

Department for Work and Pensions

ADJUDICATION AND CONSTITUTIONAL ISSUES DIVISION

DMG Letter 18/05

December 2005

Dear Decision Maker

Incapacity for Work – electronically-prepared IB85s

Introduction

Medical reports – IB85s – are increasingly completed electronically; Examining Medical Officers access a computer programme designed to allow them to use both their own words and pre-prepared text from a drop-down menu. It also suggests text for certain fields based on previous entries.

Appellants and Commissioners have raised several issues about the completion and content of electronic IB85s. These criticisms have been, or will be, addressed as part of a programme of improvement to the computer system. In the meantime the following may assist DMs who encounter difficulties with electronically-prepared IB85s.

Validity as evidence

Examining Medical Officers do not sign electronically-prepared IB85s. An argument was raised that the purpose of a signature is to authenticate the document and without such authentication it is not valid evidence. The Commissioner held¹ that there is no requirement in law for an IB85 to be signed. Thus the lack of any signature does not invalidate the report as evidence.

He further held that there was nothing in the IB85 that purports to establish the authenticity of the data in the document. If the authenticity of the IB85 is disputed it does not prevent a tribunal from receiving the report in evidence.

It is open to the Secretary of State to establish the authenticity of an electronic signature by means of a certificate or by any other appropriate method. There is no requirement that the procedure prescribed in the Electronic Communications Act 2000 s. 7 must be used in every case where the authenticity of the electronic IB85 is challenged.

1 CIB/3743/04 (to be reported as R(IB)7/05)

In another case¹ one of the grounds of appeal was that the tribunal failed to consider the effect of the absence of a signature on the IB85. The Deputy Commissioner in that case held that there was nothing in this point. The IB85 is an internal document which is part of the evidence. The use of the doctor's unique identifier would be sufficient to establish the authenticity of the report.

1 CIB/60/05

Content of report

Commissioners have been critical of the content of electronically-prepared IB85 reports. In one example¹ the Commissioner said that taking an entry in the IB85 as a positive finding when it is merely an electronic default can mislead. This related to an entry “Claimant states no other problems” in Box 1 headed “Diagnosis”. This entry appears automatically in the box unless the doctor stops it.

1 CIB/476/05

In another case¹ the same Commissioner commented on the use of the phrase “claimant states no other problems” in Box 1. He lists several options as to the function of Box 1. He warns that tribunals should be wary of relying on that statement of diagnosis when considering the extent of the claimant’s problems.

1 CIB/562/05

The Commissioner¹ highlighted a problem with a phrase used a number of times in the IB85, he was concerned with a standard phrase in the computer memory bank that can be activated easily in a report. Once activated, the software in the computer will automatically suggest the phrase in a number of contexts. Unless the doctor acts to stop this, or goes back and corrects an error in Box 7, that error will repeat itself. The Commissioner also commented that it is possible for there to be repeated omissions as well as repeated errors, making the point that these are much less obvious.

1 CIB/476/05

In another case¹ the same Commissioner agreed with the tribunal’s view that the electronically-prepared IB85 report was unreliable. This was based on its finding that some of the list of entries in Box 7 were factually incorrect. The Commissioner also commented on the inattention of the doctor completing the form particularly in respect to the “automated selective carry forward” of phrases from Box 7 to the individual boxes for mental health descriptors.

1 CIB/664/05

Another Commissioner held¹ that it was his view that tribunals ought to take particular care to satisfy themselves that reports presented to them in this form really do represent considered clinical findings and opinions by the individual doctor whose name they bear. Tribunals should identify and deal with apparent discrepancies.

1 CIB/511/05

What does this mean for DMs

As with all evidence DMs have to decide what weight to give to the content of an electronically-prepared IB85. The report should be read as a whole and any inconsistent or improbable entries addressed before a determination of incapacity for work is made. Procedural guidance on gaining clarification or questioning of the content of IB85s should be followed. See STB Guide, Part 32 paragraphs 32.481 to 32.486.

Rework

Advice to Examining Medical Officers from Corporate Medical Group is that any alterations or additions to a report on an electronic IB85 should be provided in a separate document; the original text of the electronic IB85 should not be changed unless it is of a very minor nature e.g. a slip of the pen, and is carried out by the same doctor who completed the original. DMs should not accept any other changes to the original text of the IB85.

Annotations

The number of this letter should be noted against DMG paragraphs 01351 and 13402.

Contacts

If you have any queries about this letter, please write to ACI Division, Room GS36, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in DMG Letter 05/04.

Yours faithfully

Eileen Phipps