



Feidhmeannacht na Seirbhíse Sláinte  
Health Service Executive

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Circular no. 016 / 2013

13<sup>th</sup> August 2013

**RE: GMS Contract and Out of Hours Services**

Dear Doctor,

The provision of out of hour's services is governed by the GMS Contract and relevant Department of Health Circulars and has been the subject of ongoing discussions between the HSE and the IMO.

During the course of these discussions it became apparent that there were differing interpretations of the governing documents and it was therefore agreed that the parties would refer the matter to an independent mediator to assist with developing a clarification document on the provision of out of hour's services. The attached document was subsequently developed and agreed between the HSE and the IMO with the assistance of Mr. Tom Mallon SC who acted as the mediator. The purpose of this document is to provide guidance on what constitutes an eligible out of hour's service that will be reimbursable by the HSE. This document does not vary the terms of the GMS contracts as amended or varied by Circular.

Please ensure that any future claims submitted by you for out of hour's services are in accordance with these guidelines. Claims that are not in accordance with the guidelines will not be paid.

Yours sincerely,

Patrick Burke  
Primary Care Reimbursement Service

## CLARIFICATION DOCUMENT

The Irish Medical Organisation (IMO) and the Health Service Executive (HSE) referred certain matters relating to “out of hours” and “temporary residence/emergency treatments” to mediation. In the course of the mediation the parties agreed that the Mediator would be invited to issue a guidelines document which might be circulated by HSE to all contracted General Practitioners. The following are guidelines to be used by both General Practitioners and the HSE in determining the validity of any claim for out of hours.

1. The purpose of this document is to provide guidance on what constitutes an eligible “out of hours” service that will be reimbursed by the HSE as such. This document does not vary the terms of the GMS contracts (as amended or varied by Circular) and in the event of any conflict, between the contents of this document and the terms of the contracts (as amended or varied), the contract shall take precedence.
2. Nothing in this document shall alter or interfere with any obligation that a General Practitioner has in respect of his/her ethical obligations to the patient and/or his/her compliance with Medical Council requirements and in particular the Guide to Professional Conduct and Ethics for Registered Medical Practitioners.
3. This document should be read in conjunction with the GMS contracts and relevant Circulars.
4. Pursuant to the GMS contracts (as amended or varied) contracted General Practitioners are obliged to be available for consultations and for domiciliary visiting for a total of 40 hours per week (“normal contracted surgery hours”). Surgeries may be open for longer periods than the normal contracted surgery hours and such hours are referred to as “normal/routine surgery hours”. A General Practitioner’s surgery arrangements both “normal contracted surgery hours” and “normal/routine surgery hours” shall not discriminate between eligible persons and private patients.

5. Out of hours claims may only be made in respect of appropriate out of hours treatment given by the General Practitioner outside of the hours 9.00am to 5.00pm Monday to Friday and during all hours on Saturdays, Sundays and Bank Holidays.
6. Out of hours claims may not be made in respect of consultations held during normal contracted surgery hours or consultations held during normal/routine surgery hours. Out of hours payments will only be made in circumstances where the patient consultation is unforeseen, non routine and necessarily carried out out of hours and cannot be safely deferred until GP services are routinely available.
7. Notwithstanding the fact that a GP may have suitable alternative out of hours arrangements an urgent and unforeseen consultation may be the subject of an out of hours claim if the service provided by that out of hours service is not readily available and/or the patient's complaint is such that she/he required immediate attention and it might be injurious to his/her health to wait to attend the out of ours service.
8. Out of hours claims will not be paid in any or all of the following circumstances:-
  - i. The consultation is not urgent and/or is not unforeseen.
  - ii. The consultation takes place during an overflow clinic.
  - iii. The consultation takes place during normal contracted surgery hours.
  - iv. The consultation takes place during normal/routine surgery hours.
  - v. The patient did not require urgent treatment directly by the GP concerned.
  - vi. No face to face out of hours consultation actually took place.
  - vii. The consultation is otherwise routine.
  - viii. The time of the consultation was not during the specified out of hours period.

