



SCOTTISH EXECUTIVE

Health Department

Dear Colleague

REIMBURSEMENT OF LIVING DONOR EXPENSES BY NHS SCOTLAND

The Scottish Executive Health Department, with the help of the Inland Revenue, has prepared the following explanation of the proper reimbursement of a living organ donor's expenses.

Background

The [Human Organ Transplants \(HOT\) Act 1989](#) forbids the offer or payment of any inducement for the supply of a human organ. However, it does not prohibit the payment of reasonable expenses to a donor for travel and accommodation and any loss of earnings incurred if directly attributable to his/her donation of an organ.

NHS Boards are permitted to make such payments and should do so if the live transplant is permitted under the HOT Act. NHS Scotland is not legally obliged to make such payments. However, as a renal transplant is the most cost-effective treatment for end stage renal failure, and a live donor transplant may be the only option for a patient in liver failure, payment of the cost of the donor operation, and any associated donor expenses, is justified.

Whether the NHS Board actually refunds the donor should be agreed beforehand and the method of making a claim and receiving payment explained to all concerned.

14th December 2004

Addresses

For action

Chief Executives (NHS Boards)
Medical Directors (NHS Boards)

Chief Executives (Operating Divisions)
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Reimbursement

The level of any reimbursement will depend on any other sources of reimbursement available to the donor. Absence from work could be 6-12 weeks and those in employment may not be entitled to be paid their full salary (or even a reduced/basic rate) for all periods of sickness absence. An employer may not be willing to pay anything for “voluntary sickness” (although many employers will wish to fully support such a generous act). Some may be able to claim statutory sick pay but will probably wish to contact their local social security office as well as discussing it with their employer. If the donor is a member of a trade union they may want to seek advice on their rights from their union.

It may be more difficult to calculate expenses and travel costs if the donor is coming from abroad. It is of particular importance that any expenses are only reimbursed by a NHS Board and not by the family of the recipient. Any payment, even of reasonable expenses, by the family could be interpreted as an inducement to donate.

Methods of reimbursement

Any payments to living donors should ensure that, within reason, the donor is no worse off as a result of the donation, but neither should they gain any financial advantage. Any payments in excess of the amount needed to reimburse losses would constitute a payment for the donation and breach the HOT Act 1989.

Personal expenses

Reimbursement of personal expenses such as transport costs should be repaid in full on provision of receipts or in the case of e.g. mileage at an agreed rate such as the standard NHS rate. Such payments are legal under the HOT Act and are not subject to any tax liability.

Loss of earnings

Payments for loss of earnings are legal under the HOT Act but the method of payment and position with respect to any tax liability depends on the employment status of the individual.

Employed persons - earnings arising from their employment are normally subject to tax and national insurance contributions and paid through PAYE. Reimbursement should be paid of **net** income and will not be taxable. Some employers may continue to pay basic pay but the donor may lose supplementary pay in the form of commission or tips. Such losses may be made up on suitable proof of average overall earnings. Exceptionally, if the person is on unpaid leave for several weeks, they may need to make voluntary payments to make up lost pension contributions to e.g. a stakeholder pension or Class 3 additional voluntary National Insurance

Contributions for a state pension. Such voluntary contributions can be reimbursed without any tax liability. In view of the short time they are away from work live donors should not need to make additional National Insurance contributions but if they are unsure they should contact their tax office.

Self-employed persons – will be liable for tax on any money they receive which is not specifically excluded. Reimbursement of loss of earnings should be paid on gross income. This will enable the donor to pay tax, National Insurance and pension contributions for the period they were unable to work. Proof of gross income will be required such as a copy of the income and expenses page of their tax return. Although liable for tax, such payments are legal under the HOT Act as long as there is no overpayment. In the case of very high earners, full reimbursement of lost earnings may not make the transplant cost-effective. Boards may wish to offer reimbursement up to the average national wage. There is no bar to reimbursements in excess of the average in exceptional circumstances as long as it is in the best interests of the recipient.

Non-employed persons – are not liable for tax and would normally only be reimbursed personal expenses. However, they might lose benefit if not available for work for several weeks. Such benefit losses should be reimbursed.

Retired persons – are not liable for tax but now only lose state pension if for any reason they are in hospital for more than 52 weeks.

Child Tax Credit and Working Tax Credit

A person's entitlement to Child Tax Credit will not be affected by the fact that (s)he is a live donor. A short absence from work should not affect a donor's entitlement to Working Tax Credit, including the child care element, because assuming the donor plans to return to work as soon as (s)he has recovered, the Revenue would not regard the absence as affecting the donor's "usual working hours".

When entitlement to either or both of the tax credits is assessed, only taxable income is taken into account. So if donors receive non-taxable income, they are not required to report it to the Inland Revenue. Donors who need further information should contact the Tax Credit Helpline on 0845 300 3900 for further advice.

Yours sincerely

IAN GORDON