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22 January 2025

FILE REF: **SHA/26205**

DECISION MAKING BODY: **NHS ENGLAND/LINCOLNSHIRE INTEGRATED CARE BOARD ("THE COMMISSIONER")**

GMS CONTRACTOR: **DR B K SINHA & PARTNERS, THE MEDICAL CENTRE, OLD LEAKE, BOSTON, LINCOLNSHIRE PE22 9LE**

DISPUTE RESOLUTION – NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES CONTRACT) REGULATIONS 2015

RE: INFLUENZA VACCINATION PAYMENTS FOR SEPTEMBER/OCTOBER 2022

1. Outcome

1.1 In light of the fact that there was no technical issue affecting submissions, that a reminder was sent to return CQRS amendments and that there is no discretion to accept late claims, I conclude that I cannot determine this dispute in favour of the Contractor.

1.2 Neither party has made a claim regarding interest and I determine that no interest shall be payable in relation to this dispute.

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DISPUTE RESOLUTION – NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES CONTRACT) REGULATIONS 2015

RE: INFLUENZA VACCINATION PAYMENTS FOR SEPTEMBER/OCTOBER 2022

1. INTRODUCTION

1.1 The above Contractor referred the dispute in relation to its General Medical Services Contract for dispute resolution under the provisions of paragraph 83 of the National Health Service (General Medical Services Contracts) Regulations 2015 (the "Regulations").

1.2 The Secretary of State for Health and Social Care has directed that NHS Resolution exercise the functions of dispute resolution on their behalf. I, as an authorised officer of NHS Resolution, have made this determination.

2. BACKGROUND

2.1 I provided a determination on a preliminary matter dated 4 September 2024, in which I directed:

2.1.1 The Commissioner to confirm within 21 days, the nature of the scheme operating in **September/October 2022** and provide clear reference to any regulations, guidance and service specifications governing its conduct.

2.1.2 The Commissioner shall provide copies of any notifications/reminders sent to GP's in the area regarding the submission of vaccination data including any specific requirements for **September/October 2022**.

2.1.3 The Contractor shall be provided with a copy of the Commissioner's comments and asked to make any comments on these within a further 21 days.

2.1.4 The Contractor's comments shall then be provided to the Commissioner for information only.

2.1.5 Each party was provided with a copy of the other party's further submissions and provided with the opportunity to make any final observations. All submissions received have been shared with all parties.

3. FURTHER SUBMISSIONS

In its further representations, the Commissioner stated:

3.1 "Thank you for your email in relation to the Appeal submitted by C83049 Old Leake Medical Centre

3.2 The appeal is relating to September and October 2022 Data to which was submitted to the team on 5th December 2013 as 3.2 of the report submitted to date by NHS Resolutions (14-15months after activity was completed)

3.3 Attachment 1 is a copy of 2022/23 Seasonal Flu ES Specification to which All GP Practices Received for 2022/23 financial year: from reading point 10.2.3 it states:

3.4 Practices submitting claims to the Commissioner for payment monthly wherever possible and practices must:

3.4.1 Validate and submit a claim to the Commissioner for payment within six months of the date of the administration of the completing does [sic] of vaccine.

3.4.2 Validate and submit a claim to the Commissioner for payment within three months of the date of administration of the completing dose of the vaccine where the vaccination is co-adminstered [sic] with a CVOID-19 [sic] Vaccines.

3.4.3 Ensure that claims submissions are validated to enable the Commissioner to correctly calculate the payment.

3.5 As the Practice has submitted their September and October 2023 data in December 2024 this is clearly outside of the above parameters set within the specification and we feel that this should be governed as implemented in line with the specification to which the practices have to abide by.

3.6 Hope this assists"

The Contractor's further comments:

3.7 "Thank you for the email and the comments from the ICB.

3.8 We do not dispute the fact that we needed to submit the claims within six months, what we dispute is that fact that we were not told that a manual submission was required at any point. I do not want go over what I have said in my previous correspondence but of the flu submissions in 2022-23 we declared everything that was extracted and on CQRS – we do not know why the months of September 2022 and October 2022 where not automatically extracted.

