



Feidhmeannacht na Seirbhíse Sláinte  
Health Service Executive

# Medical Card National Assessment Guidelines for Persons aged 70 years and over

2009

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# 1 Preface

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A new Medical Card Scheme for persons aged 70 years or over (“the Scheme”) was introduced with effect from the 1<sup>st</sup> January, 2009: The objective of this Scheme is that after the 1<sup>st</sup> of January 2009

- a person can apply and will be granted a medical card as long as their gross income from all sources does not exceed the income limits, which are currently set at €700 gross income per week for a single person and €1,400 gross per week for a couple.
- An existing medical card holder who is aged 70 years or over on 31<sup>st</sup> December, 2008 and who previously held a medical card on age grounds will keep their card as long as their income does not exceed the income limits, as set out above (€700 single person, €1,400 couple). For these cases a date of the 2<sup>nd</sup> March 2009 has been set to facilitate the applicant making a declaration of income.

The means test for the Scheme has been simplified and is based on gross income from all sources with the exception of

- Specific compensation awards/redress awards and
- Income from a certain amount of savings and similar investments (currently set at €36,000 for a single person and €72,000 for a couple).

If a person has income in excess of the income limits for the Scheme, it is possible that he/she may still qualify under the General Medical Card/GP Visit Card Scheme if his/her circumstances are causing financial hardship e.g. medical costs, and/or nursing home costs. (The general scheme, although having lower income thresholds, provides for substantial income disregards and allowances to be taken into account in the assessment process).

The HSE wishes to ensure that all who are aged 70 and over and their dependants, if any, who are entitled to a medical card, will be facilitated to avail of their entitlement. The purpose of these guidelines are to assist the decision makers in the assessment of persons aged 70 years and over in determining eligibility for the new Over 70 Medical Card Scheme.

To achieve this and to ensure a seamless eligibility process for the applicant, the following process will apply.

If a person is in excess of the income limits then he/she will be assessed under the General Medical Card/GP Visit Card Scheme and the decision makers should use the National Assessment Guidelines, March 2007.

The HSE is committed to ensuring that decisions are taken in accordance with the best practice guidelines promoted by the Ombudsman (see appendix III).

Where a decision is taken to refuse a card, this decision will be communicated in writing and should incorporate a detailed explanation of the appeal process

Laverne McGuinness.  
National Director – PCCC Service.

## 2 Introduction

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### 2.1 Medical Card

A **Medical Card**, as issued by the Health Service Executive, confirms that the holder and his/her dependants are entitled, free of charge, to a range of Health Services which includes:

- General Medical & Surgical Services including all inpatient services and outpatient services in a public ward in a public hospital (including consultant services).
- A choice of General Medical Practitioner from those doctors who have a contract with the Health Service Executive.
- Supply of prescribed approved medicines and appliances.
- Dental, Ophthalmic, and Aural services.

The Medical Card is an indicator to service providers of the health care eligibility status of each applicant.

A Medical Card holder is exempted from payment of the Income Levy, introduced in 2009.

**Note: This Income Levy exemption does not apply to GP Visit Card holders.**

### 2.2 Who is entitled to a Medical Card under the Scheme (*the 70 years and over Medical Card Scheme*)

From 1<sup>st</sup> January 2009 there will be no automatic entitlement to a Medical Card under this Scheme.

Entitlement to a Medical Card under this Scheme is means tested and is governed by primary legislation and regulations from the Department of Health & Children.

Eligibility for a Medical Card from 1/1/2009 under this Scheme for **existing** Medical Card holders will continue unless they notify the HSE that their gross income is in excess of the relevant income limits.

Eligibility for a Medical Card from 1/1/2009 under this Scheme for **new** applicants and their dependants will be decided on the following basis.

The applicant must:

- be ordinarily resident in the State (See Appendix III)
- Satisfy a simple means assessment to determine if the applicant's gross income is within the income limits.
- Supply proof of age (Birth Certificate/Passport/Drivers Licence).

### **The following are exempt from a means test:**

- Persons with EU/EEA entitlement.
- Persons affected by the drug Thalidomide.
- Persons affected by Symphysiotomy.

### **Persons with EU/EEA entitlement**

Under EU Regulation 1408/71 persons moving from one EU Member State to another retain the rights and advantages acquired through social insurance contributions which include access to health services.

- EU pensioners resident in Ireland and who are in receipt of a qualifying pension as evidenced by form E121 are entitled to a Medical Card provided they are not subject to Irish social security legislation. Pensioners from the UK must provide proof that they are in receipt of a UK social security pension. (The UK social security pension is the only qualifying UK pension for entitlement under EU legislation).
- Any additional income to the qualifying pension not subject to PRSI is not taken into account when determining entitlement to a Medical Card (e.g. Occupational Pension, Investment Income etc.)
- Dependants resident in Ireland of pensioners with entitlement under EU legislation are entitled to a Medical Card on production of a form E121 provided they (the dependants) are not subject to Irish social security legislation.

### **Persons affected by the drug Thalidomide**

- People who have been affected by the drug Thalidomide are eligible for a Medical Card regardless of their level of income.

## Persons affected by Symphysiotomy

- Survivors of Symphysiotomy are eligible for a Medical Card regardless of their level of income.

