

23 November 2022

**FILE REF: SHA/24686**

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**DECISION MAKING BODY: NHS England (North East & Yorkshire)**

**GMS CONTRACTOR : Dr Lee Kah Wai**  
Park View Surgery  
87 Beverley Road  
Hessle  
Hull  
HU13 9AJ

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

**RE: VACCINATIONS AND IMMUNISATIONS PAYMENTS**

**1. Outcome**

1.1 NHS England shall pay the sum of £465.02 to the Contractor as soon as possible.

A copy of this determination is being sent to:

Dr L K Wai, Park View Surgery  
Ms H Patterson, NHS England (North East & Yorkshire)

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Advise / Resolve / Learn

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**1. INTRODUCTION**

- 1.2 The above Contractor referred the dispute in relation to its General Medical Services Contract for dispute resolution under the provisions of paragraph 82 (General Medical Services Contracts) Regulations 2015 (the “Regulations”).
- 1.3 The Secretary of State for Health and Social Care has directed that NHS Resolution exercise the functions of dispute resolution on his behalf. I, as an authorised officer of NHS Resolution, have made this determination.

**2. APPLICATION FOR DISPUTE RESOLUTION**

- 2.1 By letter dated 19 February 2022, 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 The Contractor’s email to NHS Resolution dated 19 February 2022 with enclosures;
  - 2.2.2 The Contractor’s email to NHS Resolution dated 21 February 2022;
  - 2.2.3 The Contractor’s email to NHS Resolution dated 3 March 2022 with enclosures;
  - 2.2.4 The Contractor’s email to NHS Resolution dated 7 March 2022 with enclosures;
  - 2.2.5 The Contractor’s email to NHS Resolution dated 17 March 2022 with enclosures;

- 2.2.6 The Contractor's email to NHS Resolution dated 26 March 2022 with enclosure;
  - 2.2.7 The Contractor's email to NHS Resolution dated 30 March 2022;
  - 2.2.8 NHS England's correspondence to NHS Resolution dated 1 April 2022 with enclosure;
  - 2.2.9 The Contractor's email to NHS Resolution dated 8 April 2022 with enclosure;
  - 2.2.10 The Contractor's email to NHS Resolution dated 20 April 2022 with enclosure;
  - 2.2.11 The Contractor's email to NHS Resolution dated 21 April 2022 with enclosure;
  - 2.2.12 The Contractor's email to NHS Resolution dated 29 April 2022 with enclosures;
  - 2.2.13 The Contractor's email to NHS Resolution dated 3 May 2022 with enclosure;
  - 2.2.14 The Contractor's further email to NHS Resolution dated 3 May 2022;
  - 2.2.15 The Contractor's third email to NHS Resolution dated 3 May 2022;
  - 2.2.16 NHS England's email to NHS Resolution dated 3 May 2022;
  - 2.2.17 The Contractor's email to NHS Resolution dated 12 May 2022;
  - 2.2.18 NHS England's letter to NHS Resolution dated 13 May 2022;
  - 2.2.19 The Contractor's email to NHS Resolution dated 20 May 2022 with enclosure;
  - 2.2.20 NHS England's email to NHS Resolution dated 27 May 2022 with enclosure;
  - 2.2.21 The Contractor's email to NHS Resolution dated 3 June 2022 with enclosure;
  - 2.2.22 NHS England's email to NHS Resolution dated 17 June 2022;
  - 2.2.23 The Contractor's email to NHS Resolution dated 12 August 2022;
  - 2.2.24 NHS England's email to NHS Resolution dated 26 August 2022 with enclosure;
  - 2.2.25 The Contractor's email to NHS Resolution dated 30 August 2022 with enclosures;
  - 2.2.26 NHS England's email to NHS Resolution dated 12 September 2022 with enclosure;
  - 2.2.27 The Contractor's email to NHS Resolution dated 26 September 2022 with enclosure;
  - 2.2.28 The Contractor's email to NHS Resolution dated 2 October 2022 with enclosure;
  - 2.2.29 The Contractor's email to NHS Resolution dated 21 October 2022.
- 2.3 I provided a preliminary determination dated 9 August 2022 to the parties stating that whilst I had been provided with voluminous papers in relation to this application for NHS dispute resolution, I had not been provided with detailed information and supporting (referenced) evidence to establish that the Contractor submitted claims within the limitation period for making claims. It was therefore difficult to establish

whether the application for NHS dispute resolution had been made within the limitation period for all the purported claims. The information provided to me was confused and incomplete, rendering me unable to make a final determination on whether any payments are due or not to the Contractor.