3.9 I would also like to highlight in the contractor [sic] response the error in the dates.

3.10 *The appeal is relating to September and October 2022 Data to which was submitted to the team on 5th December 2013 as 3.2 of the report submitted to date by NHS Resolutions (14-15months after activity was completed)* - it was December 2023 that it was submitted, once I was made aware of this by our annual accounts meeting.

3.11 *As the Practice has submitted their September and October 2023 data in December 2024 this is clearly outside of the above parameters set within the specification and we feel that this should be governed as implemented in line with the specification to which the practices have to abide by.* – Again it was September and October 2022 data that was missed and we cannot have submitted it in December 2024! It is still November.

3.12 I have detailed in previous correspondence how we have been trying to resolve this on a local level and only escalating this to NHS resolutions when advised to by the contractor. We have never disputed that we need to submit a manual claim, but we have never been informed by the contractor or anyone in the claims teams that we had missing claims. We have declared all our other submissions on CQRS as needed, and do so on a monthly basis. We had been informed that data was being extracted automatically, as if has done for a number of years. If this has failed why were we not informed of this? We do not manage this extraction or have any access to the extraction process. Surely if it had failed practices should have been informed to make a manual submission and given a timeframe to do so. Myself or the previous Practice Manager can find and trace of such a notification from them.

3.13 Happy to answer any further questions as needed but would obviously like to resolve this as soon as possible as it has now been ongoing for sometime."

The Commissioner's unsolicited comments:

3.14 "Date error:

3.15 2013 –, is clearly a typing error on my behalf and not one which impacts the case put forward.

3.16 2024 – should have been 2023, is clearly a typing error on my behalf and once again doesn't impact the case put forward.

3.17 We routinely on an annual basis (at start of each financial year) cascade across all 5 East Midlands (Previously 11 Midlands) targeted ICB DES Sign Up emails to all GP Practices.

3.18 In this email it includes Flu Specification (for the upcoming year) as well as CQRS Amendment Sheet stating practice must return any CQRS amendments and supporting evidence for data extracted incorrectly.

3.19 As previously corresponded it clearly states within the previously provided specifications the time constraints practices must abide to for Commissioner Approval.

3.20 For 2022 year as stated by the practice:

3.21 Practices submitting claims to the Commissioner for payment monthly wherever possible and practices must:

3.21.1 Validate and submit a claim to the Commissioner for payment within six months of the date of the administration of the completing does [sic] of vaccine.

3.21.2 Validate and submit a claim to the Commissioner for payment within three months of the date of administration of the completing dose of the vaccine where the vaccination is co-administered [sic] with a CVOID-19 [sic] Vaccine.

3.21.3 Ensure that claims submissions are validated to enable the Commissioner to correctly calculate the payment.

3.22 To which they clearly have not met the criteria for payment being processed against the national specification – should the commissioners wish to upheld this.

3.23 For the submitted 2023 Claim by Old Leake MC they was still [sic] within this parameter when we re-sent reminders on behalf of NHSE to which the practice failed to submit their claim until the new year to which was then outside of these parameters.

3.24 I must add that it is also practices responsibilities to review their data or raise any issues with this in a timely manner and be aware of the constraints within service specifications.

3.25 Unsure how additional we can contribute to this case" [sic]

4. CONSIDERATION

4.1 I note that the key points from the Contractor's application for dispute resolution are:

4.1.1 The Contractor claims that payment amounting to £16,000, is due to it for flu vaccinations provided to its patients during September and October 2022;

4.1.2 Data was not automatically extracted from the CQRS system in September or October 2022 as expected by the Contractor;

4.1.3 The Contractor has no trace of any notification to it that manual input of data to the CQRS system was required for September and October 2022;

4.1.4 Data was automatically extracted from the CQRS system in November 2022 as usual; and

4.1.5 The Contractor has since tried to complete a retrospective input of the relevant data into CQRS for September and October 2022 but this has been declined on grounds of being outside of the financial instructions for the Commissioner.

4.2 The determination on a preliminary matter dated 4 September 2024 indicated that I was in some difficulty because the Contractor was seeking payment for September/October 2022 which would be the financial year 2022/23 whereas the Commissioner had provided service specification documentation for 2023/24. I determined that before proceeding any further with determining this application for dispute resolution, I should request further information from the Commissioner which the Contractor would then be given an opportunity to comment upon. I required the parties to provide further information and evidence in relation to their respective positions in order for me to provide a final determination of this dispute.

