

# GPC

General Practitioners Committee

## Hepatitis B immunisation for employees at risk

### Guidance for GPs

## **Hepatitis B immunisation for employees at risk**

The Human Rights Act 1998 came into force on 2 October 2000. This Act incorporates into UK law the bulk of the rights set out in the European Convention on Human Rights. This Act makes it unlawful for public authorities to act in a way which is incompatible with a convention right. The definition of public authority is likely to include the Department of Health, health authorities, trusts, primary care groups, local medical committees and, almost certainly, individual doctors. Thus doctors are required by law to observe Convention rights in reaching decisions, and must be able to demonstrate that they have done so.

The human rights aspects of decision making in this area are raised in the text of this Note. However, we would recommend that all doctors read the BMA document 'The Impact of the Human Rights Act on Medical Decision Making' for a detailed discussion of the relevant articles of the Convention.

A number of dental employees have asked general practitioners for hepatitis B vaccinations and this has prompted members to raise questions as to the position under the regulations where they administer such vaccinations to employees at risk.

We recognise that requests for immunisation against hepatitis B do present considerable difficulties for GPs. The GPC accepts that some GPs will wish to provide the immunisation as a service to patients, or as service in the public interest. Nevertheless, the guidance summarises the expert advice on the legal interpretation of the terms of service and the statement of fees and allowances.

### **1. Who pays for the vaccine?**

Since hepatitis B vaccine does not appear in either schedule 10 or 11 to the terms of service, the GP has an unrestricted right to prescribe as with any other medication. Accordingly the health authority must pay for it.

### **2. Can the GP claim a fee from the HA for administering the vaccination?**

Generally speaking, no. This is because item of service fees are only payable for giving vaccinations in the circumstances set out in paragraph 27 of the statement of fees and allowances. Infectious hepatitis is there, but a fee will only be payable where the vaccination is given to persons in institutions who are exposed to a high risk of infection and for whom vaccination is recommended by the medical officer of environmental health. Our advice is that dental nurses working in general practice will be unlikely to fall within this group as will most other workers at risk. Although there are some workers in institutions who would qualify, they will have to be the subject of a recommendation from the medical officer of environmental health.

Hepatitis B virus is listed in the statement of fees and allowances paragraph 44 schedule 6. This means that the practitioner may claim payment for supplying and personally administering the vaccine, whether or not he is a dispensing doctor (paragraph 44.5), but because it is classified as a high volume personally administered vaccine, the claim must be made as a bulk entry on the revised (FP34D).

### **3. Can the patient be charged a fee by the general practitioner for giving the vaccination?**

No. Paragraph 38 of the GP's terms of service forbids a doctor from demanding or accepting a fee from any person for whose treatment he is responsible under the terms of service save in certain specific exceptions. The only exception as far as immunisation is concerned is under paragraph 38(h) which catches an immunisation for which no remuneration is payable by the health authority which is requested in connection with travel abroad. Workers at risk will be unlikely to request hepatitis B vaccination in connection with travel abroad.

The people for whom a GP is responsible are defined by paragraph 4 of the terms of service and they include a number of categories of people in addition to those on the list of the doctor or a partner. For example they include people whom he has agreed to accept as temporary residents and those who are seen by the doctor acting as a deputy.

### **4. Is there a duty to prescribe and administer a vaccination where there is no fee payable under the terms of service?**

It is perfectly arguable that there may be an obligation under paragraph 12(1) of the terms of service to administer such a vaccination even though there is no item of service fee payable. The criteria which will have to be satisfied are set out in paragraph 12(1) of the terms of service which are:

- (i) That it is necessary
- (ii) That it is appropriate for the GP to provide it
- (iii) That the vaccination is a personal medical service usually provided by general GPs.

All three factors must be satisfied. In practice it will be very difficult for a GP to know whether it is appropriate in the absence of a recommendation from the medical officer of health. GPs are not competent to carry out an occupational risk assessment and therefore we believe that in the absence of such guidance it will not be appropriate for the GP to provide the vaccination.

Accordingly, the GPO's view is that at the moment it is unlikely that there is an obligation under the terms of service to administer such vaccination.

**5. Can the GP charge the employing dentist for providing Hepatitis B Vaccination as a private service?**

No. The restriction on accepting a fee for a clinical service does not depend on who is paying the money, but on whether the doctor owes the patient a duty under the terms of service. The Regulations prohibit the GP from charging the employer, if the GP could not charge the patient for the reasons set out in paragraph 3 of this advice.

**6. Can the GP issue a certificate to the patient for which they, or their employer, can be charged a reasonable fee?**

The certificate would indicate that the patient

- (a) Has been inoculated against hepatitis B
- (b) Has/has not sero converted.

Our legal advice is that this is permissible as far as the regulations are concerned, but the purchaser would obviously have to agree to pay for the certificate. There will be no obligation to pay a fee for such a certificate unless the recipient has implicitly agreed to pay by requesting that it be produced.