

## **CASE NOTE 00HDC12819: Management of young man with Asperger's syndrome**

*Right to services of an appropriate standard – Reasonable care and skill – Right to be fully informed – Opinion from another provider – MOSS – Mental illness – Intellectual disability – Community mental health – Social work – Sedation – Public hospital – Right 4(1) – Right 6(3)(c)*

A complaint was made by a woman about the services provided to her late son by a MOSS (Medical Officer Special Scale) and a public hospital. The complaint was on the basis that the MOSS (1) based her treatment of the consumer on a misdiagnosis of intellectual disability; (2) medicated the consumer unnecessarily and possibly inappropriately; (3) neglected the consumer's need for appropriate care and support; and (4) refused to refer the consumer to a specialist in Asperger's syndrome.

The facts were that the consumer, who was considered to have a diagnosis of Asperger's syndrome, deteriorated and was admitted to a hospital mental health unit. He was treated with antipsychotic medications. The MOSS assessed the consumer for depression and prescribed antidepressant medication. A psychologist determined that the consumer had a mild intellectual disability. The consumer's mother disagreed with this evaluation. The MOSS recommended low stress activities for the consumer. During one consultation with the MOSS the consumer's mother requested referral to a specialist in Asperger's syndrome. The MOSS replied that as she knew of no specialist, the consumer's mother should make contact with IHC for advice on locating a specialist. The consumer died after taking a large number of Tegretol tablets. The Commissioner had previously found that there was no breach of the Code of Rights. The consumer's mother requested that the Commissioner reconsider that opinion.

The Commissioner reasoned, after receiving independent expert advice from a consultant psychiatrist, that:

- (1) the MOSS was entitled to rely upon the intellectual assessment provided by the psychologist;
- (2) the MOSS's treatment of the consumer did not hinge on any diagnosis of intellectual disability;
- (3) the consumer's distress and behaviour during his first admission provided clear indications for antipsychotic medications. The antidepressant seemed to lift the consumer's mood and it is standard practice for a person to continue with antidepressants for six months if they have had a good response; and
- (4) Right 6(3)(c) entitles a consumer to honest and accurate responses to requests for further opinions. The MOSS's admitted lack of knowledge of an Asperger's expert was honest and accurate, and designed to facilitate rather than hinder the obtaining of another opinion from a specialist.

The Commissioner also reasoned that he is required to consider whether the MOSS met the standard of reasonable care expected of medical staff in the MOSS's position responsible for persons in the consumer's condition.

The Commissioner held that the MOSS:

- (1) did not breach Right 4(1) in that she took appropriate steps to address the consumer's need for care and support, and the assessment and diagnosis of the consumer was made with reasonable care and skill; and
- (2) did not breach Right 6(3) as she suggested a course of action for the consumer's mother to take in order to access another provider.