4.3 Firstly, I have considered if the Commissioner has within 21 days from the date of the determination on a preliminary matter, confirmed the nature of the scheme operating in September/October 2022 and provided clear reference to any regulations, guidance and service specifications governing its conduct.

4.4 I note that the Commissioner has provided a copy of the 'Enhanced Specification, Seasonal Influenza Vaccination Programme 2022-23, Version 1' dated 16 August 2022.The Commissioner claims that all GP practices received this document and has stated: "*We routinely on an annual basis (at start of each financial year) cascade across all 5 East Midlands (Previously 11 Midlands) targeted ICB DES Sign Up emails to all GP Practices. In this email it includes Flu Specification (for the upcoming year) as well as CQRS Amendment Sheet stating practice must return any CQRS amendments and supporting evidence for data extracted incorrectly."*

4.5 The Commissioner has referred to point 10.2.3 of the enhanced service specification which I note states:

4.5.1 *"Practices submitting claims to the Commissioner for payment monthly wherever possible and practices must:*

a) Validate and submit a claim to the Commissioner (NHS England) for payment within six months [the Commissioner says it has now changed to 3 months] of the date of the administration of the completing dose of vaccine save for where paragraph 10.2.3(b) applies;

b) Validate and submit a claim to the Commissioner (NHS England) for payment within three months of the date of administration of the completing dose of the vaccine where the vaccination is co-administered with a CVOID-19 Vaccine;

c) Ensure that claims submissions are validated to enable the Commissioner (NHS England) to correctly calculate the payment."

4.6 I note that the Contractor has neither confirmed or denied that it received a copy of the service specification. However, the Contractor does not claim to be unfamiliar with the process for submitting claims for flu vaccinations given by it, rather that it does not know why its claims were not automatically extracted from the CQRS system in September and October 2022 as the Contractor expected. I note the Contractor's comment that *"I have confirmed that we have been paid for the CQRS declarations made in Nov, Dec, Jan, Feb & March. The issue seems to like* [sic] *with the declarations for the month of Sept 22 & Oct 22."*

4.7 I note that the Commissioner has not indicated that there was any problem with the CQRS at that time requiring claim data to be inputted manually. I am of the view that had there been any issue this would likely have extended to possibly all GP practices in the area and thus there would have been a notification to all Contractors from the Commissioner telling them how to proceed with their claims.

4.8 I have next considered whether the Contractor could have alerted the Commissioner earlier and thus been in a position to submit its claims for September and October 2022 in time. In doing so I have initially returned to the 'Enhanced Specification, Seasonal Influenza Vaccination Programme 2022-23, Version 1' dated 16 August 2022 Point 10 'Payment and Validation' (pages 17-20). I have already noted the extract from this section at point 4.5.1.above. The specification includes that monthly claims by the Contractor should be submitted to the Commissioner for payment within six months of the date of the administration of the completing dose of the vaccine (or three months of the date of the administration of the completing dose of the vaccine where the vaccination is co-administered with a COVID-19 vaccine). There is no reason to believe that the latter applies here. Payment is made in respect of claims submitted by the last day of the month following the month the submitted claims are validated by the practice.

4.9 I note from the Contractor's application for dispute resolution that its first communication with the Commissioner regarding the non-submission of claims for September and October 2022 was by email dated 5 December 2023. This is well beyond the six months for the submission of claims as referred to in the enhanced service specification. The Contractor has said that contact with the Commissioner was made after the Contractor's Finance Manager had discovered lower than expected payments for 2022-23. There is no indication why it took so long to discover this anomaly.

4.10 The Contractor appears to be suggesting that a communication should have been sent to it by the Commissioner regarding any problem likely to affect the Contractor's submission of data for September and October 2022. I note that neither party has provided information to show that any problem existed. Indeed, I note that data for the proceeding and succeeding months appears to have been submitted without issue. In this regard I note there was a reminder sent to those participating in the enhanced service stating practices must return any CQRS amendments and supporting evidence for data extracted incorrectly.