9. The decision by a GP to accept or refuse a consultation in respect of any of the foregoing circumstances shall be taken by that GP having regard to, inter alia, the provisions of the GMS contracts (as varied) and his/her obligations under Medical Council guidelines.
10. The GP shall not be entitled to make a claim for out of hours in respect of consultations that are offered to a patient outside normal hours merely to facilitate the preference of the patient.
11. Special items of service should normally be provided during routine/normal surgery hours and provision of special items of service should not be scheduled for out of hours.
12. If, during the course of an appropriate out of hours consultation it is identified that a patient urgently requires a special item of service which cannot be deferred until the next scheduled surgery then the GP may claim a fee for that special item of service in addition to the out of hours fee provided always that the service is on the agreed list of services which may be reimbursed in respect of out of hours.
13. The following special services may be provided during the course of out of hours consultations:-
  - Excisions
  - Suturing of cuts and lacerations
  - Treatment and plugging of dental and nasal hemorrhages
  - Electrocardiography (ECG) tests and their interpretation
  - Removal of adherent foreign bodies from the conjunctival surface of the eye
  - Removal of lodged or impacted foreign bodies from the ear, nose and throat (not including syringing of the ear for wax)
  - Nebuliser treatment in the case of acute asthmatic attack
  - Bladder catheterization
  - Attendance by GP at HSE convened case conference
  - Vaccination, Hepatitis B

If the following services are provided out of hours a STC claim only can be made:-

- Cryotherapy/diathermy of skin lesions
- Draining of hydroceles
- Recognised vein treatment
- Instruction in fitting of a diaphragm
- Advice and fitting of a diaphragm
- Counselling and routine fitting of an intra uterine contraceptive device (IUCD)
- Vaccination – influenza, pneumococcal

#### **CLAIMING PROCEDURES**

14. It is the obligation of the doctor to ensure that all appropriate claim forms are completed accurately and fully. Out of hours claims may be only made by the “doctor of choice” of a GMS patient or by a partner of the “doctor of choice” who is also a GMS contract holder or by a GMS contract holder who has entered into a recognised rota arrangement with “the doctor of choice” where such arrangements have been approved by the HSE. Such arrangements may include out of hours cooperative rotas. The HSE recognises that such arrangements may give rise to above normal out of hours claims statistics for individual doctors. Any concerns in this area will be brought directly to the attention of the doctor.
15. This document deals only with out of hours arrangements and does not deal with emergency arrangements in the contracts which will be subject to a separate clarification document.
16. Payment of fees shall be made monthly. In the event of the HSE refusing to discharge any fee claimed then it shall within 30 days of the receipt of the claim advise the doctor that the fee is not to be paid and the reason for the refusal thereof. In the event of the HSE refusing to make any payment then the doctor may raise the matter directly with the HSE or may request the IMO to raise it on

his/her behalf. Efforts will be made, where matters are raised by the IMO, to resolve payment issues within a period of eight weeks. In the event of the matter not being resolved by discussions it may, subject to the agreement of both the HSE and the doctor be referred for binding arbitration to an agreed third party. Nothing in this document limits in any way any party's legal rights pursuant to the GMS contracts as amended or varied. Nothing in this clause alters the provisions in the GMS contracts in relation to payments on account.

17. The following are the documents which taken together constitute the GMS contracts as they relate to "out of hours" but is not an exhaustive list of all contractual documentation:
  - (a) Agreement for the Provisions of Services under Section 58 of the Health Act 1970 as completed by each contracted General Practitioner.
  - (b) Circular letter entitled "GMS Doctors Contract/Out of Hours Work" dated 6<sup>th</sup> August 1997.
  - (c) Circular entitled "February 1998 Agreement and Out of Hours Arrangements and Payments" dated September 1998.
  - (d) Document entitled "Out of Hours Claims by General Practitioners under the GMS Scheme" dated 8<sup>th</sup> October 1999.
  - (e) Agreement for provision of services under Section 58 of the Health Act 1970 as substituted for by the Health (Amendment) Act 2005 as completed by each contracted General Practitioner (GP Visit Cards).
18. For the avoidance of doubt this document does not form part of the contractual documents between General Practitioners and the HSE for the provisions of services pursuant to Section 58 of the Health Act 1970 (as amended). This document has no legal effect, however it is agreed by the HSE and the IMO that it might be used by the parties to the contracts as guidelines on the appropriateness of claims and payments for out of hours.