## 2.3 Who decides on an applicant's eligibility under this Scheme ?

The Health Service Executive is responsible for determining an applicant's eligibility but in practice the function is delegated to specific decision makers within the HSE. Applications for this particular scheme will be processed centrally through the Primary Care Reimbursement Services. Assistance will be provided to applicants as required through local offices, in terms of the application process, timelines etc

## 3 Means Test

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### 3.1 Income Limits

The Gross Income limits from the 1<sup>st</sup> January 2009 are:

- €700 per week for a single person.
- €1,400 per week for married couples/couples living together as husband and wife.

**Note: Where there are child dependents there is no increase on the income limits.**

The Health Act 2008 requires the Minister for Health and Children to review the income limits in respect of persons aged 70 or over each year by reference to changes in the Consumer Price Index.

### 3.2 Assessable Income

Gross income from all sources, with the exception of those listed in Section 3.3.arising within the State or otherwise is assessable including, but not limited to, the following:

1. Income from any pension - (social welfare/occupational or private). This should include Social Welfare allowances such as;
  - a. Over 80 years allowance,
  - b. Living alone allowance,
  - c. Island Allowance,

HSE Allowances such as;

- d. Domiciliary Care Allowance
- e. Blind Welfare Allowance.
- f. Mobility Allowance.

- 2. Income from an employment/self employment, trade, profession or vocation.
- 3. Income from savings and similar investments above specified limits(3.4 below).
- 4. Payments in respect of Maintenance received.
- 5. Rental income whether arising in the State or otherwise.
- 6. Income from holding of an office or directorship e.g. member of a Board for which he/she receives a payment other than expenses.
- 7. Income from fees, commissions.
- 8. Payments under a settlement, covenant or from an estate.
- 9. Income from royalties and annuities.

**Please note: Income Tax, PRSI Income Levy and Pensions Levy are not deductible when calculating Gross Income**

### **3.2.1 Employed Persons – Assessable Income**

The assessable income of an employed person is taken as the average weekly gross earnings.

The documentation necessary to support the application and provide evidence of income is a current payslip and a P60, if considered necessary. In arriving at the assessable income the HSE will average income over a number of weeks by using a combination of the payslip and the P60.

### **3.2.2 Self Employed Persons - Assessable Income:**

The assessable income of a self-employed person is determined as the average weekly Gross Income, including trade capital allowances.

The documentation necessary to support the application and provide evidence of income is the Notice of Assessment and the Revenue Commissioners Form 11. Self-employed persons are obliged to have Form 11 completed and submitted to Revenue before the Inspector of Taxes will issue a Notice of Assessment.

In certain cases where a person is deemed to have a very low income, the Revenue Commissioners may determine that it is not necessary for that person to make a return of income for a set period of years. In such cases, the Revenue Commissioners issue a “Non Liable Notification Letter” advising the applicant of this. A copy of this letter should be presented on request.

### **3.2.3 Change of Income**

When carrying out a means assessment under this Scheme, the HSE will assess the person’s current average weekly gross earnings usually evidenced by way of current payslip/current income statement. However, if the person’s current income does not reflect his/her general financial position going forward, the HSE will work out an appropriate average income which will reflect the person’s circumstances

## **3.3 Non Assessable Income**

- Income from savings or similar investments up to €36,000 for a single person and up to €72,000 for a couple. (3.4 below)
- Social Welfare non Cash Benefits
  - Free Electricity Allowance,
  - Free Travel or
  - Free Telephone rental
  - Free TV Licence
  - Free Fuel Allowance.

## **3.4 Savings or similar investments**

### **3.4.1 Assessment of Interest**

Savings or similar investments of €36,000 for a single person and €72,000 for a couple are disregarded.

- For amounts in excess of these limits a notional rate of interest will be applied to the savings.
- the notional rate will be set by the HSE quarterly by taking an average of the current deposit interest rates of a number of the major Irish Banks & Building Societies on the 1<sup>st</sup> of January, April, July and October.

- Alternatively where the applicant wishes s/he can have the actual rate applied if s/he provides a certificate of interest paid on savings in the last full calendar year and the HSE will apply this method of assessment. .
- In respect of fixed term or long term savings products that apply the interest after a fixed number of years, and if the client so wishes, the HSE can take account of the interest earned in the year of maturity of the investment or can apply the notional rate to determine the income.

In essence, only the interest or income earned on savings and similar investments will be counted as income, not the total values of the savings or investments themselves.

For example, if you are single and you have €50,000 earning 3% interest, the income is counted as 3% of €14,000 (€50,000 less €36,000), €420.00 a year or €8.05 a week.

**Please note that any calculation of interest must be inclusive of Deposit Interest Retention Tax.**

### 3.4.2 Example:

Savings Assessment for Persons aged 70 and over							
	Total Savings	Exempted Compensation	Disregarded Savings	Total Assessed	Interest Rate	Annual Income Assessed	Weekly Income Assessed
Single	€100,000	€ -	€36,000	€64,000	3.00%	€1,920	€36.80
Single	€100,000	€40,000	€36,000	€24,000	3.00%	€720	€13.80
Couple	€100,000	€ -	€72,000	€28,000	3.00%	€840	€16.10
Couple	€100,000	€40,000	€72,000	€ -	3.00%	€ -	€ -

Note: **The following savings/investments are not assessable and shall be disregarded :**

1. Compensation awards to persons who have contracted Hepatitis C or HIV from contaminated blood products, together with subsequent income from the investment of that money.
2. Compensation awards by way of the Residential Institutions Redress Board established under section 3 of the Residential Institutions Redress Act, 2002 (No. 13 of 2002).

