

## Patient eligibility for publicly funded healthcare

<b>Legislation</b>	New Zealand Public Health and Disability Act 2000, Ombudsmen Act 1975
<b>Agency</b>	District Health Board
<b>Ombudsman</b>	Professor Ron Paterson
<b>Case number</b>	404981
<b>Date</b>	October 2015

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### Summary

This case note concerns an investigation under the Ombudsmen Act 1975, resulting from a complaint to the Ombudsman about the failure of a district health board (DHB) to identify that a patient was ineligible to receive publicly funded health care before elective surgery in 2014. The patient's lawful immigration status had inadvertently lapsed following an overseas trip in 2012. As a consequence, the patient was not eligible for publicly funded health and disability services, under the Health and Disability Eligibility Direction 2011 (issued under section 32 of the New Zealand Public Health and Disability Act 2000).

Under a DHB information sharing agreement, Immigration New Zealand (INZ) provides information on request about a patient's immigration status to enable DHBs to verify eligibility for publicly funded services. The patient's eligibility was confirmed by the DHB in January 2010 but was not re-checked before his 2014 surgery. The patient was shocked to receive an invoice for approximately \$100,000. The DHB took the position that it was the patient's responsibility to inform the DHB of any changes to his immigration status. The patient complained that the DHB should have informed him that he was not eligible for public funding prior to his second surgery. This would have prompted him to regularise his immigration status before the further surgery.

The DHB reconsidered its position when notified of the Ombudsman's investigation and decided to write off the amount owed for treatment, even though it maintained the patient had contributed to what occurred. The DHB advised that it did not have the necessary infrastructure to perform ongoing checks of a patient's eligibility once that status had been confirmed, but undertook to review its systems to mitigate against further such cases. In these circumstances, the Ombudsman discontinued his investigation.

## Background

1. The patient held a Returning Residence Visa (RRV) and a Residence Permit, under the Immigration Act 1989. RRVs gave residence holders the right to be granted a further Residence Permit on return to New Zealand.
2. In 2010, the patient had surgery in New Zealand and was placed on the waiting list for further surgery. On 29 November 2010, the Immigration Act 2009 came into effect and RRVs were replaced with travel conditions on Residence Visas.
3. When he returned to New Zealand from a school trip in May 2012, the patient was granted a two-month Visitor Visa by INZ to enable a Residence Visa to be applied for under the new Act. However, the patient did not inform his parents that his immigration status had lapsed (he had thought his school would remedy the immigration matters). The patient's immigration status became unlawful on the expiry of his Visitor Visa.
4. In October 2014, the patient underwent further elective surgery, having signed a form confirming his residency (as he was unaware of his unlawful status). The DHB did not check his eligibility status until after the surgery, and issued an invoice for the patient's care. The patient was shocked to receive an invoice for approximately \$100,000 which neither he nor his parents could afford.
5. After being alerted to his unlawful immigration status, the patient applied for and was granted a Residence Visa.

## Investigation

6. The Ombudsman commenced an investigation and asked the DHB why it had relied on a patient eligibility check that was over four years old before providing non-acute surgery to an ineligible patient without informing him of the costs of treatment.
7. The DHB considered that the patient was partly responsible for what occurred, as he had signed a form confirming his residence, and that it was the responsibility of patients to inform DHBs of changes to eligibility status. However it agreed to waive the debt, noting that he had subsequently become eligible as he had received a residence visa.
8. The Ombudsman advised the DHB that he was reluctant to conclude that informing DHBs of changes to eligibility was entirely the patient's responsibility. The DHB was asked to give further consideration to whether the information sharing agreement with INZ could be expanded or whether its internal processes could be enhanced to avoid providing elective surgery to a non-eligible patient.

## Outcome

9. The DHB apologised to the patient for the distress caused by proceeding with surgery without reaffirming the patient's eligibility status. The DHB amended its Hospital

Admission Form to ensure that all patients are advised on admission that they must inform the DHB about any changes to their eligibility status. The DHB undertook to enhance its internal processes to avoid providing elective surgery to ineligible patients and liaise with INZ concerning the sharing of information about patient eligibility for publicly funded healthcare.