## **APPENDIX B**

### **HISTORICAL/LEGACY ISSUE (OUT OF HOURS) PAYMENTS REVIEW MECHANISM**

1. The agreement reached between IMO and HSE provides that the HSE will advise GPs of the amount, if any, which it proposes to pay in respect of historical/legacy issues arising out of claims for out of hours. These arrangements will apply to all claims made prior to the first day of August 2013.
2. The HSE shall advise individual GPs of the amount, if any, of the payments to be made in respect of outstanding claims for out of hours. In the event of the HSE offering to pay the entire amount of the outstanding claims and the payment of such sum not later than the 30<sup>th</sup> day of September 2013 then these procedures shall not apply in respect of any claim made by the GP in respect of same.
3. In the event of the HSE offering to a GP a sum less than the entirety of the historical/legacy claims then it shall be open to the GP to either accept or reject the said offer. In the event of the said offer being accepted by the GP and the payment being made not later than 30<sup>th</sup> September 2013 then same shall constitute a final resolution of those matters and these procedures shall have no application in such cases.
4. In the event of a GP declining to accept a partial payment or in the event of the HSE advising a GP that no payment will be made then the GP may seek a review of the HSE decision.
5. In order to initiate a review of such a decision the GP either directly or through his representative organisation shall lodge a claim with the Mediator not later than the 31<sup>st</sup> day of October 2013. That claim may be made in writing to the Mediator at the address provided below or by email to the email address provided below. The request for review by a GP shall be accompanied by all relevant documentation including and in particular copies of the disputed claims, copies of all correspondence between the GP and the HSE in relation to the said claims and the GP shall also set forth such factual or other arguments in support of his/her claim as she/he wishes. The GP, or



his representative organisation, as the case may be, shall when lodging the request for review provide a copy of all of the documents provided to the Mediator to the HSE in writing at the address below or by email at the email address below.

6. On receipt of a copy of a request for review the HSE shall provide to the Mediator all relevant documentation in its possession relating to the disputed claim to include all correspondence passing between the parties in respect of same. Such documentation shall be provided to the Mediator not later than 14 days after the receipt of the request for review.
7. The Mediator will conduct a review of the documentation provided to him and he may, at his absolute discretion, request the parties to make further submissions or to provide further documentation and in this regard he shall set such time limits for the provision of such documentation and/or submissions as he thinks appropriate.
8. The Mediator's review will consist solely of a review of the documentation and no hearing will be conducted.
9. The Mediator shall, as soon as reasonably practicable, issue his recommendation in writing in respect of each claim. Such recommendation may recommend that the HSE's original offer be accepted by the GP or may recommend that the HSE should increase its offer to a stated amount. The Mediator shall have no power to recommend a lesser offer than that originally made by the HSE.
10. The parties to a request for review being the HSE and the GP involved shall advise the Mediator not later than 10 days following the delivery by him of his recommendation of whether or not the recommendation is acceptable.
11. Both parties are entirely free to accept or reject the Mediator's recommendation.
12. In the event that both parties accept the Mediator's recommendation then the Mediator shall advise the parties of same and thereafter the HSE shall make the appropriate payment in accordance with the recommendation not later than 30 days following the receipt of confirmation of the acceptance of the Mediator's recommendation. In the event of the parties accepting the recommendation of the mediator and in the event of the amount recommended being paid and accepted then same shall constitute a binding agreement between the parties in respect of the subject



matter of the claim and review. The binding nature of the agreement will be reflected in writing.

13. Nothing in this procedure and nothing in the agreement made on the <sup>26<sup>th</sup></sup> day of <sup>July</sup> 2013 by the HSE and IMO shall interfere with the rights of either the HSE and/or an individual GP to exercise such legal rights as it/he/she may have in respect of such a claim except where a claim has been settled in accordance with paragraph 12 above and/or in accordance with Clause 4 of the Agreement. In such cases the GP shall have no right to bring a legal claim.

14. The HSE and the individual GP by requesting a review acknowledge that the Mediator is under no obligation to conduct any oral or other hearing in respect of the review and further that they will not challenge any recommendation of the Mediator before any court or tribunal and it is further agreed and acknowledged that any recommendation by the Mediator in respect of any review does not constitute a legally binding directive to either party and that both parties are entitled, as they wish to reject the recommendation of the Mediator.

15. For the avoidance of doubt any GP to whom the HSE makes a nil offer in respect of the historical/legacy issues relating to out of hours provided for herein shall be entitled to seek a review on the same terms as if he/she had been made a partial offer.

Mediator

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