
Prison

Report on Opinion - Case 98HDC13802

Complaint

The Commissioner received a complaint letter from the consumer. The complaint is:

- *In mid-October 1997 the consumer did not receive her daily dose of methadone from the prison.*

In addition to this:

- *The prison placed the consumer on a reduction program rather than a maintenance program during her two-month sentence commencing mid-September 1997 through to mid-October 1997.*
 - *The consumer also requested a copy of the protocols for methadone treatment in prisons and received this three weeks after the request.*
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Investigation

The complaint was received on 6 April 1998 from the consumer. An investigation was commenced and information obtained from:

The Consumer
The Manager of the prison
The Prison Nurse
The Department of Corrections

Copies of relevant sections of the consumer's prison file were viewed as part of this investigation. The Department of Corrections "*Protocol for Methadone Treatment in Prisons*" was also considered.

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**Information
Gathered
During
Investigation**

In mid-September 1997 the consumer commenced a two-month prison sentence at the prison. Upon arrival she was seen by the prison medical staff. She was advised that she would be withdrawn from the methadone she had been receiving prior to her sentencing, over the next 21 days, as per prison policy. The consumer asked the prison staff to reconsider their decision by increasing the withdrawal/maintenance days to 42. The consumer requested this as her release from prison was likely to occur prior to completing the full sentence. The extension would help her to restart her methadone program with the methadone clinic in her home city upon release. Prison staff agreed to the consumer's request and increased the consumer's withdrawal/maintenance period to 42 days.

Maintenance, in this situation, refers to maintaining a prisoner on a similar program as to the one they were on before they were imprisoned. In the consumer's case, she had been on a slow withdrawal program with the methadone clinic before being imprisoned. Prison policy allowed for her withdrawal/maintenance program to be extended. Department of Corrections policy stated that all prisoners are eventually withdrawn from methadone while in prison. This normally occurs over 21 days. However, the *Protocol for Methadone Treatment Programs in Prison* states that "the General Manager of a prison may allow methadone to be provided for up to 42 days."

The nurse advised that at the start of the consumer's sentence she had the *Protocol for the Methadone Treatment Programs in Prison* explained and shown to her, including the Code of Health and Disability Services Consumers' Rights. The consumer advised that she did not receive a copy of the prison protocol until three weeks after commencing her sentence, when she made a written request to the general manager.

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**Information
Gathered
During
Investigation
*continued***

The consumer advised the Commissioner that a few days prior to her release from prison she requested her daily dose of methadone be left out for the morning of her release, as she was to leave prison prior to the usual time methadone was administered. The nurse advised the consumer it was not prison protocol to do this. As the consumer was leaving prison before the nurse came on duty, she should arrange her own daily dose of methadone from the methadone clinic. The consumer caught the early train from the prison to her home city and received her daily dose of methadone late on the day of her release.

The prison was unable to provide the Commissioner with a copy of the consumer's medical file, so confirmation of the conversation held between the consumer and the nurse regarding the above issue cannot be confirmed. The prison stated:

"Notes relating to [the consumer's] health care whilst in [the prison] have been unable to be located. Whilst every effort has been made to locate the notes...they have not been located."

On 19 October 1998 the prison advised the Commissioner they had given the consumer clear instructions about obtaining her daily dose of methadone from the methadone clinic upon her release. On 22 January 1999 the Commissioner requested further information from the prison regarding the *Protocol for Methadone Treatment Programs in Prisons*, the reason the consumer waited three weeks for a copy of the protocol, and requested a copy of the consumer's medical file.

The prison responded to the Commissioner's letter, clearly explaining the application of the *Protocol for Methadone Treatment Programs in Prisons* to the consumer's case. The prison also provided a copy of the written request from the consumer to the general manager asking to view the protocol. This documented that the general manager provided the protocol the following day and confirmed the consumer's medical file had been misplaced.

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**Information
Gathered
During
Investigation
*continued***

On 25 March 1999 the Department of Corrections confirmed it has no protocols for providing a prisoner with methadone on the day of release from prison, if that prisoner is leaving earlier than when the methadone arrives at the prison. The department also confirmed that prisons are not allowed to keep methadone in facility overnight. The prison and the prisoner should organise how that prisoner should receive methadone on the day of their release. It was suggested that a prisoner might decide to leave the prison later on the day of release, enabling them to receive their daily dose of methadone from the prison, or leave early and organise receiving their daily dose of methadone from the clinic they attend at their destination.

**Outside
Jurisdiction**

In the Commissioner's response to the consumer's complaint letter the consumer was advised to contact the Privacy Commissioner regarding some of the issues in her complaint letter and was given the contact details for the Privacy Commissioner.

**Code of
Health and
Disability
Services
Consumers'
Rights**

- 1 Consumers have Rights and Providers have Duties:*
- (1) Every consumer has the rights in this Code.*
 - (2) Every provider is subject to the duties in this Code.*
 - (3) Every provider must take action to –*
 - a) Inform consumers of their rights; and*
 - b) Enable consumers to exercise their rights.*

RIGHT 4

Right to Services of an Appropriate Standard

- ...
- (5) Every consumer has the right to co-operation among providers to ensure quality and continuity of services.*
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**Opinion:
Breach** In my opinion the prison breached Right 4(5) of the Code of Health and Disability Services Consumers' Rights.

Prison staff were unable to provide me with information to demonstrate they provided the consumer with information to ensure she received her daily dose of methadone the day of her release. Nor did they co-ordinate with her public health provider to ensure this occurred. The prison had an obligation to ensure the consumer received her methadone dose either from the methadone clinic later on the day of her release or from the prison itself. The prison's failure is in breach of Right 4(5) which requires a continuity of care for the consumer. I accept that no harm to the consumer resulted, as she was able to obtain the methadone herself. However, the outcome does not affect the prison's obligation.

**Opinion:
No Breach** The prison was unable to provide evidence that the consumer received a copy of the *Protocols for Methadone Treatment in Prisons* and the Code of Health and Disability Services Consumers' Rights on the first day of her sentence. However, as the prison promptly gave a copy of the protocols to the consumer when she requested it, in my opinion they did not breach clause 1 of the Code of Health and Disability Services Consumers' Rights.

Actions I recommend that the prison take the following actions:

- Apologises in writing to the consumer for breaching the Code of Health and Disability Services Consumers' Rights. This apology is to be sent to the Commissioner who will forward it on to the consumer.
 - Audits its system for holding inmate's medical files to ensure loss of a medical file does not occur again.
 - Works with the Department of Corrections to develop protocols regarding continuity of care with methadone service providers in the community.
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Other Actions A copy of this opinion will be sent to the Department of Corrections.
