
General Practitioner

Report on Opinion - Case 97HDC6676

Complaint The Commissioner received a complaint from a consumer about treatment received from the provider, a general practitioner. The complaint is that:

- *During the time the consumer consulted the provider, the provider failed to thoroughly and promptly investigate the underlying cause of the consumer's symptoms.*
- *Without further investigative tests, the provider prescribed medications that exacerbated the consumer's condition and masked symptoms of the consumer's underlying cancer.*

Investigation The Commissioner received the complaint on 11 June 1997 and an investigation was undertaken. Information was obtained from:

The Consumer
The Provider/General Practitioner
An ACC Manager
An ACC Workwise representative
The Provider's Practice Nurse

Relevant clinical records were obtained and viewed. The Commissioner obtained independent peer advice from a general practitioner.

Details of Investigation The consumer consulted the provider, a general practitioner, from early June 1995 until her death in mid-June 1997. The consumer had long-standing problems with her back related to various injuries. The consumer said that from sometime in January 1996, she complained to the provider of having pains in her bones, especially the upper spine.

There is no record of "bone pain" in any of the provider's consultation records. The provider stated, "*when [the consumer] mentioned pain it was always of joint or muscle origin and always on questioning related by her to some injury or strain. Her description of the pain changed in March and April 1997 when the pain appeared to be neurogenic (i.e. of nerve origin) or even a skin sensitivity as mentioned in my consultation notes.*"

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**Details of
Investigation,
*continued***

The consumer lived alone in a caravan park and did not have a telephone. The consumer said that in January 1997 she was unable to use her legs and contacted her workplace. A co-worker rang the provider's surgery and was told by the practice nurse that the provider was unable to visit at that time and advised she call an ambulance. The consumer did not call an ambulance and regarded the provider's advice to call an ambulance as inappropriate delegation to her co-worker.

In her response to the Commissioner, the provider's practice nurse said a caller she understood to be the consumer's employer rang and informed her that the consumer had developed increased pain overnight and upon waking was unable to get out of bed. The nurse said she discussed the call straight away with the provider who was concerned the consumer was in pain and discussed both a house call and hospitalisation. *"Because [the consumer] lived in a caravan some distance from the surgery and to our knowledge had no telephone or live-in support, Doctor felt hospitalisation for assessment was best for her patient, although this did not appear to be an emergency situation. The caller from [the consumer's place of employment] was then asked to make contact with the person who had contacted her and to ask them to arrange for an ambulance to transport [the consumer] to [...] hospital. I am unable to recall the outcome, but I did make contact with the person who had contacted her and ask them to arrange for an ambulance to transport [the consumer] to [hospital]."*

The provider said there is no written record of that phone call and she did not speak to the consumer's co-worker. The provider stated, *"my practice nurse took the call and informed me that she had a third party on the line requesting a home visit for [the consumer] who said she had severe back pain and was unable to move. I ascertained that this was not an emergency situation, but also clearly one where some relief was required. I asked my practice nurse to explain that it was not possible for me to leave my rooms at that time. This is because I had a number of patients waiting to be seen who could not be left. Having ascertained that the situation was not one of emergency, I felt that I should not give her request for assistance priority over those of other patients who had travelled to my surgery to see me. However, because [the consumer] was alone in her caravan without a telephone, for her own safety I urged that she be taken to the [hospital] by ambulance."*

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**Details of
Investigation,
continued**

It is my usual practice on receiving such a call to phone to see how the patient has got on. On this occasion, I was unable to establish whether this had been done or not.” The provider said she could not contact the consumer at her workplace as the consumer worked part time and the provider felt that calls at work would be inappropriate.

In late January 1997, the consumer attended a medical centre and consulted a GP who diagnosed lumbar strain with possible disc injury. *“Pain ++ 6 days ago during work. Started about 1-2pm. Pain down left leg next am - Left Lateral thigh Numbness in leg. Slight constipation, Bladder (tick). Px: Panadol/Disprin/Tryptanol/Naprosyn. OE: walking very slowly in obvious pain.”* The GP prescribed Naprosyn, Digesic and physiotherapy.

Two days later the consumer said she consulted the provider who prescribed Acupan and Prednisone. The consumer said the provider later prescribed Naprosyn and Tryptonal which greatly relieved her symptoms.

The provider said she never attended the consumer on that day and did not prescribe Acupan or Prednisone then or any other time. There is no consultation recorded on that date. The provider said she did not attend the consumer until mid-February 1997, when she extended the consumer's medical certificate to the end of March 1997.

