
The Parliament of the Commonwealth of Australia

Report 451

Community Pharmacy

Agreements

Review of Auditor-General Report No. 25 (2014-15)

Joint Committee of Public Accounts and Audit

November 2015
Canberra

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Foreword

On 4 June 2015, the Committee selected the ANAO Audit Report No. 25 (2014-15) *Administration of the Fifth Community Pharmacy Agreement* for further review and scrutiny at public hearings.

The Australian Government provides subsidised medicines to Australians and eligible overseas visitors through the Pharmaceutical Benefits Scheme (PBS). In 2013-14, the PBS subsidised over 210 million prescriptions at a reported cost to government of some \$9.15 billion. The Government also subsidised an additional 12.4 million prescriptions in 2013-14 to the veteran community through the Repatriation Pharmaceutical Benefits Scheme (RPBS), at a cost of \$397.9 million.

Since 1990, the Australian Government has entered into and funded successive five year community pharmacy agreements, at a cost of over \$45 billion, to help maintain a national network of approximately 5,460 retail pharmacies as the primary means of dispensing PBS medicines to the public. The Government has also used the agreements to fund professional programs, and to establish a funding pool to be drawn on by pharmaceutical wholesalers that can meet specified service standards for supplying PBS medicines to retail pharmacies.

The Fifth Community Pharmacy Agreement (5CPA) was the agreement for the period July 2010 to June 2015 between the Minister for Health, representing the Commonwealth, and the Pharmacy Guild of Australia (Pharmacy Guild), representing the majority of retail pharmacies currently approved to supply PBS medicines.

The 5CPA was a complex multi-part agreement underpinned by a number of further agreements between the Department of Health and the other entities involved in its administration, including: the Department of Human Services; the Pharmacy Guild of Australia; and Australian Healthcare Associates (AHA). The Pharmacy Guild and AHA are non-government entities.

To support community access to pharmaceutical services, the 5CPA provided that the Australian Government would deliver \$15.4 billion in funding from 1 July 2010 to 30 June 2015 as follows:

- \$13.8 billion in 'pharmacy remuneration' including various fees for approved pharmacists – the owners of retail pharmacies that dispense PBS and RPBS subsidised medicines to the public;
- \$663 million for several categories of government funded professional programs; and
- \$950 million to be shared among eligible pharmaceutical wholesalers from a Community Service Obligation (CSO) funding pool, an arrangement which generally requires participating wholesalers to be able to supply the full range of PBS items to any retail pharmacy in Australia within 24 hours at an agreed price.

One of the key objectives of the 5CPA negotiations was to achieve savings to contribute to the structural repair of the Commonwealth Budget as there had been high cost growth under the 4CPA (an average growth of 9.4 per cent per year) that was due, in part, to a \$1.1 billion transitional structural adjustment package (financial assistance) to assist pharmacies adjust to the introduction of Price Disclosure in 2007.

The ANAO report uncovered a number of failings within the 5CPA implementation and administration. There were shortcomings in key aspects of Health's administration at the development, negotiation and implementation phases of the 5CPA. The ANAO identified key issues relating to: the clarity of the 5CPA and related public reporting; record-keeping; the application of financial framework requirements; risk management; and seeking Ministerial approvals.

The 5CPA stated that the initiatives covered by the agreement would result in \$1 billion in gross savings over the term of the agreement (net savings were estimated to be \$600 million). However, ANAO analysis indicated that the net savings estimated before the agreement was signed were closer to \$400 million due to shortcomings in Health's 5CPA estimation methodology. The principle issues related to: unexplained increases in the baseline cost of professional programs; the application of inappropriate indexation factors; and the treatment of patient co-payments.

Given the the importance of health care to Australian community, the size of the 5CPA, and the experience the Department of Health has had with the previous four Community Pharmacy Agreements, the failures of process observed in this agreement are very disappointing.

The failure to provide suitable records for public accountability and the breach of the *Financial Management and Accountability Act* governing public expenditure were particularly egregious given the size of the \$15 billion agreement.

The ANAO report's eight recommendations have been agreed to by all parties, and Health has given assurances that the Sixth Community Pharmacy Agreement

(6CPA) has incorporated the advice proffered by ANAO. Given the size of the expenditure for the 6CPA – some \$18.9 billion over the next five years – the Committee is of the view that the implementation of the 6CPA should be closely scrutinised to ensure that the lessons learnt from the 5CPA and this ANAO report are not lost.

