



Do I have to accept the GP's certificate? Part II

Although we have visited this topic twice previously in our management advice leaflets, in the light of Dame Carol Black's recent report and the discussions within the press, we felt it was important to review the current situation from an occupational health perspective.

Having reviewed Carol Black's report as reported in the media and the proposal, which seems to have been accepted by Government, to change the process from GP's issuing a document to certify illness to a document to certify fitness we will wait to see if this will be actually introduced. Previous suggestions by Government over the last four years have in fact not materialised and the same system has now been in place for decades.

It is evidently an important subject for many companies and managers as employees and many unions are still unaware of the actual status of the Med3 certificate.

We are all aware that there are many employees who manage ill health and remain at work and maintain a good level of attendance and performance. Many employees manage chronic illness such as diabetes, arthritis or heart problems and in the vast majority of cases there is little connection between the severity of the illness and the amount of time an employee takes away from the workplace.

It is also evident that General Practitioners and hospital doctors have little experience of the workplace outside of the healthcare sector and little appreciation of the management concerns and constraints and also the rights of employers under current legislation.

Employers often find themselves on the back foot when faced with employee health issues. However it is important to note that an employee is subject to a contract of employment. If the employee does not attend work, this contract is broken for whatever reason. It is the employer's prerogative to accept whether the reasons for the break in this contract are appropriate and justified.

It is important for employers to be aware of the current status of the Med3 and Med5 certificate in current UK case law. On the document, in red letters, is the phrase '**For Social Services and Statutory Sick Pay Purposes Only**'. The certificate is signed by the doctor, usually the GP, and contains documentary information from the GP to his/her patient. The information is not actually for the benefit of the employer. The employer is not bound to accept the information on the General Practitioner's certificate if it can be demonstrated that the employer has based the subsequent management decision on informed advice from at least an equivalent source. The advice of an occupational physician or occupational health nursing advisor satisfies this criteria and in fact current case law supersedes the General Practitioner or hospital specialist's advice.

With the contract of employment broken, with the employee being away from the workplace, it is the employers prerogative to either accept or reject the FMed3 or FMed5 certificate. It is also their prerogative to take alternative advice if they are able to do so with regards to health issues.

We hope this information is useful to you in attempting to manage your absence issues in the workplace. Please do not hold your breath with regards to any changes in the current system as; given our experience over the last 4 years, this is unlikely to be rapid; if at all. If you have any specific cases or questions please do not hesitate to contact Jane Puncher on 01622 7758285 or email: j.puncher@phcohealth.co.uk

For more general information with regards to any of Preventative Healthcare's services and our latest company news, please visit our website at www.phcohealth.com or email us at: talk2us@phcohealth.co.uk

References

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British Gas plc v Breeze EAT 503/87

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Rao v CAA (1994) IRLR 248