
NHS TRIBUNAL

Summary of Decision Following an Inquiry

Parties

Complainers: Greater Glasgow Health Board
(formerly Greater Glasgow Primary Care NHS Trust)

Practitioner: Miss Marjorie Martin, Optometrist

Hearing

Tribunal members: Mr J Michael D Graham (Chairman);
Mr Thomas Mathieson (Specialist Member)
Mr John D M Robertson (Lay Member)

Hearing held on: 2nd, 3rd, 4th, 5th, 8th, 9th, 10th and 11th May and 11th July 2006

Decision issued on: 22 November 2006

Grounds for Complaint

That Miss Martin was unsuitable (i) on the grounds of efficiency of service and (ii) that she had caused detriment to a health scheme by securing or trying to secure financial or other benefit.

Findings by the Tribunal

1. Miss Martin was engaged in a practice whereby patients would sign claim forms for submission to the Health Board for payment to her in respect of which eye tests had not been carried out.
2. Miss Martin was engaged in a practice whereby patients would complete claim forms but some would be pre-dated for immediate submission to the Health Board and some post-dated for later submission to the Health Board.
3. Miss Martin was engaged in a practice whereby when a parent or guardian attended with a child for an eye test, that parent or guardian would sign a claim form for the eye test and a further claim form for replacement of glasses which would be later submitted to the Health Board for payment. In some of these cases the patients did not return or receive glasses but that payment for glasses purportedly supplied was claimed.
4. Miss Martin was engaged in practices whereby she submitted incorrect vouchers for inflated values and submitted claims for glasses with incorrect voucher values higher than those recorded in the patients' record cards; she

further claimed for supplying prisms which patients did not receive, "small frame supplements" which were inappropriate and higher voucher values than those due in that patients' prescriptions had been inflated.

5. Generally, Miss Martin claimed for services against the Health Board in respect of which such services were either not provided or partially provided and for which she received payment.
6. In all such cases above Miss Martin benefited financially and that at the expense of the National Health Service.

Determination by the Tribunal

The Tribunal felt that there was overwhelming evidence against Miss Martin and with the accumulation of that evidence it became abundantly clear that there were systems in place to facilitate fraud. The Tribunal unanimously was of the view that it was dealing with a carefully constructed and sustained fraud involving different categories of claim with the unambiguous intent of claiming considerable sums of money from the National Health Service and to which Miss Martin was not entitled. The Tribunal opined that the proper functioning of the Health Service requires trust and good faith between Health Boards and practitioners providing services. The Board has to trust the information that it receives from practitioners. It is entirely reasonable to expect that the information on claim forms submitted by a practitioner matches that on patients' record cards. This was not the case with Miss Martin. Her conduct involved deception by which she gained a dishonest pecuniary advantage over the Complainers.

Accordingly, the Tribunal found the efficiency and fraud cases to be made out.

The Tribunal imposed unconditional disqualification on Miss Martin.

The Tribunal has reserved the issue of expenses.

Explanatory Notes

1. The NHS Tribunal is constituted under the National Health Services (Scotland) Act 1978. The Tribunal hears formal complaints against family health service practitioners in Scotland. The Tribunal is independent both from Scottish Ministers and from professional disciplinary bodies such as the GMC.
2. Cases are normally referred to the Tribunal by health boards although anyone may make a reference.
3. There are three possible grounds for making a reference to the Tribunal:
 - i. an "efficiency case" – that it would be prejudicial to the efficiency of the relevant NHS service to allow the practitioner to continue to provide it
 - ii. a "fraud case" – that the practitioner has caused detriment to any health scheme by securing or trying to secure financial or other benefit.
 - iii. an "unsuitability case" – that the practitioner is unsuitable, because of professional or personal conduct, to be allowed to provide the NHS service.
4. If the Tribunal finds that any of these grounds is made out, it has powers to disqualify the practitioner from working anywhere in the NHS's family health services.

5. Disqualification may be unconditional or conditional. A practitioner who is conditionally disqualified may continue to provide NHS services but must keep to any conditions set by the Tribunal.
6. The Tribunal has power to undertake further enquiry at a later date and can remove a disqualification or vary its terms.
7. The Tribunal hears cases in private in order to protect the interest of patients.
8. All decisions are published in summary form on the Tribunal's website at www.nhstribunal.scot.nhs.uk.