

21 April 2023

FILE REF: **SHA/25832**

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DECISION MAKING BODY: **NHS ENGLAND - NORTH EAST & YORKSHIRE
REGION
("THE COMMISSIONER")**

PMS CONTRACTOR: **FIELD HOUSE MEDICAL GROUP
FRESHNEY GREEN PCC
SORREL ROAD
GRIMSBY
DN34 4GB**

DISPUTE RESOLUTION: **NATIONAL HEALTH SERVICE (PERSONAL MEDICAL
SERVICES AGREEMENT) REGULATIONS 2015**

RE: **NON PAYMENT FOR VACCINATIONS**

1 Outcome

- 1.1 I conclude that the Contractor should submit the information as set out in paragraph 18(14) to the Commissioner for them to consider the claim.
- 1.2 I conclude that the Commissioner should review this matter and set out, with reasons, why it considers that it is or is not reasonable to accept a claim being made outside of the 6 month period in accordance with paragraph 18(11).
- 1.3 I note that neither party has submitted a claim for interest with regard to this dispute so I make no determination in this regard.

Advise / Resolve / Learn

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RE: NON PAYMENT FOR VACCINATIONS

1 INTRODUCTION

- 1.1 The above contractor has referred the dispute in relation to its Personal Medical Services Agreement for dispute resolution in accordance with the NHS (Personal Medical Services Agreement) 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 letter dated 29 December 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 Email from the Contractor of 29 December 2022 together with enclosures;
 - 2.2.2 Email from the Contractor of 16 January 2023;
 - 2.2.3 Email from the Contractor of 19 January 2023 together with enclosures;
 - 2.2.4 Second email from the Contractor of 19 January 2023;
 - 2.2.5 Third email from the Contractor of 19 January 2023;

- 2.2.6 Fourth email from the Contractor of 19 January 2023 together with enclosures;
 - 2.2.7 Email from the Commissioner of 30 January 2023 together with enclosures; and
 - 2.2.8 Email from the Contractor of 2 March 2023.
- 2.3 The Contractor has failed to send a copy of the contract with its request for dispute resolution as is required by section 76(3)(b) of the Regulations. I have been provided with copies of variations to the Agreement dated October 2021 and 21 February 2022. I am therefore satisfied that I can resolve this dispute without sight of the contract.

3 PARTIES SUBMISSIONS

The Contractor's application

- 3.1 In an email of 29 December 2022, the Practice Manager on behalf of the Contractor stated:
- “Please see below the string of emails about non payment of CQRS claims, I've attached the documentation I was asked to complete by [name redacted].”
- 3.2 In an email to the Commissioner of 29 December 2022, the Practice Manager on behalf of the Contractor stated:
- “I have completed the claims form as requested and attached the Activity Summary Report from CQRS as evidence, I have made an adjustment on the Meningitis ACWY as this was a coding error within practice and vaccines where not completed in-house [sic].
- I've also included May 2021 PCV/HIB claim, which was not claimed for, the evidence for this is a screen shot of searches run on our EMIS clinical system.”

Representations

The Commissioner's representations

- 3.3 In a letter dated 30 January 2023, the Commissioner has provided representations on this matter and states:
- “In response to the letter from NHS Resolution dated 20/01/2023, please find our representations relating to this matter set out below and as per the attached documents.
- In summary, we have declined the Fieldhouse medical group claim for immunisation payments as they missed the deadline for such claims, as set out in the Statement of Financial Entitlement (SFE) Directions. As per the evidence listed below, the practice contacted us on 13/10/2022 after the final deadline of 30/09/2022 and as such, their request was outside of the timescales permitted and was declined on that basis. The documents listed below and attached in your original letter, evidence our processes for making such decisions.
- These include if you cannot find a document, delete from the list and/or add any others: [sic]
1. The GP Practice Vaccination and Immunisation Agreement signed by the Practice Manager at [sic]

2. The full GP Practice Vaccination and Immunisation Agreement, as signed above, which sets out the submission timescales and payment deadlines for childhood immunisations on pages 15, 19, and 20.
3. The Statement of Financial Entitlement (SFE) Directions 2013 which sets out in sections 11.12 and 11.22 the deadlines for payment of childhood immunisations.
4. A copy of an email to all GP practices in Yorkshire and Humber region which set out our intention to strictly abide by SFE deadlines in future, dated 20/12/2019.
5. Claims on a Page reminder sent to all GP practices in Yorkshire and Humber region which sets out the deadlines for immunisation claims, dated 27/10/2020.
6. All email correspondence with Field House Medical Group in respect of this query, this is enclosed as part of the attachment sent by NHS resolutions.

