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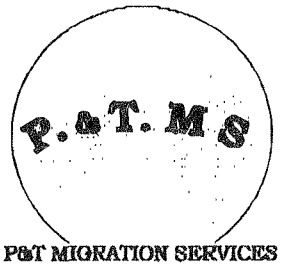
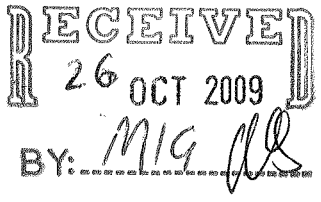


P&T MIGRATION SERVICES
A.B.N. 64324628451

Submission No 18

The Secretary of the Committee on
Inquiry into immigration treatment of disability
Parliament House,
Canberra.
25 October 2009.



Dear Secretary,
With respect to the Committee I wish to submit my opinions based on more than twenty years of experience as a migration agent regarding the immigration treatment of persons with a disability.

Report on whether the costs and use of services should be a factor in a visa decision.

Before any attempt can be made to provide a cost benefit analysis the current system must be completely overhauled. In my opinion the present system is poorly organised, offers medical opinions based on inadequate or incorrect information and provides subjective reports. In support of this statement I refer to actual cases in which I have been involved.

Mr.H A.
Unfortunately this case is rapidly becoming an albatross around the neck of the Immigration Department.

Six years age while at university Mr. A was involved in a serious motor car accident. After being discharged from hospital he applied for a three week tourist visa to visit his mother in Australia. Immigration was informed of the accident and required him to have a medical and x-ray. The medical report disclosed that Mr.H had mild but controlled schizophrenia. The report was referred to a Commonwealth Medical Officer (CMO) and the application refused on the grounds of significant cost to the Australian community.

When it was pointed out to the CMO that the applicant was only coming to Australia for three weeks. The answer given was that the Operations Centre did not know that, they thought he was applying for permanent migration,
Mr A. was granted the tourist visa but his following four applications for tourist visas also required medical and x-ray examinations.

I will leave Mr. A at the moment and look at other evidence of lack of co-ordination in regard to immigration and disability.

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Ms. N.
Had overstayed her tourist visa and was in a relationship with an Australian Citizen. She was seven months pregnant and had very poorly controlled diabetes. The CMO declared that she was fit to travel. Two further medical opinions were obtained from specialists in endocrinology both showed that she was not fit to travel, there was a danger of her starting labour on the plane and the child when born would require immediate highly specialised treatment to ensure survival. Details were sent to the Minister and a suitable visa was granted within a few days. I subsequently received a telephone call from the CMO who apologised and stated that he was unaware of Ms. N's condition and had only been asked if she was fit to travel. The system was about to let Ms. N down and place her and her unborn baby's life at risk.

Migration Regulations
Schedule

The applicant:

(a) is free from tuberculosis; and

(b) is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community; and

(c) subject to subclause (2), is not a person who has a disease or condition to which the following subparagraphs apply:

(i) the disease or condition is such that a person who has it would be likely to:

(A) require health care or community services; or

(B) meet the medical criteria for the provision of a community service;

during the period of the applicant's proposed stay in Australia;

(ii) provision of the health care or community services relating to the disease or condition would be likely to:

(A) result in a significant cost to the Australian community in the areas of health care and community services; or

(B) prejudice the access of an Australian citizen or permanent resident to health care or community services;

regardless of whether the health care or community services will actually be used in connection with the applicant; and

(d) if the applicant is a person from whom a Medical Officer of the Commonwealth has requested a signed undertaking to present himself or herself to a health authority in the State or Territory of intended residence in Australia for a follow-up medical assessment, the applicant has provided such an undertaking.

Never in the field of legislation writing have regulations been written which require subjective opinions from persons who are not in the matter of cost qualified to give those opinions.

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Ms. T.
An applicant for a prospective spouse visa received a notice of an intention to refuse her application on health grounds because she had schizophrenia. Ms. T was working in Japan as a florist and had travelled widely overseas and it was during one of these overseas trips that she met her Australian husband. She was capable of supporting herself and had no problems with international travel.

The CMO stated:

"*She has significantly reduced functional capacity (including vocational capacity) as a result she will require ongoing specialist management which was likely to result in significant cost to the Australian community and would likely be eligible for provision of community services on- shore.*"

Fortunately an opportunity was granted to apply for a waiver. This was done and evidence was produced that showed that research into schizophrenia was moving at a great pace. The reason for the symptoms was now known, new drugs and treatments were coming onto the market and a cure was possible in the foreseeable future. The application for a waiver was granted.

