



Ombudsman Complaint A2006-0344  
(Finding of Record and Closure)  
*(Edited to remove confidential information as per AS 24.55.160)*

June 9, 2006

A Wildwood Correctional Center (WCC) inmate contacted the Office of the Ombudsman on March 20, 2006, to complain that the Department of Corrections (DOC) medical staff violated DOC policy and procedure by failing to provide him with dentures.

Assistant Ombudsman David Newman opened a complaint file with the following allegation, stated in terms that conform with AS 24.55.150, which authorizes the ombudsman to investigate complaints about administrative acts of state agencies:

***Department of Corrections unreasonably refused to provide the complainant with dentures.***

For reasons stated below, the ombudsman proposes to find this allegation ***not supported.***

## **BACKGROUND**

On January 26, 2006, the inmate filed a prisoner grievance requesting that DOC provide him with "Full dentures as recommended by D.O.C. policy for necessary masticating."

WCC Nursing Supervisor Jody Hatt responded on February 6, 2006, stating in her findings and recommendations that

Per policy the department shall provide medically essential health care when lack of the prosthetic (dentures) impairs the health or daily function. We have not noted any impaired health ([weight] loss) from inmate. We will continue to monitor inmate's weight and medical well being. If any impairment is noted we will reassess.

On February 9, 2006, Acting WCC Superintendent Robert Hibpshman stated in his findings that "Nurse Hatt has given an appropriate response to this issue. No further action required."

On February 14, 2006, the inmate appealed the issue to the DOC Medical Advisory Committee (MAC). On February 17, 2006, MAC stated in its findings that:

Your teeth were removed at the Anchorage Correctional Complex in 2005. Subsequently, you were released and then incarcerated again. At this time, there is inadequate time remaining in your sentence to make you serviceable dentures.

After receiving the response from MAC, the inmate filed a complaint with this office.

## INVESTIGATION

**DOC Policy and Procedure 807.12** addresses the issue of dentures. It states that:

Under no circumstances will purely cosmetic dental work be performed for prisoners at Department expense. The following types of dental procedures may be provided in accordance with 807.17, Dental Specialties, if, in the clinical and professional judgment of the treating Dentist, the dental work is deemed appropriate and endorsed by a consulting dentist and approval by the Department Medical Officer is obtained in advance for: 1. Partial Dentures; 2. Full Dentures; or 3. Repair of Dentures.

**DOC Policy and Procedure 807.15** includes dentures in its definition of “prosthetic devices.” The policy states that DOC “shall provide medically essential health care prosthetics to a prisoner when lack of the prosthetic significantly impairs the health or daily functioning of the prisoner.” The accompanying procedures state further that

The Department must verify that a prisoner **will remain in custody long enough for the Department to make, fit, and adjust the prosthetic**, and for the prisoner to realize the projected benefits of the device; and

The health care practitioner and Medical Director **shall decide if a health care prosthetic is medically essential**. The Medical Director or health care practitioner must authorize the procurement of all prosthetics except eyeglasses. [Emphasis added]

Furthermore, **DOC Policy and Procedure 807.17** states that

“Prosthetic care should only be initiated when the subject prisoner will remain at the institution for a length of time sufficient for completion of work.”

During the course of this investigation, the investigator contacted DOC dental hygienist Michelle Morris. Ms. Morris stated that it normally takes four to six months to complete serviceable dentures because proper fitting requires many adjustments. She said there was not enough time left in the inmate’s sentence for him to receive dentures because he was due to be released in June 2006. Ms. Morris added that the dentures were not deemed medically essential because the inmate was not in pain. She also noted that he was receiving a soft food diet and maintaining good health without teeth.

In an email to the investigator, Ms. Morris further explained the inmate’s dental history. She said that he arrived in jail with:

. . . a full complement of diseased teeth from decades of neglect. (His full-mouth x-ray can confirm this.) In [2005] the medical director indicated they should be extracted due to medical complications... We saw him at Anchorage jail and in 2 visits 6 weeks apart we removed all of his infected teeth per his consent.

After his full-mouth extraction, the inmate went to Spring Creek Correctional Center for 117 days until his release date on August 4, 2005. Ms. Morris said that the inmate did not receive dentures during that time because “inadequate time remained in his sentence for adequate healing.”

After his release on August 4, 2005, the inmate was incarcerated again at WCC on September 27, 2005. He was released again on October 12, 2005, but then re-incarcerated at WCC on November 10, 2005. In response to a question regarding the inmate’s attempts to get dentures when he was released, Ms. Morris stated “I can only guess he was unable to make his own arrangements.”

Ms. Morris explained that it takes four to six months to obtain delivery of dentures for inmates because they are made by an outside dental laboratory. She stated that coordinating the dentist’s schedule further complicates the process because at some facilities dentists visit only once or twice per month. Moreover, Ms. Morris noted that if adjustments are needed, the process could take even longer. She stated that

Although he was serving seven months for his most recent incarceration, the MAC decision was made on [February 17, 2006], leaving him with [four] months to serve... If we were to start the denture process and he was put in a halfway house it would be difficult to follow up and end the process. i.e: we really like them to be in a facility for quite some time to GUARANTEE we can finish the lengthy process.

In response to further questions about the inmate’s health, Ms. Morris stated

The chart notes also indicated he had gained a tremendous amount of weight during the last year without teeth... My thought on [the inmate] is that we have given him a tremendous amount of care in which he did not ever seek for himself when not incarcerated. He is thriving in jail, even without teeth which are not necessarily essential.

## ANALYSIS AND FINDING

The inmate alleged that Department of Corrections unreasonably refused to provide him with dentures.

The Office of the Ombudsman’s Policies and Procedures Manual at 4040(2) defines *unreasonable*. The portion of the definition relevant to this investigation is:

(C) An act that is inconsistent with agency policy and thereby places the complainant at a disadvantage to all others.

The standard used to evaluate all Ombudsman complaints is **the preponderance of the evidence**. If the preponderance of the evidence indicates that the administrative act took place and the complainant's criticism of it is valid, the allegation is found justified.

DOC policies define dentures as prosthetic devices that will be supplied to “provide medically essential health care to a prisoner when lack of the prosthetic significantly impairs the health or daily functioning of the prisoner.”

The DOC dental technician stated that one standard of medical necessity for dentures is demonstrated when an inmate is unable to eat and loses weight. She said that the inmate, rather than losing weight, had gained weight on his soft food diet while incarcerated. Based on that, DOC was convinced that the lack of dentures did not cause the inmate to suffer medically.

Evidence also indicates that even if the inmate’s dentures were a medical necessity, time constraints made them impractical for him because there was insufficient time remaining on his sentence for DOC to successfully provide the dentures.

While it has no bearing on this case, the fact that the inmate did not seek dentures for the periods he was not incarcerated tends to support the finding that the dentures were not medically necessary.

Because the inmate’s lack of teeth has not affected his health and there is not enough time left in his sentence to make serviceable dentures, this office believes that DOC properly and reasonably followed its policy and procedures in declining his request for dentures. Therefore, the ombudsman proposes to find the allegation ***not supported***.

Because this allegation is not supported, no recommendations are necessary nor is DOC required to respond to this finding.