

CATEGORY 1 WORK (Covered by NHSLA Indemnity)

36. CATEGORY 1: work undertaken by hospital medical and dental staff which is reasonably incidental to contractual duties and for which charges may not be made.

For convenience, such work has been divided into five sub-sections, which are set out below (Categories 1a-1e), with accompanying illustrative examples:

CATEGORY 1.a: The examination, diagnosis and provision of related reports on a person referred to the health services from a medical source for a second opinion.

For this purpose, reference "from a medical source" means reference from a medical or dental practitioner (including, for example, a medical board) who, having clinically examined a person, requires a second opinion in connection with the prevention, diagnosis or treatment of illness. **It does not include reference for examination included in Category 2 or reference from an administrative medical officer who has not clinically examined the person referred.**

Examples of Category 1.a examinations and reports include those on:

- i. a person referred by a general practitioner;
- ii. members of HM Armed Forces (including members of overseas forces serving on duty in the UK) and their families, referred by medical officers who are treating them;
- iii. persons referred in connection with diagnosis or treatment by a medical practitioner in the Community Health Service; (But examinations of and reports required on employees or prospective employees for the purpose of, for example, pension schemes fall within Category 2.)¹¹²
- iv. a person referred by an occupational health physician or employment medical adviser following an accident or incident which may give rise to occupational disease or where an employment medical adviser, following a

clinical examination of a person or persons, suspects the possibility of occupational disease and seeks an investigation and a second medical opinion;

v. a person referred by a medical officer of a Medical Boarding Centre (Respiratory Diseases) of the Department of Social Security for the purposes of diagnosis and treatment; (But when the second opinion is required solely in connection with a compensation or social security claim, this falls within Category 2.a.)

vi. a person referred by a medical interviewing committee set up by the Department of Social Security to advise disability employment advisers of the Employment Service on the working capacity of disabled persons.

CATEGORY 1.b: The provision of a medical or dental report either to a patient currently under hospital observation or treatment or, with his or her consent, to an interested third party, when the information required is reasonably incidental to such observation and treatment and can be given readily from knowledge of the case without a separate examination or without an appreciable amount of work in extracting information from case notes. (But if a special examination of the patient is required, or the information requested cannot be given readily from knowledge of the case, or an appreciable amount of work is required to extract medically correct information from case notes, the work falls within Category 2, unless it is specifically included in the practitioner's contractual duties as provided by paragraph 30 above.)

Examples of Category 1.b services are:

- i. doctors' statements given to the patient for social security purposes;
- ii. reports required by the Department of Social Security on a person who is under hospital observation or treatment;
- iii. reports required by the Employment Service on the working capacity of disabled patients;

iv. reports required by employers (including government departments and local authorities) on employees who are under observation or treatment, eg. reports required in connection with sick leave or premature retirement on health grounds; (But information required primarily to serve the interests of the person or his or her employer in such non-clinical contexts as insurance, pension arrangements, foreign travel or emigration would fall within Category 2.)¹¹³

CATEGORY 1.c: Examinations and reports on persons for the purposes of the prevention of illness, under arrangements approved by the Secretary of State after consultation with the profession. (But examinations and reports required by a person or third party primarily to serve the interests of the person, his or her employer or other third party, in such non-clinical contexts as insurance, pension arrangements, foreign travel, or emigration, fall within Category 2.)¹¹⁴

Examples of Category 1.c. examinations and reports include those:

- i. where it is necessary, as a preventative measure, to investigate the contacts of a patient with a transmissible or epidemic disease, such as typhoid or a sexually transmitted disease;
- ii. in respect of transmissible disease on entrants to teacher training colleges, applicants for teaching posts, teachers, and any other persons whose course of training, prospective occupation or occupation brings them into close or prolonged contact with children;
- iii. on employees or prospective employees (not otherwise covered by subparagraph 1.c.ii. above) of health authorities or NHS Trusts, and of local authority education, social services and environmental health departments who may be at particular risk of acquiring or spreading transmissible diseases by reason of the nature of their employment or prospective employment. This includes voluntary workers and employees of voluntary bodies similarly at risk;
- iv. in connection with individual screening measures (eg. cervical cytology) for the benefit of particular people who, by reason of age, sex, constitutional or other factors not related to the nature of their employment, are particularly at risk of developing specific diseases; (but routine screening of workers, including

screening made necessary by the nature of the working environment, is covered either by sub-paragraph 1.c.vi below or Category 2.k or 2.m.)

v. where the defined duties of the practitioner specifically includes such work, examinations and reports on prospective employees of health authorities, NHS Trusts and local authorities (other than those covered in sub-paragraph 1.c.ii and 1.c.iii above);

vi. where the defined duties of the practitioner specifically includes such work, examinations and reports in connection with the routine screening of employees of health authorities, NHS trusts and local authorities, to such extent as may be approved by the Secretary of State after consultation with the profession. (But this excludes work under sub-paragraph 1.c.iii and 1.c.iv above; see also paragraph 32.)

CATEGORY 1.d: Recommendations under Part II of the Mental Health Act 1983:

i. if given by a doctor on the staff of the hospital where the patient is an in-patient;

ii. if given following examination at an out-patient clinic;

iii. if given as a result of a domiciliary consultation carried out at the request of a general practitioner.

CATEGORY 1.e: Attendance at court hearings as a witness as to fact by a practitioner giving evidence on his or her own behalf or on behalf of his or her employing authority in connection with a case with which the practitioner is professionally concerned. (But attendance at coroners' courts is normally work falling within Category 2).

CATEGORY 2 WORK (Not covered by NHSLA Indemnity)

37. CATEGORY 2: When work undertaken by hospital medical and dental staff on examinations, reports etc does not fulfil any of the qualifying conditions for Category 1 as set out in paragraph 36 above, it falls within Category 2 and charges may be made.