The provider's notes record that the consumer was on Tryptonal at the initial visit in June 1995. In her response to the Commissioner, the provider said the consumer *“did have liver disease in that she had chronic Hepatitis C. She also had a high alcohol intake and Paracetamol and Tryptanol in high doses combined with alcohol can be damaging to the liver. All these factors made a diagnosis more difficult to make.”* On various occasions until May 1997, the provider prescribed Naprosyn, Diazepam, Vitamin B complex and Digesics for the consumer.

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**Details of
Investigation,
continued**

At a consultation in mid-March 1997, the provider said the consumer's back pain was more generalised and was not relieved by anti-inflammatories, analgesics or physiotherapy. The consultation note records the consumer's weight as 47kg and the provider states, "*may need referral to pain clinic or other specialist.*" During the investigation, the provider said it appeared to her that despite the consumer's belief to the contrary, her pain was not necessarily related to her back injuries and suggested referral to pain clinic or a specialist. The provider said, "*on discussion [the consumer] declined this option stating that, 'if ACC can't pay for it then it can't be done.' I agreed to respect her decision but did urge that we reviewed the situation later if her symptoms did not improve.*"

In late March 1997, the consumer was reviewed by a doctor from ACC Workwise for ACC purposes and he recommended seeking a neurological opinion if the consumer's condition did not improve within a month.

In May 1997, the consumer said she insisted the provider send her for a full blood analysis and an x-ray. The consumer said she requested a sputum analysis as she was coughing up white phlegm but this was not done as the provider said her lungs were clear.

In her response to the Commissioner, the provider said, "*because the phlegm is white and because sputum tests are not that reliable as far as positivity for infection is concerned, I did not proceed with the test. I explained why to [the consumer]. I listened to [the consumer's] lungs and found them to be clear. This clinical examination of her chest was confirmed when she was admitted [to hospital] as appears from the hospital discharge notes.*"

In mid-May 1997, the consumer said she consulted the provider who changed her medication to Brufen. The consumer said she had concerns as some of the medications prescribed are contra-indicated for people with liver damage.

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Details of Investigation, continued

The provider records that it was mid-May 1997 when she attended the consumer and recorded she had severe generalised skin sensitivity and a painful right shoulder. The provider said it was agreed that an x-ray of both shoulders, cervical and thoracic spine be done. The provider said the consumer was adamant that she would not pay for x-rays and that ACC would have to pay. The provider said she contacted an ACC Manager at ACC and cleared this with her and then sent the consumer for the blood tests and x-ray. The ACC Manager said the consumer's case manager had discussed the consumer's case with her and was concerned that the picture did not fit with the injury. The ACC Manager said in late April 1997 she had discussed the case with the provider who was very worried about the claimant and informed her that she had investigated the consumer for non-accidental causes of her problem and had not found anything.

In mid-May 1997, the consumer said she rang the provider who advised that the tests were clear but that she should go to [hospital] either that day or the following Monday as she had lost 7 kilograms over the 5 month period.

During the investigation, the provider said, "*when [the consumer] phoned I did not tell her that her tests were clear as alleged by her. I told her that the x-rays had shown a lesion in the right upper lobe, and that the cause of her intense pain in the right shoulder was due to a bony lesion probably related to the one in the chest, and that her weight loss could also be significant. I also told her that an exact diagnosis could not be made on the x-rays alone and that further investigations would need to be done in hospital... I was reassuring but truthful, while avoiding as far as possible frightening [the consumer] too much until she could be seen and properly assessed at the hospital.*"

The provider wrote a referral letter to the hospital in mid-May 1997 and the consumer was admitted the next day where she underwent extensive tests including a full blood analysis, x-rays and a liver scan. The consumer was sent to another hospital for a bone scan and put onto morphine. The consumer was diagnosed as having bronchogenic carcinoma with bony metastases and passed away a month later in mid-June 1997.

