

Court Requests for Medical Certification

Sheffield
LMC



GUIDANCE FOR SHEFFIELD GPs

April 2020

Following receipt of a number of enquiries from GPs with regard to the provision of medical certification for patients in relation to court appearances, LMC representatives met with Miss Fisher, District Legal Director, on Wednesday 20 December 2006. A number of salient points were agreed, and it was felt to be helpful to copy these to all GPs.

COURT REQUESTS

The court may issue a request for a sick note from a GP for non-attendance at a court hearing. This would usually take the form of a telephone call. However, this would tend to be the exception rather than the rule, and it would be more likely that the court would proceed in the absence of the defendant or accept the word of the defendant. It would be considered helpful if GPs would assist in these requests and help in the smooth running of the courts. Ultimate sanction of the court would be to issue a summons and compel a doctor to attend to give evidence if no note was forthcoming.

SOLICITOR REQUESTS

Far more frequently, the request for the sick note to explain absence from a court appearance comes from the defendant's solicitor. These requests are outside the scope of NHS work and would normally be expected to attract a fee. It would be reasonable to withhold the note until payment is received. However, given the nature of some of the clientele likely to be requesting these notes, payments might be difficult to obtain from the defendant themselves. The GP would have to make their own decision about when they might be prepared to issue such a note. There is no contractual obligation to do so. The alternative would be to issue a bill to the defendant's solicitor with the opportunity to reclaim this, if the GP had felt strongly about it, through small claims court proceedings.

PRIVATE SICK NOTES

It is inappropriate to use a *Statement of Fitness to Work* (Med 3) to excuse patients from court appearance as, on many occasions, illnesses that could justifiably be used as a reason not to work for social security purposes, would not necessarily justify a non-appearance in court. For example, minor and self-limiting illnesses would not normally prevent an attendance and nor would, for example, a fracture of an upper limb. Therefore, the LMC would advise GPs that a *Statement of Fitness to Work* (Med 3) is not the appropriate form for non-attendance from court and a private sick note should be issued.

It was accepted that a GP should ideally always see the patient for the relevant complaint. A GP should be very cautious when considering whether or not to issue a sick note for the court, for a condition that had resolved or was in the past. It may still be possible to do this if there was good evidence available, such as a hospital discharge note. However, this may be the exception rather than the rule.