

SPSO decision report

Case: 201303763, Fife NHS Board
Sector: health
Subject: other
Outcome: not upheld, recommendations

Summary

Mrs C complained that a nurse delayed in making a referral for a claim for benefit for her late husband (Mr C) when he was diagnosed with a terminal illness. The nurse specialised in palliative care (care to prevent or relieve suffering only). Mrs C said that the nurse visited her husband at home and, during a discussion with him, said that she would make a referral to another agency, who would take his benefit claim forward. There was a delay of several weeks before the claim was processed, and Mrs C said that her husband lost a month's benefit because of this. She believed that the reason for the delay was that the nurse delayed in making the referral.

In response to our enquiries about the complaint, the board told us that community specialist palliative care nurses are not responsible for submitting benefit claims for patients. However, they can help by signposting patients, or contacting the agency who will then take the claim forward on their behalf. The nurse had completed a statement saying that she contacted the agency a week after discussing the matter with Mr and Mrs C. There was a note in her diary that suggested she had contacted them then, but it was not conclusive evidence. The agency who dealt with the claim said that they did not receive the referral until a month after the nurse discussed the matter with Mr C. They then took the claim forward and, in line with the relevant legislation, awarded benefit from the date they said they received the referral from the nurse.

On balance, we found that there was insufficient evidence to decide that it was definitely the nurse who delayed in making the referral. The evidence was conflicting, in that the nurse said that she made the referral on a specific date, but the agency said they had not received it until a number of weeks later. Having carefully considered the matter, we did not uphold the complaint.

However, we recognised that Mr C had lost over three weeks' benefit because of the delay, through no fault of his own, and that this had caused him some distress before his death. The other agency involved does not fall within our jurisdiction, so we could not look at what they did. As it had not been possible to prove which organisation was responsible for the delay, we made recommendations to address this.

Recommendations

We recommended that the board:

- award Mrs C a payment for 50 percent of the benefit that she and her late husband lost out on due to the delay in his claim being actioned; and
- provide the Ombudsman with an update on the action they are taking to prevent this problem recurring.