

Immigration law: The impact of mental health on a visa application

Will someone who takes anti-anxiety/depression medication, or has counselling or EAP be able to get a New Zealand visa? After frequently being asked whether mental health conditions will prevent a person from getting a New Zealand visa, our Immigration lawyer Tash Rae has put together this article to explain the Immigration New Zealand (INZ) rules around this.

The health rules

Applicants must have an acceptable standard of health (ASH) to be approved a New Zealand visa. This is unless they are eligible to be considered for and have been granted a medical waiver.

The INZ health requirements are in place to protect public health and ensure that migrants do not impose excessive costs or demands on New Zealand's health or special education services. Importantly, a health condition shouldn't prevent an individual from doing what they were granted a visa for (e.g. to work).

There are different health rules for temporary and residence class visas. For residence, there is a (fairly long) list of conditions deemed to impose significant costs on New Zealand's health services - for example, cerebral palsy or cardiomyopathy. An individual with a relatively high probability of requiring health services of more than \$81,000 over a five-year period or the course

of a condition also won't meet residence health requirements.

Temporary health rules focus on whether there is a relatively high probability an individual will need publicly funded health services such as hospitalisation, expensive medications or other high-cost care during their stay in New Zealand. In practice, the listed residence conditions often mean that an applicant will also not have an ASH for temporary entry, but this is not always the case.

To evidence good health, a General/Limited Medical and Chest X-Ray certificate are typically required for a stay of more than 12 months. Chest X-Rays may be required for a stay of more than six months if an applicant is from or has spent time in a country listed as having a high tuberculosis risk. For shorter stays, INZ rely on declarations in application forms to assess health.

It is irrelevant whether an applicant can pay for medical care or has private health insurance, unless applying for a temporary visa as seconded business personnel.

The rules applied to counselling and anxiety/depression medication

If medication for anxiety or depression is declared during a medical examination, it is likely that an INZ Medical

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Assessor will request further information. This would usually be a letter from a treating Doctor detailing the background, medication dosage and any history of inpatient or outpatient care.

Taking medication for anxiety or depression will not prevent an individual from securing a New Zealand work or residence visa *most of the time*. This is because many common anti-anxiety and depression medications are low-cost and readily available in New Zealand, with a General Practitioner prescription. This sort of medication and treatment is unlikely to impose significant costs or demands on New Zealand's health services. Exceptions would include where an individual has a major psychiatric illness or has required inpatient treatment or significant outpatient support.

Another question I frequently get asked is whether counselling or a few EAP sessions will impact an immigration health assessment. The answer to this question is case-specific and will depend on the frequency and duration of treatment. For example, regular and ongoing reviews by a psychiatrist may be considered significant support, but a few counselling sessions is unlikely to be an issue.

It would be highly unlikely for a mental health concern to prevent the partner or dependent child of a New Zealand citizen or resident from qualifying for a visa. While there are some (limited) exceptions, partners and dependent children of New Zealanders are usually automatically granted medical waivers. This is unless they have a

particularly serious medical concern, such as a mental health condition that requires full-time care.

What if an individual doesn't meet the health requirements?

If an individual doesn't have an ASH they will need a medical waiver (if eligible). This is where INZ make a discretionary decision on whether to waive the good health requirements. When making this assessment an Immigration Officer will balance the degree to which an individual will impose costs or demands on New Zealand's health services with the potential contribution and any immediate family lawfully and permanently in the country.

Medical waivers are not usually available for temporary visa applications. They can be considered for most residence applications, provided an individual doesn't have an excluded condition (e.g, one that requires full-time care).

It's important to declare health issues

An applicant will usually be ineligible for a visa if, *in the course of applying for a visa has made any statement or provided any information, evidence or submission that was false, misleading or forged, or has withheld material information*. This would cover a situation where a medical

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condition was withheld during a medical examination or when completing the health section of a visa application form. For INZ to conclude that an applicant does not meet the good character requirements in this situation, they must determine that it was 'more likely than not' the medical condition was deliberately withheld.

If this conclusion is reached, the applicant will need a character waiver. This is where INZ make a discretionary decision on whether to waive the good character requirements, looking at the wider circumstances of the applicant. The relevant (listed) considerations differ between visa classes but these character waiver assessments are fairly similar in practice. An Immigration Officer will typically balance the character risk or significance of the withheld information against things like the benefit an applicant will bring to New Zealand and any strong family links.

Our advice

All medical concerns should be declared during health examinations and when completing the relevant section of a visa application form. A health condition may not disqualify an individual from getting a visa, but failing to declare it could result in a visa being declined on character grounds.

Occasional counselling sessions or taking medication for anxiety/depression is unlikely to prevent an individual

from securing a New Zealand temporary or residence visa. This is unless they have a major psychiatric illness or require inpatient or significant outpatient support, in which case a medical waiver may be required (if eligible). We recommend individuals seek immigration (and medical) advice before making decisions about ongoing treatment.

Want to know more?

If you have any questions about immigration health concerns, please contact our [immigration](#) specialist [Tash Rae](#).