

CASE NOTE 01HDC02649: GP overstated benefits of a treatment for chronic fatigue syndrome

Right to services of an appropriate standard – Reasonable care and skill – Right to be fully informed – Explanation of condition – Information about treatment options – General practitioner – Chronic fatigue syndrome – Patient monitoring – Right 4(1) – Right 6(1)(a) – Right 6(1)(b)

A complaint was made by a woman about the services provided by a general practitioner on the basis that the GP (1) provided Interval Hypoxic Training (IHT) to treat her chronic fatigue syndrome (CFS); (2) informed her that IHT was scientifically proven to treat CFS when it was not; and (3) did not monitor her oxygen levels during the IHT treatments.

After obtaining independent expert advice from a GP with a specialist qualification in sports medicine, the Commissioner held that the GP did not breach Right 4(1) because he generally met the expected standards of care for a GP when he provided IHT. Although not absolutely essential, it was highly desirable to monitor oxygen levels with an oximeter during each IHT treatment, particularly when using it to manage disease as opposed to a training adjunct for healthy athletes. There was evidence that the GP monitored the patient's oxygen levels during the treatment apart from one occasion.

The Commissioner noted that the efficacy of IHT was not in issue, as he does not have the power to review the effectiveness of any treatment. The Code governs the standard of treatment and information disclosed prior to treatment, but not the efficacy of treatment. He commented that there is nothing to prevent people providing or seeking out any form of treatment they wish.

However, the Commissioner held that the GP breached Right 6(1)(b) as he overstated the benefits of IHT and led the patient to believe it was a scientifically proven treatment for CFS. The lasting impression given to the patient, in particular by the information sheet, was that IHT had significantly proven benefits as a treatment for CFS. Therefore the GP did not meet the standard of accurate information about benefits of a proposed treatment that a reasonable patient in such circumstances would expect to receive.