

FITNESS TO WORK – THE ROLE OF THE GP CERTIFICATE (FMed3)

Introduction

The National Press have recently covered the UK Government's intention to phase out the role of General Practitioners in relation to issuing statutory certificates of fitness for work (FMed3 Certificates) by April 2005, and replacing this with an alternative system. The actual details of the alternative system have yet to be released by the Government and this has generated a significant debate, particularly among employers and Politicians.

It is important to clarify the current situation with regards to the status of the certificate that an employee obtains from the General Practitioner after they have been absent from work due to ill health for in excess of five working days. The normal certificate obtained is an FMed3 (also available from the General Practitioner is a pink certificate FMed5, which allows the General Practitioner to sign an employee off retrospectively).

It is important to note that at the top of FMed3 in red letters is the phrase "for Social Services and Statutory Sick Pay purposes only".

The FMed3 Certificate is signed by the General Practitioner. It contains documentary information from the General Practitioner to his/her patient. The information is not for the benefit of the employer.

The employer is not duty bound to accept the information contained in an FMed3 Certificate if the employer can demonstrate that they have been able to access alternative competent information and that any decision he makes with regard to the ongoing employment of an individual is based on informed advice that is at least of equivalent competence. Such advice can be provided by a qualified Occupational Health Physician and this is currently supported by UK Case Law.

The UK Government Department responsible for issuing and creating legislation relating to the statutory certification process is the Department for Work and Pensions and not the Department of Health. As already indicated, the certification process in the United Kingdom is the administrative means by which the Department for Work and Pension logs the availability of Statutory Sick Pay, etc.

The signing of statutory certificates, such FMed3 and FMed5, is a duty undertaken by UK General Practitioners as part of their contract with the UK Government. UK General Practitioners receive remuneration from the UK Government for this service.

It is evident that following the UK Government's announcement that the situation will change in April 2005, there will be a significant amount of discussion, both within medical circles, employers forums and within the UK media within the next few months. There is no doubt that employers find themselves in the situation where an employee legitimises their absence from work by receiving an FMed3 Certificate from the General Practitioner. At the present time employees are able to obtain such certificates for a variety of reasons, many of which may not be medical.

Current UK Case Law supports the employer in challenging the issuing of such certificates and, where they have the appropriate competent advice, taking management action based on this advice, even if it is in direct contradiction to the information provided by the FMed3 Certificate.