4.11 Lastly, I note that in its representations following the determination on a preliminary matter, the Commissioner has stated: *"As the Practice has submitted their September and October 2023 data in December 2024 this is clearly outside of the above parameters set within the specification and we feel that this should be governed as implemented in line with the specification to which the practices have to abide by."* I have been provided with no information by the Contractor to show that the Commissioner has any discretion to accept claims for payment outside of the six months referred to in the specification.

5. DECISION

5.1 In light of the fact that there was no technical issue affecting submissions, that a reminder was sent to return CQRS amendments and that there is no discretion to accept late claims, I conclude that I cannot determine this dispute in favour of the Contractor.

5.2 Neither party has made a claim regarding interest and I determine that no interest shall be payable in relation to this dispute.

Head of Appeals
NHS Resolution

NHS Resolution

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Tel: 020 3928 2000
Email: nhsr.appeals@nhs.net

Our ref: SHA/26205

22 January 2025

By email only to:

#
#

Dear # and #

RE: SHA/26205 - OLD LEAKE MEDICAL CENTRE - APPLICATION FOR DISPUTE RESOLUTION WITH REGARD TO INFLUENZA VACCINATION PAYMENTS 2022 - 2023

Please find enclosed an amended determination on a preliminary matter in respect of the above dispute which replaces the original determination issued to you on 4 September 2024.

Paragraph 1.1 of the amended determination corrects an erroneous reference to the Regulation under which the dispute was referred to us. We apologise for this.

This typographical error has been addressed under the 'slip rule', in accordance with Part 40 of the Civil Procedure Rules which allows a Judgement or order containing an accidental slip or omission, to be corrected.

I also include the final determination as issued today.

Yours sincerely

Case Manager

Enc: Revised copy of determination on a preliminary matter dated 4 September 2024

NHS Resolution

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4 September 2024

FILE REF: **SHA/26205**

DECISION MAKING BODY: **NHS ENGLAND/LINCOLNSHIRE INTEGRATED CARE BOARD ("THE COMMISSIONER")**

GMS CONTRACTOR: **DR B K SINHA & PARTNERS, THE MEDICAL CENTRE, OLD LEAKE, BOSTON, LINCOLNSHIRE PE22 9LE**

DISPUTE RESOLUTION – NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES CONTRACT) REGULATIONS 2015

RE: INFLUENZA VACCINATION PAYMENTS FOR SEPTEMBER/OCTOBER 2022

2. Determination on a preliminary matter

2.1 The Commissioner shall within 21 days from the date of this letter, confirm the nature of the scheme operating in **September/October 2022** and provide clear reference to any regulations, guidance and service specifications governing its conduct.

2.2 The Commissioner shall provide copies of any notifications/reminders sent to GP's in the area regarding the submission of vaccination data including any specific requirements for **September/October 2022**.

2.3 The Contractor shall be provided with a copy of the Commissioner's comments and asked to make any comments on these within a further 21 days.

2.4 The Contractor's comments shall then be provided to the Commissioner for information only.

2.5 I will then provide a final determination of the dispute.

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FILE REF: **SHA/26205**

DECISION MAKING BODY: **NHS ENGLAND/LINCOLNSHIRE INTEGRATED CARE BOARD ("THE COMMISSIONER")**

GMS CONTRACTOR: **DR B K SINHA & PARTNERS, THE MEDICAL CENTRE, OLD LEAKE, BOSTON, LINCOLNSHIRE PE22 9LE**

DISPUTE RESOLUTION – NATIONAL HEALTH SERVICE (GENERAL MEDICAL SERVICES CONTRACT) REGULATIONS 2015

RE: INFLUENZA VACCINATION PAYMENTS FOR SEPTEMBER/OCTOBER 2022

1. INTRODUCTION

1.1 The above Contractor referred the dispute in relation to its General Medical Services Contract for dispute resolution under the provisions of paragraph 83 of the National Health Service (General Medical Services Contracts) Regulations 2015 (the "Regulations").

1.2 The Secretary of State for Health and Social Care has directed that NHS Resolution exercise the functions of dispute resolution on their behalf. I, as an authorised officer of NHS Resolution, have made this determination.

