Submission No 145

INQUIRY INTO DENTAL SERVICES IN NSW

Organisation: Public Interest Advocacy Centre

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Theme:

Summary

PUBLIC
INTEREST
ADVOCACY
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Homeless Persons Legal Service
Legal help for the homeless and those at risk of homelessness

Our Ref: P-05/13x

The Hon Jan Burnswoods MLC
Committee Chairperson
Social Issues Committee
NSW Parliament

By e-mail: socialissues@parliament.nsw.gov.au

14 June 2005

Dear Madam Chair

Inquiry into Dental Services in NSW

Please find enclosed the submission of the Public Interest Advocacy Centre's Homeless Persons' Legal Service to this Inquiry. We are very pleased to have an opportunity to make a brief submission on this important issue, which is one that seriously impacts on the majority of homeless people in NSW.

We would be happy to discuss this submission with the Committee at your convenience.

Both I and the Co-ordinator of the Homeless Persons' Legal Service, Emma Golledge, can be contacted on 02 9299 7833.

Yours sincerely
Public Interest Advocacy Centre Ltd

Robin Banks
Chief Executive Officer

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Encl: 1

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Homeless Persons Legal Service
Legal help for the homeless and those at risk of homelessness

Submission to the Inquiry on Dental Services in NSW

10 June 2005

Emma Golledge
Co-ordinator
Homeless Persons' Legal Service
Public Interest Advocacy Centre

A joint initiative of the Public Interest Advocacy Centre Ltd and the Public Interest Law Clearing House Inc

The Public Interest Advocacy Centre

The Public Interest Advocacy Centre ('**PIAC**') is an independent, non-profit legal and policy centre located in Sydney. Its charter is:

> To undertake strategic legal and policy interventions in public interest matters in order to foster a fair, just and democratic society and empower citizens, consumers and communities.

PIAC's work extends work extends beyond the rights and interests of individuals; it specialises in working on issues that have systemic impact. PIAC's clients and constituencies are primarily those with least access to economic, social and legal resources and opportunities. PIAC provides its services for free or at minimal cost.

The Public Interest Clearing House

The Public Interest Law Clearing House ('**PILCH**') was established in 1992 by the Law Society of New South Wales, the Public Interest Advocacy Centre and the private legal profession to respond to the growing incidence of unmet legal needs within the community. Underlying the establishment of PILCH is the commitment from lawyers that the provision of legal services on a *pro bono publico* ('for the public good') basis is intrinsic to legal professional responsibility.

The aims of PILCH are:

1. to identify matters of public interest that warrant legal assistance *pro bono publico*;
2. to identify the legal needs of non-profit organisations;
3. to match disadvantaged and under-represented individuals, groups and non-profit organisations with a need for otherwise unavailable legal assistance with PILCH member firms and barristers;
4. to utilise the diverse skills and resources of lawyers in a broad range of public interest matters;
5. to expand the participation of private practitioners in the law reform process;
6. to seek the integration of *pro bono* work with legal practice; and
7. to encourage co-operation between private practitioners and public interest lawyers.

PILCH provides services to community organisations and individuals for free. It is a membership-based organistion with members including small, medium and large private law firms, individual barristers, barristers' chambers, accounting firms, the Law Society of NSW, the NSW Bar Association and PIAC.

Homeless Persons' Legal Service

In 2003, following an extensive consultation process, PIAC and PILCH established the Homeless Persons' Legal Service (**'HPLS'**). HPLS is currently operating with funding support from the Commonwealth Department of Family and Community Services under the National Homelessness Strategy, and the NSW Public Purpose Fund through the support of the NSW Attorney General, the Hon Bob Debus.

HPLS provides free legal advice and ongoing representation to people who are homeless or at risk of homelessness. It operates six clinics on a roster basis at welfare agencies in the inner city of Sydney and Parramatta. These are agencies that provide direct services, such as food and accommodation to people in housing crisis. The clinics are co-ordinated by HPLS and staffed by lawyers from law firms that are members of PILCH.[1] Since the launch of HPLS in May 2004 it has provided advice to over 350 clients.

