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Practice-Based Commissioning Savings

There has been a great deal of press recently concerning the payment to practices of the savings made under practice-based commissioning (PBC).

The 70:30 ratio recommended in relation to PBC is not being met by a number of PCTs where it is held that locally agreed schemes are in operation. The General Practitioners Committee recommends that a practice should only take part in Practice Based commissioning schemes when they have entered into a signed agreement that the relevant PCT will adhere to the recommended payment ratios

The original guidance, set out in the Department of Health publication "Practice based commissioning: achieving universal coverage" from

January 2006 was clarified the following month to ensure that only the PCTs share (30%) can be used to cover their overspends. Recently the Department of Health has indicated that it will not compel PCTs to pay the recommended 70% of savings to the PBC practices.

On entering into a PBC contract it is imperative to have a binding agreement in place to ensure that the PCT will honour their payments under the recommended levels. A failure to do so would result in a breach of contract and will provide the practice with a greater degree of certainty at the end of the year.

For further information about Lockharts' Practice Based Commissioning services please contact Mark Jarvis on mj@lockharts.co.uk and see below.

Practice Based Commissioning Documentation

Following the release of the Department of Health guidance (Practice Based Commissioning: Practical Implementation) of 28th November 2006 and recent changes to legislation we have updated our PBC documentation.

The guidance has clarified the obligations on PCTs and on groups working within the Towards Practice Based Commissioning Scheme and we have taken this opportunity to refine our Model PBC Contract. This deals with for example, the development of agreed practice based commissioning plans; how the indicative budget is

set up for the commissioning of services; management costs; distribution of freed up resources; overspending as well as providing flexibility for proposed incentive schemes and other locally specific criteria.

Our finalised PBC Model Contract is now available on an inspection basis under a Licence Agreement for a fee of £50 plus VAT and which is deductible from the use fee.

For further information please contact Micah Jenkins on mej@lockharts.co.uk, Alison Oliver on ao@lockharts.co.uk.

Dentists

Lockharts has established a strong reputation amongst dental practices and continue to offer services tailored to the highly specific requirements of dentists.

The firm recently advised the British Dental Association in a success judicial review

If you would like further information regarding the services that Lockharts offer, please visit the website at www.lockharts.co.uk or contact Mark Jarvis on mj@lockharts.co.uk.

GDC – Continuing Professional Development Audit

In January 2002 the General Dental Council (“GDC”) introduced a compulsory continuing professional development (“CPD”) requirement.

Dentists were required to undertake 250 hours of CPD over the course of 5 years. This 5 year period has now reached an end and the GDC plans to audit those who have completed the

first 5 year cycle. A random sample of those who have completed the required 250 hours of CPD will be asked to submit their documentation. The GDC recommends that all dentists are ready in case they are selected to provide their documentation.

A potential consequence of a failure to complete the full requirement is the removal from the GDC Register and with that the loss of the right to practice in the UK.

As part of the procedure, dentists are required to submit an annual account of the CPD hours undertaken during the year and this account should form the basis of CPD records.

Further information can be obtained from the General Dental Council.

If you would like further information regarding the services that Lockharts offer to Dentists, please visit the website at www.lockharts.co.uk or contact Mark Jarvis on mj@lockharts.co.uk.

Freedom of Information

Since 2005, members of the public have been able to request access to information held by public authorities in England, Wales and Northern Ireland. Under Schedule 1 of the Freedom of Information Act 2000, any person providing general or personal medical or dental services is defined as a public authority and must have in place a publication scheme and respond to a request for information.

As with all policies it is worth revisiting the original document to ensure that it is up to date and has been amended to reflect any changes

to the legislation or practice organisation

Publication Scheme

The publication scheme (defined in Section 19 of the Freedom of Information Act) must include;

- The classes of information which the public authority publishes or intends to publish
- How the information from each class will be published
- Information regarding the costs that will be applied to requests for different classes of information

Costs and Fees

Reasonable costs for copying, printing and postage can be charged if the total cost of retrieving and locating the information will cost less than £450. The general recommendation is that postage and photocopying are charged at cost.

It is important to inform the applicant of costs before the information is provided and it is permitted to withhold the information until the fee is received.

If the location and retrieval of information will cost more than £450, the practice can refuse the application or charge the applicant the appropriate fee; up to £25 per hour per staff member.

VAT

VAT can only be charged if the information requested can be also obtained from an alternative, private organisation. If the information can only be obtained from the medical or dental practice, it is not considered to be economic activity and so VAT is not applied to the fees.

EMIS and Generic Drugs

It has been reported that the EMIS system requires a certain switch to be used when prescribing generic or brand name drugs. In some practices the switch is not being used properly resulting in under claims or potentially over claims being submitted. You should contact your accountant if you think that the switch has not been used correctly, to discuss the implications regarding your claims.

24 Hour Retirement

Specialist medical accountants say that it is now a generally held view that GPs who have reached the age of 60 might as well retire now as there are methods to ensure that they do not suffer financially.

