

---

## General Practitioner

---

### Report on Opinion - Case 98HDC12344

---

**Complaint**

The Commissioner received a complaint about the services provided to the consumer by a general practitioner. The complaint is that:

- *On a date in early May 1997, the provider prescribed Amoxil to the consumer without making proper enquiries and ascertaining that he was allergic to Penicillin.*
- 

**Investigation**

The Commissioner received the complaint from the Medical Misadventure Unit of the Accident Rehabilitation and Compensation Insurance Corporation (ACC) on 4 March 1998 and an investigation was carried out.

Information was obtained from:

The Consumer  
The Provider, a General Practitioner

The consumer's medical records were obtained and reviewed.

---

**Background Information**

The consumer's medical records date from March 1988. At this time he was a patient at a general practice clinic owned by the Provider. Between 1988 and 1994, the consumer was prescribed Augmentin antibiotics on several occasions. The prescribing doctor cannot be identified from the consumer's medical records. Sometime in 1994 the Provider sold his practice to another general practitioner. The consumer became that GP's patient.

In early December 1994 the GP who purchased the provider's clinic examined the consumer at her surgery following his falling onto a rusty nail. She prescribed Augmentin tablets and the consumer was given a Tetanus injection.

After three days, the consumer had developed a rash over his entire body. The GP recommended that he stop taking the Augmentin, and referred him to a Dermatologist.

The GP made the following notes in mid February 1995:

*"Difficulty coming down off prednisone without incurring flare of erythema multiform. Refer [dermatologist]."*

---

*Continued on next page*

---

## General Practitioner

---

### Report on Opinion – Case 98HDC12344, continued

---

**Background Information, continued**

The GP documented the Dermatologist's diagnosis in the consumer's notes as follows:

*“Erythema multiform  
Allergic reaction to Penicillin”*

The Dermatologist confirmed his diagnosis by letter to the GP in mid-March 1995. This letter appears in the consumer's notes and explains that:

*“[The consumer] seems to be one of the rare patients who, following a generalised urticarial response to a drug develops auto antibodies to receptors on eosinophils which produce a chronic urticaria continuing for some months. Hopefully we can keep him reasonably free of urtication without high doses of Prednisone while this spontaneous resolution is occurring.”*

Subsequent entries in the consumer's notes record that treatment for the allergic reaction was continued well into 1995.

When the GP retired, the consumer asked for his records to be sent to the Provider's new practice, which was in a different part of town. The Provider advised the Commissioner that the consumer attended his practice on a casual basis and was not a fully registered patient. The Provider explained that when a patient consults on a casual basis it is not usual to have their notes available and:

*“In this instance the patient's notes had been sent however the patient did not inform me that he had had his file sent to the [Provider's practice].”*

---

**Outcome of Investigation**

On a date in early May 1997 the consumer advised that he attended the Provider's practice to have blood tests for coronary heart disease. The Provider stated that the consumer attended his practice on this date in respect of three additional complaints, which were:

1. Dyspepsia;
2. Persistent chesty cough; and
3. Recurrent haemorrhoids.

The Provider recalled prescribing Amoxil at the consultation for the consumer's chesty cough, whereas the consumer understood the Amoxil was being prescribed as part of triple therapy for the Dyspepsia.

*Continued on next page*

---

## General Practitioner

---

### Report on Opinion - Case 98HDC12344, continued

---

**Outcome of Investigation, continued**

The consumer advised that he asked the Provider if it was safe to take Amoxil with his Penicillin allergy. He stated that the Provider assured him that Amoxil was a synthetic or natural (he could not recall) form of antibiotic, and would therefore be safe. When the consumer went home his wife voiced her concern about him taking the antibiotics. The consumer repeated to her what the Provider had said. The consumer took the Amoxil.

The Provider maintains in a letter to the Medical Misadventure Advisory Committee:

*"At NO time did the patient mention to me that he had a penicillin allergy or ask me if Amoxil was ok with a known penicillin allergy. AS I MOST CERTAINLY WOULD HAVE SAID NO IT ISN'T AT ALL OK ESPECIALLY WITH YOUR PREVIOUS ALLERGIC HISTORY, & I would most probably have prescribed routine for his cough.*

*I agree that I did not ask the patient about specific drug allergies at this consultation of [early May 1997] BUT I WAS VERY AWARE of his previous severe allergic reaction summer 94/95 having seen him socially between 1994 and 1997 when he was not my patient.*

