

Primary Care Appeals - Pharmacy User Group

10 May 2023 10am
Via MS Teams

Members	Job Title/Organisation
Jonathan Haley (JDH)	Head of Appeals
Sanjay Sekhri (SS)	Deputy Director of Advice and Appeals
Rachel White (RW)	Technical Case Manager
Phil Bratley (PB)	Panel Member (Pharmacy), Primary Care Appeals
Jo Severn (JS)	Boots UK Ltd
Noel Wardle (NW)	Temple Bright
Matt Cox (MC)	Lloyds Pharmacy
Sally-Anne Kayes (SAK)	NHS England
Marie Wharton (MW)	NHS England
Gordon Hockey (GH)	PSNC
In attendance	Job Title/Organisation
Jane Horsfall (JH)	NHS England
Kelvin Rowland-Jones (KRJ)	NHS England

Item	Description	Action
1.	<u>Apologies for absence</u> No apologies for absence were received although JDH noted that Claire Smithies from Well had been invited to attend.	
2.	<u>Minutes of last meeting</u> The minutes from the last meeting were agreed in November, and were included in the bundle of papers for information only.	
3.	<u>Outstanding actions</u> JH has spoken to Contract Managers regarding the high number of hours directions cases being overturned on appeal due to inadequate assessments being undertaken. All other actions were completed.	

4.	<p><u>2022-23 Appeals activity update</u></p> <p>JDH introduced the paper confirming that it had been produced to close the gap in User Group visibility of Appeals' activity.</p> <p>NHS Resolution Strategy</p> <p>The paper highlighted NHS Resolution's 3 year strategic priorities with a particular focus on those which are relevant to the work of Primary Care Appeals which JDH hoped would resonate with members.</p> <p>Casework</p> <p>JDH reported that Appeals have seen an increase in work over the last year, predominantly due to hours directions cases that have been dealt with over Christmas 2022 and for Easter 2023. Furthermore, in April 2022, Appeals received new directions that enable them to deal with the Covid-19 payment appeals which along with medicine delivery service appeals meant that more cases have been determined and received than in 2021-22.</p> <p>Non-casework specific activity</p> <p>JDH reported that in line with the strategic priority of sharing data and insights as a catalyst for improvement, JDH felt it was important to update members on other activity. For example, in May 2022, he had met with NHS England's Head of Delivery for Community Pharmacy Commissioning and colleagues to review appeal outcomes. As a result, NHS England had invited Appeals to deliver training on relocation applications to Pharmaceutical Services Regulation Committee members and staff.</p> <p>In September 2022, following a request from PSNC, Appeals published new guidance on Pharmaceutical Needs Assessments (PNA) outlining approaches taken by the Committee when a new PNA has been issued after the application was determined by NHS England and the approach adopted where an application has been made on the basis of a draft new PNA.</p> <p>In September 2022, following previous discussion at, and support from, the User Group, Appeals commenced the collection of demographic data of appellants. Appeals intends to report on the data in November 2023.</p> <p>Separately Appeals are committed to ongoing work in terms of engagement and using their experiences to help inform others where there should be system changes.</p> <p>Appeals priorities 2023-24</p> <p>JDH reported that the top priorities for Appeals are:</p> <ul style="list-style-type: none"> • Appellate decision making 	
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	<ul style="list-style-type: none"> ○ Transparent, impartial, robust and timely including the application of judicial review guidance. • Engagement <ul style="list-style-type: none"> ○ Maintain engagement with NHS England and if requested, support transfer of knowledge from NHS England to Integrated Care Boards and the design of governance structures. ○ Maintain engagement with other key stakeholders • Operating environment <ul style="list-style-type: none"> ○ Identify emerging issues linked to quality of local decision making / potential spikes in cases coming to Appeals and implications of changing primary care environment. • Equality, Diversity and Inclusion <ul style="list-style-type: none"> ○ Analyse and publish demographic data, specifically ethnicity, and outcomes of cases. • Core Systems <ul style="list-style-type: none"> ○ Seek opportunities to enhance operational efficiency and user experience. <p>JDH reported that Appeals will be alert to activity across the country focusing on themes and trends. If a large volume of appeals are received from one area, why is that different to other areas?</p> <p>In terms of user experience, JDH suggested that during 2023-24 Appeals may undertake a pulse survey regarding the efficiency and effectiveness of the service.</p> <p>GH asked if, in relation to Covid-19 dispute cases, had any contractors lodged appeals without having gone through an internal department review stage. JDH answered that this has not happened.</p> <p>KRJ stated that where some appeals have come through in relation to the medicines delivery service, the basis of the appeal has appeared to be down to the fact that the contractor does not agree with the recovery of the payment, rather than that they have been questioning the methodology of the assurance work or the findings or the decision of the Pharmaceutical Services Regulation Committee. KRJ asked on what basis the appeal is then made as the substance of the appeal did not seem to be challenging how the decision was arrived at or regarding the methodology around it. JDH explained that on appeal contractors were arguing that medicines had been delivered to people who were shielding. The issue was that the</p>	
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	<p>contractors had not realized that they could only deliver to people who were shielding in those local lockdown areas. Therefore provided that the appeal was valid (not out of time, frivolous) in the first instance, the question which followed was whether the deliveries met the criteria to be entitled to the fee.</p>	
5.	<p><u>Integrated Care Boards</u></p> <p>GH asked about the impact on Appeals' work with regard to the various upheavals and changes going on relating to the change to ICBs. Furthermore is it clear both in applications and in appeals, who to contact. GH reported that LPCs are going through a period of reform as they are merging from roughly 70 LPCs, to end up with roughly 40. GH reported that boundary changes could create difficulties.</p> <p>JDH reported that from an Appeals perspective, they will continue to go through PCSE as a conduit to the local NHS England team or the ICB, so nothing changes for the team.</p> <p>KRJ reported that the changes that have been made are likely to lead to some local confusion or people being unclear who to contact. Therefore, NHS England have updated their web page with regional contacts to now reflect the ICB contacts. The other part is the assurance work. KRJ reported that the single point of contact will be NHS BSA's provider assurance team.</p>	
6.	<p><u>Pharmacy Manual changes</u></p> <p>GH reported that Pharmacy Manual changes are relevant to what is going on with opening hours and staffing challenges. The manual originally stated that staffing could not be a factor that is something beyond the control of the contractor. Going forward there is no action for staffing issues impacting opening less than 4 hours and for above 4 hours this will be now considered on a case by case basis.</p> <p>GH reported that there will be a change to the Regulations in relation to core hours effective on 25 May 2023. This will include the consideration of patient need and what is realistic to achieve pharmaceutical services. NHS England will be bringing out guidance on this. The core hours application process will be changing and new guidance will be issued to applicants. There are also changes for 100 hour pharmacies wishing to reduce hours.</p> <p>NW highlighted that guidance issued by Appeals on opening hours is a couple of years old and not in line with the current framework. JDH agreed to review this and circulate a revised version prior to publication.</p> <p>KRJ reported that guidance from NHS England is being prepared and will hopefully be published by the end of May.</p>	JDH

