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VA    

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VA       

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VA   

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for discussion / consolidate knowledge

■ Med 4 completion

VA   

The following should be included in the general introduction:

- **Your background – concentrating in particular on your GP experience and details of the organisation you represent.**
- **The aim of the presentation – to discuss and make the audience more aware of the issues surrounding sickness certification.**
- **The material has been prepared by doctors who have first hand experience of general practice and the role of certifying doctors.**

A brief outline of the medical evidence required to claim Statutory Sick Pay or a state incapacity benefit should be given. It should include:

- **For the first seven days of incapacity, the claimant completes a ‘self certificate’ – form SC1(self employed) or SC2 (employees).**
- **After this seven day period, a medical statement confirming that the doctor has advised the claimant to refrain from work is required.**
- **For the first 28 weeks incapacity, those who have an employer and meet certain conditions (time in employment and hours worked each week) are paid Statutory Sick Pay by their employer.**
- **Those without an employer (the self employed and unemployed) may be paid a sickness benefit by the state.**
- **After 28 weeks incapacity, the state takes over administration / payment of incapacity benefit in all cases and the claimant will be assessed by the Benefits Agency regarding their ability to perform any work.**

Med 3 statements confirm the doctor's advice given to their patients regarding capacity for work. NHS GPs are required to issue these and other statements of incapacity under their Terms of Service¹. These state that:

- **'a doctor shall issue free of charge to a patient or his personal representative any medical certificate of a description prescribed in column 1 of Schedule 9, which is reasonably required for the purposes of the enactments specified in column 2'**.

(Note: Although a certificate can be issued to a patient's representative, this does not over-ride the necessity of seeing the patient on the day or the day before a Med 3 or Med 4 is issued).

- **'any certificate given for the purposes of the Social Security Act 1975 shall be in accordance with any Regulations made under the Act'**.

(ie. certificates must be issued on the prescribed forms and in accordance with the Regulations).

¹ National Health Service (General Medical Services) Regulations 1992

Details of the rules concerning the completion of certificates and related matters can be found in IB204 – A Guide for Registered Medical Practitioners issued to all doctors in April 1995 and subsequent Chief Medical Adviser bulletins.

As explained earlier, the Med 3 statement, as well as the other statements (Med 4 and 5) and the rules for their completion are set out in legislation². The key points as shown in VA 3 and 4 are:

Keep secure to prevent misuse and fraud

– (as valuable as a pad of FP10 prescription forms)

For Social Security purposes only

– do not use Med 3s to provide medical evidence for anything other than SSP or Social Security incapacity benefit purposes eg. inability to attend court

Only issue one statement

– replacements for lost certificates should be marked ‘DUPLICATE’

Complete in ink

Must be completed by doctor

– defined as a registered medical practitioner other than the claimant.

² Social Security Medical Evidence Regulations 1976

Required after seven days in a spell of incapacity

– a spell of incapacity for state benefit purposes, considers incapacity over an eight week period. If two or more periods of incapacity in this eight week period total more than seven days, the Benefits Agency will ask the patient to obtain a medical certificate from their doctor. Thus occasionally, a patient claiming a state incapacity benefit may require a doctor's certificate if he has a second short (under seven days) spell of incapacity within eight weeks.

Must examine patient on the day, or day before issue

Give accurate diagnosis (usually)

– to enable the Benefits Agency to identify those potentially exempt the appropriate test of incapacity for work. See section on Med 6 regarding when it is acceptable to give a vague diagnosis.

Give opinion based on usual occupation

– or usual type of work if not currently working.

Periods of incapacity:

Open certificates – **'for'** section

- no date to return to work
- period of incapacity given
- initial certificate up to six months
- certificates after six months incapacity can be for any clinically appropriate period up to indefinite

Closed certificates – **'until'** section

- date to return to work up to two weeks after issue.

CASE EXERCISE

A 42 year old woman has worked as a hotel receptionist for many years. She has recurrent episodes of low back pain and is frequently 'off' work for four to eight weeks. Her employers are finding it increasingly difficult to cope with her prolonged and frequent absences. A week previously, whilst digging her garden, she developed low back pain which did not radiate to her legs. She complained that bending was painful and that she was more comfortable if she was able to change position from time to time. She had spent long periods resting in bed, as in the past she had been advised that bedrest was the best treatment for back pain; this however produced no improvement in her symptoms. Otherwise she is well.

On examination she has an almost full range of back movements with no neurological signs in her legs.

She requests a certificate.

QUESTIONS

- 1 What is the purpose of the Med 3 certificate?
- 2 When giving advice to your patient what do you need to know/consider?
- 3 Should you issue a certificate advising this woman to refrain from work and what are the possible consequences of your action?