3. Prescribed repayments made under Section 8 of the Health (Repayment Scheme) Act 2006 made:
  - to a living person.
  - to the spouse or former spouse of a living or deceased relevant person.
  - directly to a living child of a relevant person by virtue of Section 9 (8).
4. Ex-gratia payments approved by the Lourdes Hospital Redress Board under the terms of the Lourdes Hospital Redress Scheme 2007.

### **3.5 Property**

Income will **not** be assessed from property when establishing gross income (whether a family home, a holiday home or any other property) unless it is generating a rental income. The income to be assessed will be the actual income, less any cost necessarily incurred associated with the rental of the property and such costs may include insurance premia, loan/mortgage repayments, maintenance, etc.

### **3.6 Dependents**

#### **3.6.1 Spouse/Partner under 70 years**

Where the spouse/partner is under 70 yrs he/she can qualify under this Scheme if the combined gross incomes of the applicant and dependent spouse/partner are within this income limit of €1,400.00.

#### **3.6.2 Child Dependant**

There is no adjustment to the income limits of €700.00 / €1,400.00 for a child dependant. However, if the applicant qualifies under the relevant income limit, any child dependant will also qualify for a Medical Card.

### **3.7 Deceased spouse/partner**

#### **3.7.1 Surviving Spouse/partner over 70 yrs**

In the event of the death of a person covered by this Scheme the surviving spouse/partner may retain the medical card for a period of 3 years following the death, providing that;

- The death occurred on or after 1<sup>st</sup> January 2009;

- The surviving spouse/partner was aged 70 or over at the time of the death;
- He/she remains within the income limits of €1,400.00

At the expiry of the 3 year period, he/she will be assessed under the single income limits of €700.00.

### **3.7.2 Surviving Spouse/Partner under 70 yrs**

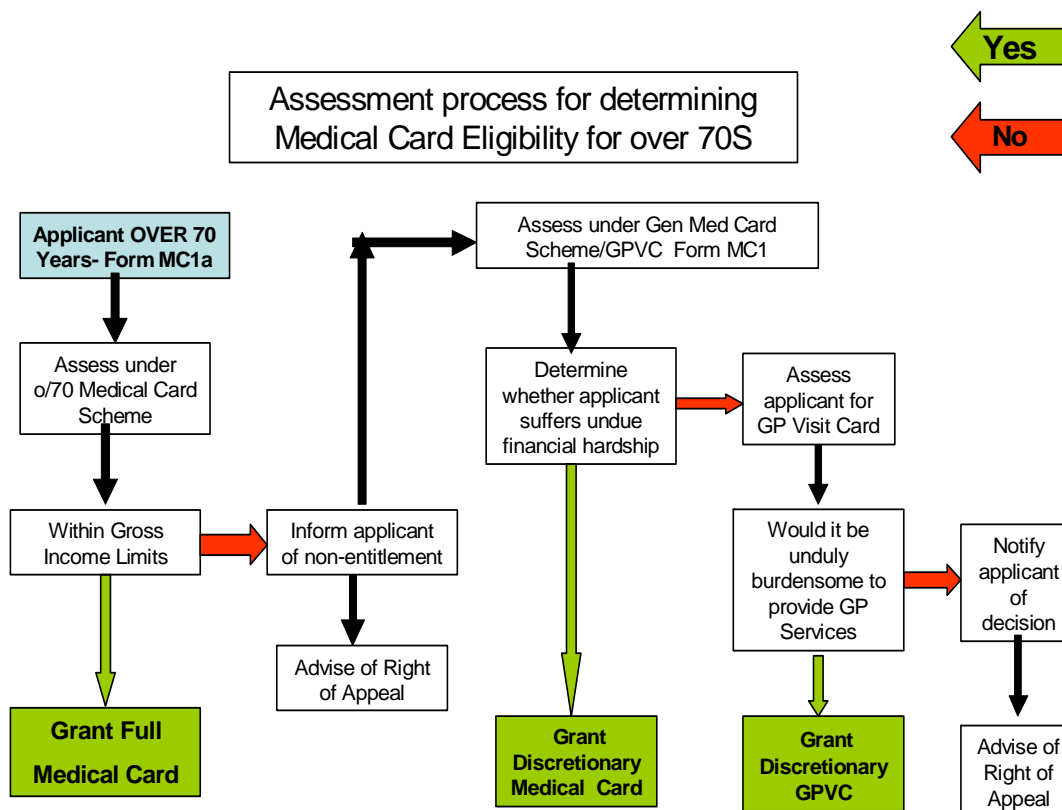
If the surviving spouse/partner is under 70 yrs he/she will be assessed in accordance with the General Medical Card/GP visit card scheme and the appropriate income limits.

