

Penny Wise, Pound Foolish  
By Daniel Holland

Trying to control diabetes, through diet and exercise in today's DOC is a discouraging up-hill battle. The exercise is not the problem, I am able to run over five miles per day. The diet is the tricky part.

As a diabetic I am entitled to a medically prescribed diet pursuant to 103 CMR 761, Therapeutic Diets, and 103 DOC 760, Food Services Policy. These regulations were established because of the Class Action Settlement in CONNORS v. DUBOIS, Commissioner (Suffolk #95-5522-C), which was represented by MCLS(PLS) and the Disability Law Center. The settlement, amongst other benefits, afforded that dietitian approved menus and recipes would be followed, and food would be measured and weighed. It also set forth a grievance procedure which has to be exhausted before filing for contempt, or seeking specific performance. Pretty straight forward.

Over the past ten years the therapeutic diet has gone from bad to worse; there is little that resembles the post settlement diet. So in late February, when the diet started to rapidly degrade, again, I began to document deviations to the approved menus, recipes, and serving amounts, there were 131 instances between 3/24 thru 5/23. After unsuccessfully trying to resolve these issues, I attached the lists to three separate grievances, which were ignored, and I appealed as denied. One would have to imagine that once such gross disregard of established CMRs and policy was brought to the attention of the Food Services Director(FSD), the State FSD, a Superintendent, and an Associate Commissioner, that someone would simply correct the issue. Not in today's DOC. The only response I received was from the FSD, who personally searched my cell. When I inquired why he was doing this, he stated: "because you like to file grievances." Eleven days later I was removed from the therapeutic diet, by medical, for being non-compliant.

According to 103 CMR 761, only two people can remove you from this diet- you or the doctor. The only reason you can be non-compliant is for refusing the meal, and before you can be removed medical MUST "counsel" you. 30 days later I am still trying to see the doctor to learn why I am non-compliant.

The diet for the general population, which I am now forced to eat is also supposed to follow dietitian approved menus/recipes [103 DOC 760]. But due to some semantics, a wiley FSD, and a clause in this CMR which states "substitutions must be made in accordance with 'approved substitution guidelines'" - there are no such guidelines - the FSD believes he can make changes which are not nutritionally adequate. See Holland v. Bates, WORC.# 1785CV01017D.

Like Sisyphus, I am forced to push along with an "8.1 A1C" trying to make healthy choices from unhealthy selections. Today's DOC is jeopardizing men's long term health and I'm afraid I am becoming one of those statistics. By taking away freedoms and forcing the FSD to adhere to dietitian approved menus/recipes has the potential of reducing the \$108 million spent yearly on inmate medical.

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