

GP Services over the Christmas and New Year Holiday Period – Guidance for practices in England

November 2013

As GP practices prepare for the Christmas and New Year period it is vital that patients have access to the appropriate services, especially at a time when winter pressures are putting a severe strain on urgent and emergency care services including general practice, A&E departments and out-of-hours providers.

Practices should ensure that patients are aware of any closures in advance by using surgery notices, and including messages on repeat prescriptions. Arrangements should be in place to ensure that repeat prescriptions are ordered and collected in a timely matter to avoid requests over the period of practice closure. If required, answer phone messages should be changed at 1830 on the afternoons of early closure - in particular for opted out practices where there is a change from the sub-contracted provider to NHS 111.

You may be aware that NHS England recently issued guidance on this matter, distributed to Area Teams, in which it was claimed that practices could receive breach notices if they fail to open from 8am to 6.30pm on Christmas Eve and New Year's Eve. This is not consistent with the contractual regulations and we have alerted NHS England to this inaccuracy. This guidance is intended to address this misinterpretation.

If a practice is comfortable that there will be a low-level of demand for services on these two days and it is able to run a service that is *reasonable* to meet the needs of patients at that time, this would not constitute a breach of contract. The relevant regulations can be found below in Appendix 1.

The regulations take into account that, at certain times, the need to run a full surgery may not be necessary, and therefore allow a practice to run a service that allows patients to access core services but on an ad hoc basis when required.

Practices should advise the Area Team that historically levels of demand have been low at these times, and should be in a position to confirm that contractual obligations have been met on the afternoons in question should there be any subsequent challenge.

Area Teams have also reportedly warned practices that they cannot agree to any practice sub-contracting their responsibilities to another provider. Practices must formally apply in writing to the Area Team with their intention to subcontract as soon as reasonably practicable before the date on which the proposed subcontract is intended to come into force. The regulations for these requirements are detailed in Appendix 2.

As detailed in Appendix 3, the refusal to allow a contractor to sub-contract services can only be based on the grounds that the sub-contract would:

- Put at serious risk the safety of the contractor's patients
 - Put the Board at risk of material financial loss; or
- The sub-contractor would be unable to meet contractor's obligations under the contract.

If a practice chooses to cover its own requirements for the afternoon, for example, by using one of their own GPs on call, or by subcontracting to a single health care professional who delivers the cover personally, there is no requirement to seek Area Team consent.

Please note that different provisions may apply to any PMS practice. Please check your contract for specific requirements.

If you experience any problems with your arrangements, please contact the GPC on info.gpc@bma.org.uk

National Health Service General Medical Services Contracts Regulations - Extracts

Appendix 1

8.1 Essential Services

8.1.1. Subject to clause 8.1.8, the Contractor must provide the services described in Part 8 (namely essential services) at such times, within core hours, as are appropriate to meet the reasonable needs of its patients, and to have in place arrangements for its patients to access such services throughout the core hours in case of emergency.

Appendix 2

15.9. Sub-contracting of clinical matters

15.9.1. Subject to clause 15.9.2, the Contractor shall not sub-contract any of its rights or duties under the Contract in relation to clinical matters unless-

a) in all cases, including those which fall within clauses 15.10.1 to 15.10.15 it has taken reasonable steps to satisfy itself that it is reasonable in all the circumstances and that person is qualified and competent to provide the service; and

(b) except in cases which fall within clauses 15.10.1 to 15.10.15, it has notified the Board in writing of its intention to sub-contract as soon as reasonably practicable before the date on which the proposed sub-contract is intended to come into force.

15.9.2. Clause 15.9.1(b) shall not apply to a contract for services with a health care professional for the provision by that professional personally of clinical services.

15.9.3. The notification referred to in clause 15.9.1(b) shall include-

(a) the name and address of the proposed sub-contractor;

(b) the duration of the proposed sub-contract;

(c) the services to be covered; and

(d) the address of any premises to be used for the provision of services

15.9.4. Following receipt of a notice in accordance with clause 15.9.1(b), the Board may request such further information relating to the proposed sub-contract as appears to it to be reasonable and the Contractor shall supply such information promptly.

Appendix 3

15.9. Sub-contracting of clinical matters

15.9.5. The Contractor shall not proceed with the sub-contract or, if it has already taken effect, shall take steps to terminate it, where, within 28 days of the notice referred to in clause 15.9.1(b), the Board has served a notice of objection to the sub-contract on the grounds that-

(a) the sub-contract would-

- (i) put at serious risk the safety of the Contractor's patients, or
- (ii) put the Board at risk of material financial loss; or

(b) the sub-contractor would be unable to meet the Contractor's obligations under the Contract.

15.9.6. Where the Board objects to a proposed sub-contract in accordance with clause 15.9.5, it shall include with the notice of objection a statement in writing of the reasons for its objection