## 4 Assessment Process

The process involved in deciding eligibility is as follows:

New applicants must complete a Form MC1a and submit it to PCRS for decision

If the applicant feels, at the outset, that s/he does not qualify due to his/her Gross Income being in excess of the Income Limits, but has exceptional financial circumstances, then a Form MC1 may be submitted to PCRS



**The above assessment process holds true for both existing medical card holders and new Medical Card applications.**

## **Existing Medical Card Holders at 01/01/09**

From the 1/1/2009 (Section 49 (1A) ) there is an onus on any person who was granted automatic entitlement to a medical card on reaching 70 years of age:-

- To self assess prior to the 02/03/09 to determine whether his/her gross weekly income from all sources exceeds the income limits. This applies regardless of the review date on the Medical Card.
- If his/her gross weekly income exceeds the limits they must notify the HSE. If he/she wish to have his/her eligibility extended the HSE will conduct an assessment in accordance with the General Medical Card/GP Visit Card Scheme.

If any person holds a Medical Card on the following grounds, he/she will retain eligibility:

- a. EU/EEA Regulations.
- b. Person affected by the drug Thalidomide.
- c. Persons affected by Symphysiotomy.

## **New Applications after 01/01/09**

1. Persons reaching 70 years of age are required to complete the application form (MC1a).
2. Eligibility will be assessed under the guidelines for this Scheme.
  - If a person income is within the gross income guidelines as set out in this document, he/she will be granted a Medical Card subject to confirmation of income details.
3. If the applicant's income is in excess of the income limit for this Scheme the applicant will be informed of same and of his/her right of appeal. He/she will be advised that he/she can be assessed for a Medical Card or a GP Visit Card, under the General Medical Card/GP Visit Card Scheme. It will be necessary for him/her to complete the MC1 application form and to submit with relevant supporting documents to PCRS.
4. The HSE will carry out a full assessment under the General Medical Card/GP Visit Card Scheme. In such cases, careful consideration will be given to social, medical and other relevant circumstances of the applicant. The HSE will exercise discretion in responding to the

needs of the applicant where it is satisfied that additional and/or exceptional circumstances exist.

5. Notification of decision and right of appeal will be conveyed to the applicant following assessment for both General Medical Card and GP Visit Scheme.

In addition to the above all persons who reach 70 years of age on or after the 01/01/09 and who are granted a medical card will have their continued entitlement reviewed by the HSE. This will involve random audits and control procedures.

It is important to note that the database should be maintained in accordance with the standards set out in the Management and Control document. Particular care must be taken in regard to coding, and the maintenance of same, as miscoding may result in financial loss to the HSE.

## **5 Long Stay/Residential Care**

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### **5.1 Nursing Homes**

Medical Card holders who continue to meet the income limits will retain their Medical Cards while they are patients in private nursing homes.

### **5.2 Long Stay Hospital Patients**

People who are receiving in-patient services may have their eligibility continued but fees/capitation payments to the chosen General Practitioner should be suspended by the Health Service Executive where GP and Surgical services are provided for such patients, within the Hospital.

### **5.3 Residential Centres**

The range of services available on site may vary from residential centre to residential centre. In this regard it is imperative that the Health Service Executive make arrangements to provide a comprehensive range of services to meet all patient needs. Particular attention may be needed for those resident on a five day week basis. Their needs at weekends may best be met through local arrangements.

## **6 Appeals**

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Under this Scheme an appeals process is not relevant because if the applicant's income exceeds the relevant income limits they will be assessed for a Medical Card/GP Visit Card under the General Scheme. When the entire assessment process has been completed the applicant will be advised in writing of the HSE decision and where the applicant is dissatisfied with the outcome, of a right of appeal.

In all cases a Right of Appeal notification should accompany each refusal

## **Appendix I: Ombudsman's Guide to Standards of Best Practice for Public Servants**

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Public bodies should strive for the highest standards of administration in their dealings with people. And public servants should ensure that people are dealt with properly, fairly, openly and impartially. The following checklist, although not exhaustive, is a guide to standards of best practice for public servants. I hope that public bodies will find it useful in their efforts to provide a better service to their clients.

Dealing "properly" with people means dealing with them -

- promptly, without undue delay and in accordance with published time limits;
- correctly, in accordance with the law or other rules governing their entitlements and published quality standards;
- sensitively and by giving reasonable assistance, having regard to their age, to their capacity to understand often complex rules, to any disability they may have and to their feelings, privacy and convenience;
- helpfully, by simplifying procedures, forms and information on entitlements and services, maintaining proper records, and providing clear and precise details on time limits or conditions which might result in disqualification;
- carefully, where more than one public body is concerned, by ensuring proper communications between the bodies to prevent a person's needs being overlooked;
- courteously, including communicating in Irish (both written and oral) where it is clear a person wishes to do so;
- responsibly, by not adopting an adversarial approach as a matter of course where there may be a fear of litigation and by being prepared to explain why an adverse decision has been given.