*I had asked him on several occasions during 94 and 97 whether he knew what the cause of his allergy was & he had always replied no. He never told me & I was never aware that he had seen [the Dermatologist] & been told that his allergy was due either to Augmentin or Tet Tox."*

On the front page of the consumer's notes the following notation appears:

*"Delayed reaction to Augmentin Yes Erythma multiforme."*

Within a week the consumer was suffering a severe allergic reaction. He was covered in large welts and was very swollen. In mid-May 1997 the consumer was examined by the Provider, who advised that the Amoxil would not have caused the reaction. The Provider prescribed steroids and antihistamines for the reaction. According to the consumer, the Provider's explanation was that antibiotics were now placed in meat, and he was having a reaction to antibiotics that had been placed in the meat he had eaten the evening before. Following this, the consumer's wife rang the DSIR, a Research Unit and MAF who all confirmed there was no Penicillin in meat.

---

*Continued on next page*

---

## General Practitioner

---

### Report on Opinion – Case 98HDC12344, continued

---

**Outcome of Investigation, continued**

The consumer's reaction continued to get worse. He had a rash, was dry retching and fainting, and having difficulty breathing. Two days after being examined, the consumer attended an Accident and Medical Centre where he was treated with Adrenaline and high dose steroids. This record notes:

*“Allergic reaction. Allergies: Penicillin Amoxil.”*

The consumer advised the Commissioner that he was incapacitated with both the allergic reaction, and the effects of the steroids. These effects were:

- a) He could not work for four to five weeks following the reaction;
- b) He was *“incapable of knowing what was happening”*;
- c) He had short term memory loss;
- d) His eye sight was affected;
- e) He lost his sense of judgement;
- f) He was unable to drive;
- g) He suffered from mood swings; and
- h) He could barely cope with the day to day running of his business.

The consumer continued to take steroids until September 1997.

In mid-November 1997 the first GP confirmed:

*“To whom it may concern. I treated [the consumer] towards the end of 1994 for a severe penicillin allergy. I consulted with [the Dermatologist] as regards to this, and [the consumer] was totally aware of his allergy and of all the consequences that may entail for him. In fact we went over all the possible permutations of the serious penicillin drug analogies and drugs with similar pharmaceutical structure, and how he must never under any circumstances take any form of these drugs ever again. [The consumer] is an intelligent man who fully understood what he was being told and the conversation and the fact that he was allergic to penicillin was annotated in red highlights on the front page of the cover sheet, as is usual in these circumstances. There was no doubt in my mind that [the consumer], his wife and the entire practice I was working in at that time did know of the fact that he was penicillin allergic – backed up by a Specialist Dermatologist who also reinforced the problem.”*

---

*Continued on next page*

---

## General Practitioner

---

### Report on Opinion - Case 98HDC12344, continued

---

**Outcome of Investigation, continued**

The Provider advised that he did not consult the consumer's past medical records during the consultation in early February 1997 because:

*"I only discovered that the patient had an allergy to Augmentin or Tet Tox in late May/early June, when I received a request from his wife to have his notes transferred to [a different doctor]. I sent a copy of our complete notes & [the consumer's wife] contacted my rooms again and said she wanted all the old notes. THAT IS THE FIRST TIME I WAS AWARE THAT I HAD THOSE OLD NOTES."*

The Provider explained that the computer system at his surgery automatically recorded 'nil allergies' at initial registration. The consumer's initial registration date was in early May 1997, when he was prescribed Amoxil. The Provider stated that he marked "allergic Amoxil Augmentin" on the consumer's notes when he recovered them for the consumer's wife in May/June 1997.

In his defence, the Provider said that at the time of the consultation in early May 1997 he only had personal knowledge of the consumer's previous medical history because he was the consumer's general practitioner prior to selling his practice.

The Provider recalled that:

*"I knew that I had used Augmentin/Amoxil on more than one occasion in the past without adverse effect. [Early March 1988 and early October 1990] are two dates from the old notes – & the information supplied by the patient which did not include any mention of penicillin allergy."*

The Provider recalled being aware of the consumer's previous severe allergic reaction in 1994, because he saw the consumer socially when he ceased to be his doctor. The Provider told the Commissioner that he had asked the consumer on several occasions after the initial reaction whether he knew the cause of the allergy, and that the consumer always replied 'no'.

