

Ministry of Health policy on reimbursement of expenses for house modification unreasonable

Legislation	Ombudsmen Act 1975
Agency	Ministry of Health
Ombudsman	David McGee/Ron Paterson
Case number(s)	177449 (W59212)
Date	December 2017

Whether the Ministry of Health's policy to require prior approval for funding for house modification was reasonable—Ombudsman concluded it was not

The complaint concerned the decision by the Ministry of Health to decline an application for reimbursement of expenses incurred by the complainant in making housing modifications in order to care for her disabled husband in their home. The modifications were necessary but the complainant had arranged them without prior approval, despite knowing of the need for prior approval to be eligible for funding in accordance with Ministry disability funding policy.

The Ombudsman found this policy to be unreasonable. He noted that there had been an earlier statutory entitlement to support and criticized the legislative basis of the new policy as *'unspecific ... and therefore unreasonable as standing on its own'*. The Ombudsman noted that the policy did not *'confer or define entitlements to ... support even though there [had] been an expectation or assumption [of such support] since at least 1975'*. He formed the opinion that the policy of discretionary retrospective funding was unreasonable as it *'unduly prefers the convenience of the administration over recognition of need'*.

The Ombudsman recommended that the Ministry review of the policy, in particular that the New Zealand Public Health and Disability Act 2000 be reconsidered with a view to it recognising an entitlement to housing modification assistance as an element of disability support services and that the rules under which housing modification assistance was available be contained in regulations made under the Act. Also, that there be recognition (with appropriate safeguards) that reimbursement may be obtained retrospectively of expenses

incurred on housing modifications made in accordance with the rules for obtaining such assistance. The Ombudsman recommended that the Ministry consider making a payment to the complainant for the amount claimed, providing that the application would have met the relevant criteria for funding had it not been made retrospectively.

In light of the Ombudsman's recommendations, the Ministry initiated its own review of the policy and undertook to reconsider the complainant's application against any revised policy. The Ombudsman later met with the Ministry and it was agreed that it would now be reasonable to reimburse the complainant \$7,900 (GST incl) towards the costs she had incurred. This amount was slightly short of the \$8,110.44 originally sought, but was the maximum amount that may be provided without the need for an income and asset test at the time the modifications were undertaken.

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