Dealing "fairly" with people means -

- treating people in similar circumstances in like manner;
- accepting that rules and regulations, while important in ensuring fairness, should not be applied so rigidly or inflexibly as to create inequity;
- avoiding penalties which are out of proportion to what is necessary to ensure compliance with the rules;
- being prepared to review rules and procedures and change them if necessary;
- giving adequate notice before changing rules in a way which adversely affects a person's entitlements;

- having an internal review system so that adverse decisions can be looked at again and reviewed by someone not involved in the first decision;
- informing people of how they can appeal, co-operating fully in any such appeal and being open to proposals for redress including apologies, explanations and payment of appropriate compensation;
- making appropriate redress which puts the person back into the position he/she would have been in if the public body had acted properly in the first place;
- adopting a policy for dealing with the small number of people who act in a vexatious manner or in bad faith, which strikes a balance between the interests of the public body, its staff and the person concerned.

Dealing "openly" with people means -

- putting people in contact with the officials of the public body with responsibility for dealing with them and, if appropriate, referring them to alternative sources of assistance;
- making available and keeping up to date, comprehensive information on the rules and practices which govern public schemes and programmes;
- giving people full information on the reasons for a decision which adversely affects them including details of any findings of fact made in the course of the decision;
- ensuring people know what information is available, where to get it and know of their right to access it in accordance with Freedom of Information legislation and otherwise;
- assisting people, where necessary, to prepare their requests for access to information;
- providing accessible public offices and using information and communications technologies to ensure maximum access and choice in service delivery.

Finally, dealing "impartially" with people means –

- making decisions based on what is relevant in the rules and law and ignoring what is irrelevant;
- avoiding bias because of a person's gender, marital status, family status, sexual orientation, religious belief, age, disability, race, membership of the Travelling Community, language, attitude or reputation or because of who they are or who they know;
- ensuring, where a service is based on a scheme of priorities, that the scheme is open and transparent; being careful that one's prejudices are not factors in a decision;
- declining any involvement with a decision where one has a conflict of interests, a potential conflict of interests, or where there may be a perceived conflict of interests.

## Appendix II Financial Guidelines for Medical Card Income Limits for this Scheme from 01/2009

### Medical Card Income limits for Applicants who are 70 years on or after 1/1/2009

		Medical Card Gross Weekly limit from 01/01/2009
<b>Single Person</b>	<b>Aged 70 and over</b>	<b>€700.00</b>
<b>Married Couple</b>	<b>Aged 70 and over</b>	<b>€1,400.00</b>

### General Medical Card / GP Visit Card Guidelines (01/2009)

The Chief Executive Officer of the Health Service Executive has agreed the following Income Guidelines to assist staff in the assessment of eligibility for Medical Cards and GP Visit Cards

	Medical Card Weekly Rate (01/2009)	GP Visit Card Weekly Rate (01/2009)
<b>Single Person Living Alone</b>		
Aged up to 65 years	<b>€184.00</b>	<b>€276.00</b>
Aged 66 years and over	<b>€201.50</b>	<b>€302.00</b>
<b>Single Person Living with Family</b>		
Aged up to 65 years	<b>€164.00</b>	<b>€246.00</b>
Aged 66 and over	<b>€173.50</b>	<b>€260.00</b>
<b>Married Couple / Single Parent Families with Dependent Children</b>		
Aged up to 65 years	<b>€266.50</b>	<b>€400.00</b>
Aged 66 and over	<b>€298.00</b>	<b>€447.00</b>
<b>Allowances</b>		
Allowance for first 2 children under 16 financially dependant on applicant	<b>€38.00</b>	<b>€57.00</b>
For 3 <sup>rd</sup> and subsequent children under 16 financially dependant on applicant	<b>€41.00</b>	<b>€61.50</b>
Allowance for first 2 children over 16 years financially dependant on applicant	<b>€39.00</b>	<b>€58.50</b>
For 3 <sup>rd</sup> and subsequent children over 16 yrs financially dependant on applicant	<b>€42.50</b>	<b>€64.00</b>
For a dependant over 16 years who is in full time third level education and not grant aided	<b>€78.00</b>	<b>€117.00</b>

- **Additional guideline allowances will be given for:**
  - **Reasonable expenses incurred in respect of rent/mortgage payments**
  - **Reasonable expenses incurred in respect of childcare costs**
  - **Reasonable expenses incurred in travel to work**
  
- **The assessment of eligibility for Medical Cards and GP Visit Cards will be based on the combined income of the applicant and spouse (if any) after tax and PRSI have been deducted.**
  
- **Applicants, whose weekly incomes are derived solely from Social Welfare or Health Service Executive allowances/ payments, which are in excess of the Financial Guidelines (either at first application or on renewal), will be granted Medical Cards.**

## **Appendix III: Guidelines on “Ordinarily Resident” Conditions for Eligibility for Health Services**

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Department of Health  
Hawkins House, Dublin 2

An Roinn Slainte  
Teach Haicin, Baile Atha Cliath 2

TEL (01) 714711 EXTN  
TELEX 33451  
FAX 711947  
REF.

7 July 1992

Circular 13 / 92

To: Chief Executive Officer of each Health Area/  
Chief Executive Officer or Secretary-Manager of each  
Voluntary of Joint Board Hospital

### **GUIDELINES ON “ORDINARY RESIDENCE” CONDITION FOR ELIGIBILITY FOR HEALTH SERVICES**

I am directed by the Minister for Health to inform you that he has, on foot of Section 47A of the Health Act 1970, as amended by the Health (Amendment) Act 1991, drawn up guidelines to assist in deciding whether or not a person is “ordinarily resident in the State” for eligibility purposes.

