



Employee protection technical bulletin 4

Market update – Fit Notes

On the 6th April 2010, the Department of Work and Pensions (DWP) introduced a new 'Fit Note' to replace the old 'Sick Note'.

Historically, the sick note system has perhaps unintentionally created an environment where suffering from an illness is not conducive to work.

Therefore, the DWP deemed the changes to be necessary to promote the fact that engaging in work improves physical and mental wellbeing, and can aid recovery. This is because a prolonged period of absence can exacerbate health issues due to isolation and social exclusion through absence from the workplace and lack of a daily routine.

Focusing on what an employee CAN do, rather than what they CAN'T!

Instead of a General Practitioner (GP) signing a person as unfit to work, the fit note is designed to provide more information on whether an employee, who is suffering from an illness, can do some level of work, albeit with reasonable adjustments, or a phased return to work. The GP will now be able to state whether a patient:

- ◆ Is unable to work at all
- ◆ May be fit for work, taking into account certain adjustments

GP's can add further comments on the employee and their illness if required.

What issues does this present for employers?

While the sentiment behind the introduction of the fit note is well intentioned, the reality of how this will work in practice is very different. For example:

- ◆ The fit note is not binding to an employer but is supposed to provide employers with better information about an employee's illness and ways they can aid the management of sickness absence. This can create issues in itself, as due to data protection legislation the GP will only be able to divulge certain information to the employer and thus it is questionable what level of information will actually be available.
- ◆ The GP is not occupationally qualified. The only professionals able to provide a conclusive evaluation of an employee's ability to do their occupation whilst suffering an illness is an occupational health practitioner.
- ◆ If an employer finds themselves not being able to accommodate a workplace adjustment then the fit note will revert back to the employee not being fit for work. Thus the employee remains off sick and subject to company sick pay or SSP. Some form of intervention by Occupational health or alternative assessment will be required in any case.
- ◆ If an employee wants to come back to their pre-incapacity job and/or hours then there is no need for the GP to sign them fit to work again. However this would be subject to the employer being satisfied that there is no health and safety risk posed, so employer may be forced to fund their own "fit to return to work" tests.



- ◆ Employers will also need to still consider any implications under the Disability Discrimination Act. Employers will need to take extra care in considering methods of support that are being suggested by a GP in a fit note that states “may be fit for work”.

Group Income Protection insurance can provide vital support

A Group Income Protection policy can provide invaluable support for these considerations, through free access to a range of medical, rehabilitation and vocational services which all leading insurers include as an added value feature for this insurance.

It is important to highlight that the introduction of the fit note system does not replace the need for occupational health services within an organisation and a GP’s advice should certainly only form part of any return to work or workplace adaptations suggestions; where the insurers will be able to work proactively with all parties to help achieve a positive outcome.

Group income protection policies can be tailored to specific client need and budgeted to afford cost-effective access to the insurance and the associated support services. If you would like more information on these, please contact your usual Jelf Account Manager.

Notes

This is a guide only and you are advised to seek your own legal guidance before taking any action.

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