

**Monitoring weight loss in a
disabled persons' residential care facility
(07HDC07675, 27 November 2008)**

Disability service provider ~ Manager ~ Weight loss ~ Standards of care ~ Adequacy of quality systems ~ Follow-up of complaints ~ Rights 4(1), 4(3), 10(3)

The parents of a young woman complained about the care she received in a disability facility. She had cerebral palsy and severe spastic quadriplegia, and was dependent on receiving full care. Four months after her admission she weighed 26kg. Over the next year, her parents made a number of complaints to the manager of the service concerning their daughter's apparent weight loss, her deterioration in health, and the shortage of trained staff available to provide her with the specialised care her condition required. A year after she was first weighed, she was transferred from the disability service to a public hospital, and found to be malnourished and dehydrated, and weighed only 17kg. Following her discharge from the public hospital, she did not return to live at the disability service.

It was held that the disability service manager did not ensure that the woman received an appropriate standard of care, and did not provide services that complied with the standards described in the Ministry of Health (MOH) contract for residential care. The manager did not recognise that the woman required a higher level of care than staff at the disability service were able to provide. Although he was not a clinician, as a manager he had an obligation to use his professional judgement and take action to ensure the woman received proper care and access to equipment, and he was held to have breached Right 4(1). In not meeting the obligations in the MOH contract for residential services to work collaboratively with the woman, he also breached Right 4(3). In not acknowledging the complaints he received and in not providing a fair, efficient and timely resolution of complaints, he breached Right 10(3).

It was also held that the disability service was obliged to have monitoring and reporting structures that would allow it to take action to manage identified problems. It was the responsibility of the trustees to ensure that these mechanisms were in place and working. The disability service accepted funding to provide the woman with care when it was not able to deliver the level of care she required. The disability service therefore breached Right 4(1).

The company running the disability service was held vicariously liable for not ensuring that its employee, the manager, was carrying out his duties appropriately, and it therefore breached Right 4(1).