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Identifying services that should not be provided by GPs as primary medical services

Guidance for GPs

BMA

Identifying services that should not be provided by GPs as primary medical services

GPs must not be forced to accept clinical responsibility for patients in secondary care institutions nor for those in any setting where the clinical needs of the patient fall outside the normal skills of GPs.

On several occasions over a number of years, the GPC has been made aware of GPs being asked to provide services to patients residing in institutions or homes where the types of services expected do not fall under the responsibility of primary care. There appears to have been an increase in the number of such cases recently, seemingly in part due to an increase in the number of privately-run secondary care institutions. This is not in patients' best interests as it results in confusion and lack of clarity over who is clinically responsible for patients' care, as well as a risk to patient safety.

Care for patients in intermediate care can also present problems of poorly-defined professional remits. This problem is salient in the light of the trend to discharge relatively high-dependency patients from hospitals to other institutions. Although GPs often provide vitally important care for patients in intermediate settings, the care these patients need will sometimes go well beyond that which most GPs are trained, or contracted, to provide.

With this in mind, this short guidance document has been put together to help GPs decide whether or not the treatment they are providing in institutions and residential homes falls within the remit of standard primary medical services contracts.

The regulations

Practices are required to provide essential/contractual services to patients, as defined in the GMS/PMS regulations. Essential services are referred to in the regulations in the following paragraphs:

(3) 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) suffering from chronic disease,

delivered in the manner determined by the practice in discussion with the patient.

(4) For the purposes of paragraph (3)-

"disease" means a disease included in the list of three-character categories contained in the tenth revision of the International Statistical Classification of Diseases and Related Health Problems; and

"management" includes-

(a) offering consultation and, where appropriate, physical examination for the purpose of identifying the need, if any, for treatment or further investigation; and

*(b) the making available of such treatment or further investigation as is **necessary and appropriate**, including the referral of the patient for other services under the Act and liaison with other health care professionals involved in the patient's treatment and care.*

(5) The services described in this paragraph are the provision of appropriate ongoing treatment and care to all registered patients and temporary residents taking account of their specific needs including-

(a) the provision of advice in connection with the patient's health, including relevant health promotion advice; and

(b) the referral of the patient for other services under the Act.

In the view of the GPC lawyers, the use of the term "necessary and appropriate" in these regulations generally allows GPs to refuse to provide treatment to inpatients in secondary care institutions. This applies regardless of whether the institution is an NHS or private establishment. The remainder of this guidance is intended to help GPs decide whether treatment can or should be refused on this basis.

Indicators of whether GPs are responsible for patient care

When assessing institutions to determine who is responsible for patients, it is appropriate to consider several points which will help indicate whether GPs should be providing services:

- Is there a consultant or other non-primary care doctor with clinical responsibility for the patients/residents?
- Does any consultant or other hospital doctor act for the patients/residents, and is this at the GP's sole invitation?
- What are the historical care arrangements?
- Are there often instances where the level of care required is above that which would normally be provided by GPs?

GPs are likely to be responsible for patient care if:

- the residents fall into the practice's geographical area *and*
- In England, the institution is registered as a care home by the Care Quality Commission (CQC) and is not registered as providing hospital services.

[These characteristics indicate that GPs MAY be responsible but they need not all be present, nor is this an exhaustive list. Moreover, even if these points apply, the GP may not be responsible if other factors outweigh these characteristics.]

Even where GPs are required to take responsibility for residents or patients there is no requirement to provide any services beyond those set out in the GPs' primary care contract and GPs should be wary of working outside their normal clinical remit without the appropriate training. GPs are reminded that the definition of essential services in the GMS/PMS regulations refers to services being provided in a manner that is determined **by the practice**. If a GP is working outside their expertise and training they put patients at risk as well as their own registration.

GPs are unlikely to be responsible for patient care if:

- the institution is registered with the CQC as a hospital (in England)
- any clinical care for patients is provided by secondary care professionals who are NOT:
    - directly clinically responsible to the GP *and*
    - directly managerially responsible to the GP *and*
    - acting for the patient solely at the GP's invitation
- hospital medication or documentation is used in the institution
- the institution is secure and staffed by psychiatric nurses
- the indemnity they have or are expected to have does not extend to the type of care in question. If in any doubt, GPs should consult with their Medical Defence Organisation.
- care has historically been provided by secondary services and funded out of a secondary care budget.

What to do if you are being asked to provide primary care services to patients in secondary care institutions

As a general rule, GPs are under no obligation to provide care to hospital patients and should not do so under their normal GMS or PMS contractual arrangements. If they wish, they can provide such services under a specialist private or NHS secondary care (eg clinical assistant) arrangement, and they would not formally register the patients in such circumstances. We would expect such an arrangement to be agreed even where the secondary care institution does not have the expertise to provide treatment that would fall under the definition of essential services. A number of such arrangements exist, and allow patients within secondary care institutions to gain the advantages of traditional primary care services within certain inpatient settings (for example, within psychiatric hospitals).

Even where such an arrangement exists, however, it should be noted that some services simply do not fall within the normal competencies of the average GP and should be provided only by a doctor with the appropriate specialist skills and training. GPs who are being pressured into providing care in hospitals or are not clear whether an institution is a secondary care establishment should contact their LMC and their medical defence body for advice.

Providing care to patients in non-hospital institutions or residential homes

The provision of services beyond those covered by the GMS or baseline PMS contract, or beyond the clinical skills of the doctor, cannot be forced upon a contractor. If a GP determines that such a service or assessment is required a referral to a specialist service should be made.

Practices that are providing care to residential patients or to patients in intermediate or continuing care institutions should ensure that the level of service required by the institution is not greater than that defined as essential services. If this is the case, the PCO could enter into an additional contract with the GP/practice or with another GP/practice (including one outside the area) through a local enhanced service or GPwSI arrangement.

GPs should not allow themselves to feel morally blackmailed or contractually threatened to provide services beyond their level of competence. In providing care GPs must always:

- recognise and work within the limits of their professional competence
- consult colleagues if they have any concerns (eg LMC Officers, colleagues in the practice, MDO Advisors)
- be competent when making diagnoses and when giving or arranging treatment
- ensure they are properly indemnified for the services provided

Patients receiving NHS continuing care will often need an increased level of care such as the input of a specialist or GP with a Special Interest. Institutions and PCOs should be made aware that asking GPs to provide services outside their competency can put patients at risk and that failing to provide proper care for patients could lead to enquiries by the relevant regulatory bodies and referrals to the GMC.