CASE EXERCISE

This case forms the basis for a discussion on 'best certification' practice. It is useful if the audience is allowed 10 to 15 minutes to consider the case and answer the questions.

The discussion will need careful direction from the speaker.

The key points to make are given in the overheads which are summarised below:

- advice regarding incapacity for work should be an integral part of the medical management; part of the doctor's therapeutic intervention
- the advice given should consider the best interests of the patient (as with any treatment)
- advice should where possible be based on clinical guidelines/evidence.

The rules governing the issue of a Med 3 statement state that the doctor must see the patient on the day of issue or the previous day. There may be occasions when a doctor wishes to supply evidence of incapacity for work for an earlier period. In these circumstances a Med 5 may be appropriate.

When issuing a Med 5 the doctor must:

base the advice on his/her examination of the patient on a previous occasion

be sure he would have advised the patient to refrain from work from the date of the examination for the entire period of the certificate.

Certifying doctors can only advise their patients that they would have been medically incapable of work for a much earlier period, where the available evidence clearly indicates that the patient was examined on the date incapacity for work began.

Unless there is clear evidence to doctors (for example in the clinical notes), based on their examination of the patient, it is unlikely that they will be in a position to provide such advice. The Department of Social Security's guidance to doctors has always been that the period certified should be fully in keeping with the clinical findings at the onset of the period of incapacity.

The only exception to basing an opinion about capacity for work on a previous personal examination is where the certifying doctor has a report from another doctor **issued less than one month previously**. The certifying doctor may use this evidence to support an opinion that the patient is incapable of work. In this case the doctor should issue a certificate to cover a **forward period of no more than one month**.

You will have already covered the importance of a clear diagnosis on Med 3 and 4 certificates when discussing the completion of these certificates.

An accurate diagnosis will:

enable the Benefits Agency Medical Officer to identify those who may be exempt the appropriate test of incapacity for work

help the Benefits Agency to collect accurate data about the medical causes of incapacity for work.

This information is used for:

future planning and policy development

monitoring the benefits

epidemiology research.

There are occasions when a doctor may not feel it appropriate to issue a certificate with the true diagnosis to the patient, usually when the doctor feels that the patient and/or his employer should not know that diagnosis.

Med 3 and Med 5 certificates are seen by the patient who for the first 28 weeks of illness will, where appropriate, pass them to his employer.

Med 4 certificates are seen by the patient and not the employer since they relate only to a state benefit and are sent by the patient to the Benefits Agency office with the incapacity questionnaire.

If the doctor has not entered a diagnosis on forms Med 3, Med 4 and Med 5 as precisely as the rules require – he should, at the same time as he issues the statement, notify the local Benefits Agency office by sending a completed Med 6. A copy can be found included in each pad of Med 3 and Med 4 forms. The address of the nearest Benefits Agency office can be found in the telephone directory under ‘Benefits Agency’.

On receipt of the Med 6, if the patient is claiming a state benefit the Benefits Agency will write to the certifying doctor requesting a brief factual report. This report provides an opportunity for the certifying doctor to give a true diagnosis in confidence to the Medical Officer.

CERTIFICATION SCENARIOS

These cases will help consolidate the information already given regarding certification. The audience should be given the handout and allocated into groups. After a period for discussion each group should present their decision. The key points in each case are given below.

- 1 **30 year old heavy manual worker in the building industry who comes to see you three days after a hernia repair.** You do not yet have any information from the hospital and were unaware he was awaiting such surgery.

Key issues

Confirm incapacity

examination as required

consider what his job actually entails; any scope for temporary adjustment
(probably not in this case)

Med 3 statement appropriate

consider period he should refrain from work – again need to consider occupation/
temporary adjustments



2 **58 year old man who suffered a left hemiplegia one year ago.** He has been incapable of his work as a taxi driver since his stroke. He has made little recovery in the past eight months, still walks very unsteadily and has no function in his left arm and hand.

Key issues

Not going to improve

Works as taxi driver – opinion based on own occupation

Med 3 statement appropriate

Indefinite period

Will be reviewed by BA (claiming state incapacity benefit)

3 **22 year old schizophrenic.** He has recently been discharged from hospital after a two month stay, admitted under Section. He thinks his leg pains and difficulty walking are caused by his neighbours shining rays into his house and refuses to accept that he is mentally ill. He gets quite annoyed if this is suggested. He is clearly incapable of returning to work as a garage mechanic and asks you for a certificate.

