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The A.T.O. Bends on Transgender Expenses

But only if you say you're ill!

by Evie Belle, with introductory comments by Katherine Cummings

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Evie Belle, a transgendered woman, has received a private ruling from the Australian Taxation Office which allows her to claim a tax deduction for medical expenses such as hair removal; the cost of a wig and its maintenance; breast augmentation and facial feminisation.

The first important factor is the necessity for referrals from doctors and/or specialists.

The second is that you would probably need to agree to being classified as having a mental illness. There is a long-standing disagreement among transgenders as to whether the stigma of being classified as "ill" outweighs the financial advantage of being able to draw on health funds for assistance, or claim deductions from the A.T.O. for medical expenses. In my own case I obtained a five-year back-paid deduction for electrolysis simply by arguing the case for five years (without medical referrals) until they decided to pay me to go away.

Evie's ruling was "private" which means it cannot be used as a precedent for a general rule but it is hard to understand how the A.T.O., having granted a deduction in one case could refuse applications for deductions based on similar medical referrals. Evie has been kind enough to allow me to quote her correspondence with the A.T.O., to give an idea of the kind of documentation the A.T.O. might require in order to allow claims.

Evie's enclosure runs:

"I refer to your (the A.T.O.'s) letter ... which was sent to me in response to my earlier application for a private ruling regarding the following matter:

Are the costs of hair removal, purchase and maintenance of a medicinal wig, gender feminisation surgery and breast augmentation considered to be medical expenses for the purposes of claiming a medical tax offset?

The answer provided in your letter was "No."

Based on the reasons for your decision outlined in your letter, I believe the A.T.O. has erred in the interpretation of the legislation. Accordingly, I seek a reconsideration of your earlier ruling on the basis of the following:

A.T.O. 1. The cost of laser hair removal and the purchase and maintenance of your wig are not in respect of an illness or an operation ...

I have been formally diagnosed by both a clinical psychologist and consulting psychiatrist as having a chronic mental illness. Their independent diagnoses have recommended specific treatments to restore psychological function. These recommended treatments involve the purchase of medical appliances and to commence specific behavioural, medical and surgical interventions (by qualified medical practitioners). The costs of these appliances are not funded by the public health system and must therefore be funded by myself as the sufferer of such illness.

A.T.O. 2. and [wigs] are not medical or surgical devices.

The wig has been prescribed as a necessary treatment for my illness. The wig is custom made-to-measure with a special construction for continuous day-to-day wear in order to relieve both current and potential mental incapacities. Without such a medical appliance I would suffer extreme embarrassment and psychological stress, which is no different from a sufferer from alopecia which, as I understand from your ruling, are sufficient grounds to claim a tax offset.

A.T.O. 3. [Hair removal] is not undertaken to cure or manage a medical condition.

My formal diagnosis endorses hair removal as an essential treatment for my chronic mental illness in order to relieve both psychological and psychiatric impairments. I initially presented to my psychiatrist with acute psychological and psychiatric symptoms and the hair removal was a designated and a recommended treatment by a registered medical practitioner in order to treat these impairments. Hair removal is necessary to remove the impairing pathological male features (refer to comments below).

A.T.O. 4. [Gender feminisation surgery and breast augmentation] are considered cosmetic operations as they effect a superficial alteration while keeping the basis unchanged.

The gender surgery proposed is part of the treatment for my chronic mental illness in order to remove the impairing pathological male features so that I am able to present in my affirmed and acknowledged female role. The surgery is intended to demasculinise my appearance, which is neither a process of feminisation nor beautification.

Furthermore, the procedure cannot be construed as "keeping the basis unchanged" as the intent of the surgery is to enable the basis of my gender-identity to be altered fundamentally and permanently. This is neither superficial nor cosmetic as your ruling suggests.

In summary, the treatments for my chronic mental illness are required to improve psychological function. Given that the costs of these treatments are not covered under the public health system, I am obliged to fund them from my own resources. For this reason I seek to have these costs recognised as a medical expense for claiming a tax offset.

Naturally, all statements contained herein can be supported by documentary evidence from a registered medical practitioner.

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The Gender Centre is committed to developing and providing services and activities, which enhance the ability of people with gender issues to make informed choices. We offer a wide range of services to people with gender issues, their partners, family members and friends in New South Wales. We are an accommodation service and also act as an education, support, training and referral resource centre to other organisations and service providers. The Gender Centre is committed to educating the public and service providers about the needs of people with gender issues. We specifically aim to provide a high quality service, which acknowledges human rights and ensures respect and confidentiality.