

Scottish Parliament Region: Central Scotland

Case 200601998: A Medical Practice; Lanarkshire NHS Board

Summary of Investigation

Category

Health: GP lists

Overview

The complainant (Mrs C) said that she and four of her family members were inappropriately removed from their GPs' list. Mrs C said that she had not received a warning that they were to be removed from the list.

Specific complaint and conclusion

The complaint which has been investigated is that Mrs C considers that she and four of her family members were inappropriately removed from their GPs' list (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Practice:

- (i) put a process in place to ensure that the relevant regulations and guidance are adhered to before they ask for a patient to be removed from their list; and
- (ii) apologise to Mrs C for not adhering to the relevant regulations and guidance before asking for her and her family members to be removed from their list.

The Practice have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 30 October 2006, the Ombudsman received a complaint from Mrs C about the removal of her and her family from their GPs' list. Mrs C said that she had been harshly dealt with and had suffered embarrassment and the indignity of having to seek another practice. She also said that she had not received a warning that she was to be removed from the list.

2. The complaint from Mrs C which I have investigated is that Mrs C considers that she and four of her family members were inappropriately removed from their GPs' list.

Investigation

3. Investigation of this complaint involved reviewing the papers relating to the matter provided by Mrs C and the GP Practice (the Practice). I also sought the views of a GP Adviser to the Ombudsman (the Adviser). The Practice provided me with additional information requested following receipt of the Advisers' views.

4. I have not included in this report every detail investigated, but I am satisfied that no matter of significance has been overlooked. Mrs C and the Practice were given an opportunity to comment on a draft of this report.

Complaint: Mrs C considers that she and four of her family members were inappropriately removed from their GPs' list

5. Mrs C contacted the Practice for a prescription on 7 August 2006, as she had been unwell with a throat infection. She was told that she could have a telephone consultation with a GP. The GP asked her to attend the Practice and she asked if she could be seen straight away when she arrived. She went to the Health Centre, but none of the GPs were available to see her right away. Mrs C said that she left shortly afterwards, requesting a home visit because she felt so ill. The Practice have stated that she was verbally abusive to a member of staff, but Mrs C denies this. The Practice subsequently telephoned her to say that the GP would see her if she came back to the Health Centre. She said that she did not feel well enough to go back and requested a home visit. Mrs C said that she was told that a GP would not be able to see her at home and that she accepted this decision.

6. However, a GP from the Practice then visited her at home on the same day and diagnosed a throat infection. The GP states that she considered that Mrs C's actions in demanding immediate medical attention and a home visit for a non-urgent medical problem were unreasonable. The GP states that she advised Mrs C that her behaviour was unreasonable and that the Practice was unable to provide the kind of service she wanted. The GP also states that she told Mrs C that she could find another GP if she was not happy with the service and that she considered this to be a verbal warning. Mrs C disputes this and states that she was told to look for another Practice if she was unhappy with the service she received, but that she said she was very happy with the service. She states that she did not receive a warning.

7. On 8 August 2006, the Practice wrote to NHS National Services Scotland and asked that they remove Mrs C and four of her family members from their list. They said that there had been a breakdown in the GP / patient relationship and that a warning had been issued to the patient on 8 August 2006.

8. NHS National Services Scotland wrote to Mrs C on 14 August 2006. The letter named Mrs C and four other members of her family and said that the Practice had given notice of their desire to have them removed from their list of patients. They said that they should take steps immediately to have their names included in the list of another practice.

9. Mrs C arranged a meeting with the Practice manager and was told that her family had been removed from the list because of a breakdown in the GP / patient relationship. She then met one of the GPs and was told that the decision was final. Mrs C wrote to Lanarkshire NHS Board (the Board)'s Patient Services Manager on 1 September 2006 and said that she had not received a warning on either 7 or 8 August.

10. In January 2007, Mrs C sent me a copy of a letter she had received from the Practice. Although the letter was dated 8 August 2007, Mrs C said that it had a post mark of 16 January 2007 and has sent me a copy of the envelope. The letter was from the GP who visited Mrs C on 7 August 2006. It said that the Practice found her actions in the surgery unreasonable and had written to the Board to remove her and her family from their list.