The guidelines, which are set out in the attached note, were prepared following discussions between the Department of Health and officers nominated by the Chief Executive Officer of each Health Area on the common problems which arise at present in relation to the interpretation of “residence”. The note also lists, for convenience, the circumstances in which arrangements under EC Regulations supercede the provisions of the Irish eligibility system.

The determination of eligibility in individual cases is a matter for the Chief Executive Officer of the relevant Health Area or any officer to whom this function has been delegated. Voluntary or joint board hospitals should refer any cases where eligibility is in doubt for determination by the appropriate Health Area.

Your particular attention is drawn to Paragraphs 4.1 and 5.1 of the attached note.

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J A Enright  
Assistant Secretary

## **Introduction**

The Health (Amendment) Act, 1991 introduced the criterion of ordinary residence for determining eligibility for Health Services in Ireland. The relevant provisions of the Health Act, 1970 as amended by the 1991 Act, are as follows:

- Section 45 (1) includes being “ordinarily resident in the State” among the criteria for full eligibility;
- Section 45 (7) is extended to provide that a person who is not “ordinarily resident” here may, as with anyone else who does not qualify for full eligibility, be given full eligibility for an individual service where the Chief Executive Officer of the Health Area considers this to be justified on hardship grounds;
- Section 45 includes being “ordinarily resident in the State” among the criteria for limited eligibility;
- Section 47A provides that the Minister may issue guidelines to the Chief Executive Officers of the Health Areas (and to any appeals officer appointed under Section 47 (1) to assist in deciding whether or not a person is “ordinarily resident in the State” for eligibility purposes.

The Health (Amendment) Act, 1991, also provides (in Section 9) that none of the above provisions shall affect the operation of the EC Regulations, which govern health service entitlements for migrant workers, social security pensioners, and temporary visitors etc, from other EC member-states.

Following consultation between the Department of Health and the Health Areas, the Minister for Health is, under Section 47A of the Health Act, 1970 (as amended by the Health (Amendment) Act, 1991) issuing the following guidelines on the interpretation of the criterion of ordinary residence.

The guidelines deal with the interpretation of ordinary residence under the following headings:

- nationals of non-EC countries;
- nationals of EC countries other than Ireland;
- Irish nationals who have been resident outside Ireland

References in the guidelines to “satisfying the Health Area” imply satisfying the Chief Executive Officer or any officer to whom the function of determining eligibility for health services had been delegated by the Chief Executive Officer. In all cases the Health Area is entitled to seek such evidence as it may require in order to reach its decision.

### **1 Nationals of non-EC countries**

1.1. An non-EC national should be regarded as “ordinarily resident” in Ireland if s/he satisfies the Health Area that it is his/her intention to remain in Ireland for a minimum period of one year. Examples of the evidence which may be sought in this context include

- proof of property purchase or rental, including evidence that the property in question is the applicant’s principal residence;

- evidence of transfer of funds, bank accounts, pensions;
- Alien's Registration Book ("Green Book"), residence permit as stamped on passport;
- work permits or visas, statements from employers etc;
- where necessary, the signing of the affidavit by the applicant

1.2. A non-EC national who is in Ireland as a student should be regarded as "ordinarily resident" if s/he is attending a registered course of study of at least one academic year's duration.

1.3. A dependant of a non-EC national must also satisfy that criterion of "ordinary residence" in order to establish eligibility for health services here i.e. the fact that a non-EC national has established his/her eligibility does not imply that non-resident dependants are also eligible.

1.4. A non-EC national may have established an entitlement to cover under EC regulations as a result of residence or employment in an EC country. In such cases, the arrangements set out in Paragraphs 2.1 and 2.2. apply.

## **2 Nationals of EC countries other than Ireland**

2.1. Arrangements under EC regulations supercede the provisions of the Irish eligibility system in respect of certain categories of nationals of other EC countries:

- social security pensioners of other EC countries who are not covered by an Irish social welfare pension (as recipient of dependant), and who are not employed or self-employed here, receive a Medical Card;
- persons resident here who are insured workers in the territory of another EC country receive a Medical Card;

## **3 Irish Nationals who have been resident outside Ireland**

3.1 Where an Irish national who returns to Ireland following residence in another EC country is covered by any of the arrangements made under EC regulations, the same approach as that set out in Paragraph 2.1 should be taken.

3.2 Where an Irish national returns to Ireland and is not covered by any of the arrangements made under EC regulations, s/he should be regarded as "ordinarily resident" here if s/he

- is employed or self-employed here; or
- satisfies the Health Area that it is his/her intention to remain in Ireland for a minimum period of one year.

3.3 Where an Irish national is working abroad on a short-term contract but satisfies the Health Area that it is not his/her intention to take up residence outside of Ireland on an indefinite basis, the status of

“ordinarily resident” and eligibility for Irish health services may be retained. The Health Area may take account of the nature and duration of the contract as well as evidence such as the examples in Paragraph 1.1 in arriving at its decision.