2. APPLICATION FOR DISPUTE RESOLUTION

2.1 By email dated 13 May 2024 the Contractor applied to NHS Resolution, for dispute resolution.

2.2 I have had regard to the following documents made available to me in consideration of this matter to ensure the just, expeditious, economical and final determination of this dispute:

2.2.1 Contractor's emailed application for dispute resolution with attachments, dated 3 May 2024;

2.2.2 Commissioner's email dated 22 May 2024;

2.2.3 Contractor's email dated 27 May 2024;

2.2.4 Contractor's email with attachments dated 6 June 2024;

2.2.5 Commissioner's email dated 25 June 2024 with attachments;

2.2.6 Further Commissioner's emails dated 25 June 2024 with attachments;

2.2.7 Commissioner's email dated 27 June 2024 with attachments;

2.2.8 Contractor's email dated 7 July 2024 with attachment;

2.2.9 Contractor's email dated 5 August 2024;

2.2.10 Contractor's email dated 6 August 2024; and

2.2.11 Contractor's email dated 9 August 2024 with attachments.

3. PARTIES SUBMISSIONS

The Contractor's application

3.1 "I wonder if you could help with an ongoing issue regarding missing seasonal flu payments from 2022-2023.

3.2 I have attached the email trails for your information. The first email was sent on 5th December 2023 and it has taken until 23rd April 2024 to get a solid answer of no we won't be paid.

3.3 On investigation it seems that Sept/Oct 2022 flu extractions did not happen for the practice. I took over as PM in October 2022 and have nothing on file to says [sic] manual input of data was needed. I have checked with the previous PM and he doesn't either. The automatic extraction happened from November onwards it seems, but no one can find trace of being told to do a manual input of data for Sept/Oct and these would be out [sic] biggest hitting months for flu vaccinations.

3.4 We only became aware of this issue when the accountant raised it in early December last year. As per my email trail I been trying to get this resolved for some time. I have also done a manual input of the data on CQRS now, I was advised earlier this year to try it, but this has been declined as it is outside of the financial instructions for NHSE. When I did the manual claim on CQRS it equated to £16,000 so this money the practice cannot afford to lose.

3.5 What can we do to get this resolved and the practice receive the appropriate payment for the work we have definitely done within the practice."

3.6 I note that in an email to the Commissioner dated 5 December 2023, the Contractor stated:

3.6.1 "I wonder if you can help with an issue that has been discovered regarding our payments for 2022/23 seasonal influenza.

3.6.2 I am unsure if we have been paid at all for the flu vaccinations for last, and at most our finance manager thinks we have received 251.20 which is a very low amount considering the amount of vaccinations we gave.

3.6.3 I have been on DSQS and both myself & [the previous PM] have confirmed that we did submissions from November onwards and this links to around £6500 – which I cannot find on the GMS statements on PCSE.

3.6.4 I have attached a spreadsheet from DSQS that shows data is awaited for September & October – these would be big hitters in terms of numbers. We

have never been sent tasks on DSQS to declare these figures, or been asked for them manually.

3.6.5 Obviously this has financial impact on the practice as we have had to pay for the flu vaccinations from last year. Can you clarify what the issue is or who I need to speak with to get this resolved.

3.6.6 Would appreciate any help/resolution with this asap"

3.7 I note that in an email dated 7 December 2024 (copied to the Contractor) the Commissioner stated in response to a query raised as a result of the Contractor's enquiry:

3.7.1 "The payments are on the following statements on GPPP.
16/01/23 £3,963.64 Total Payment £26,306.31
14/04/23 £1,750.44 and £462.76 £28,559.90
15/05/23 £321.92 £1,066.36
14/09/23 10.06 £28,142.59"

3.7.2 All the NHSE payments on the above statements are showing as paid on the NHS England ledger so everything has been paid according to our systems.

3.7.3 Hopefully the information above will help you find the payments."

3.8 I note Contractor's email reply to the Commissioner dated 7 December 2023 stated:

3.8.1 "Thank you for confirming this.

3.8.2 Going back to my original question my concern are the months of Sept & Oct which we have never been asked to declare on CQRS or appear to have been paid for?

3.8.3 I will ask the finance lead to check the figures below to ensure we have been paid for those amounts, but October would have certainly been a big month for amount of vaccinations given."