Homeless people and access to dental care

HPLS welcomes the opportunity to contribute to this Inquiry. It is apparent through the work of HPLS that people who are homeless or at risk of homelessness have poor access to dental services and, as a consequence, have poor oral health. The majority of HPLS clients have visibly poor teeth and in many cases have lost teeth to decay and inadequate dental care. Loss of teeth, gum disease and poor oral health, as observed by HPLS, is often an inevitable consequence of poverty.

We provide to the Inquiry the experience of one HPLS client, which outlines her attempts to services in the public dental system. Her experience has been marked by inadequate care, inappropriate delays and systemic failures.

Our submission primarily focuses on 1(a) and (b) of the Terms of Reference.

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1 The following firms provide lawyers on a *pro bono* basis to HPLS to provide legal services through the clinics: Allens Arthur Robinson, Baker & McKenzie, Clayton Utz, Ebsworth and Ebsworth, Gilbert + Tobin, Henry Davis York, and Minter Ellison. The clinics are hosted by the following welfare agencies: the St Vincent de Paul Society's Vincentian Village and Matthew Talbot Hostel, The Station, the Uniting Church's Parramatta Mission, Wesley Mission's Edward Eager Lodge, and the Salvation Army's Streetlevel Mission.

Summary of Recommendations

Recommendation 1

That the New South Wales Government immediately increase funding to the public dental system to ensure that all people in need of dental care have access to a dentist. This should include the right of everyone to have access, at no cost for anyone on a statutory income, to a dentist on a regular basis for preventative treatment as well as emergency and restorative work.

Recommendation 2

That the New South Wales Government advocate to the Commonwealth Government to restore the Commonwealth Dental Health Program.

Recommendation 3

That the New South Wales Government advocate to the Commonwealth Government that the Medicare rebate be extended to include a rebate on dental services.

Recommendation 4

The New South Wales Government establish free dental clinics for people experiencing homelessness to ensure access to dental health care for this marginalised and disadvantaged group.

The experience of a public dental system consumer

Rebecca's story

Rebecca is on a Disability Support Pension.

In 1996, Rebecca was homeless and staying at a refuge. Her caseworker suggested that she attempt to access the public dental system as she had significant problems with her teeth, including extensive decay.

Rebecca's wait for treatment

Rebecca's name was placed on the dental waiting list in August 1996. At the time her name was placed on the list, a dentist assessed her as requiring a full or partial denture plate for her top teeth. She had six remaining top teeth that were in poor condition. She was told that her name was on the waiting list for her denture work. However, she was not told how long she would wait for this treatment.

Over the next few months, and for the first years that her name was on the list, Rebecca would phone the dental hospital near Central Station in Sydney every month, or drop in to enquire as to the position of her name on the list. Each time, she was simply told that her name was on the list. No one could advise her how long her wait for dental services would be.

In 2000, she moved into a different suburb and began to liaise with a new dental clinic. She would continue to call and drop into the dental clinic regularly to check her status on the list.

After eight years on the list—in mid 2004—Rebecca was contacted by her local public clinic and offered an appointment.

Over the next three or four appointments her teeth were assessed and she had x-rays taken. It was discussed with her whether she should have a full denture plate (requiring the extraction of her remaining six teeth) or a partial denture plate, with her remaining teeth retained. The dentist advised her that in his opinion no amount of refilling would save her six top teeth and that they should be removed.

As, by this time, Rebecca had to walk a significant distance, catch a train and then a bus to the 'local' public dental clinic, she had her files transferred to a dental clinic she could walk to.

At the new dental clinic she was again assessed and x-rayed. She was asked to consider whether she wanted a full or partial dental plate. Rebecca said that she had decided to have her remaining top teeth extracted as they were causing her pain. She was told to consider this further and make another appointment.

