

SPSO decision report

Case: 201304734, Tayside NHS Board

Sector: health

Subject: complaints handling

Outcome: upheld, recommendations

Summary

Ms C, an advocate, told us that her client (Mr A) was referred to the neurology department at Ninewells Hospital because of continuing back pain. In November 2012, a neurologist (a specialist in diseases of the nerves and the nervous system) decided that further investigations, including an magnetic resonance imaging scan (MRI scan - used to diagnose health conditions that affect organs, tissue and bone), would not be beneficial as it was extremely unlikely that further back surgery would be considered. The following month, Mr A was admitted to hospital for a different problem but his back and leg pain were noted. An anaesthetist suggested that the neurosurgical team review him but they declined, saying he had been seen three weeks previously. Mr A continued to suffer back pain and in March 2013 his GP wrote to the neurosurgical team requesting an MRI scan, who responded saying that this would not be helpful. In June 2013, because of the level of his pain, Mr A paid for a private MRI scan which was forwarded to the neurosurgical team. Several weeks later, an out-of-hours (OOH) doctor saw Mr A, again because of his pain, and phoned the hospital about admitting him. Mr A was not, however, admitted and said that a member of the neurosurgical team refused to see him again. However, after reviewing the MRI scan the neurosurgical team did then arrange decompression surgery (used to treat some conditions affecting the lower back that have not responded to other treatments), which was carried out at the end of July.

Ms C complained that Mr A had to organise and pay for the MRI scan himself. He was concerned that his assessment in November 2012 was inadequate, and that a scan should have been arranged then. He felt that his pain and distress was not taken seriously and that the neurosurgical team should have acted on the reports from the anaesthetist and the OOH doctor. He was also concerned that his records said that he was to be treated for sciatica, which he believed unreasonably influenced his treatment, and about the length of time it took the board to respond to his complaint.

We took independent advice on this complaint from one of our medical advisers, who is a specialist consultant spinal surgeon. The adviser said that it was unreasonable not to order a scan in November 2012, and that a neurosurgeon should have ordered the test based on the evidence available at that point. The medical adviser also said there may have been undue reliance on the results of a test (the Hoover test) used by the neurosurgeon, which the adviser did not consider was an evidence-based diagnostic tool. The results of the private MRI scan informed subsequent treatment decisions by the board's neurosurgery team, and it was clear to us that they should have arranged this earlier. Their failure to do so meant that Mr A both paid for a test that was required for his NHS treatment, and endured prolonged suffering. We also found that there were several missed opportunities to consider requesting a scan and that it would have been reasonable to have referred Mr A to a spinal specialist in light of the evidence of his condition. However, the reference to sciatica was reasonable.

We found too that, given the complexity of Mr A's complaint, it was clear from the beginning that the investigation and response would take time and that the board should have better managed his expectations around this. The holding letters they sent him did not give him likely timescales for responses, and the delay in responding to his further concerns was unreasonable.

Recommendations

We recommended that the board:

- consider the use of the Hoover test as a diagnostic tool in light of our medical adviser's comments and advise us of the outcome;
- ensure the findings of this investigation are fed back to the relevant clinicians and the learning points discussed at their next appraisal;
- refund Mr A the cost of his private MRI scan; and
- apologise to Mr A for the failings this investigation identified.