Key issues

Incapable of usual occupation

Med 3 statement appropriate

True diagnosis on Med 3 would cause distress to patient so ‘vague diagnosis’ appropriate

Med 6 should be sent to BA – may be exempt test of incapacity

4 **55 year old woman who has recently been discharged from hospital following a hip replacement.** She lives some distance from the surgery and is unable to come to see you. A discharge letter from the hospital confirms the operation and the district nurse who visits daily tells you she is making a good recovery.

Key issues

No clinical need to see patient

Satisfied incapable of work

Report from hospital less than four weeks previously

Med 5 for up to four weeks appropriate

5 **34 year old man who has recently joined your list.** He has suffered from intermittent back pain for the past four years since he was made redundant from his job as a labourer and has not worked since. He sees you with a flare up of his back problems and you agree that he would be incapable of his usual type of work and agree to issue him with a certificate. He also asks you for a certificate to cover the past four years.

Key issues

Med 3 appropriate for a forward period (discuss length of period; needs to keep active looking for work to prevent long term incapacity)

Med 5 to cover previous period inappropriate:

not examined patient previously

even if examined patient four years ago could not be confident would have advised him to refrain from work for the entire four years

This certificate is issued by the certifying doctor on request at the time the patient is asked to complete the Incapacity Benefit questionnaire. It is a Terms of Service requirement for NHS GPs to issue it. As with the Med 3 the patient must be seen on the day of issue or the previous day.

A properly completed Med 4 could:

where appropriate provide evidence for the Benefits Agency to identify those people who should be in an exempt category (ie not subject to the medical assessment of capacity for work)

save the patient an examination if the Benefits Agency doctor has enough medical evidence to agree with the patient's own description of their disability

prevent the Benefits Agency doctor asking the certifying doctor for a further medical report

prevent patients asking the certifying doctor for reports in the event of an appeal against disallowance of benefit as all the necessary information will be available at the time the initial decision on entitlement is made.

The Med 4 should state the full diagnosis of the main incapacitating disease and details of any other relevant medical conditions.

In the 'doctor's remarks' section, the following are extremely helpful:

an indication of the disabling effects of the condition

current treatment and progress

an indication of whether the patient would be unable to travel to an examination centre as a result of their medical condition together with a reason for this opinion. If the doctor does not indicate that there is such a restriction the Benefits Agency will assume the patient is capable of travelling to an examination centre.

An accurate diagnosis should be given on the Med 4 especially where the patient may be in an exempt category. In certain circumstances this rule may be relaxed – see under 'Med 6'. Remember though that the Med 4 should never be passed to the patient's employer.

The final section on the Med 4 asks the doctor to give an opinion on the patient's ability to perform their usual occupation. This opinion supersedes the opinion on the earlier Med 3 and is **not** part of the capacity for work assessment the Benefits Agency will carry out.

DISABILITY DISCRIMINATION ACT (DDA)

This is not intended to be a comprehensive guide to the DDA but rather to draw out some issues relevant to certification of incapacity for work.

The DDA received Royal Assent in November 1995. The Act gives disabled people new rights not to be discriminated against in the areas of employment, getting goods and services and buying or renting land or property. It also allows the Government to set minimum standards so that disabled people can use public transport more easily.

Disabled people covered under the Act are those who have a disability which makes it difficult for them to carry out day to day activities.

The disability:

could be physical, sensory or mental

must be substantial and have long term effects

ie it must last or be expected to last more than 12 months

may only have a slight effect on day to day activities,

but is expected to become substantial

includes severe disfigurement.



Employment

It is unlawful for an employer to treat a disabled person less favourably than someone else because of their disability, unless there is good reason. This applies to all employment matters including recruitment, training, promotion and dismissal.

Employers have a duty to look at what changes or reasonable adjustments they could make in the workplace or to the way the work is done which would overcome the effects of the disability and make any changes which are reasonable.

The Act does not apply to employers with less than 15 employees though they will be encouraged to follow good practice guidelines.

It does not apply to those employed in:

the police

the prison service

employees on board ships, hovercrafts or aeroplanes

the armed forces

Employers would not be expected to make any change which would break health and safety laws.

Enforcement

Disabled people who feel they have been discriminated against can take their case to an Industrial Tribunal. They can also ask the Advisory, Conciliation and Arbitration Service to help them settle the complaint without an Industrial Tribunal hearing where possible.

If an employment complaint succeeds, the Tribunal can award damages for any financial loss they have suffered or for injury to their feelings. There is no limit on the amount of the damages which may be paid.



DEFINITIONS

Test of incapacity:

against own occupation (or usual type of work).

May be applied by certifying doctors or the Benefits Agency (with advice from a Medical Officer).

against a range of physical and mental activities relevant to work in a broader sense.

Applied by the Benefits Agency with detailed advice from a doctor approved by the Secretary of State (Medical Officer).