In respect of the declined claims, we believe that the claims process and deadlines for routine childhood immunisation claims were outlined to the practice on three separate occasions. These being:

- December 2019 – in the letter to all GP Practices, referred to in point 4 above
- April 2020 – in the GP Practice Vaccination and Immunisation Agreement, referred to in point 2 above; and
- October 2020 – in the email reminder and ‘Claims on a Page’ document, referred to in point 5 above.

I trust this information helps to support your decision-making as part of the NHS Resolution Appeals process. Should you require further information or clarification on any of the attached documents, please do not hesitate to get in touch via [email address provided].

I look forward to hearing from you with regards to your conclusions.”

Observations

- 3.4 No representations were made by the Contractor regarding its application for dispute resolution and on this basis the Commissioner was not invited to provide observations.
- 3.5 The Contractor did not to make any observations on the representations which had been submitted by the Commissioner.

4 CONSIDERATION

- 4.1 Since 1 July 2022, it has been possible for Integrated Care Boards to take on delegated responsibility for the commissioning of primary medical services. NHS Resolution will issue this decision to the Commissioner which has responded to this appeal.
- 4.2 I note, from the information provided to me, that the application for dispute resolution has been made within the time limits as set out in the Regulations.
- 4.3 I note that the Contractor states in an email to the Commissioner dated 13 October 2022 “*Our activity report for 2021/22 indicates there are several payments for March 2022 still awaiting approval by the commissioning organisation, could you advise when these will be paid or the reason for the delay*”. I note that the Commissioner in its response sought further information and details of the claims “*so I can see about looking into this for you*”. I further note that after a series of emails between the Contractor and the Commissioner, the Commissioner, in an email of 29 December

2022 determined that payment would not be made “as there is a 6 month time from where adjustments are able to be made, so these claims would need to have been put in by September 2022”. The email from the Commissioner of 29 December 2022 went on to state “Unfortunately anything outside of that time frame will need to go through NHS resolutions as we are unable to process them at this level” and provided details of how to dispute the final decision.

- 4.4 The Contractor was given a final determination of the outcome of local dispute resolution in an email of 29 December 2022 and the Contractor was advised to refer the matter to NHS Resolution. I note that there is no dispute between the parties that local dispute resolution has been exhausted and that the Contractor has made an application for dispute resolution following receipt of a final decision from the Commissioner. I am content that local dispute resolution has been completed.
- 4.5 I have been directed by the Commissioner to the NHS General Medical Services Statement of Financial Entitlement Directions 2013 (“the SFE”) and in particular sections 11.12 and 11.12 and have been provided with a copy of this document. I have also been provided with a copy of the “2020/21 GP Practice Vaccination and Immunisation Agreement” as well as a copy of the “Public Health 2019/20 – GP Practices ‘Vaccination and Immunisation Programmes’ Contract, Guidance and Participation Agreement”. I note that the application of these has not been disputed by the Contractor.
- 4.6 I note that the vaccinations in question are referenced as dated May 2021 and March 2022 and fall within the 2021/2022 accounting period.
- 4.7 Whilst neither of the Guidance documents cover the relevant period of this dispute, I note that the email of 20 December 2019, which was sent to all GP Practices in Yorkshire and Humber region states:

“Please see the attached letter regarding Target Payments for Routine Immunisations. Historically our Public Health Commissioning Team have back dated these payments to previous years. However, the Statement of Financial Entitlement requires that claims are submitted within 4 months of the final date of immunisation for a given quarter.

The letter provides notice that the Public Health Commissioning Team will operate to this 4-month period from 01/04/2020. Applying this rule will ensure both the Provider and Commissioner fulfil their obligations under the SFE, bringing Yorkshire and the Humber in line with the other NHS England Regions.