The dental treatment received

Rebecca's teeth were extracted in hospital in November 2004. She was discharged the same day and a friend helped her home on the train. She subsequently returned to the hospital with an infection and was told by the hospital that there was nothing further they could do for her and she should attend the dental clinic.

When she returned to the dental clinic she was advised that they could not see her in the near future. She was issued with two NSW Health Department Dental Vouchers. One for the upper acrylic full denture, valued at $780 and the other for treatment of her 36 Distal (a bottom tooth) valued at $170. She was provided with a list of private practitioners that undertook voucher work. She was told that although a particular dentist could not be recommended, many patients used one dentist in particular. She made an appointment to see this dentist.

Rebecca had the filling removed from her bottom tooth and re-filled by the private dentist. When she checked the filling at home she believed that the dentist had filled the incorrect tooth. She returned to the dentist and told the dentist that tooth 37 was the one that had been giving her pain. The dentist advised that the public dental clinic had indicated the tooth to be filled on the voucher and they had filled that one accordingly. Rebecca reported this to the dental clinic, and was advised they would follow it up. Tooth number 37 remains unfilled.

In the week before Christmas 2004, Rebecca attended the same private surgery, but saw a different dentist, for the fitting of her dentures. At the time she complained that the denture didn't fit and moved sideways. The dentist told her she needed to get used to the denture.

Over the next weeks she was only able to wear the denture for one to two hours a day. It did not fit her mouth and she had to keep it in place with her tongue constantly. She could not eat wearing it. She continually had a gagging, choking sensation while she was wearing the denture.

In late February 2005, the dentist returned from holidays. He made some alterations to the denture. However, the problems with the denture persisted. Rebecca attended the dentist again. At this appointment, the dentist said that he would have another look at the denture, but that he shouldn't be seeing her and wouldn't again. He made some alterations to the denture. He advised her that she could no longer come to the dental surgery and that she no longer had value left on her voucher.

Rebecca returned to the public dental clinic. She informed the clinic that the private dentist had advised that no further corrective work on the denture could occur. The dental clinic informed her that she had been incorrectly advised that there was no more value on her voucher, and that she had two-thirds of the voucher left. Rebecca asked that she have the balance of the voucher issued so she could see a new dentist. She was advised that as it was near the end of the financial year she could not access any more assistance and that they would need to look at what vouchers had been issued to her previously. She was advised to make an appointment in the next financial year.

Rebecca's current situation

Rebecca has suffered from significant dental problems since before she was placed on the waiting list in 1996. Once on the waiting list, she waited eight years before she was able to receive assistance. To date she still does not have dentures that she can wear. She has no upper teeth at all, as the last six were extracted so that a full denture could be fitted.

Rebecca reports that she has sore gums and in unable to eat many foods. She must cut all her food into very small pieces. She says that as a vegetarian she is unable to eat nuts, which is an important nutritional source of protein. She says that she felt that the private dentist was 'rude

and arrogant' in his manner, and rough in his treatment of her. She suspected this was because she was using vouchers, she says she felt embarrassed and reluctant to return to the dentist to complain that the denture did not fit.

Through a friend she has had contact with a dentist that has indicated a willingness to complete her work for free. Rebecca says that she would like to try and pay him some money from her own pocket or obtain the balance of the voucher to pay him for his work. No further vouchers have been issued and she has not received any further dental services.

The right of disadvantaged people to dental care

All people in New South Wales should have access to preventative, emergency and restorative dental care, irrespective of their financial circumstances. Access to dental care should be as it is required, and not subject to lengthy delays that resulting in worsening oral health, and decrease the likelihood of preventative care.

The International Covenant on Economic Social and Cultural Rights, signed by Australia, recognises the right of all people to the highest attainable standard of health. This right includes the right to good oral health and nutrition.

