
General Practitioner/Service Provider

Report on Opinion - Case 97HDC9836

Complaint

The consumer's husband complained to the Commissioner as follows:

- *One evening in mid-September 1997 the consumer was in considerable pain and experiencing nausea and vomiting. The consumer's husband arranged for a doctor to visit their home and the provider arrived to attend the consumer. He was shown into the consumer's bedroom. The consumer was lying in bed holding her face because of the pain. The provider said before he examined the consumer there were a few things he would like to say. The provider said the consumer and her husband had not adequately prepared for his visit and mentioned the chain across the driveway. He also said the place was in darkness, which was not correct. The provider said the consumer and her husband could not expect any more home visits because of where they lived. The provider then advised the consumer and her husband that he had travelled from the city and had a bad leg. Overall, the provider seemed more concerned about himself than the consumer.*
- *Subsequent to the visit the consumer's husband complained about what had occurred that evening. In early October 1997 the Manager of the Health Service Provider Group acknowledged the complaint and said an investigation would be undertaken by the Medical Director, and the consumer's husband would be contacted as soon as possible. No further communication was received from the Service Provider Group.*

Investigation

The complaint was received by the Commissioner on 7 November 1997 and an investigation was undertaken. Information was obtained from:

The Complainant
The Provider/GP
Director, Service Provider Group

A copy of the provider's draft response to the complainant's original complaint was provided to the Commissioner. The consumer's street was visited at night to view access to their home.

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Outcome of Investigation

One evening in mid-September 1997 the consumer was in considerable pain and experiencing nausea and vomiting. The consumer's husband telephoned a Medical Centre. The person he spoke with arranged for a doctor working on behalf of the Service Provider Group to visit the consumer at their home, which was some distance away.

In preparation for the doctor's visit the consumer's husband turned on the outside patio lights. There were also sensor lights which lit the driveway upon someone's approach. An unlocked chain remained across the entrance to the driveway. The consumer's husband left the chain across the driveway as an indicator that it was unwise to drive down. His experience was that visitors have a lot of difficulty backing up the steep driveway, particularly at night.

The provider GP travelled from the centre of town to the consumer's suburb. He had difficulty in identifying the consumer's home. Street lighting in their road was sparse and the number on the consumer's letter box was difficult to read, as it is the same colour tone as the letter box. Having identified the right address the provider proceeded down the consumer's driveway with some difficulty. The provider was carrying a heavy bag and lighting was poor until he neared the house and the sensor light came on.

The GP arrived at the house and was shown into the consumer's bedroom. The consumer was lying in bed holding her face because of the pain. The GP said that before he examined the consumer there were a few things he would like to say. The provider said the consumer and her husband had not adequately prepared for his visit and mentioned the chain across the driveway. He also said the place was in darkness. The provider said the consumer could not expect any more home visits because of the distance of their home from the Service Provider Group's base in the city. The GP then proceeded to examine the consumer.

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Report on Opinion - Case 97HDC9836, continued

**Outcome of
Investigation,
*continued***

Three days subsequent to the visit, the consumer's husband complained on behalf of his wife to the Medical Centre. The complaint was forwarded to the Health Service Provider Group. By letter dated early October 1997, the Manager of the Provider Group acknowledged the complaint and said an investigation would be undertaken by the Medical Director, and the consumer's husband would be contacted as soon as possible. No further communication from the Provider Group or the GP was received by the consumer's husband.

The Director of the Provider Group advised the Commissioner that he takes full responsibility for failing to respond to the consumer's husband's letter of complaint. He advised that he met with the provider GP, who works on a contract basis for the Provider Group, to discuss a draft letter of response that the provider had written. They did not agree on the content of the letter. A subsequent meeting was to take place to finalise the response. However, this did not happen and the matter was brought to the attention of the Commissioner.

The Commissioner notified the GP of her intention to investigate the consumer's complaint and his response included the following:

"...I realise that they naturally enough were concerned about [the consumer's] condition and that it was insensitive of me to raise my concerns as I did at the outset. The hassles I had in making this housecall had caused me to become impatient. Nevertheless, I should have bitten my lip or reserved my comment to the conclusion of the consultation. I am sorry and regret that I allowed my feelings to come to the fore. It would be appreciated if my contrition and sentiments could be made known to [the consumer's husband and the consumer]."

Provisional Opinion

The Commissioner forwarded copies of this opinion, in much the same form as it appears currently, to the GP and the Provider Group, and asked for their comment. The Provider Group has since provided the Commissioner with a copy of its complaints procedure and has advised the Commissioner that all complaints such as the consumer's will now be dealt with according to this procedure.

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Report on Opinion - Case 97HDC9836, continued

**Outcome of
Investigation,
*continued***

The GP advised the Commissioner that he relies on the provider Group for all administrative support. It is now apparent that any complaints made about him in the course of him providing medical care on behalf of the Provider Group will be dealt with by the Provider Group in terms of its complaints procedure.

