

IN THE FIRST TIER TRIBUNAL

Case No: PHL15278

**MRS J R CRISP TRIBUNAL JUDGE
DR S ARIYANAYAGAN PROFESSIONAL
MRS ISOBEL DALE MEMBER**

B E T W E E N:

NHS COVENTRY

Applicant

And

**DR SYED ALIJAH
Registration No: 2700780**

Respondent

DECISIONS AND REASONS

**Tribunal Primary Health Lists 29th July
2010**

1. This is an application pursuant to a letter dated the 21st June 2010, by NHS Coventry for an extension of the period of suspension imposed upon Dr Syed Alijah under the terms of regulation 13 of the National Health Service (Performance List Regulations 2004) (“the Regulations”). The application is for an extension of time for one month from the 24th June 2010.
2. Neither party requested an Oral Hearing.

Preliminary Matters – consideration without a Oral Hearing.

1. The Tribunal Procedure (First – Tier Tribunal) (Health, Education and Social Care, Chamber) rules 2008 provide under rule 23 that a Hearing must be held unless each party has consented to the matter being decided without a Hearing. We have therefore determined the application without an Oral Hearing. The Panel considered the application on the 29th July 2010, at Nottingham Magistrates Court.

Factual Background

1. Dr Alijah was suspended on the 24th December 2009. An Oral Hearing was to review the case on the 22nd June 2010. The Applicant confirmed that the reason for the delay was in respect of Health Reports.
2. No further information has been provided however, the application sought an extension for a period of one month to allow completion of the investigation and to receive the Health reports which have been delayed.

The Law

1. Under regulation 13(1)(a) of the regulation, (if a “PCT” is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest, it may suspend a performed from its performers list in accordance with the provision of this regulation: -
 - a. While it decides whether or not exercise its powers to remove him under regulation 10 or contingently remove him under regulation 12.
 - b. By regulation 13(4) the period of suspension under paragraph 1(a) or (b) may extend beyond 6 months if: -

- i. On the application of The PCT, the FHSAA (now First-Tier Tribunal) so ordered or
- ii. The PCT applied under sub – paragraph (a) before the expiry of the period of suspension, that the FHSAA has not made an Order by the time it expires, in which case it continues until the FHSAA makes an Order.
- iii. By regulation 13(5) if the (First – Tier Tribunal) does make an Order under 13(4). It shall specify –
 - a. The date on which the date of suspension is to end;
 - b. An event beyond which it is not to continue; or
 - c. Both a date upon which it is to end and in an event beyond which it is not to continue, in which case it shall end on the earlier on that date or the event as the case may be.

Decision

1. We are not aware as to whether the Oral Hearing took place on the 22nd June 2010 however the Panel does not have any information before it to suggest that it has not. We have therefore granted the application on a two part basis, to enable the Hearing to take place.
2. We consider that it is appropriate to make an Order in the alternative form as prescribed by regulation 13(5)(c)

Order

1. Dr Syed Alijah’s suspension from the performance list shall be extended until the earliest of the following: -
 - a. Notification to him of any decision by The PCT, not to remove him from the performance lists, or

- b. 28 days after notification to him of any decision by The PCT to remove him from its performance list (whether conditionally or absolutely) or
- c. the 30th July 2010 whichever is earlier