Impact of inadequate access to dental care for disadvantaged people

Rebecca's experience in the public health system illustrates the impact of the combination of long waiting times and inadequate care provided by the public system. Even after waiting nearly nine years for treatment she is yet still to receive a denture plate that is suitable and has been told to wait until the next financial year.

Teeth decay, loss of teeth and gum disease are some of the most common health conditions in Australia. Many disadvantaged people, such as people experiencing homelessness, mental illness, people reliant on statutory incomes, prisoners, ex-prisoners, people with intellectual disabilities and Indigenous people, rely solely on the public dental system to ensure they maintain good oral health.

Dental services are generally far more expensive than similar consultations with a general practitioner. Visits to a general practitioner are also subject to a Medicare rebate, which for many low-income earners will cover the entire consultation fee. A standard consultation with a dentist will generally be equivalent to at the least half the weekly income of someone on a statutory income, and is not subject to a rebate. This means that people on low incomes are rarely able to save enough money to see a private dentist (and to do so means to restrict spending on other basics such as food, housing or essential services). Any work beyond a standard consultation is impossible to pay on a Centrelink income. People living in poverty have no choice but to rely on the public dental system.

The current under-funding of the public dental system results in long delays before treatment, and worsening dental health during this waiting period. Once treatment is made available it is generally likely that further decay and deterioration of the teeth and gums during the waiting period will require more extensive treatment.

For many people who are homeless or at risk of homelessness and are on the waiting list, it is likely that during the period they are on the waiting list, that they will change accommodation, many times. This increases the likelihood that they cannot be contacted when they are eligible for dental assistance. Long delays make it difficult for many people experiencing housing instability to remain in contact with their dental clinic. Delay acts as a disincentive to even attempt to access help from the public dental system.

For people who are itinerant or sleeping rough it is highly unlikely that they will engage with the public dental system and receive assistance. Worsening dental health is often an inevitable consequence of homelessness and poverty. A large proportion of people who have experienced homelessness have missing teeth through decay and experience gum disease. This can result in malnutrition and mouth infections that can impact on overall health. Chronic tooth and gum pain can lead to self-medication through drugs or alcohol, especially if there is little prospect of dental care in the foreseeable future. Decaying and missing teeth impacts on overall self-esteem, and can contribute to other health issues such as depression. Missing teeth, or poor oral health can lead to embarrassment, and can result in further social withdrawal. In some cases it prevents individuals from wanting to seek employment, or simply smiling.

Establishing equity in dental care

Both the Commonwealth and New South Wales Governments must immediately address the chronic under-funding of the public dental system. Funding cuts to public dental services since 1997 have impacted on low-income and disadvantaged people who rely solely on the public dental system to receive dental care. At the same time, the thirty percent private health insurance rebate has made dental care more affordable for higher income earners. This situation must be immediately addressed.

Furthermore, patients who access dental care through public funding—whether through a public dental clinic or a private practitioner with vouchers—should receive care that is equal to that received by private patients. Current inadequate funding suggests that patients must wait too long for initial treatment, and once this treatment is commenced the delays often continue.

Rebecca's experience suggests that the patient's wellbeing is often not a primarily concern. Her experience using a private dentist with public vouchers raises serious concerns as to whether public patients are receiving adequate or equitable treatment through the voucher scheme.

The system as it currently operates places the onus on patients to continue to engage with the system to ensure they receive the treatment they require. While any patient will usually have to actively seek treatment, the current system means that an individual must continually advocate for their dental need, often over years. For many people with other serious issues in their life such as homelessness, a disability, other medical problems, illiteracy, poverty or addiction it is often impossible to take on and persist with this advocacy. Many disadvantaged people may never receive the care they require from the public dental system. This inevitably leads to other more serious medical problems such as infection and disease and can impact on overall health.

For many people, the impact of the current crisis in public dental services is that they are likely to lose many or all of their teeth. Yet, as Rebecca's case demonstrates, it can also be impossible to obtain dentures from the system once the teeth have been lost through disease and decay.