

**NEWS REPORT**

**Date:** 7 January 2010  
**Expert:** Orlagh O'Farrell  
**Title:** Important decision in ensuring access to health services for people with HIV  
**Country:** Ireland

**Context**

**Issue at stake:** Equality Tribunal DEC –S2009-073 Goulding -v- O'Doherty  
**Ground of discrimination:** Disability  
**Source:** National court decision  
**Field:** Access to goods and services  
**Legislative provisions:** Equal Status Acts 2000 to 2008

**Content**

**Case:** The Equality Authority welcomed a decision by the Equality Tribunal in a case where it represented a client who had been denied a health service because of his HIV status. The complainant is HIV positive and is in receipt of a Chiropody Card that was issued to him by the Health Service Executive. The card entitled the complainant who experiences difficulties with his feet due to his on-going condition and the medication taken to control it to four visits with a chiropodist per annum. The complainant visited the respondent's service for chiropody treatment as he was in considerable amount of pain as one of his toenails had become infected. The complainant entered the respondent's clinic and after a short time showed the respondent his Chiropody Card. The respondent queried why he, a young man, was entitled to a podiatry card. While the complainant felt this was an inappropriate question for the respondent to ask, the complainant told the respondent about his HIV status. The respondent informed him that there would be problems or complications with cutting, cross-infection, sterilisation etc and that therefore he could not treat him. The respondent told him that he needed to be treated by a practitioner who specialised in treating the feet of people with HIV and he was given the name of another chiropodist. The complainant stated that he was upset with this treatment but as he was genuinely concerned about the condition of his foot he asked the respondent to look at his feet. The respondent briefly looked at his feet and declared them to be fine. The complainant stated that with the help of the Dublin Aids Alliance he was able to find an alternative chiropodist who found that his feet were not fine. The complainant had an infection that required treatment with antibiotics.

The Equality Officer pointed out that the complainant was not seeking treatment

for his HIV infection. The Complainant presented himself to avail of a service - a foot complaint - that the respondent would normally provide to his clients. The Equality Officer found that the reason why the respondent refused to provide the complainant with this service was because, having been told by the complainant that the complainant was living with HIV, the respondent decided that he could not manage the complainant's HIV infection.

The Equality Officer in her decision stated that "there is no legitimate reason why the complainant should not receive allied health services such as dental, chiroprapist, podiatry, etc the same way as any other person not living with HIV would receive it. It is clear that universal health and safety precautions are in place precisely for this reason.

It was pointed out by the complainant's expert witness - a member of the specialist registrar of the Irish Medical Council for Genitourinary medicine that HIV - that there are a number of people availing of such services who do not know that they are infected with HIV or any other infection and who could not, for this precise reason, inform a service provider that they are infected with the HIV or any other virus. It was also pointed out that many persons who receive treatment for HIV have similarly working immune systems as persons without HIV. I find that, having heard the extensive expert evidence at the hearing and having perused the support documents submitted to the investigation, good practice sterilisation issues and universal protocols are not necessarily costly or complicated matters. This is not to say, however, that they are not important when providing a health services. The point is that good practices and universal precautions are in place to protect everyone regardless of status and to ensure best health and safety practices for everyone. They are not in place to provide service providers with an exemption from non-discrimination as defined in the acts."

**Decision of the Court:** The Equality Officer found that the complainant had established a prima facie case of less favourable treatment on the ground of his disability and that the respondent has failed to rebut this. The Equality Officer awarded the complainant €6,000 for the effects of the discrimination and the humiliation and hurt caused. In her decision the Equality Officer stated that the amount was to reflect the seriousness of the discrimination experienced by the complainant and to emphasise the importance of a person's right to receive health care in a non-discriminatory manner.

**Internet link source and additional information:** (no newspaper links)

<http://www.equalitytribunal.ie/index.asp?locID=165&docID=2167>