORY IMPACT ASSESSMENT

6. Options

For 2022/23 (the last complete financial year) revenue from Health Board patient charges totalled £22.5m compared with £36.2m in 2018/19 (the last complete financial year pre-Covid-19 Pandemic). For 2023/24 Health Board

patient charges are forecasted to be in the region of £21.7m. However, it is important to highlight it is only possible to provide an indicative guide of the amount to be raised from patient charges. A number of factors we are unable to influence can, and do, impact on the total sum generated.

Patient charges can only be increased by way of regulations to uprate statutory fees.

Option 1 – Do Nothing: Freeze patient charges

For: Likely to be welcomed by the general public during the current challenging economic climate where average household incomes are being squeezed.

Against: Limits investment in NHS dental services. Unlikely to be welcomed by Health Boards who are responsible for the provision of dental services in their area by way of a finite budget at a time when the population of Wales is increasing.

Option 2 - Increase patient charges.

For: Any additional income will be welcomed by Health Boards to help protect, grow and improve NHS dental services. Resources invested in past years have provided increased access to general dental services, special care and paediatric dentistry, improved oral health of older people in care homes and support for dental contract reform.

Against: Any additional increase in charges will not be welcomed by the general public. However, NHS dental treatment will remain free for around half of patients who receive NHS dental care, i.e. all those under the age of 18, those under the age of 19 and receiving full-time education, pregnant women or those who have had a baby in the previous 12 months, and those on certain out-of-work means-tested benefits or tax credits. In 2022/23 51.2% of all courses of treatment delivered were exempt from dental patient charges. If people do not qualify automatically for these exemptions, full or partial help may be available with their dental charges through the NHS Low Income Scheme.

Option 3 - Reduce patient charges

This option has been included for completeness but is not considered feasible as this would result in a reduction in the provision of NHS dental services at a time when demand is rising and there are areas in Wales where access remains difficult. For this reason, the option is not included in the assessment of costs and benefits.

7. Costs and benefits

Option 1 – Do Nothing

This is the baseline option and as such there are no additional costs or benefits associated with this option. In reality doing nothing would reduce funding available to health boards for investment in NHS dental care.

Option 2 – Increase patient charges

Impact on the public

While most NHS treatment is free some charges do apply. Charges for NHS dental treatment were first introduced in 1951 and since then successive governments have considered those who can afford to should make a contribution towards the cost of dental treatment subject to a maximum charge for a course of dental treatment.

Patient charges are paid by adult patients who are eligible for charges. The level of the charge is determined by the treatment band. The majority of patients do not have to pay for their NHS dental treatment. The main groups of non-charge paying patients are children (aged under 18); 18 year olds in full time education; pregnant women and nursing mothers; adults on low income or in receipt of certain benefits and patients treated in hospital.

There are also free NHS dental check-ups in Wales for those aged under 25 and over 60. However, any subsequent treatment as a result of the free examination carries the appropriate charge. This concession is not applicable in England.

It is worth highlighting that prior to 2006 the patient's contribution to dental treatment represented approximately 80% of the cost to the NHS. Since 2006, with the six year freeze in charges and subsequent moderate increases, a patient's contribution in Wales has since fallen to between 47-55% of the cost to the NHS (2022-23).

The Welsh Government dental contract reform programme is promoting the delivery of risk and need-based preventive dental care and for practices to work with patients to co-produce agreed outcomes with self-care as an important element. The dental check-up, covering prevention, advice and the assessment of clinical need is covered by a Band 1 charge.

Overall, in 2022-23 there were 659,700 (rounded to the nearest hundred) adult courses of treatments which were chargeable. This is a decrease of 40% compared to 2018-19 (the last complete financial year pre-COVID-19 pandemic and which is used for all comparisons in this document). The total patient charge for 2022/23 amounted to £22.7million, a decrease of £13.7m compared to 2018-19.

In 2022-23 there were 313,100 (rounded to nearest hundred) treatments for adults that were exempt from charges and 379,900 (rounded to nearest hundred) treatments for children that were also exempt from any charges. As a proportion of all treatment delivered the number of adults exempt from charges has decreased by 6% and the number of children increased by 3% compared to 2018-19.

In 2022-23, just under 49% of all courses of treatment were for paying adults in compared to nearly 46% in 2018-19. This proportion varied across health boards according to the profile of the local patient population. The lowest percentage of treatments for paying adults was recorded in Hywel Dda (44%) and the highest was in Powys (57%).

Percentage of courses of treatment by type of patient and treatment band, between 1 April 2022 and 31 March 2023

	Exempt Adult	Child	Chargeable Adult
Band 1	53.4%	74.6%	41.8%
Band 2	24.0%	19.1%	35.2%
Band 3	6.5%	0.2%	5.0%
Urgent	16.1%	6.0%	18.0%

The above table shows the proportion of courses of treatments in each treatment band for each patient type. The highest proportion of treatments in all patient categories were Band 1 treatments; however, this ranged from three quarters of the treatments for children to 42% of treatments to chargeable adults. Band 2 made up nearly a third of all treatments for chargeable adults. A higher proportion of urgent treatments were given to adults than children.

Impact on the private, local government and third sector

No impact on the private, local government or third sector is foreseen.

Impact on dental practitioners

Dental practitioners will need to be aware of the changes to ensure they are charging the applicable fee. The NHS Business Services Authority will also need to amend their IT systems to reflect the increased level of dental charges which are offset against payments due to contractors. We expect these costs to be minimal. The NHS Business Services Authority, as well as remunerating dentists for the NHS treatment they deliver, also monitor and provide a suite of contract management data on behalf of Health Boards in Wales.

Health Boards, the public and dentists will be advised of the new dental charges. The NHS Dental Charges Poster will be updated and distributed to Health Boards by Welsh Government. It is a contractual requirement the poster is displayed in dental practice waiting rooms.

Benefits

The increased patient charges represent an increase in revenue for the NHS. It is important to highlight that all of the additional income raised will be reinvested directly back into NHS dentistry in Wales.

8. Consultation

Health Boards are responsible for the provision of dental services to meet local needs and the wider oral health agenda. This gives Health Boards the ability to develop services to reflect local requirements and priorities. This must be achieved through a finite general dental budget.

A full consultation exercise has not been undertaken. The primary care dental budget allocations to Health Boards are net of patient charges. When patient charges are increased this will generate more charge income for Health Boards giving the opportunity to reinvest the additional income in improving dental services.

Dental charges represent an important contribution to the overall cost of dental services. The amount raised will be dependent upon the level and type of primary care dental services provided by Health Boards, the proportion of fee paying patients who access NHS dental services and the complexity of the treatment they receive.

Patient charges are kept under annual review with consideration given to the provision of services, affordability and a number of factors including the Rate of Inflation and the total level of charge income likely to be raised. Account is also taken of the impact on charge payers, the views of Health Boards and the British Dental Association (BDA) (Wales).

We have notified the proposed increases in charges to the dental profession represented by BDA (Wales) and the Welsh General Dental Practitioner Committee.

The decision to increase Band 1 charge from £14.70 to £20.00, the Band 2 charge from £47.00 to £60.00, the Band 3 charge from £203.00 to £260.00 and the Urgent treatment charge from £14.70 to £30.00 from 1 April 2024 was made after considering and balancing the above factors.