In addition to the ANAO's advice, the Committee made three further recommendations directed at:

- ensuring that Health report back within 6 months of tabling this report on the independent two year review of remuneration and regulation that will be conducted into the 6CPA – particularly with regard to 'value-for-money' spending;
- ensuring that Health report back on the KPIs for the 6CPA's components and how outcomes are to be achieved, monitored and measured; and
- the ANAO conducting a follow-up audit on the implementation of the 6CPA to be completed no later than 30 months into the agreement's term.

I thank Committee members for their deliberation on these matters. I also thank agency representatives who appeared at public hearings for assisting the JCPAA in its important role of holding Commonwealth agencies to account for the efficiency and effectiveness with which they use public monies.

Hon Ian Macfarlane MP
Chair



Membership of the Committee

Chair Dr Andrew Southcott MP (to 15 Oct 2015)

Chair Hon Ian Macfarlane MP (from 15 Oct 2015)

Deputy Mr Pat Conroy MP
Chair

Members Hon Anthony Albanese MP

Ms Gai Brodtmann MP

Mr Andrew Giles MP

Dr David Gillespie MP (from 19 Oct 2015)

Dr Peter Hendy MP (to 12 Oct 2015)

Mr Craig Laundry MP

Mrs Jane Prentice MP

Mr Angus Taylor MP

Mr Ken Wyatt MP (to 12 Oct 2015)

Senator Cory Bernardi

Senator Katy Gallagher

Senator Chris Ketter

Senator Bridget McKenzie

Senator Dean Smith

Committee Secretariat

Secretary	Ms Susan Cardell (to 29/9/15) Mr David Brunoro (from 29/9/15)
Research Officer	Dr Andrew Gaczol
Administrative Officer	Ms Tamara Palmer



Terms of reference

On 4 June 2015, the Committee resolved to review the following audit report in detail:

- Audit Report No. 25 (2014-15) *Administration of the Fifth Community Pharmacy Agreement*

List of recommendations

Recommendation 1

The Joint Committee of Public Accounts and Audit (JCPAA) recommends that the Department of Health report back to the JCPAA:

- within 6 months of tabling this report with an update on progress of the two year review of remuneration and regulation of the 6th Community Pharmacy Agreement, including considerations of 'value-for-money' spending; and
- a further report upon the completion of the two year review.

Recommendation 2

The Joint Committee of Public Accounts and Audit (JCPAA) recommends that the Department of Health reports back to the JCPAA on the final Key Performance Indicators (KPIs) for components of the 6th Community Pharmacy Agreement. That report should include:

- the KPIs;
- how the KPIs will be achieved; and
- how outcomes to the KPIs will be monitored and measured and reported.

Recommendation 3

The Joint Committee of Public Accounts and Audit recommends that the Australian National Audit Office (ANAO) consider conducting a follow-up audit on the implementation of the Sixth Community Pharmacy Agreement to be completed no later than 30 months into the agreement's term.

Introduction

Background to the review

- 1.1 The Joint Committee of Public Accounts and Audit (JCPAA) has a statutory duty to examine all reports of the Auditor-General presented to the Australian Parliament and report the results of its deliberations to both Houses of Parliament. In selecting audit reports for review, the Committee considers:
 - the significance of the program or issues raised in audit reports
 - the significance of audit findings
 - the arguments advanced by the audited agencies
 - the public interest arising from the report
- 1.2 On 4 June 2015, the Committee selected the ANAO Audit Report No. 25 (2014-15) *Administration of the Fifth Community Pharmacy Agreement* for further review and scrutiny at public hearings.
- 1.3 The Committee's review did not include a review of pharmacy location rules or pharmacy remuneration.
- 1.4 A roundtable public hearing for the report was held on 13 August 2015.

The Committee's report

- 1.5 This report of the Committee's review of Audit Report No. 25 (2014-15) draws attention to key issues raised in the original report, as well as at public hearings and in agency submissions. Where appropriate, the

Committee has commented on unresolved or contentious issues, and made recommendations.¹

- 1.6 The following appendices provide further information:
- Appendix A – List of submissions and exhibits
 - Appendix B – List of public hearings and witnesses
- 1.7 This report can usefully be read in conjunction with the ANAO Audit Report No. 25 (2014-15) *Administration of the Fifth Community Pharmacy Agreement*.

1 Note on references: references to the Committee *Hansard* for Audit Report No 25 are to the proof *Hansard*. Page numbers may vary between the proof and official *Hansard* transcript.

Fifth Community Pharmacy Agreement

Introduction

- 2.1 Chapter 2 focuses on the key issues raised in the Australian National Audit Office (ANAO) Report No. 25 (2014-15). The chapter comprises:
- an overview of the report, including the audit objective, scope and criteria;
 - audit conclusion; and
 - audit recommendations and agencies' responses.