3.9 I note the Commissioner's email to the Contractor dated 8 December 2024 states:

3.9.1 "You say that you have not been asked to declare by CQRS, but have you gone in and tried to declare your activity?

3.9.2 If you have tried this then I have been informed that you will need to get in touch with GMAST, to try and sort this problem out."

3.10 I note the Contractor's email to the GP Contracting team dated 8 December 2023 states:

3.10.1 "I wonder if someone can help me with a query relating to Seasonal Influenza 22-23. I have attached my previous email trail so you can see why I have ended up with yourselves.

3.10.2 I have confirmed that we have been paid for the CQRS declarations made in Nov, Dec, Jan, Feb & March. The issue seems to like with the declarations for the month of Sept 22 & Oct 22. I can see that these declarations have never been made and I cannot trace them at all within CQRS. The attached report shows that data is still awaited. Sept & Oct would have been big months for number of flu jabs so need to get this resolved because of the financial impact

on the surgery. I cannot find any trace of a request to upload this data anywhere manually or been asked for a submission? Has the automatic extraction not worked? What can be done to resolve this asap.

3.10.3 Please point me in the right direction if you are not the right people to resolve this."

3.11 I note the Contractor's email to the Commissioner dated 8 March 2024 states:

3.11.1 "I would appreciate some guidance with the below email chain. I have also attached my original email for information as well. I originally sent this email on 8th December to the GP contracting email address but have had no response.

3.11.2 How do we get this investigated and any missing monies paid to the practice. I can confirm the work for influenza vaccinations was done in these two months – but we have never been asked to declare any figures as I mention in my previous email.

3.11.3 If I can have some clarity/confirmation of what is needed asap. I will also be approaching our local LMC for support with this as I have being trying to get this issued resolved since December last year."

3.12 I note the Commissioner's email to the Contractor dated 26 March 2024 states:

3.12.1 "Seasonal Flu payments require to be amended and declared within 3 month period of activity date in order to by processed by the team as outlined within the Flu Specifications as well as reminders being sent to GP Practices.

3.12.2 We complete this work on behalf of NHS England Public Health Team who have asked us to complete work within the specifications parameters to whom you will need to liaise with for further assistance by contacting NHS England East Midlands Public Health Team Commissioning Manager # for further guidance."

3.13 I note the Contractor's email to the Commissioner dated 8 April 2024 states:

3.13.1 "I wonder if you can help me with this please?

3.13.2 I as you can see it is a fairly long email chain but I have been trying to resolve this since December 2023. We haven't be paid for seasonal flu vaccinations given in September/October 2022. I have checked back on CQRS and we were never asked to declare the submission, so am assuming it wasn't automatically extracted.

3.13.3 I have this last week done a manual submission via CQRS, I wasn't aware I could do this until last week, which equates the vaccinations to around £16k. So its as lot of money for us to loose. I have checked today and this is showing on CQRS now as payment cancelled. assuming is the because of the late declaration date, but until December we were not aware that it hadn't been paid. Our accountants raised it to us as missing income.

3.13.4 Can you please help with this issue in anyway? Really would like to ensure the practice gets the money for a lot of work done."

3.14 I note that the Commissioner's email to the Contractor dated 8 April 2024 states:

3.14.1 “I would advise that I am now only responsible for cancer and non cancer screening programmes and not vaccinations

3.14.2 I have copied in my colleagues [redacted] albeit # is on leave this week so a response may be delayed until his return

3.14.3 As # stated flu claims have to be made within 3 months of the activity to be paid by NHS England anything out of that time is a contravention of our standing financial Instructions

3.14.4 #/# – can you please respond to # with a full explanation.”

