Questions and answers about certification and medical reports – for healthcare practitioners

Certification questions | Medical reports

Can a GP issue a duplicate medical statement to a patient who has two part time jobs?

No. You can only issue a duplicate Med 3 if the original statement has been lost. You should clearly mark it “Duplicate”.

Advise people with more than one employer to submit the statement to their main employer, who can note the details of the advice you have given. They can then present the statement to their second employer.

Can healthcare professionals other than doctors give social security medical statements to patients?

No. The Social Security (Medical Evidence) Regulations state that only a registered medical practitioner can issue statements of a person’s incapacity for work.

However, an employer will normally consider all available evidence in deciding to accept an employee’s incapacity to work.

Whilst, the opinion of another healthcare professional, for example a nurse, psychologist or dentist, would clearly be persuasive to an employer or benefit Decision Maker, they would need to provide it on a statement other than a Med 3. The statement should clearly identify the name, address and speciality of the practitioner.

When can I backdate a Statement of Fitness for Work?

A Statement of Fitness for Work (Med 3) can only be issued for a backdated period when it is based on a previous assessment.

An assessment is defined as the date you either had a face-to-face consultation, a telephone consultation or considered a report from another doctor or registered healthcare professional. You can issue a Statement on or after this date, but not before.

We recognise that there are some situations where your patient may ask for medical evidence to cover a backdated period for which there has not been a previous assessment – for example, if your patient has not been appropriately issued with a Med 3 on discharge from hospital or at a previous consultation with another GP.

In these situations, you cannot issue a Med 3 for the back dated period. However, in order to be helpful to your patient you may wish to, either in the comments box of the Statement or in a separate letter, provide advice that the patient was not fit for work for an earlier period. You should ensure you have the appropriate information and evidence to justify this advice – generally this will be via a report or patient record. Employers and DWP can accept this advice as strong evidence of fitness for work for social security and Statutory Sick Pay purposes.

Jobcentre plus have requested a Statement from a 16 year old with learning difficulties so they can claim Employment and Support Allowance. The GP has not seen them for 3 years, what should they do?

Issue a Med 3, if in your opinion it is medically reasonable to do so. While a Med 3 normally provides advice about a patient's fitness for work, you may sometimes need to provide them for people who have never worked. In these circumstances, base your advice on work for which their education or training might have fitted them.

When issuing a Med 3 you must follow the guidance.

- Statement of Fitness for Work – A guide for General Practitioners and other doctors

Jobcentre Plus have insisted that a patient obtain a statement but the GP doesn’t agree that one is necessary. Must they issue one?

NHS GPs are under a statutory obligation to issue or refuse to issue statements. If you refuse to issue a statement because your patient is able to perform their own job or usual occupation, Jobcentre Plus must allow your patient to claim Jobseeker’s Allowance.

If a hospital discharges a patient and advises them to refrain from work, should the hospital or the GP issue a statement?

If a hospital doctor with clinical responsibility for the patient advises them to refrain from work it is appropriate for a member of the medical team to issue a Med 3 statement for this forward period. The hospital doctor must follow the rules for issuing a Med 3.

The duty to provide a medical statement rests with the doctor who has clinical responsibility for the patient at the time. Hospitals are required to provide all statements for Social Security and Statutory Sick Pay purposes and statements for both inpatients and outpatients who are incapable of work.

DWP have reminded hospital doctors of their responsibility to issue Med 3s in guidance which has been published on the DWP website and sent to Chief Executives of all NHS Trusts in England and Health Boards in Scotland and Wales.

- Hospital doctors – A supplementary guide to the Statement of Fitness for Work

Can a GP delegate the issuing of Med 3 statements to someone else – a nurse, for example, if the clinical situation remains unchanged?

No. Only a registered medical practitioner can legally issue a Med 3. A fundamental principle of sickness certification in the United Kingdom is that GPs provide advice on fitness for work as an integral part of the clinical management of a patient's condition.

Do I have to provide a further medical statement to a patient who has been advised by Jobcentre Plus that they are not entitled to Incapacity Benefit or Employment and Support Allowance?

If your patient appeals against the decision you may issue further medical statements until the appeal is held if you feel that it is medically appropriate. Medical evidence is required to support benefit claims at all times unless the Work Capability Assessment threshold is met. This requirement does not change while a patient is appealing. If you consider that your patient is fit for work and you do not issue a Med 3, Jobcentre Plus will advise your patient of

the alternative options open to them. This may include claiming Jobseeker's Allowance until the appeal outcome, if the specific qualifying conditions are met.

If the appeal is unsuccessful, you should only issue further statements if their condition worsens significantly or they have a new medical condition.

Why can't nurses sign the new Med 3?

Regulations specify that only doctors can issue Med 3s. This is because doctors are the most familiar with the process and they have been part of the re-education programme for the new statement. In addition, our research for the introduction of the new fit note showed that other healthcare professionals do not generally support large-scale extension of their work into this area.

Can employers refuse to accept the advice a GP provides on a Med 3?

Although employers have a liability to pay SSP to qualifying employees, it is up to the employer to decide in the first instance whether they accept that their employee is incapable of work. A doctor's statement is usually strong evidence of incapacity and should normally be accepted as conclusive, unless there is evidence to the contrary, but the decision ultimately rests with the employer.