The letter and GP Immunisation Agreement (also attached) provide further information on the claim process. “

- 4.8 The letter, also dated 20 December 2019 is headed “Re: 4-month claim period for Routine Immunisation Target Payments” and includes the following timetable:

“Timetable for Open Exeter submissions and manual claims:

| Quarter | Open Exeter Deadline | Manual Claim Deadline (where Open Exeter submission missed) |
|--|----------------------|---|
| Q1 (vaccines administered 1st April to 10th June) | 1st August | 1st November |
| Q2 (vaccines administered 1st July to 30th Sept) | 1st November | 1st February |
| Q3 (vaccines administered 1st Oct to 31st Dec) | 1st February | 1st May |

| | | |
|--|---------|------------|
| Q4 (vaccines administered 1st Jan to 31st March) | 1st May | 1st August |
|--|---------|------------|

4.9 The letter goes on to state:

“This letter also acts to reiterate the claim period for Additional and Enhanced Services through CQRS. Part 4 of the SFE requires that claims are submitted within 6 months of administering a vaccine. The claim process for Yorkshire & Huber already operates to this rule so there is no change to practice.

Further detail on the claiming mechanism is available in the 2019/20 Vaccination and Immunisation Agreement.”

4.10 I note that there is no dispute from the Contractor that they were sent a copy of this email and letter and were provided with this information previously notifying them of when the final cut-off date is for submission of claims.

4.11 I note that the Commissioner has referred to the SFE and in particular has made reference to section 11.12 and 11.22. I further note that in the 2013 SFE section 11 is entitled “Childhood Immunisations” which covers the claims that the Contractor is disputing as set out in its email of 8 November 2022, which states:

“The claims not paid for are Mar 2022 in the following areas:

6-in-1 vaccination programme
Meningitis ACWY
Pertussis in pregnant women
Pneumococcal & Hib MenC
Rotavirus
Seasonal Flu
Shingles”

4.12 I note, that in its representations the Commissioner states “...we have declined the Fieldhouse medical group claim for immunisation payments as they missed the deadline for such claims, as set out in the Statement of Financial Entitlement (SFE) Directions.”

4.13 I note that the Commissioner, in its representations, goes on to state “As per the evidence listed below, the practice contacted us on 13/10/2022 after the final deadline of 30/09/2022 and, as such, their request was outside of the timescales permitted and was declined on that basis”.

4.14 I note that whilst the Commissioner has provided me with a copy of the 2013 SFE they also refer generally to the SFE Directions. I am mindful that it is the 2021 SFE that is the relevant SFE to which I should have regard in the consideration of this dispute. I further note that there is no dispute from the Contractor with regard to the application of the SFE and I have therefore proceeded on this basis.

4.15 Apart from the specific sections with regard to childhood immunisations, I note that the Commissioner has referred generally to the SFE to support its position that “their request was outside of the timescales permitted” for payments to be made in respect of vaccine claims.

4.16 I note that Part 5, Vaccines and Immunisations, Payments for Vaccines and Immunisations of the 2021 SFE state:

“18 (1) A Contractor must offer to administer and provide vaccine and immunisation services of the type, and in the circumstances, specified in Annex I.”

4.17 Annex I of Part 5 of the 2021 SFE includes routine vaccinations for Pneumococcal, Haemophilus influenzae [sic] type b (Hib) and Men vaccines. I note, from the Contractor's email of 8 November 2022 these are the relevant vaccines relating to this application for NHS dispute resolution.

4.18 The 2021 SFE goes on to state:

"Payment

(2) The Board must pay a Contractor an item of service ("IoS") fee of £10.06 in respect of each dose of vaccine or immunisation administered to a patient who—

(a) is registered with the Contractor;

(b) meets the defined eligible cohort and age criteria for the vaccination and immunisation programme, in accordance with Annex I; and

(c) has received the required dose of vaccination or immunisation.

(3) Notwithstanding paragraph (2), the Board may not make any payment to the Contractor until the information in paragraph (14) has been provided.

