



19 March 2024

Dr Caroline Trevithick
Chief Executive Officer
NHS Leicester, Leicestershire, and Rutland (LLR LCB)
County Hall
Glenfield
Leicester
LE3 8TB

Dear Dr Trevithick

Re: **48-hour review of wheezy children**

We write this letter on behalf of the GP practices in Leicester, Leicestershire and Rutland, all of whom we represent as their LMC. The specific subject-matter of this letter is 48-hour reviews for wheezy children and the arrangements there for, a matter about which we have been in correspondence with you for over 2 years now, without any satisfactory resolution, save of a temporary kind.

It has long been the case that children who attended hospital with an episode of wheezing were advised on discharge to arrange for a review in 48 hours. Initially, this review would take place at the hospital. More recently NHS England, whether directly or through CCGs/ICBs, has ceased commissioning the review service through secondary care, as a result of which the parents of these children are now advised to arrange the reviews with their GP, and the commissioner has made clear that it expects those GPs to provide the service. This is despite the fact that the service is not commissioned in primary care.

In the course of our correspondence Leicester, Leicestershire and Rutland ICB ("LLRICB") has accepted that this service is not separately commissioned but that it is equally not within the ambit of the services which have to be provided under the GMS contract. At the same time your position has been that you expect GP practices to provide it.

This inconsistent approach is wholly unacceptable. The LMC has taken legal advice and is entirely clear that where GPs are not obliged under the GMS contract or any other pre-existing duty to perform a particular type of work, a party who, knowing that, requests or requires GPs to do that work must expect to pay for it. In accordance with ordinary contractual principles this can be either a fee agreed in advance, or a fair price on a *quantum meruit* basis after the work is done. We have so advised the practices we represent.

We therefore give you notice, on behalf of all the GP practices which we represent, those being in fact all the GP practices in Leicester, Leicestershire and Rutland that:

- (i) the practices have been, and continue to be expected by LLRICB to carry out 48-hour check-ups for children who have been treated for wheezing at a hospital and discharged;

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Leicester, Leicestershire and Rutland Local Medical Committee
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Company Registration number: 06278584 Place of registration: England and Wales Registered office: Edward House, Grange Business Park, Leicester, LE8 6EP

- (ii) the practices are not obliged by their GMS/PMS contracts or by any statutory duty to provide this service;
- (iii) if practices are required, directly or indirectly, by LLRICB to continue to provide this service, each practice that is so required will invoice LLRICB for payment of a fair price for each and every time that the service is provided.

For the avoidance of any doubt we add that in the absence of a clear statement from LLRICB that GP practices are not obliged, and accordingly not expected, to provide this service in future, LLRLMC member practices will act on the basis that LLRICB does continue to expect them to provide the service.

We should further make clear that if invoices are presented by practices for the provision of this service in the circumstances envisaged, and are not paid by LLRICB, practices will take their own steps to enforce payment, through either NHS Resolution or the County Court, depending on the status of their individual contracts.

Finally we note that, having once contracted for the provision of the service, you have plainly already accepted that it is an additional service for which payment is appropriate. In the event that you do not choose to commission the service, we suggest that you agree with each practice individually what a fair price for each occasion would be, thereby reducing the scope for future argument. Although we are happy to serve this initial notice on behalf of the practices it does seem to us that negotiation of a fair price must be a matter for individual practices as providers, rather than the LMC.

Yours sincerely,



Dr G Ingrams
Executive Chair, LLR LMC.

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