Examples of Category 2 examinations and/or reports include those:

- a. on a patient not under observation or treatment at the hospital at the time the report is requested, or a report which involves a special examination of the patient, or an appreciable amount of work in making extracts from case notes - other than in circumstances referred to in Category 1;
- b. on a person referred by a Medical Adviser of the Department of Social Security, or by an Adjudicating Medical Authority or a Medical Appeal Tribunal, in connection with any benefits administered by the Department of Social Security;
- c. for the Criminal Injuries Compensation Board, when a special examination is required or an appreciable amount of work is involved in making extracts from case notes;

- d. required by a patient or interested third party to serve the interests of the person, his or her employer or other third party, in such non-clinical contexts as insurance, pension arrangements, foreign travel, emigration, or sport and recreation. (This includes the issue of certificates confirming that inoculations necessary for foreign travel have been carried out, but excludes the inoculations themselves. It also excludes examinations in respect of the diagnosis and treatment of injuries or accidents);¹¹⁵
- e. required for life insurance purposes;
- f. on prospective emigrants including X-ray examinations and blood tests;
- g. on persons in connection with legal actions other than reports which can be given under Category 1.b and reports associated with cases referred to in Category 1.b;
- h. for coroners, as well as attendance at coroners' courts as medical witnesses;
- i. requested by the courts on the medical condition of an offender or defendant and attendance at court hearings as medical witnesses, otherwise than in the circumstances referred to in Category 1.e;
- j. on a person referred by a medical examiner of HM Armed Forces Recruiting Organisation;

- k. in connection with the routine screening of workers to protect them or the public from specific health risks, whether such screening is a statutory obligation laid on the employer by specific regulation or a voluntary undertaking by the employer in pursuance of the employer's general liability to protect the health of its workforce;
- l. on a person referred by a medical referee appointed under the Workmen's Compensation Act 1925 or under a scheme certified under section 31 of that Act;
- m. on prospective students of universities or other institutions of further education, provided that they are not covered by Category 1.c.ii. Such examinations may include chest radiographs;
- n. examinations and recommendations under Part II of the Mental Health Act 1983 (except where this falls within Category 1.d):
 - i. if given by a doctor who is not on the staff of the hospital where the patient is examined; or
 - ii. if the recommendation is given as a result of a special examination carried out at the request of a local authority officer at a place other than a hospital or clinic administered by a hospital authority.
 - iii. Where fees are payable under i or ii above, they will be paid where the practitioner has carried out a special examination whether or not, as a result, he or she completes a recommendation;
- o. services performed by members of hospital medical staffs for government departments as members of medical boards;

- p. work undertaken on behalf of the employment medical advisory service in connection with research/survey work, ie. the medical examination of employees intended primarily to increase the understanding of the cause, other than to protect the health of people immediately at risk (except where such work falls within Category 1.a.iv);
- q. completion of Form B (Certificate of Medical Attendant) and Form C (Confirmatory Medical Certificate) of the cremation certificates;
- r. examinations and reports including visits to prison required by the Prison Service which do not fall with in Category 1 and which are not covered by separate contractual arrangements between the Practitioner and the Prison Service;
- s. examination on blind or partially-sighted persons for the completion of form BD8 (except where this falls within Category 1.b);
- t. in respect of sub paragraph s. above, when payment is due in connection with registration with a local authority this will be made by the health authority under the collaboration arrangements in accordance with the appropriate schedule of fees.

38. For the avoidance of doubt, and in accordance with the requirements at section 1(2) of the National Health Service Act 1977, a practitioner shall not otherwise than pursuant to these Terms and Conditions of Service demand or accept any fee or other remuneration for the provision of the services which the practitioner is required to provide by virtue of his or her contract of employment.

Payment of Fees: Doctors in Public Health Medicine and the Community Health Service

39.a. A doctor in public health medicine and the community health service employed under these terms and conditions of service may, unless it would, in the opinion of the employing authority, interfere with the proper discharge of his or her normal duties and provided it does not form part of his or her normal duties, undertake and receive payment for work other than that referred to in paragraph 39.b., including services to a local or public authority of a kind not provided by a health authority under the collaborative arrangements, such as:

- i. work as a medical referee (or deputy) to a cremation authority and signing confirmatory cremation certificates;
- ii. medical examination in relation to staff health schemes of local authorities and fire and police authorities and to driving licence;
- iii. lectures to other than NHS staff;
- iv. medical advice in a specialised field of communicable disease control, eg. membership of a Departmental panel for an infectious disease;
- v. work for water authorities, including medical examinations in relation to staff health schemes;
- vi. attendance as a witness in court (other than in the course of an officer's normal duties);
- vii. medical examinations and reports for commercial purposes eg. certificates of hygiene on goods to be exported or reports for insurance companies;
- viii. advice to organisations (including NHS authorities), other than the doctor's employing authority, on matters which the doctor is acknowledged to be an expert;

ix. examinations and recommendations under Part II of the Mental Health Act 1983 and under the Mental Health (Scotland) Act 1984.

39.b. A doctor in public health medicine and the community health service employed under these terms and conditions of service, whether whole-time or part-time, shall not accept a fee from a local or public authority or from an NHS authority for the provision of advice or services of a kind which a health authority provides under the arrangements for collaboration between health authorities and local and public authorities in accordance with Section 26 of the National Health Service Act 1977, including:

i. advice and services relating to social services, education and environmental health (including control of communicable disease);

ii. advice in relation to staff health schemes of local authorities and driving licences (but see paragraph 39.a.ii);

iii. advice to an NHS authority other than under paragraph 39.a.iv. or viii.