(4) The Contractor must comply with best practice on call or recall and opportunistic offers for vaccinations and immunisations as set out in guidance: <https://www.england.nhs.uk/publication/update-on-vaccination-and-immunisation-changes-for-2021-22/>"

4.19 The 2021 SFE goes further on to state:

"Claims for payment

(9) A Contractor must use reasonable endeavours to submit a claim to the Board for payment of the IoS fee before the end of the period of 1 month beginning on the date of administration of the dose of vaccine and immunisation to which the payment relates.

(10) Without prejudice to paragraph (9) and subject to paragraph (11), a Contractor must submit a claim to the Board for payment of the IoS fee by no later than the period of 6 months beginning on the date of administration of the dose of vaccine and immunisation to which the payment relates.

(11) The Board may accept a claim made outside of the 6 months' period, if it considers it reasonable to do so.

(12) The Board must agree the value of the claim submitted by the Contractor before the IoS fee is paid. Any IoS fee payable falls due on the next day, following the expiry of 14 days after the claim is submitted, when the Contractor's GSMO falls due, unless the claim remains under dispute.

(13) The Board must ensure that the receipt and payment of claims is recorded accurately and that each claim has a clear audit trail."

4.20 The guidance as highlighted in the 2021 SFE at paragraph 18(4) of Part 5, was a letter, dated 10 March 2021 entitled "Update on vaccination and immunisation changes for 2021/22" which was sent to 'GPs in England, regional directors of primary care and public health and CCGs'. Annex B to this letter stated:

"Annex B: Vaccination programmes which attract an item of service fee and details of eligibility criteria

...

Vaccination and immunisations further requirements

Payments

As of 1 April 2021, practices will be eligible to claim an item of service payment for all doses of all listed vaccines, even when multiple vaccines are administered in a single appointment. GP practices will only be eligible for the item of service payment where all requirements as set out in the Statement of Financial Entitlement (SFE) have been met. Practices need to be signed up to CQRS to enable calculation of the monthly item of service payments. Practices are advised that to ensure they receive uppayment [sic], particular attention should be paid to the payment and validation terms and that they are using the correct clinical codes.

Practices are required to submit claims within 6 months of administering the vaccination.”

- 4.21 Neither the Contractor nor the Commissioner have stated that this letter was not sent or received by the Contractor.
- 4.22 I note that there is no dispute as regards any claims for payments for the 2021 financial year until March 2022 and it is just for March 2022 that the Contractor sought to claim payment for the vaccinations. I note that there is a comment about May 2021 which the Contractor says was not claimed for. I note that there is no further explanation as to why “PCV/HIB claim” for May 2021 was omitted. I am of the view that the Contractor should have been aware of the payment arrangements for the vaccinations and when these were due to be made. Given that the Contractor had been receiving payments for the preceding 11 months up until May 2021, the Contractor should have been aware of how the payment system was working. I am of the view that it is for the Contractor to ensure that systems are in place to check that the correct amounts have been received, having regard to the vaccination information that they hold.
- 4.23 I also note that the Contractor has made an “*adjustment on the Meningitis ACWY as this was a coding error within the practice and vaccines where [sic] not completed in-house*”. I have no further information before me as to what this adjustment is or how this affects what the Contractor is disputing or to which month this relates.
- 4.24 As stated above, I am of the view that the Contractor should have been aware when payments were due to be made. If payments were not made when they were expecting them to be made, based on the data submitted, then the Contractor should have reviewed this and sought to rectify the problems within the period allowed for submission.
- 4.25 I note that the Contractor raised the issue of non-payments with the Commissioner in an email dated 13 October 2022 in which they stated “*Our activity report for 2021/22 indicates there are several payments for March 2022 still awaiting approval by the commissioning organisation...*”
- 4.26 Whilst the Contractor did raise this with the Commissioner, I am of the view that the Contractor, being aware of the relevant timescales should have raised the issue of non-payment, for whatever reason, with the Commissioner before the final “cut off” date had passed.
- 4.27 I note that there is provision with the 2021 SFE at paragraph 18(11) for payment of a claim outside of the 6 month window. Paragraph 18(11) states:

“(11) The Board may accept a claim made outside of the 6 months’ period, if it considers it reasonable to do so. “

4.28 I note that this is discretionary for the Commissioner to accept a claim made outside of the 6 month period, if the Commissioner considers that it is reasonable to do so. I have not been provided with any evidence to demonstrate that the Contractor requested that the Commissioner consider the claim outside of the original 6 month window or if the Contractor provided details of exceptional circumstances which might have applied to it.

