

**Failure of disability services provider to arrange appropriate care
over holiday period
(13HDC00164, 10 June 2014)**

*Disability services provider ~ Management ~ Staffing ~ Standards of care ~ Respect
~ Rights 4(3), 4(4), 1(1)*

A woman complained about the lack of care provided to her by her regular disability services provider over the Christmas/New Year period. The woman was paralysed from the chest down and lived alone. She was assessed by ACC as requiring approximately eight and a half hours of in-home care per day, and seven eight-hour sleepover shifts per week from the provider, although she elected to have only three sleepover shifts per week.

In June, the woman's usual weekday support worker advised the provider that she would be taking annual leave over the Christmas/New Year period. The provider did not arrange alternative support for the woman during this leave period. The provider also did not arrange alternative care for the woman following the resignation of one of her evening support workers in November, or following an injury sustained by her weekend day support worker in December which left that worker unable to care for the woman.

As a result, the woman did not receive her scheduled support services during two days and one evening prior to Christmas. In addition, she did not receive her usual day cares on nine days or four of her regular evening cares over the Christmas/New Year period.

The lack of care provided to the woman over the Christmas/New Year period had a significant effect on her emotional and physical well-being. The woman emailed the provider several times over that period outlining the impact the lack of care was having on her, but she received no responses to her concerns from the provider.

It was held that by failing to arrange appropriate care for the woman over the Christmas/New Year period, the provider failed to provide services to the woman that were consistent with her needs, and breached Right 4(3).

It was also held that the provider's failure to respond to the woman over the Christmas/New Year period placed her at increased risk of harm and, in that respect, the provider breached Right 4(4). Furthermore, the poor communication with the woman, including the failure to respond to her emails, showed a complete lack of empathy or regard for her situation. In that respect, the provider failed to treat the woman with respect, and breached Right 1(1).

The provider was referred to the Director of Proceedings. The Director filed a claim at the Human Rights Review Tribunal which proceeded by agreement. The Human Rights Review Tribunal made a declaration that the provider breached Rights 1(1), 4(3) and 4(4) of the Code.