Report overview

- 2.2 The Australian Government provides subsidised medicines to Australians and eligible overseas visitors through the Pharmaceutical Benefits Scheme (PBS). In 2013-14, the PBS subsidised over 210 million prescriptions at a reported cost to government of some \$9.15 billion. The Government also subsidised an additional 12.4 million prescriptions in 2013-14 to the veteran community through the Repatriation Pharmaceutical Benefits Scheme (RPBS), at a cost of \$397.9 million.¹
- 2.3 Since 1990, the Australian Government has entered into and funded successive five year community pharmacy agreements, at a cost of over \$45 billion, to help maintain a national network of approximately 5,460 retail pharmacies as the primary means of dispensing PBS medicines to the public. The Government has also used the agreements to fund

¹ Australian National Audit Office (ANAO), *Report No. 25 2014-15 Administration of the Fifth Community Pharmacy Agreement*, p. 15.

professional programs, and to establish a funding pool to be drawn on by pharmaceutical wholesalers that can meet specified service standards for supplying PBS medicines to retail pharmacies.²

- 2.4 The Fifth Community Pharmacy Agreement (5CPA) was the agreement for the period July 2010 to June 2015 between the Minister for Health, representing the Commonwealth, and the Pharmacy Guild of Australia (Pharmacy Guild), representing the majority of retail pharmacies currently approved to supply PBS medicines.³ The introduction to the 5CPA states that:

Community pharmacy is an integral part of the infrastructure of the health care system in its role in primary health care through the delivery of the Pharmaceutical Benefits Scheme and related services.⁴

The Fifth Community Pharmacy Agreement

- 2.5 To support community access to pharmaceutical services, the 5CPA provided that the Australian Government would deliver \$15.4 billion in funding from 1 July 2010 to 30 June 2015 as follows:
- \$13.8 billion in ‘pharmacy remuneration’ including various fees for approved pharmacists – the owners of retail pharmacies that dispense PBS and RPBS subsidised medicines to the public;
 - \$663 million for several categories of government funded professional programs; and
 - \$950 million to be shared among eligible pharmaceutical wholesalers from a Community Service Obligation (CSO) funding pool, an arrangement which generally requires participating wholesalers to be able to supply the full range of PBS items to any retail pharmacy in Australia within 24 hours at an agreed price.⁵
- 2.6 One of the key objectives of the 5CPA negotiations was to achieve savings to contribute to the structural repair of the Commonwealth Budget as there had been high cost growth under the 4CPA (an average growth of 9.4 per cent per year) that was due, in part, to a \$1.1 billion transitional

2 ANAO, *Report No. 25 2014-15*, p. 15.

3 The Pharmacy Guild is a registered employers’ organisation, which advised the ANAO that it represents the owners of approximately 77 per cent of the 5,457 retail pharmacies currently approved to supply PBS items.

4 ANAO, *Report No. 25 2014-15*, p. 15.

5 ANAO, *Report No. 25 2014-15*, p. 16.

structural adjustment package (financial assistance) to assist pharmacies adjust to the introduction of Price Disclosure in 2007.⁶

2.7 The 5CPA anticipated that the initiatives covered by the agreement would result in \$1 billion in government savings. The major savings initiatives were:

- cessation of the PBS Online incentive payment (\$417.7 million);
- freezing the dispensing fee for two years (\$281.5 million);
- cessation of underperforming professional programs (\$226.4 million);
- reduction in private hospital pharmacy remuneration (\$35.3 million); and
- freezing the CSO Funding Pool for one year (\$19.2 million).⁷

2.8 The 5CPA also referenced the Australian Government's Pharmacy Location Rules (Location Rules), which regulated where new pharmacies that dispense PBS prescriptions may open and where existing pharmacies may relocate.

2.9 Six broad 'principles and objectives' were specified in the 5CPA:

- ensure a fair Commonwealth price was paid to Approved Pharmacists for providing pharmaceutical benefits while maximising the value to taxpayers by encouraging an effective and efficient community pharmacy network.
- ensure that the Programs were patient-focused and target areas of need in the community including continued improvement in community pharmacy services provided to Aboriginal and Torres Strait Islander people.
- ensure transparency and accountability in the expenditure of the Funds.
- promote the PBS's sustainability and efficiency within the broader context of health reform and ensuring that community resources continued to be appropriately directed across the health system, while also supporting the sustainability and viability of an effective community pharmacy sector.
- maintain a co-operative relationship between the Commonwealth and the Guild.
- ensure the Location Rules work for the benefit of the Australian community including increased access to community pharmacies for the population of rural and remote areas.⁸