	<p>SAK reported that unfortunately quite a lot of the contractors who are wanting to change their core hours have not read the briefing properly and have already started apply thinking that the five weeks can start from now. GH reported that he will be delivering a webinar which may help address these types of issues.</p> <p>KRJ reported that for closures will still need to be considered on a case by case basis. KRJ reported that there will still be situations where NHS England will be following up and investigating closures. As it is a case by case basis, there will be some circumstances where there might be sufficient evidence that the pharmacy has tried to address that situation verses others where it may just be used as an excuse. There is still a requirement that a contractor meets their opening hours obligations and it has always been the case that contractors are expected to take action to try and ensure that they do have pharmacists, providing cover to ensure that the pharmacy remains open.</p> <p>GH agreed that once the new application form and pharmacy manual have been published, hopefully contractors will have a better understanding of what they need to do. It has been understood that there needs to be a change in patient need to be able to amend core hours and so that has been removed. The changes to regulations allows for directions or a pharmacy amend the core hours because that is realistically all the pharmacy can do and it is better to have a pharmacy providing some services than nothing at all. GH wanted to highlight the importance of NHS England's assessments before they issue directions for opening hours.</p> <p>KRJ reported that whilst the guidance for the amendment regulations will be in force on 25 May, this then obviously has implications for the pharmacy manual because there are a number of changes that need to be mapped through. Once NHS England have finished this guidance, they will then be moving on to revising the manual.</p> <p>JDH thanked both GH and KRJ for the update.</p>	
7.	<p><u>Any other business</u></p> <p><u>Auto replies</u> NW reported issues receiving Appeals' auto replies and asked if this could be investigated. JDH agreed to do so.</p> <p><u>New appeals</u> NW reported that he had recently been involved in a case where his client had not responded to an appeal because his client had missed the notification. NW appreciated</p>	JDH

	<p>Appeals' procedure was to communicate with the pharmacy in the first instance but could a better way be implemented in order to avoid this occurrence. JDH suggested to NW that, provided his client has confirmed to NW that in the event of an appeal, he remains instructed, then NW is welcome to email Appeals that any notification should be sent to him. NW is happy to do this.</p> <p><u>Equality, Diversity and Inclusion</u></p> <p>JDH reported that in September, Appeals had commenced collecting demographic data, specifically ethnicity, for appellants. JDH asked the group if they are aware of anywhere else where this demographic data is collected, such as through NHS England, so that Appeals can consider whether certain groups are under or over represented. No members had any knowledge of similar data collection.</p> <p>JDH thanked everybody for their attendance and advised that the next meeting will be arranged for November 2023.</p>	
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