Health and Disability Commissioner
Te Toihau Hauora, Hauātanga

GP's failure to urgently refer man to specialist breaches the Code of Health and Disability Services Consumers' Rights

22HDC01340

The Deputy Health and Disability Commissioner, Dr Vanessa Caldwell, found a GP's management of a lump on a man's neck breached the Code of Health and Disability Services Consumers' Rights (the Code) following his presentation at two appointments in 2021.

Dr Caldwell found the GP breached Right 4(1) of the Code, which gives consumers the right to have services provided with reasonable care and skill, by failing to urgently refer the man for specialist review and/or investigations of his neck lump in line with accepted practice and relevant clinical guidance.

The man, who was having difficulty swallowing, consulted with the medical centre GP twice regarding the lump on his neck. The lump had been present for around a year but had increased in size and become more tender over the preceding three months.

At the first appointment, the GP failed to urgently refer the man to a specialist or arrange for his lump to be investigated. Further, at the man's second appointment around six months later, the lump was still present and was not explained by other symptoms, but the GP again failed to refer the man for specialist review or provide him with follow-up or safety-netting advice.

Some months later, the man sought further medical attention after moving overseas. A biopsy of the neck lump led to a diagnosis of adenoid cystic carcinoma, which is a rare cancer of the salivary gland. The man had to undergo two surgeries on his neck and have his teeth and half of one of his lungs removed. This rendered him unable to work for nine months and he expects treatment will be ongoing.

Dr Caldwell says, "Although the man's cancer is a rare, slow-growing type, which often hinders early diagnosis, his neck lump was persistent and significant in size, with no clear cause at either appointment. There were two missed opportunities to diagnose his cancer at an earlier stage."

"I acknowledge that the GP does not disagree that it would have been prudent to have arranged further evaluation of the man's neck lump at both appointments."

The GP had only very recently arrived in New Zealand at the time of the first appointment and told HDC she was still learning the processes of a new country.

Dr Caldwell noted, however, that the GP accepted there did not appear to be substantial differences between the applicable neck lump guidance in her home jurisdiction, and the applicable guidance in New Zealand.

Dr Caldwell also noted the importance of the medical centre ensuring the GP was adequately inducted, trained and supported to work in New Zealand. However, she concluded that the medical centre did not breach the Code.

"I have seen no indication of a failure by the medical centre in respect of the GP's induction, orientation and initial supervision. The evidence demonstrates that this was appropriate and in line with the Medical Council of New Zealand guidance."

The GP has made several changes to her practice in response to this case, will be undertaking an audit and has provided a written apology to the man.

31 July 2023

Editor's notes
The full report of this case will be available on HDC's website. Names have been removed from the report to protect privacy of the individuals involved in this case.

The Commissioner will usually name providers and public hospitals found in breach of the Code, unless it would not be in the public interest, or would unfairly compromise the privacy interests of an individual provider or a consumer.

More information for the media, including HDC's naming policy and why we don't comment on complaints, can be found on our website here.

HDC promotes and protects the rights of people using health and disability services as set out in the Code of Health and Disability Services Consumers' Rights (the Code).

In 2021/22 HDC made 402 recommendations for quality improvement and providers complied with 98% of those recommendation.

Learn more: Education