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Details of Investigation, continued

Background

The provider said in response to her concern about the consumer's ongoing pains and problems which were not resolving she referred the consumer to an orthopaedic surgeon for an orthopaedic review. In early May 1996, the surgeon reported that, "*she essentially has a chronic pain syndrome affecting the left pectoral girdle region and I think it significant that the burning pain she had around the area seemed to improve with Trypotonal treatment.*"

The consumer had been on ACC for a long period of time and the provider said, "*[the consumer] had received ACC for a lengthy period of time and was adamant that her symptoms were all referable to injuries for which she should receive compensation. During consultations we always had difficulty getting past that perception.*"

Peer Advice

My peer reviewer advises that the provider diagnosed and treated the consumer's presenting problems in an appropriate way consistent with general practice standards. From the symptoms the consumer presented with, there was no indication that systems other than the musculoskeletal and hepatic systems were involved in causing her illness. There were pre-existing pathologies involving both systems i.e. the injuries and the Hepatitis C. Involvement of these systems as the first sign of cancer carried a poor prognosis because metastatic spread had already occurred. There were no warning signs even as far back as June 1995.

My advisor states, "*lung cancer is notoriously difficult to diagnose. It has been called the 'universal mimic'. It can present early with a picture of general malaise but most often as is here the case - late in its course when metastatic disease has already made the condition untreatable.*"

My advisor states, "*all the records refer more to joint pain (the lower back-diagnosed as 'lumbar strain with probable disc lesion' by [the medical centre GP] than to bone pain. [That GP] did not detect any more sinister cause for the consumer's pain and disability even though she was brought to him as an emergency.*"

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**Details of
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continued**

My advisor comments that, *“there seems to have been more than usual barriers to care - the lack of a phone for example made following up on the phone call about the paralysis difficult. Although attending to the request for help was not inappropriately deferred, some mechanism for follow-up (e.g. by phoning the friend who made the call) should have been identified.”*

None of the recorded medications the provider prescribed i.e. Diazepam, Naprosyn, Vitamin B complex and Voltaren are contra-indicated for Hepatitis. The peer advisor comments that there are notable inconsistencies in the information about prescribing. The expert said that the ACC Workwise doctor refers to analgesics, anti-inflammatories, muscle relaxants, Prednisone and Amitryptilline. My advisor said, *“there is no record of medications other than Naprosyn and Digesic being prescribed during this period and it would seem that this entry in the notes represents a summary of [the medical centre GP's] consultation and that these items were prescribed by him...”* and added, *“one does wonder if another doctor was prescribing during this time, if confusion occurred with prescribing from [the consumer's] previous doctor or whether adequate records were not kept. I have no way of differentiating between these options.”*

The peer advisor commented that the very full details in the provider's letter have a feeling of congruence and seem consistent with the actions a good general practitioner would take to try to solve rather difficult circumstances and problems.

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

The following Rights in the Code of Health and Disability Services Consumers' Rights are relevant to this complaint:

RIGHT 4

Right to Services of an Appropriate Standard

...

- 2) *Every consumer has the right to have services provided that comply with legal, professional, ethical, and other relevant standards.*
- 3) *Every consumer has the right to have services provided in a manner consistent with his or her needs.*

3 *Provider Compliance*

- 1) *A provider is not in breach of this Code if the provider has taken reasonable actions in the circumstances to give effect to the rights, and comply with the duties, in this Code.*
 - 2) *The onus is on the provider to prove that it took reasonable actions.*
 - 3) *For the purposes of this clause, "the circumstances" means all the relevant circumstances, including the consumer's clinical circumstances and the provider's resource constraints.*
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**Opinion:
No Breach**

Right 4(2)

In my opinion the provider has shown that she provided services of an appropriate professional standard in respect to the diagnosis of the underlying cause of the consumer's pain. Lung cancer is very difficult to diagnose and there was no evidence of a more sinister source of the consumer's pain until April 1997 when her weight started to drop and there was evidence that her pain changed. When these signs became apparent in March and April 1997, the provider initiated the appropriate investigations.

In my opinion, the provider did not breach Right 4(2) of the Code of Rights. The provider showed she took reasonable actions in the circumstances to give effect to the consumer's right to an appropriate standard of service.

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Opinion: **Right 4(3)**
No breach

The consumer had a right to treatment consistent with her needs. Regardless of the source of her pain she required adequate pain relief. By providing appropriate medication, offering referral to a pain clinic or other specialist and consultation with the ACC Manager, the provider has shown she provided appropriate pain relief to the consumer. In my opinion the provider did not breach Right 4(3) and in particular did not prescribe any medications that were contraindicated for a person with Hepatitis C.

Suggestions

I suggest the provider review her note taking and record taking to indicate phone calls and advice given on the phone as well as responses from patients where a patient refuses treatment e.g. "declined suggestion that referral be made for tests due to cost."
