

1. Can medical experts and authorised users instruct an Administration Agency?

The Following guidance was issued to all users on 24 October 2018 and remains the position.

MedCo does not object in principle to medical experts using the services of administrative agencies (AAs). It has, however, come to our attention that some of these AAs appear to be operating as unauthorised MROs. MedCo consider that the use of an unauthorised MRO is likely to constitute a breach of the MedCo ethics policy and may also cause other breaches of the user agreement.

The arrangement with the AA should be controlled by the DME. The DME should seek assistance for administrative tasks from the AA and should be paying the AA for those tasks as appropriate. Where the "AA" controls the arrangement, such that one or more of the following occur:

- instructions come in via the AA with no expert selected by the instructing party,
- experts are allocated by the AA,
- where payment is made from the AA to the DME,

then it is likely that the AA is in fact an unauthorised MRO.

AAs do not need to register with MedCo – but those that don't should not be directly engaging in MedCo work. In the Qualifying Criteria dated October 2016 (**updated February 2021**), the Ministry of Justice set out a definition of an MRO as follows:

1.1 All Medical Reporting Organisations (MROs) wishing to register on the MedCo system must provide documented assurances that their organisation meets the terms below.

MRO Definition: For the purposes of registration and remaining registered on MedCo an MRO is defined as “an organisation whose principle function is to provide medico-legal reporting services and which is—

(i) independent;

(ii) properly staffed and resourced; and

(iii) directly and solely responsible for all work associated with receiving instructions via the MedCo portal and instructing a medical expert to provide an initial medical report”.

Each MRO must directly:

a) establish and maintain, the direct management and control of a panel of MedCo accredited experts;

b) employ staff in-house with responsibility for managing the instructions received from authorised users and for directly undertaking all administrative work associated with the commissioning of reports from MedCo accredited experts on their own panel, including managing the invoicing, payment and debt collection processes;

c) manage the appointments process for claimants (including identifying appropriate dates, times and venues for medical examinations, processing cancellation and rescheduling of appointments);

d) oversee and quality assure the report production process and have systems in place to effectively manage any complaints from instructing parties; and

e) comply fully with the MedCo Data Contributor Agreement, including its Ethics Policy, and operate in a way which is not contradictory to the Government's stated policy objectives.

MedCo's view is that some AA's meet the definition of an MRO and are carrying out the tasks identified as MRO tasks in a) to e) above.

MedCo Users who engage the services of unauthorised MROs are very likely to be doing so in breach of their user agreement. We have set out below some warning signs that the "AA" is in fact an unauthorised MRO.

Direct Medical Experts (DMEs):

A DME must receive instructions direct from an authorised user (AU). Those instructions should not be filtered through an AA. If the DME is not receiving direct instructions then they are not acting as a direct medical expert. The DME should in no circumstances contract with the AA on terms requiring that they have no direct contact with the solicitor instructing them. Invoices should be made out in the name of the DME and not the AA. The DME should receive payment in full for the medical report provided and should then pay they AA for services rendered. Payment should never be to the AA and the AA should not control payment to the DME (e.g. you will receive £X for a clinic).

The DME should have their own ICO and (where appropriate) VAT number. They should not use the AA's details.

The DME will breach a warranty given under the user agreement if they provide the AA with login details without first obtaining MedCo's consent to do so. MedCo will not unreasonably withhold such consent where the AA is operating as an AA. Consent will not be provided if the arrangement is with an unauthorised MRO.

Claimant Representatives/Insurer Authorised Users (AUs):

MedCo consider that the use of unauthorised MROs is a breach of the MedCo ethics policy, and as such, a breach of the user agreement. Where AUs wish to instruct a DME they should do so direct and not via an AA. Invoices should be paid to the DME. Where an invoice is made payable to the AA the AU should not make the payment, but should request an invoice from the DME and payment should be made to the DME.

For support and information contact enquiries@medco.org.uk