If an employer has good reason to believe that his employee's incapacity is not genuine, they can refuse to pay SSP despite a medical statement. If the employee disagrees with the decision, they can ask the HMRC Disputes team in Newcastle for a formal decision on the matter. Alternatively, the employer can, with the employee's consent, seek a report direct from the employee's doctor or from the company's own medical advisors, or Atos Healthcare's Medical Services. HMRC have a contract with Atos Healthcare Medical Services to provide advice about employees' incapacity for work in connection with SSP. They can also give medical advice when lengths of sick absence seem unreasonable or when an employee has several periods of short term absences. Further information can be found on the HMRC website.

- Employer Helpbook for Statutory Sick Pay (PDF – HMRC website)

Where can I find out more about certification issues and queries?

Atos Healthcare Medical Services have a dedicated help line for use by medically qualified practitioners only – 0800 288 8777

Medical reports | Certification questions

Does a GP have to complete IB113/ESA113 reports for Jobcentre Plus if they have already provided a Med 3?

Yes. NHS GPs are under a statutory obligation to provide certain information to a healthcare professional working for Atos Healthcare on behalf of the DWP, in respect of patients that they have issued or refused to issue a statement. This includes a requirement to complete IB113/ESA113 reports when requested by Jobcentre Plus.

- National Health Service (Primary Medical Services) (Miscellaneous Amendments) Regulations 2010 (OPSI website)

What is the point of asking a GP for a medical report (IB113/ESA113) when they have already issued statements expressing their opinion?

People suffering from certain specified severely disabling conditions (“exempt” category in Incapacity Benefit or “support group” in Employment and Support Allowance) may be treated as incapable of work without being tested.

Jobcentre Plus therefore takes steps to identify such people before applying the Personal Capability Assessment (Incapacity Benefit) or Work Capability Assessment (Employment and Support Allowance). GPs (acting as certifying medical practitioners) play a crucial role in providing a precise diagnosis and factual clinical details in cases where a person may have a severe condition that, under Regulations, allows them to be treated as incapable of work.

A fully completed IB113/ESA113 report may thus avoid the need for a person to undergo a benefit related examination and help Jobcentre Plus to give a prompt decision on entitlement.

Does a GP need written consent from his patient before he can send an IB113/ESA113 to DWP?

No. NHS GPs are under a statutory obligation to provide certain information to a healthcare professional working for Atos Healthcare on behalf of the DWP, in respect of patients that they have issued or refused to issue a statement. This includes a requirement to complete IB113/ESA113 reports when requested by Jobcentre Plus.

Reports to the DWP are not subject to the Access to Medical Reports Act 1998. DWP obtain consent for the release of clinical information when someone makes a claim to benefit, and DWP gives claimants access to reports on request. Therefore it is not necessary for you to obtain consent from your patient for the release of clinical information or to check if the patient wishes to see a copy of your report.

- National Health Service (Primary Medical Services) (Miscellaneous Amendments) Regulations 2010 (OPSI website)

GMC guidance, Confidentiality Para 34 (b) states that “you may accept an assurance from an officer of a government department or agency or a registered health professional acting on their behalf that the patient or a person properly authorised to act on their behalf has consented”.

- GMC confidentiality guidance (PDF – GMC website)

A patient has asked for a report to support his appeal after having his Incapacity Benefit withdrawn. Do their GP have to provide a report?

No. GPs, as certifying medical practitioners, have a statutory obligation to provide statements of incapacity to patients on their list and certain information to a healthcare professional working for Atos Healthcare on behalf of DWP when requested. However, under their NHS contract there is no requirement for GPs to provide reports or offer an opinion on incapacity for work to anyone else unless requested to do so by Jobcentre Plus.

Claimants should contact Jobcentre Plus or the Appeals Service, where appropriate, if they think that further medical evidence is necessary to support their claim or appeal. They should state clearly their reasons for believing that further evidence is necessary.

If Jobcentre Plus or the Appeals Service consider that further medical evidence is necessary, they will seek it. They will be responsible for paying any fee to the doctor providing the report.

So NHS GPs are under no obligation to provide such evidence to their patients nor to provide it free of charge. If a GP does not agree to provide additional evidence for their patient then it is a private matter to be resolved between the GP and their patient.

Does a GP have to provide an IB113/ESA113 if the patient has moved to their practice but they have not issued a Med 3?

The National Health Service (Primary Medical Services) (Miscellaneous Amendments) Regulations 2010 state:

80.—(1) The contractor must, if satisfied that the patient consents—

(a) supply in writing to any person specified in sub-paragraph (3), within such reasonable period as that person may specify, such clinical information as any of the persons mentioned in sub-paragraph (3)(a) to (d) considers relevant about a patient to whom the contractor or a person acting on behalf of the contractor has issued or has refused to issue a medical certificate

The term contractor refers to the practice, rather than the individual GP.

Therefore any doctor in the practice where the patient is registered has an obligation to provide an IB113/ESA113 if one of the doctors has provided a medical statement to the patient.

However, if the patient moves practice, doctors in the new practice are not under an obligation to provide an IB113/ESA113 until one of them issues a medical statement to the patient. In this situation, we would anticipate that a GP would provide an IB113/ESA113 free of charge as this would be in the best interests of their patient. Although the GP could theoretically request a payment for a 113, Jobcentre Plus would not authorise a payment in these circumstances."