11. In response to my enquiries about the matter, the Practice advised me that it is their policy that if a patient is removed from their list, then everyone else

living at that address is removed. They said that there may be bad feeling and that the GP / patient relationship may have broken down within the family. The Practice said that there were children in Mrs C's household and she may have challenged the GPs again when they called at the house or she brought the children to the surgery. They said that there had been incidents in other households in the past where a GP was subjected to verbal abuse during a home visit, by a family member who had previously been struck off. This nearly resulted in the GP being assaulted. The Practice also said that a GP was 'held hostage' for 15 minutes by a patient who had previously been removed from the list, when she had gone to visit his child at home. The Practice also said that their letter to Mrs C dated 8 August 2007 had been posted on that date.

12. The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004 at Schedule 5, Part 2, Section 20 (see Annex 3) state the procedure to be followed when a GP practice wishes to remove a patient from their list of patients. In particular, the Regulations state that a practice may only make a request to the relevant Health Board for the removal of a patient if, within twelve months prior to the date of this request, the practice has warned the patient that they are at risk of removal and explained to them the reasons for this. This does not apply where the reason for removal relates to a change of address or where the warning would be harmful or not reasonably practicable.

13. The Practice have stated that they sent a warning letter to Mrs C on 8 August 2006. However, I have examined the letter and it does not state that Mrs C or her family were at risk of removal. The letter states that the Practice have asked the Health Board to remove the family from their list. I have not seen any evidence the Practice provided Mrs C or her family members with a warning that they were at risk of removal prior to requesting this.

14. The Royal College of General Practitioners' guidance on the removal of patients from GPs' lists suggests a process that should be followed where there has been a breakdown in the relationship between the GP and the patient. The guidance states that the patient should be told that there is a problem and that a meeting should be arranged to discuss matters. It states that GPs should try to elicit the patient's perspective and interpretation of the situation and should be prepared to negotiate with them over specific issues.

15. The guidance states that if discussion fails to resolve the problem, GPs

should consider suggesting that the patient consults other GPs or practices. It states that should the practice decide to remove the patient from the list, their family should not be automatically removed. There is no evidence that the Practice followed this process before removing Mrs C and her family from their list.

Conclusion

16. I accept that a GP practice has the right to ask for a patient to be removed from their list where there has been an irrevocable breakdown in the relationship between the patient and the practice and the relevant regulations and guidance have been taken into account. However, in Mrs C's case, the Practice should have tried to resolve the problem by discussing the matter with Mrs C before asking the Board to remove her from their list. In line with the NHS (General Medical Services Contracts) (Scotland) Regulations (2004), they should also have warned her that she was at risk of removal and explained the reason for this before taking the action to have her removed.

17. Although the Practice believe that they did provide a warning to Mrs C during the home visit, in my view she did not receive a clear warning. As I have stated at paragraph 13, I have not seen any evidence that the Practice provided Mrs C or her family members with a written warning that they were at risk of removal prior to asking the Board to remove them from their list.

18. The Royal College of General Practitioners' guidance on the removal of patients from GPs' lists clearly states that the patient's family should not be automatically removed. Guidance from the British Medical Association also states that the removal of one member of a household does not mean that the removal of the other family members should automatically follow. It states that the removal of the entire household may be appropriate in rare cases, particularly where there has been violent or threatening behaviour, but suggests that the reasons are given clearly. I should stress that this is guidance and, unlike statute or regulation, is not binding.

19. I have noted the Practice's comments about why the rest of Mrs C's family were removed from the list and the fears they have expressed. However, this is not in itself a reason for a blanket policy and proper consideration should be given to each case. The Practice has not adhered to the relevant regulations and guidance in relation to removing Mrs C and her family from their list. I, therefore, uphold the complaint.

20. The Practice met with Mrs C on two occasions after her removal from the list and refused to reinstate her. I have examined the Practice's comments about the meetings and consider that the breakdown in the GP / patient relationship is now irrevocable. I discussed the matter with the Adviser and he advised that he did not consider that it would be appropriate to ask the Practice to reconsider their decision to remove Mrs C or the other members of her household from their list. I also conclude that it would not be appropriate to recommend that the Practice consider this.