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Report on Opinion - Case 97HDC9836, continued

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

RIGHT 4

Right to Services of an Appropriate Standard

- 3) *Every consumer has the right to have services provided in a manner consistent with his or her needs*

RIGHT 10

Right to Complain

- 1) *Every consumer has the right to complain about a provider in any form appropriate to the consumer.*
- 2) *Every consumer may make a complaint to -*
- a) *The individual or individuals who provided the services complained of; and*
 - b) *Any person authorised to receive complaints about that provider; and...*
- 6) *Every provider, unless an employee of a provider, must have a complaints procedure that ensures that -*
- a) *The complaint is acknowledged in writing within 5 working days of receipt, unless it has been resolved to the satisfaction of the consumer within that period; and*
 - b) *The consumer is informed of any relevant internal and external complaints procedures, including the availability of -*
 - i. *Independent advocates provided under the Health and Disability Commissioner Act 1994; and*
 - ii. *The Health and Disability Commissioner; and...*
- 7) *Within 10 working days of giving written acknowledgement of a complaint, the provider must, -*
- a) *Decide whether the provider -*
 - i. *Accepts that the complaint is justified; or*
 - ii. *Does not accept that the complaint is justified; or*

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Report on Opinion - Case 97HDC9836, continued

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

- b) If it decides that more time is needed to investigate the complaint, -*
- i. Determine how much additional time is needed; and*
 - ii. If that additional time is more than 20 working days, inform the consumer of that determination and of the reasons for it.*
- 8) As soon as practicable after a provider decides whether or not it accepts that a complaint is justified, the provider must inform the consumer of -*
- i. The reasons for the decision; and*
 - ii. Any actions the provider proposes to take; and*
 - iii. Any appeal procedure the provider has in place...*
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**Opinion:
GP -
Breach**

Right 4(3)

In my opinion the GP breached Right 4(3) of the Code of Rights.

The consumer was in a lot of pain and when the provider arrived to attend her he should have done just that. By not doing so, the GP did not provide services in a manner consistent with the consumer's needs.

If the provider considered it necessary to discuss access difficulties it might have been appropriate to raise the matter with the consumer's husband following the consultation with the consumer.

Rights 10(6)(b), 10(7) and 10(8)

In my opinion the GP breached Rights 10(6)(b), 10(7) and 10(8) of the Code of Rights.

I have reached this opinion based on information that the provider is an individual provider of a health service and not an employee of the Health Service Provider Group.

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**Opinion:
GP -
Breach,
*continued***

In the absence of any information which leads me to the conclusion that the GP authorised the Provider Group to receive and deal with complaints about him on his behalf, the provider was required to have a complaints procedure in place. While the provider did not receive the complaint directly he was aware of it and therefore should have dealt with it in accordance with the Code.

The consumer's husband was not advised by the GP of relevant internal and external complaints procedures. In particular, he was not advised about the fact he could complain to the Health and Disability Commissioner.

Whether or not the GP accepted that the complaint was justified was not conveyed to the consumer's husband. He was not informed that more time was needed to investigate his complaint. Neither was he informed of the outcome of any investigation that took place.

**Opinion:
Breach –
Health Service
Provider
Group**

Rights 10(6)(b), 10(7) and 10(8)

In my opinion, the Provider Group is a health service provider and is therefore required to have a complaints procedure in place. In my opinion the Provider Group breached Right 10(6)(b) of the Code of Rights.

While the complaint was acknowledged in writing, the consumer's husband was not advised of relevant internal and external complaints procedures. In particular, he was not advised about the fact he could complain to the Health and Disability Commissioner.

In my opinion the Provider Group breached Rights 10(7) and 10(8) of the Code of Rights.

Following acknowledgement of the complaint, the consumer's husband received no further information from the Provider Group. Whether or not the Provider Group accepted the complaint was justified was not conveyed to the consumer's husband. He was not informed that more time was needed to investigate his complaint. Neither was he informed of the outcome of any investigation that took place.

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**Future
Actions:
GP**

I recommend that the provider GP:

- apologise in writing to the consumer for his breaches of the Code. This apology should be sent to the Commissioner's office and will be forwarded to the consumer. A copy will be retained on the complaint file.
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**Future
Actions:
Health Service
Provider
Group**

I recommend the Health Service Provider Group:

- apologise in writing to the consumer for its breaches of the Code. This apology should be sent to the Commissioner's office and will be forwarded to the consumer and her husband.
 - advise the Commissioner what measures have been taken to ensure a breach of Right 10, such as occurred in this case, does not occur again. In particular the Provider Group is to forward a copy of its complaints procedure to the Commissioner.
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Other Actions

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