3.15 I note the Commissioner’s email to the Contractor on 23 April 2024 states:

3.15.1 “Apologies for the delay in getting back to you

3.15.2 As per # email, the time period for claims to be paid is now 3 months from the date of the vaccinations taking place for influenza – which is a change to the claim period for this season

3.15.3 For 22/23, the period you have flagged, the time period was 6 months – however your claim is still out of the time period as you identified this issue in December 2023, so over 12 months from the date when the activity took place

3.15.4 Due to NHS England’s standing financial instructions, I am afraid that we are unable to make a retrospective payment for this

3.15.5 Should you wish to escalate this matter, this will need to be done via NHS Resolution, contact details below:

3.15.6 Phone: 0203 928 2000

3.15.7 Email: nhsr.appeals@nhs.net

3.15.8 https://resolution.nhs.uk/services/primary-care-appeals/ “

Representations

The Commissioner’s representations

3.16 The Commissioner provided a copy of the Contract variations for the Contractor by email dated 25 June 2024.

3.17 In a second email of the same date, the Commissioner stated:

3.18 “Please see the additional emails which were cascaded to all East Midlands GP Practices in relation to Public Health S7a V&I payments and Seasonal/Childhood Flu in relation to payment deadlines enforced by NHS England Public Health Team for your information purposes.”

The Contractor’s representations

3.19 None were received. However, the Contractor did provide a copy of its GMS Contract.

Observations

The Commissioner's observations

3.20 None were received.

The Contractor's observations

3.21 "Firstly sorry for my delay responding & thank you for the extension.

3.22 With regard to the emails sent to you from [the Commissioner] stating that we received them reminding them us [sic] regarding flu submission payments dated 23rd November 2023 , 1st December 2023 and 7th December 2023. These are not relating to the complaint. The missing payments are from the 2022/23 flu season not 23/24.

3.23 We became aware of this at the beginning on December 2023 when the practice accountant noticed that monies were significantly lower 2022/23 than for the previous years. I investigated at the time and discovered that we were never asked to declare this on CQRS for Sept 2022 and October 2022 and therefore no payment were made. I attached a spreadsheet download from CQRS regarding this along with the annual declaration from 2022/23 which I downloaded at that time which shows no data received for September/October. I have downloaded this again today, but it shows cancelled as I was informed to submit a manual submission at end of March, which was then cancelled due it being outside the timeframe for payment. I have attached this for information as this shows the amount of monies the practice is missing.

3.24 I became Practice Manager at Old Leake in October 2022, and myself and the previous PM, [redacted], had a six month hand over period. He worked remotely for this time to ensure a smooth transition. During time [the previous PM] was still processing the CQRS claims and did do until April 2023 when I took them over. In this time we also ensured that contracting teams were notified so all relevant information was cascaded to me. This has been an uphill struggle and [the previous PM] was still receiving emails from contracting until the end of the 2022/23 years when finally every system seemed to be updated with the change of contact at the practice.

3.25 I have been in touch with [the previous PM]as he no longer works with the practice. We have both extensively search our emails and files and cannot find any evidence of being asked to manually upload flu vaccinations for September or October 2022. I have no emails AT ALL from GP contracting time until Feb/March 2023. [The previous PM], cannot find any evidence of such emails, and he was still receiving emails from them at that time and then forwarding them to me.

3.26 The other months of the flu season were automatically extracted and were then declared on CQRS. These two months were clearly not auto-extracted and neither of us can find trace of being informed about this or to upload manually. Until I submitted this case to NHS resolutions in May I have been in touch with the ICB financing team, contracting and NHS England to find a resolution to this.

3.27 The practice appreciates that we could have been aware of these missing payments sooner and therefore started this process sooner but it feels unfair that the practice are now loosing [sic] out on significant funds because two months data where not extracted as we were expecting them to be or thought they had been.

3.28 I have been in touch with our LMC and the practice are asking for their support with this ongoing case."

4. CONSIDERATION

Contractors Contractual Status

4.1 As part of this consideration of the application for NHS dispute resolution, I required an up-to-date version of the contract in dispute containing all variations agreed since the contract was signed.

4.2 I note that the Contractor has provided with their email dated 6 June 2024, a copy 'Notice of variation to General Medical Services Contract dated 1 April 2004.' The notice sates that it is to be effective from 5 July 2021. This has not been disputed by the Commissioner.

4.3 Further I note that on 25 June 2024, the Commissioner provided a copy of a 'Standard General Medical Services Contract' between the then East Lincolnshire Primary Care Trust [the PCT] and the Contractor. This Contract also has a covering letter from the Contractor to the PCT dated 29 March 2004.