4.29 I further note that paragraph 18 of Part 5 of the 2021 SFE goes on to state:

“(14) The IoS fee is only payable if the Contractor—

(a) supplies the Board with the following information, subject to paragraph (16) and any applicable data protection legislation, in respect of each registered patient for which an IoS fee is claimed —

(i) the name of the patient;

(ii) the date of birth of the patient;

(iii) the NHS number, where known, of the patient;

(iv) details of informed consent, including, where consent is given on behalf of the patient, the name of the person giving consent and their relationship with the patient;

(v) where an offer of vaccination and immunisation is accepted;

(vi) any refusal of an offer of vaccination and immunisation;

(vii) the injection site where the vaccine is administered;

(viii) the batch number, expiry date and title of the vaccine;

(ix) when two or more vaccines are administered in close succession, the route of the administration and the injection site of each vaccine;

(x) the date of administration of the vaccine;

(xi) any contraindication to the vaccine or immunisation; and

(xii) any adverse reactions to vaccine or immunisation, where known;

(b) provides appropriate clinical information and advice to the patient, or where the patient is a child, to their parent or carer;

(c) uses nationally specified clinical coding for use in electronic health records (SNOMED codes), details of which can be found on the NHS Digital website <https://digital.nhs.uk/services/terminology-andclassifications/snomed-ct>, to record this activity and to return performance data to Public Health England;

(d) makes available any information to the Board, which it reasonably requests and needs, and the Contractor either has or could be reasonably expected to obtain, in order to form its opinion on whether the Contractor is eligible for payment under the provisions of this Section; and

(e) makes any returns reasonably required of it (whether computerised or otherwise) to the registration system approved by the Board, and does so promptly and fully.

(15) The Contractor must ensure that all information provided pursuant to or in accordance with paragraph (14) is accurate to the best of the Contractor's knowledge and belief.

(16) If the patient, or where the patient is a child, a parent or carer, objects to their name or date of birth being supplied to the Board, the Contractor need not supply such information to the Board but must supply the patient's NHS number.

(17) If the Contractor fails to comply with a requirement of this Section, the IoS fee is not due and the Board can withhold its payment to the Contractor until any necessary information is provided to the satisfaction of the Board."

- 4.30 I have not been provided with any information to demonstrate that the Contractor provided this information to the Commissioner. The Commissioner, in accordance with paragraph 18(17) is able to withhold any payment until the necessary information is provided to its satisfaction.
- 4.31 I note that there is nothing in the 2021 SFE to cap the number of claims which may be considered outside of the 6 month window and there is nothing contained within Part 5 "Vaccines and Immunisations" "Payment for Vaccines and Immunisations" which states how long after the 6 month period the Commissioner may consider a claim.
- 4.32 I have not been provided any of the information contained within paragraph 18(14) and therefore I am also unable to consider the claim from the Contractor.
- 4.33 I note that I have no information before me as to why *"the activity report for 2021/22 indicates that there are several payments for March 2022 still awaiting approval."*
- 4.34 I am left in some difficulty as I have not been provided with sufficient information from the Commissioner as to why they declined to accept the claim outside of the 6 month period. The Contractor has also failed to supply me with the relevant information as set out in paragraph 18 of Part 5 of the 2021 SFE to enable me to consider a claim.

5 DECISION

- 5.1 I conclude that the Contractor should submit the information as set out in paragraph 18(14) to the Commissioner for them to consider the claim.
- 5.2 I conclude that the Commissioner should review this matter and set out, with reasons, why it considers that it is or is not reasonable to accept a claim being made outside of the 6 month period in accordance with paragraph 18(11).
- 5.3 I note that neither party has submitted a claim for interest with regard to this dispute so I make no determination in this regard.

**Head of Appeals
NHS Resolution**