---

*Continued on next page*

---

## General Practitioner

---

### Report on Opinion – Case 98HDC12344, continued

---

**Outcome of Investigation, continued**

He stated further:

*“[In mid-May 1997] when his delayed allergy was starting I specifically asked what caused his previous allergy and the patient told me he did not know. (I recall the patient asking me if I thought the antibiotic could be the cause of his allergy. I informed the patient that possibly it might be the cause but it was unlikely as he had it on more than one occasion prior to November 1993 without any problem).”*

In summary the Provider wrote:

- “1. I did not know [the consumer] had a Penicillin/Augmentin/Amoxil allergy.*
- 2. I did not have access to the old notes at the consultations [in early and mid-March 1997.]*
- 3. The patient did not inform me that he had a penicillin allergy nor did his wife which is a pity as they certainly knew me well enough to ring me & discuss it with me & we could have avoided all [the consumer's] distress.”*

In response to this, the consumer wrote as follows:

*“I am astounded that [the Provider] would claim that I did not know what my allergy was. It was made very plain to me by [the first GP] that I had it, and I was told never to take penicillin again. She talked to me at length about it, and warned me that it would be fatal, every attack would be worse than the previous one. [In mid-May 1997 the Provider] did not ask me if I knew the cause of my previous allergy. I would not have answered ‘no’ to his question, as I definitely knew what my allergy was. [My previous doctor...], has written a letter to confirm this. She was working in [the Provider's]... practice at the time, which she subsequently bought from him.”*

---

*Continued on next page*

---

## General Practitioner

---

### Report on Opinion – Case 98HDC12344, continued

---

**Outcome of Investigation, continued**

The consumer concluded his letter to the Medical Misadventure Advisory Unit by stating that:

*“I have been told that another attack will be fatal so I feel that [the Provider] has robbed me of a chance to take Penicillin in the future should I need it in an emergency. My first attack took me about 18 months to recover from. This attack has been much worse and much more intense.”*

In late November 1997, the Medical Misadventure Advisory Committee found that the Provider was in error in that he did not make proper enquiries to ascertain that the consumer had a Penicillin allergy when he prescribed Amoxil in early May 1997. As a result of this finding, the consumer's claim to the Accident Rehabilitation and Compensation Insurance Corporation was accepted as an error under s5(1) of the Accident Rehabilitation and Compensation Insurance Act 1992. The medical error aspect of the claim was reported to the Medical Council of New Zealand and the Health and Disability Commissioner.

---

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

*RIGHT 4*

*Right to Services of an Appropriate Standard*

- 1) *Every consumer has the right to have services provided with reasonable care and skill.*
  - ...
  - 4) *Every consumer has the right to have services provided in a manner that minimises the potential harm to, and optimises the quality of life of, that consumer.*
- 

**Opinion: Breach**

In my opinion, the Provider breached Right 4(1) and Right 4(4) of the Code of Health and Disability Services Consumers' Rights.

In 1994 the consumer suffered a severe and prolonged reaction to Penicillin. He was seen by a dermatologist who emphasised that taking Penicillin could be life threatening. His previous doctor reinforced this warning and recorded this in and on the cover of the consumer's notes. I do not accept the Provider's claim that the consumer did not know what caused his reaction. Given the consumer's history, it would be doubtful that he would ever knowingly take a Penicillin based drug.

---

*Continued on next page*

---

## General Practitioner

---

### Report on Opinion – Case 98HDC12344, continued

---

**Opinion:  
Breach,  
*continued***

The Provider knew that this was the first time the consumer had been registered on his new computer system. He knew that the new computerised system automatically registered nil allergies for all new patients. The Provider also knew that the consumer had suffered an allergic reaction in the past, although he claims he did not know the cause. In my opinion, it would be reasonable to expect that the Provider would take the precaution of asking the consumer about his allergies at the consultation, especially as he was prescribing medication.

The consumer's skin reaction and allergies are well documented in all his notes from 1994. The Provider did not read the notes and relied on memory, social contact and an inadequate computerised recording system. In my opinion this failure worsened the consumer's condition. It also subjected him to numerous side effects that have substantially lessened his quality of life.

---

**Actions**

I recommend that the Provider takes the following actions:

- Apologises in writing to the consumer for breaching Rights 4(1) and 4(4) of the Code of Health and Disability Services Consumers' Rights. This apology is to be sent to the Commissioner who will forward it to the consumer.
  - Confirms that he has since changed the computerised medical record system at his practice, so that "nil allergies" does not automatically appear for all new patients. Patients' allergies must be specifically entered.
  - Ensures that when a patient's notes are sent to him these are recorded on his system with a follow up call to the new patient.
- 

**Other Actions**

A copy of this opinion is to be sent to the Medical Council of New Zealand.

---