4.4 I note that the Commissioner had provided information (copy contract variation notices) with its email dated 25 June 2024. A number of the documents provided would not open. When asked to provide readable versions the Commissioner replied:

4.4.1 *"I can confirm that these document which don't open will be classed as corrupt and unsavable.*

Unfortunately we inherited these documents in April 2020 for the area team at the time, once files migrated IT systems visually they appear on the system as normal until you click into the document – to which then met with an error. This wasn't identified internally for sometime but is an overall GP issue we have within Lincs ICB region.

The CVs themselves are purely for contractor changes (so no amendments to the overall contract wording) bar 1x Boundary Change in 2016 which is obviously just a change in practice boundary.

There has been no other amendments to the original contract bar National CVs which have been implemented across the board.

4.5 I am satisfied that the unreadable documents will not prejudice my determination in the case. I further note that the Contractor has not sought to argue otherwise.

General points

4.6 There is no dispute that the application for dispute resolution has been made within the statutory time limits for submitting an application to NHS Resolution.

Local dispute resolution

4.7 I considered whether there is any evidence of the parties having engaged in local dispute resolution, prior to reference of the dispute to NHS Resolution, which is a contractual requirement.

4.8 Having noted the various copy emails between the Contractor and the Commissioner which includes one providing contact details of NHS Resolution, I am satisfied that local dispute resolution has taken place.

The Key Issues

4.9 I note from the above information that the key issues in this dispute are:

4.9.1 The Contractor claims that payment amounting to £16,000, is due to it for flu vaccinations provided to its patients during September and October 2022;

4.9.2 Data was not automatically extracted from the CQRS system in September or October 2022 as expected by the Contractor;

4.9.3 The Contractor has no trace of any notification to it that manual input of data to the CQRS system was required for September and October 2022;

4.9.4 Data was automatically extracted from the CQRS system in November 2022 as usual; and

4.9.5 The Contractor has since tried to complete a retrospective input of the relevant data into CQRS for September and October 2022 but this has been declined on grounds of being outside of the financial instructions for the Commissioner.

The Commissioner's response to the application for dispute resolution

4.10 I note that the Commissioner's email dated 25 June 2024 reminded GP practices in its area that, in line with the enhanced service specifications for 2023/24, practices now have a maximum period of three months (from the CQRS achievement date) in which to declare their Seasonal Flu and Childhood Seasonal Flu achievements on CQRS. GP practices were asked to continue to send any amendment requests and/or queries to england.gpcontracting@ and be mindful of the above declaration dates as failure to declare an achievement by the respective declaration date may result in non-payment for that particular achievement." Subsequently further reminder emails were sent out to GP practices. These all referred to the 2023/24 flu season rather than that (2022/23) being referred to by the Contractor in the current dispute.

Contractor's reply to the Commissioner's information

4.11 I note the Contractor's final observations dated 9 August 2024 can be summarised as follows

4.11.1 The emails sent to remind GP practices regarding flu submission payments dated 23rd November 2023 , 1st December 2023 and 7th December 2023, are not relating to the complaint. The missing payments are from the 2022/23 flu season not 23/24.

4.11.2 The Contractor cannot find any evidence of being asked to manually upload flu vaccinations for September or October 2022.

4.11.3 The other months of the flu season were automatically extracted and were then declared on CQRS. These two months were clearly not auto-extracted.

4.11.4 I am left in some difficulty because the Contractor is seeking payment for September/October 2022 which would be financial year 2022/23 and yet the Commissioner provides service documentation for 2023/24. In the circumstances, before I proceed any further with determining this application for dispute resolution, I must request further information from the Commissioner which the Contractor will then be given an opportunity to comment upon.

5. **Determination on a preliminary matter**

5.1 The Commissioner shall within 21 days from the date of this letter, confirm the nature of the scheme operating in **September/October 2022** and provide clear reference to any regulations, guidance and service specifications governing its conduct.

5.2 The Commissioner shall provide copies of any notifications/reminders sent to GP's in the area regarding the submission of vaccination data including any specific requirements for **September/October 2022**.

5.3 The Contractor shall be provided with a copy of the Commissioner's comments and asked to make any comments on these within a further 21 days.

5.4 The Contractor's comments shall then be provided to the Commissioner for information only.

5.5 I will then provide a final determination of the dispute.

Head of Appeals
NHS Resolution