Having retired for 24 hours, a GP can return to work and, at a later date, resume their partnership without losing out on their pension entitlement. If, during the first month of return the GP works no more than 16 hours per week, a full sharing partnership can subsequently be entered into without a reduction in their pension. This is a process that should be considered carefully, especially in light of the provisions in an existing partnership deed and it may be necessary to make some amendments.

For further information about Lockharts' Partnership services please contact Rosalind Parkin at rap@lockharts.co.uk.

Increase in National Minimum Wage

On 1 October 2007 there will be an increase in the national minimum wage levels of around 3.2%.

Age Group	Until 30 September 2007	From 1 October 2007
22 and over	£5.35	£5.52.
18-21 year olds	£4.45	£4.60.
16-17 year olds	£3.30	£3.40

Increase in Holiday entitlement

Also on 1 October 2007 there is due to be an increase in statutory holiday entitlement from 4 working weeks per year to 4.8 working weeks per year. For someone working full time this could see an increase in from 20 days to 24 days. The increase can include bank holidays. There is expected to be a further increase in October 2008 taking total holiday entitlement to 5.6 working weeks (a maximum of 28 days).

It would now be sensible to review your Contracts of Employment to ensure that the additional entitlement includes Bank Holidays and is not seen as a pure addition.

For example, a full time employee who is entitled to 20 days holiday per year plus Bank Holidays will, from October 2008, be entitled to 28 days inclusive of Bank Holidays. A full time employee who is only entitled to 20 days holiday per year inclusive of Bank Holidays will be entitled to 28 days inclusive of Bank Holidays after October 2008.

If you would like further information about Contracts of Employment or any Employment law issue, please contact Paul Werrell at pw@lockharts.co.uk.

Home Information Packs

The Government has recently announced a postponement in the introduction of the Home Information packs until 1 August in England and Wales. The delay is due in part to the limited number of accredited energy assessors; there is only 25% of the required number for the scheme to go into action in June. The delay and phased introduction will allow the full accreditation of the assessors currently working through the process.

As well as announcing their delay, there are due to a number of other changes that will affect the application of the scheme.

- The Home Information Pack will only apply to houses with four or more bedrooms in the first instance.
- For the first five months (until the end of the year), a property can be marketed once a pack has been commissioned. After this, the vendors must have a completed home information pack to market the property.
- Initially, Energy Performance Certificates that are up to 12 months old will be sufficient for inclusion in the home information pack.

The Smoking Ban

On 1 July, the smoking ban comes into force across England bringing it into line with the rest of the United

Kingdom. The legislation applies to all buildings that are substantially enclosed; this is defined as a roofed structure where no more than half of the walls constitute an opening. The roof need only be temporary for the structure to be included in the ban. If a company car is used by others, it falls under the legislation and the smoking ban applies.

Although it is unlikely that smoking is a major occurrence in most dental and GP surgeries, it is important to be aware of the need to display no smoking signs to avoid penalties. The signs must be of the following format:

- At the entrance to a public premise, an A5 sized sign must be displayed prominently which contains:
 - the international “no smoking symbol” at least 70mm in diameter;
 - the following paragraph in legible characters: “No Smoking. It is against the law to smoke in these premises.”
 - The words “...these premises” can be replaced with words that define the premises e.g. ‘surgery’ or ‘medical centre’.
- Within smoke free premises a sign that contains the international no smoking symbol should be displayed.

A failure to display the appropriate signage can result in an on the spot fine of £200, rising to £1,000 if the matter is taken to court. The failure to stop people from smoking on your premises can result in a fine of up to £2,500.

Care homes and prisons have been excluded from the ban. Under the

legislation these are considered to be ‘homes’ rather than public premises.

LMC Conference 14-15 June

We look forward to meeting some of you at this month’s LMC Conference at the Institute of Education in London. From our stand we shall be able to provide you with information about the services that we provide. If you are attending the conference, please take the opportunity to come to the stand and meet some of the firm’s staff. Our lead partner in the Partnership Team, Ros Parkin, hopes to be present throughout the conference.

The NHS Confederation Conference 20-22 June

Lockharts will be exhibiting at the NHS Confederation Conference in the ExCeL London Centre. Our stand will be located in unit E24 near to the catering points. Please visit the stand to meet some of the staff and gain further information about the services that we can offer.

The Firm

Micah Jenkins led the firm’s representation in a recent successful Judicial Review, supported by the British Dental Association. Full details can be found on the website at www.lockharts.co.uk

We are pleased to announce that Puja Patel has commenced her training contract at Lockharts with effect from 8 June.

Since our last issue, Lockharts has welcomed Samantha Bubb who has joined the legal secretary team.

Feedback and Further Information

If you have any feedback or comments on this issue of the 'Lockharts Legal Update' please contact Richard Gilligan at rag@lockharts.co.uk.

Further information about Lockharts Solicitors, the staff and services that are offered can be found at www.lockharts.co.uk.

Back Numbers

If you are a GP, Dentist or Practice Manager and have missed previous issues, please contact Richard Gilligan at rag@lockharts.co.uk quoting 'Back Numbers'.

Disclaimer

The content of this newsletter is only intended as information and should not be considered to be legal advice. Lockharts cannot be held liable for any loss caused by any act or omission as a result of the information in this newsletter.

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