Ms. S.
An applicant for a provisional spouse visa was found to be HIV+. The CMO stated

"The applicant:

(a) is free from tuberculosis; and

(b) is free from a disease or condition that is, or may result in the applicant being, a threat to public health in Australia or a danger to the Australian community.

The applicant would be unlikely, as a result of the disease or condition, to prejudice the access to health care or community services of any Australian citizen or Australian permanent resident.

In my opinion the likely cost to the Australian Community is $400,000. The cost estimate relates to likely lifelong medical management of the condition, and likely treatment with antiretroviral medication within the foreseeable future."

Ms. S. had not reached the medication stage. A report from the HIV specialist in Bangkok clearly showed that with Ms. S. her CD4 count was not sufficiently low to warrant the commencement of any treatment.

The application was to be refused on cost and cost alone. The CMO is no more able to predict future costs than a fortune teller in a carnival tent. There is factual evidence of generic drugs becoming more common as patents expire. Allowing that the current promising animal clinical trials into a therapeutic HIV vaccine takes a further 5-10 years before its release to humans the cost of $400,000 is an estimate which is impossible to sustain.

An application for a waiver was successful and Ms. S is now settled in Australia with her husband whose blood tests show that he has not contracted HIV.

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With respect to the Committee I am not sure if the Members are aware that when a person applies for permanent migration all of the applicant's dependent children are required to have a medical examination whether they are applying for migration or not. If one of those family unit members fails the medical all fail.

At a seminar attended by a Commonwealth MO when asked the reason for examining non migrating applicants the reply was:

They might apply in the future and we do not want to be placed into an embarrassing situation of having to refuse the application.

When it was suggested that decisions were being made on possibilities however remote the answer was *yes*.

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To return to **Mr. A.** who is 29 years old with a degree in IT from a recognised Thai university. He applied to migrate to Australia as the last remaining resident outside Australia. He has no siblings, his father is deceased and his mother lives in Australia. He meets all of the criteria as a last remaining relative. His application was refused on medical grounds.

The CMO stated:

"*The applicant is a person with Schizophrenia of moderate severity. The condition is poorly controlled and is likely to require lifelong treatment. etc etc.... This would be a significant cost for the Australian community*"

One must wonder where the CMO got his clinical information from. The psychiatric report obtained under FOI states:

> ***Patient appears to respond well to treatment. He still experiences mild and infrequent auditory hallucinations but these do not seem to interfere with his lifestyle and normal function.***
> ***There are no other major psychiatric symptoms.***
> ***He is physically well and does not have any drug abuse problems. Under treatment he is able to function normally."***

The original medical report stated

> ***"Known case of Schizophrenia. Remission stage with current medication.***

The question is how the CMO translates mild infrequent auditory hallucinations in a person who functions well into ***Schizophrenia of moderate severity and a significant cost to the Australian community.*** His prescribed drugs in Thailand are not proving a significant cost to Mr. A.

The CMO appears not to have known about the applicant obtaining a degree in information technology and maybe has never heard of the Nobel laureate John Nash. People with schizophrenia can and do support themselves and prove active and contributing members of society.

Unfortunately although being a family orientated visa with the subclass 115 visa there is no provision to request a waiver. To see his mother during the Christmas

period he applied in September 2009 for a short stay sponsored family visitor visa and with respect. guess what?

He is required to have a new medical and x-ray in spite of his medical and x-ray in March of this year. This new medical, of course at his cost will, again will have to be sent to the CMO for an opinion. The reply is anybody's guess.

Conclusion:

To refuse a person entry into Australia because they present a serious risk to the health of or is a danger to the community is beyond dispute.
In Australia to discriminate against people on the grounds of impairment or a disability is both ethically and legally wrong Australia has anti discrimination laws.

To refuse a member of family group entry purely on the basis of cost is abhorrent and flies in the face of human dignity. It causes considerable distress to both the applicant and the sponsor.

I do not feel that I have the experience or knowledge to comment on all of the terms of reference. I hope that my submission may provide some insight into what I feel is a serious problem with the current situation.

Yours respectfully.

J.P.Tempest,
MARN 9252631