

PATIENT TRANSPORT: GPC LEGAL ADVICE

1. Essential Services & New GMS

The Regulations provide that a GP must provide “essential services” under the contract. The definition is broad and states as follows:

“the services described in this paragraph are services required for the management of its registered patients and temporary residents who are or believe themselves to be

- a) ill, with conditions from which recovery is generally expected;*
- b) terminally ill; or*
- c) suffer from chronic disease;*
- d) delivered in a manner determined by the practice and discussion with the patient”.*

Patient transport clearly does not fall within the above definition and therefore it would follow purely on this basis that it would not be a contractual duty for GP practices.

Furthermore when new GMS was introduced specific mapping of services for which payment would be made under the new contract were clearly set out in “Investing in General Practice 2003”, patient transport is not mentioned in this list and therefore clearly is not one of the services that GP practices are contractually obliged to fulfil under new GMS.

In order for there to be a breach of contract by a practice for not providing patient transport, the obligation must form part and parcel of the core essential services and be part of a contractual obligation. As far as the contract is concerned, and the new contract income streams, it is not apparent that this is in fact the case.

In addition, paragraph 25 of the Department of Health’s guidance on “The Hospital Travel Costs Scheme” states the following:

“Patients with medical need for ambulance transport

Trusts are responsible for providing ambulance transport for those patients considered by a doctor, dentist or midwife to have a medical need for such transport”.

Furthermore, the Enhanced Services Subgroup states that there are some parts of the UK where Local Enhanced Services (LESSs) have been agreed to cover this particular service, and if this is indeed the case, this certainly is evidence to prove that patient transport is not an essential service and therefore outside of the GMS contract.

If practices are providing this service, then it follows that it is being provided on a voluntary basis with no funding from the PCT and therefore any withdrawal of the service will not be a breach of nGMS. Reasonableness suggests that a practice should give some notice to the PCT so the PCT can make alternative arrangements.

NHS employers and the DH do not agree with the above position and are arguing that the provision of patient services does form part of essential services. I cannot see any evidence in nGMS that supports this view nor is it clear from any guidance documents available. Perhaps it is worth asking the question as to what part of the contract or Regulations or guidance they are relying upon.

2. MPIG and Global Sum Practices

MPIG and Global Sum refer to methods of calculation of payment for GMS practices. The principles and methods of calculation are clearly set out in the current Statement of Financial Entitlements and there is no reference within this document or indeed the GMS Regulations to suggest that the implications regarding calculation of payment relate to different contractual obligations.

Both MPIG practices and Global Sum practices are subject to the same GMS contract governed by the same GMS Regulations. There is nothing in any of the contractual documents or the Regulations that carve out specific services from the Red Book (e.g. patient transport) and impose an obligation to perform those services on MPIG practices but not on Global Sum practices.

The fact that practices, whether MPIG or not, were providing patient transport services under the Red Book, is irrelevant when all relevant practices have now signed up to nGMS. The argument utilised by NHS employers/DH whereby MPIG practices are required to continue to provide patient transport services because they had previously provided them under the Red Book, is not legally valid. They rely on an extract from the publication *Delivering Investment in General Practice – Implementing the nGMS Contract* paragraph 2.19 (iii):

“PCTS should note that, with certain exceptions, GMS contractors are funded through the Global Sum and MPIG to provide equivalent services for which they were previously funded under existing GMS.”

Firstly, this is only guidance not law or regulation. Secondly I am informed that there was no funding under the previous contract for patient transport and therefore whilst the above statement could be applied to certain other services under the old contract which now form part of essential services (as set out in the mapping of payments to the global sum), under the new contract it does not apply to patient transport.

The conclusion to this is that there should be no distinction between MPIG practices and Global Sum practices and the argument in respect of the provision of patient transport should either be applied to all GMS practices however funded, or none.

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