3.4 Where an Irish national has been resident abroad for a period of up to three years but the Health Area is satisfied that the person did not establish an entitlement to health services in any other country, the Health Area should (if Paragraph 3.2 does not apply) regard the person as “ordinarily resident” in Ireland if s/he requires treatment on returning to Ireland. This guideline is intended to ensure, in particular, that persons who emigrate do not lose their health services eligibility on residence grounds before they have been able to establish eligibility elsewhere. It would not apply where a person is covered by EC Regulations and, in particular, it would not entitle a person temporarily resident in another EC country to have the Health Area extend the Form E111 beyond the normal period.

#### **4 Persons deemed not to be “ordinarily resident”**

4.1. Where a person is deemed not to be “ordinarily resident” in Ireland, and where none of the other provisions set out above apply, the Health Area may either

- apply the full economic charge for any services provided;

Or - provide urgent necessary treatment at a reduced charge or without charge (as deemed appropriate by the board) where application of the full economic charge would cause undue hardship.

#### **5 “Urgent necessary treatment”**

5.1. The references to the provision of urgent necessary treatment free of charge to temporary visitors from another EC country (Paragraph 2.1) and to persons deemed not to be “ordinarily resident” here (Paragraph 4.1) do not cover

- non-urgent or elective treatment which can reasonably be postponed until the person’s return to his/her own country;
- any case in which a person travels to Ireland for the specific purpose of obtaining treatment.

Department of Health  
7 July 1992

# Appendix IV Health Act 2008

2008 21



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*Number 21 of 2008*

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## **HEALTH ACT 2008**

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### ARRANGEMENT OF SECTIONS

#### [PART 1](#)

##### Preliminary and General

##### Section

[1](#) . Short title, collective citation and commencement.

#### [PART 2](#)

##### Amendment to Health Act 1970

[2](#) . Interpretation.

[3](#) . Amendment of section 45 of Act of 1970.

[4](#) . Insertion of section 45A in Act of 1970.

[5](#) . Amendment of section 47 of Act of 1970.

[6](#) . Amendment of section 47A of Act of 1970.

[7](#) . Amendment of section 49 of Act of 1970.

### PART 3

#### Amendment to Health Contributions Act 1979

8 . Amendment of section 4 of Health Contributions Act 1979.

### PART 4

#### Amendment to Social Welfare Consolidation Act 2005

9 . Amendment of section 7 of Social Welfare Consolidation Act 2005.

10 . Amendment of section 265 of Social Welfare Consolidation Act 2005.

### PART 5

#### Amendment to Civil Registration Act 2004

11 . Amendment of section 66 of Civil Registration Act 2004.

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#### Acts Referred to

Civil Registration Act 2004	2004, No. 3
Health (Miscellaneous Provisions) Act 2001	2001, No. 14
Health (Repayment Scheme) Act 2006	2006, No. 17
Health Act 1970	1970, No. 1
Health Acts 1947 to 2007	
Health Contributions Act 1979	1979, No. 4
Hepatitis C Compensation Tribunal Acts 1997 to 2006	
Residential Institutions Redress Act 2002	2002, No. 13
Social Welfare Consolidation Act 2005	2005, No. 26



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*Number 21 of 2008*

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**HEALTH ACT 2008**

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AN ACT TO AMEND THE HEALTH ACT 1970, THE HEALTH CONTRIBUTIONS ACT 1979, THE SOCIAL WELFARE CONSOLIDATION ACT 2005 AND THE CIVIL REGISTRATION ACT 2004, TO MAKE PROVISION IN RELATION TO ELIGIBILITY FOR SERVICES UNDER THE HEALTH ACT 1970 AND FOR LIABILITY FOR HEALTH CONTRIBUTIONS AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH.

[12th December, 2008]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

**PART 1**

Preliminary and General

Short title, collective citation and commencement.

1.— (1) This Act may be cited as the [Health Act 2008](#) and the Health Acts 1947 to 2007 and this Act may be cited together as the Health Acts 1947 to 2008 and shall be construed together as one.

(2) This Act shall come into operation on the first day of January 2009.

**PART 2**

Amendment to Health Act 1970

Interpretation.

2.— In this Part, “ Act of 1970 ” means the [Health Act 1970](#) .

Amendment of section 45 of Act of 1970.

3.— (1) Subsection (5A) of section 45 (inserted by [section 1](#) of the [Health \(Miscellaneous Provisions\) Act 2001](#) ) of the Act of 1970 is replaced by the following—

“(5A) Notwithstanding any other enactment, with effect from 2 March 2009 a person also shall have full eligibility for the services under this

Part if the person attained the age of 70 years before 1 January 2009 and is ordinarily resident in the State, so long as the person's gross income does not exceed the relevant gross income limit under section 45A.”.

(2) A person who had full eligibility for the services under Part IV of the Act of 1970 by virtue of section 45(5A) of that Act prior to the coming into operation of *subsection (1)* continues to have full eligibility until 2 March 2009.

Insertion of section 45A  
in Act of 1970.

4.— The Act of 1970 is amended by inserting the following after section 45:

“Full eligibility.