Recommendation

21. The Ombudsman recommends that the Practice put a process in place to ensure that the relevant regulations and guidance are adhered to before they ask for a patient to be removed from their list.

22. In addition, the Ombudsman recommends that the Practice apologise to Mrs C for not adhering to the relevant regulations and guidance before asking for her and her family members to be removed from their list.

23. The Practice have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Practice notify her when the recommendations have been implemented.

21 November 2007

Explanation of abbreviations used

Mrs C	The complainant
The Practice	Mrs C's previous GP Practice
The Adviser	A GP Adviser to the Ombudsman
The Board	Lanarkshire NHS Board

List of legislation and policies considered

NHS (General Medical Services Contracts) (Scotland) Regulations (2004)

The Royal College of General Practitioners' guidance on the removal of patients from GPs' lists – September 2004

Scottish Statutory Instrument 2004 No. 115
The National Health Service (General Medical Services Contracts)
(Scotland) Regulations 2004
PART 2

Removal from the list at the request of the contractor

20. - (1) Subject to paragraph 21, a contractor which has reasonable grounds for wishing a patient to be removed from its list of patients which do not relate to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition shall -

(a) notify the Health Board in writing that it wishes to have the patient removed; and

(b) subject to sub-paragraph (2), notify the patient of its specific reasons for requesting removal.

(2) Where, in the reasonable opinion of the contractor -

(a) the circumstances of the removal are such that it is not appropriate for a more specific reason to be given; and

(b) there has been an irrevocable breakdown in the relationship between the patient and the contractor,

the reason given under sub-paragraph (1) may consist of a statement that there has been such a breakdown.

(3) Except in the circumstances described in sub-paragraph (4), a contractor may only request a removal under sub-paragraph (1) if, within the period of twelve months prior to the date of its request to the Health Board, it has warned the patient that the patient is at risk of removal and explained to him the reasons for this.

(4) The circumstances referred to in sub-paragraph (3) are that -

(a) the reason for the removal relates to a change of address;

(b) the contractor has reasonable grounds for believing that the issue of such a warning would -

- (i) be harmful to the physical or mental health of the patient; or
- (ii) put at risk the safety of the persons specified in sub-paragraph (5); or

(c) it is, in the opinion of the contractor, not otherwise reasonably practicable for a warning to be given.

(5) The persons referred to in sub-paragraph (4) are -

(a) in the case of a contract with an individual medical practitioner, that practitioner;

(b) in the case of a contract with a partnership, a partner in that partnership;

(c) in the case of a contract with a company, a legal and beneficial owner of shares in that company;

(d) a member of the contractor's staff;

(e) a person engaged by the contractor to perform or assist in the performance of services under the contract; or

(f) any other person present -

(i) on the Practice premises, or

(ii) in the place where services are being provided to the patient under the contract.

(6) The contractor shall record in writing -

(a) the date of any warning given in accordance with sub-paragraph (3) and the reasons for giving such a warning as explained to the patient; or

(b) the reason why no such warning was given.

(7) The contractor shall keep a written record of removals under this paragraph which shall include -

(a) the reason for removal given to the patient;

(b) the circumstances of the removal; and

(c) in cases where sub-paragraph (2) applies, the grounds for a more specific reason not being appropriate, and shall make this record available to the Health Board on request.

(8) A removal requested in accordance with sub-paragraph (1) shall, subject to sub-paragraph (9) take effect from -

(a) the date on which the Health Board receives notification of the registration of the person with another provider of essential services (or their equivalent); or

(b) the eighth day after the Health Board receives the notice referred to in sub-paragraph (1)(a), whichever is the sooner.

(9) Where, on the date on which the removal would take effect under sub-paragraph (8), the contractor is treating the patient at intervals of less than 7 days, the contractor shall notify the Health Board in writing of the fact and the removal shall take effect -

(a) on the eighth day after the Health Board receives notification from the contractor that the person no longer needs such treatment; or

(b) on the date on which the Health Board receives notification of the registration of the person with another provider of essential services (or their equivalent), whichever is the sooner.

(10) The Health Board shall notify in writing -

(a) the patient; and

(b) the contractor,
that the patient's name has been or will be removed from the contractor's list of patients on the date referred to in sub-paragraph (8) or (9).

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