

Corrections unreasonable not to pay for inmate's glasses for re-integration programme

Legislation	Ombudsmen Act 1975
Ombudsman	Mel Smith
Case number(s)	C6802
Date	2007

Long serving prison inmate required glasses to participate in reintegration programme and work in prison tailor shop—Department of Corrections refused to pay for glasses unless inmate would refund them through his prison earnings—inmate later found out Department had paid for another inmate's glasses in full—Ombudsman sustained complaint that inmate was not treated fairly—refund to inmate of money paid recommended.

A long serving prison inmate was working in the tailor's shop of a prison. As part of his sentence plan he was required to participate in a course supervised by a psychologist to assist him in addressing the causes of his offending. For both his work in the tailor's shop and his participation in the course, the inmate required glasses. Prescription glasses were duly prescribed to him. The inmate was advised that he would not be able to receive the glasses unless he agreed to pay for them out of the wages he earned from his work within the prison. The inmate agreed to have a small amount of money deducted from his weekly earnings.

The inmate later found out that the prison had paid the full cost of glasses prescribed to another inmate who was in a similar position to his. As a result, the inmate refused to continue making payments and complained to the Ombudsman.

The Department confirmed that it would not have provided the inmate with prescribed glasses at all, and had only agreed to do so in this case because the inmate had agreed to pay for them himself by instalments deducted from his prison earnings. The Department referred the Ombudsman to Regulation 58 of the Penal Institutions Regulations 2000 which requires prisons to make available to inmates a standard of healthcare that *'must be reasonably equivalent to*

the standard of healthcare available to the public'. It was of the firm view that this did not equate to legally requiring the prison to provide spectacles or other aids or prostheses to inmates. Further, the Department stated that it only had limited funding to spend on inmate healthcare and it was not funded to provide glasses, aids or prostheses to all inmates who require them. It said that to provide such items to all inmates who require them would mean that funds would have to be diverted from other uses.

The Department was also concerned that it had entered into an agreement with the inmate as a condition of purchasing the glasses and any decision to reimburse him would set a precedent for the Department, leaving it liable for the cost of other medical treatment of inmates.

After considering the Department's concerns, the Ombudsman reiterated that the focus of his enquiries in this case was solely whether the inmate had been treated fairly by the Department's refusal to pay for the prescribed glasses. The Ombudsman therefore did not consider budgetary constraints to be a relevant factor when deciding whether the Department's decision was fair in this case.

However, he did consider that the inmate's circumstances were particularly relevant. The Ombudsman had been advised that the inmate was employed in the tailor's shop and needed the glasses to see what he was doing. He was also required by the Department to attend a particular course as part of his rehabilitation and needed the glasses to participate in that course. Had the inmate not taken this course, it would have been considered that he was 'not addressing his offending' and Psychological Services could have recommended that he not be eligible for parole. Further, another inmate in similar circumstances had been provided with glasses free of charge.

It was the Ombudsman's view that in the circumstances of this case, namely where the inmate had undertaken, at the Department's request, a re-integrative programme and the inmate required glasses to enable him to actively participate in that programme, it was unreasonable for the Department not to pay the full cost of the glasses.

Similarly, where the inmate required glasses to carry out work in the prison, it was the Ombudsman's view that the Department should also pay for them.

The Ombudsman did not consider the inmate had been treated equally when compared with another inmate and sustained the complaint. As a result he recommended that the Department fully refund all money that it had obtained by way of cost recovery for the inmate's glasses.

The Department then advised that the inmate had been released by the Parole Board by the time the Ombudsman sustained his complaint, and was unable to be located. In these circumstances, the Ombudsman agreed that the Department did not have to refund the small amount paid on the account.

Comment

During the course of this investigation the Ombudsman commented that, where an inmate comes into prison with prescription glasses and is sentenced to a prison term of approximately

two years or more, and at a later date requires a new prescription to enable him to continue to function within the prison environment, the Department should consider meeting all the required costs. However, where the inmate is a short term inmate or is not undertaking a re-integrative programme, the Ombudsman commented that it might not be unreasonable for the Department to come to an amicable arrangement for repayments with the inmate.

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