45A.— (1) Notwithstanding section 45(6), a person in one of the following categories and who is ordinarily resident in the State also shall have full eligibility for the services under this Part:

- (a) persons who, on or after 1 January 2009, attain or have attained the age of 70 years, whose gross income does not exceed the relevant income limit and who—
  - (i) make an application to the Health Service Executive in such form as it may consider appropriate, and
  - (ii) receive confirmation from the Health Service Executive that they have full eligibility for services under this Part because they have attained the age of 70 years, are ordinarily resident in the State and their gross income does not exceed the relevant gross income limit, so long as their gross income does not exceed that relevant limit;
- (b) persons who were married to another person until that other person's death, or lived with that other person as husband and wife until the other person's death—
  - (i) if the surviving persons have attained the age of 70 years at the time of the death,
  - (ii) if the death occurred on or after 1 January 2009, and
  - (iii) for a period of 3 years after the death, so long as their gross income does not exceed the gross income limit set out in paragraph (b) of subsection (2) during that period;

and

(c) dependants of the persons referred to in paragraph (a) or section 45(5A).

(2) The Health Service Executive shall provide any necessary supports to any person in the making of an application under subsection (1) where, by reason of any incapacity, such person requests such assistance.

(3) The gross income limits for the purposes of this section and section 45(5A) are the following:

(a) if a person is not married and is not living together with another person as husband and wife, his or her gross income limit is €700 per week, not including the income from the portion of the person's savings or similar investments whose capital value does not exceed €6,000, and

(b) if persons are married or live together as husband and wife, their combined gross income limit is €1,400 per week, not including the income from the portion of their savings or similar investments whose capital value does not exceed €7,000.

(4) The Minister shall, on 1 September of every year, review the most recent information on the consumer price index made available by the Central Statistics Office, and may, with the consent of the Minister for Finance, by regulations to take effect on 1 January next following that review, increase the gross income limits specified for the purposes of this section and section 45(5A) to reflect any increase in that index.

(5) For the purposes of calculating gross income for this section and section 45(5A), all gross income from all sources is to be included except for the gross income arising from the following sources of income, and any subsequent income from the investment of the monies arising from those sources, which are not to be included:

(a) compensation awards to persons under the Hepatitis C Compensation Tribunal Acts 1997 to 2006;

(b) compensation awards by way of the Residential Institutions Redress Board established under [section 3](#) of the [Residential Institutions Redress Act 2002](#) ;

(c) prescribed repayments made under [section 8](#) of the [Health \(Repayment Scheme\) Act 2006](#) made—

- (i) to a living relevant person,
  - (ii) to the spouse or former spouse of a living or deceased relevant person,
  - (iii) directly to a living child of a relevant person by virtue of section 9(8) of that Act;
- (d) *ex-gratia* awards approved by the Lourdes Hospital Redress Board under the terms of the Lourdes Hospital Redress Scheme 2007;
- (e) similar awards and payments set out in regulations made under subsection (7).

(6) In the calculation of gross income for the purposes of this section and section 45(5A), income will not be imputed from property (whether a family home, a holiday home or any other property), unless it is rented, and only the net rental income will be included as income, calculated as gross income, less any cost necessarily incurred associated with the rental of the property.

(7) The Minister may make regulations prescribing a class or classes of payments not coming within paragraphs (a) to (d) of subsection (5) but which the Minister considers to be made for a similar purpose as those made under those paragraphs.”.

Amendment of section 47 of Act of 1970.

5.— Section 47 of the Act of 1970 is amended by inserting “, 45A” after “45”.

Amendment of section 47A of Act of 1970.

6.— Section 47A of the Act of 1970 is amended by inserting “, 45A” after “45”.

Amendment of section 49 of Act of 1970.

7.— Section 49 of the Act of 1970 is amended—

(a) by inserting the following subsection:

“(1A) A person who has attained the age of 70 years before 1 January 2009 and who has received confirmation before that date from the Health Service Executive, or has communicated in writing before that date with the Health Service Executive with a view to receiving confirmation from it, that he or she has full eligibility for the services under this Part shall, no later than 2 March 2009—

(a) review his or her gross income from all sources, other than the sources referred to in section 45A(5), and

(b) notify the Health Service Executive if he or she has concluded that that income exceeds the relevant gross income limit set out in section 45A, unless the person has received confirmation from the Health Service Executive that he or she has full eligibility for the services under this Part otherwise than under section 45(5A).”,

(b) in subsection (2), by inserting “or (1A)” after “subsection (1)”.

### PART 3

#### Amendment to Health Contributions Act 1979

Amendment of section 4 of Health Contributions Act 1979.

**8.**— [Section 4](#) of the [Health Contributions Act 1979](#) is amended by inserting “and less than the age of seventy years” after “sixteen years”.

### PART 4

#### Amendment to Social Welfare Consolidation Act 2005

Amendment of section 7 of Social Welfare Consolidation Act 2005.

**9.**— Paragraph (d) of section 7(2) of the [Social Welfare Consolidation Act 2005](#) is amended by inserting “, 45A” after “45”.

Amendment of section 265 of Social Welfare Consolidation Act 2005.

**10.**— Subparagraph (ii) of paragraph (a) of the definition of “relevant purpose” in section 265(1) of the [Social Welfare Consolidation Act 2005](#) is amended by inserting “, 45A” after “45”.

### PART 5

#### Amendment to Civil Registration Act 2004

Amendment of section 66 of Civil Registration Act 2004.

**11.**— Paragraph (i) of section 66(1) of the [Civil Registration Act 2004](#) is amended by inserting “, 45A” after “45”.

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