- 2.4 I noted that the Contractor provided an email dated 26 March 2022 which included an enclosure; an email from NHS England to the Contractor dated 11 February 2022, which contained deadlines for the submission of claims under the Statement of Financial Entitlements (the "SFE").
- 2.5 To enable a final determination of this matter, I required each party to provide evidence of the claims for payment for services it considered that the Contractor has submitted and which fall within the limitation period set out in the SFE. I required that the evidence be accompanied with a written explanation (together with pagination of documents and references) of what is provided.
- 2.6 I required evidence of when the relevant services were provided, the date of submission of the claims for payment and any communication between NHS England and the Contractor regarding the claims. The parties were asked to indicate the financial payment (if any) that it believes is due (or not) for each of the claims for services identified and was required to:
  - 2.6.1 indicate why the Contractor may have been unable to submit/receive/identify any claims it believes are outstanding;
  - 2.6.2 provide copies of any agreements, guidance and reminders/correspondence in relation to the making of claims for payment; and
  - 2.6.3 identify any technical issues which may have inhibited the making or receiving of claims for payment, and whether these have been resolved.
- 2.7 Each party has been provided with a copy of the other party's comments and asked to make comments on these, which in turn have been provided to the other party.
- 2.8 By letter dated 26 August 2022, NHS England repeat comments from earlier correspondence and state that another team now has responsibility for some elements of this dispute. The correspondence pertaining to the other elements of this dispute were forwarded to the other team referenced but they have not responded to this dispute. Given two separate teams at NHS England were notified of the other elements of this dispute I am content to proceed with the final determination of this dispute without further NHS England comments. NHS England must ensure that it has adequate arrangements to manage disputes and respond to correspondence within the time limits provided or request an extension which will be considered where appropriate.
- 2.9 NHS England states that "The appeal was received in 2022. The National Health Service, General Medical Services Statement of Financial Entitlements Directions 2013, paragraph 25.12, page 81 states that:

**Time limitation for claiming payments**

25.12. Payments under this SFE are only payable if claimed within six years of the date on which they could first have fallen due (albeit that the due date has changed pursuant to paragraph 25.5).

However, within each of the individual vaccination and immunisation section of this document, the same document states that payment must be made within 6 months of completing the final dose" and provide references to the GMS SFE in this regard."

- 2.10 NHS England go on to state that “For those vaccines, it could be argued that no payment should be made but we will respond to this appeal under paragraph 25.12 and utilise the 6 year rule.” I shall not interfere with this decision of NHS England.
- 2.11 NHS England then state that “For clarity, 6 years is 2016 and therefore the elements of the appeal that I took forward were the vaccination and immunisations given between 1/4/2016 and 31/3/2017. We believe the contractor has submitted the following claims between April 2016 and June 2017 for vaccinations and immunisations given between 1/4/2016 to 31/3/2017 for the reasons stated above.” As I have set out above, I shall not interfere with the decision of NHS England in relation to the application of the timeframe to the Contractor’s dispute in this instance. There appears to be a clear position from NHS England that it is content that this limitation period/exceptional circumstances apply to this matter.
- 2.12 NHS England have provided me with a table detailing the position as they understand it and state that “As a result of the evidence provided, the practice was offered a settlement figure of £465.02 which was disputed. However, no further evidence was provided as to the difference between the figure the practice thought they were owed (£968.20) and the figure NHS England believed was owed to the practice (£465.20)(sic). Therefore, NHS England believe the financial payment due to the practice is £465.20(sic). There are no reasons from NHS England’s perspective as to why the contractor may have been unable to submit / receive / identify any claims. I cannot find in our files, any correspondence with the practice on this matter. No reminders would have been sent to the practice as claims have been made in this way for several years. There were no technical issues from NHS England’s perspective which may have inhibited the making or receiving of claims for payment.”
- 2.13 The Contractor has provided me with further voluminous documents. I note that these are not paginated nor referenced. I have not been provided with a clear written explanation of what the purported evidence relates to. I do not have a clear position from the Contractor supporting its claim for payments and/or details on the limitation period that should apply to these claims and their rationale for this.
- 2.14 I note the Contractor’s comments that “Park View Surgery continue to work with EMIS in the past years and currently. Some progression happens but have much resolution required from EMIS IT to rectify our practice EMIS application and data issues. These IT/data issues explains much of the inconsistencies in the numbers previously submitted and rendered from the practice EMIS (depending on upgrades and patches). In any case, claims are conservative since situation is not totally rectified. We are also stretched very thinly to provide safe care to our patients, support NHS programmes while collating data with our best efforts and some key IT issues.”
- 2.15 On detailed review of the papers provided to me, I can see that there have been a number of reported technical issues involving the practice IT, however it is unclear how these have inhibited the making or receiving of claims for payment related to specific services. It remains unclear to me on what basis the Contractor claims additional payments, which it believes are outstanding. Providing GP statements without an explanation of what payments are missing and how these correlate to services provided is not acceptable. Whilst I have sympathy for the Contractor, it has failed to demonstrate that services were provided and payments were not made or received in this regard. This is despite NHS England making the allowance that (for the claims specified) “For those vaccines, it could be argued that no payment should be made but we will respond to this appeal under paragraph 25.12 and utilise the 6 year rule.”
- 2.16 I have permitted the Contractor the opportunity to provide me with the detailed evidence I required to determine this dispute. They have failed to provide this evidence for me to establish that services were provided, that payments were claimed within the relevant limitation period and that payments are outstanding. On this basis, I cannot determine this dispute in favour of the Contractor. I understand that NHS England

believes “the financial payment due to the practice is £465.02.” I determine that this is paid to the Contractor as soon as possible.

**Head of Appeals  
NHS Resolution**