6 ANAO, *Report No. 25 2014-15*, p. 16.

7 ANAO, *Report No. 25 2014-15*, p. 17.

8 ANAO, *Report No. 25 2014-15*, p. 17.

- 2.10 The 5CPA was a complex multi-part agreement underpinned by a number of further agreements between the Department of Health (Health) and the other entities involved in its administration, including: the Department of Human Services (Human Services); the Pharmacy Guild of Australia; and Australian Healthcare Associates (AHA). The Pharmacy Guild and AHA are non-government entities.⁹

Administrative arrangements

- 2.11 The 5CPA was developed and negotiated by Health and agreed by government. Health had overarching responsibility for its administration. Until 1 March 2014, Human Services administered most 5CPA professional programs on behalf of Health (valued at \$583 million), while the Pharmacy Guild administered some of the smaller programs (valued at \$67 million). On 1 March 2014, Health transferred responsibility for the administration of all 5CPA professional programs to the Pharmacy Guild.¹⁰ This means that, in respect of the 5CPA, the Pharmacy Guild was variously:

- an industry association and advocate acting on behalf of retail pharmacy owners, making representations to government and public inquiries, and conducting public campaigns;
- a publicly funded administrator under the 5CPA, at times acting as the Department of Health's agent;
- a recipient of Commonwealth grants relating to certain 5CPA professional programs;
- an owner of business enterprises that sell products and services to pharmacies on a commercial basis – with some products and services relating to 5CPA programs and activities; and
- an advisor to Health, through its co-membership of the overarching 5CPA governance body under its contracts within the department.¹¹

Audit objective, scope and criteria

Audit objective and scope

- 2.12 The audit objective was to assess the effectiveness of the development and administration of the 5CPA, and the extent to which the 5CPA had met its objectives. The audit examined the development and negotiation of the 5CPA by the then Department of Health and Ageing (now the Department
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9 ANAO, *Report No. 25 2014-15*, p. 17.

10 ANAO, *Report No. 25 2014-15*, p. 18.

11 ANAO, *Report No. 25 2014-15*, p. 18.

of Health), and the administration of the 5CPA by Health. The audit also examined aspects of the 5CPA that were implemented by Human Services and the DVA.¹²

2.13 While the ANAO did not examine the Pharmacy Guild's administration of 5CPA professional programs, the audit referred to aspects of its involvement relating to the development, negotiation and administration of the 5CPA.

2.14 The Pharmacy Location Rules were not examined in this performance audit.¹³ They were considered in 2014 by the report of the National Commission of Audit and the draft report of the National Competition Policy Review.

Criteria

2.15 To form a conclusion against the audit objective, the ANAO adopted the following high level criteria:

- the 5CPA provided transparent and accountable remuneration arrangements for the dispensing of Commonwealth pharmaceutical benefits, which achieved value for money, consistent with Government policy;
- the 5CPA's funding and savings commitments were being met;
- the additional programs and services funded under the 5CPA were managed effectively and provided value for money; and
- the 5CPA performance framework enabled an assessment of the extent to which the 5CPA was meeting its objectives.¹⁴

Methodology

2.16 The audit methodology included:

- interviewing staff from Health, Human Services and DVA;
- extracting pharmacy claims and payment records from Health and Human Services databases;
- reviewing relevant documentation, including departmental files, briefings, legal advice, program guidelines, monitoring and reporting systems, reviews, evaluations and correspondence;
- consulting stakeholders and peak bodies, including the Pharmacy Guild; and

12 ANAO, *Report No. 25 2014-15*, p. 19.

13 The Committee did not consider pharmacy location rules as part of the review of ANAO Report 25 (2014-15).

14 ANAO, *Report No. 25 2014-15*, p. 20.

- reviewing over 100 stakeholder submissions received by the ANAO through its citizens' input facility.¹⁵

Audit findings

2.17 The ANAO report identified various short-comings in the administration and outcomes of the 5CPA. These short-comings were significant, and the ANAO report provided a thorough examination.

Oversight, transparency and value for money

5CPA committed the government to deliver a fixed sum of money disconnected from demand

2.18 Although actual expenditure on the components of pharmacy remuneration was demand driven – depending on the number of PBS and RPBS medicines prescribed by doctors – the 5CPA committed the government to delivering a fixed sum of money. There was no formal mechanism in place to reconcile actual expenditures on pharmacy remuneration against funding specified in the 5CPA.¹⁶

No means for Parliament to be informed of the costs of key 5CPA components

2.19 The 5CPA did not clearly document expected net savings under the agreement, and there was no straightforward means for the Parliament and other stakeholders to be informed of the expected or actual cost of key 5CPA components.

- The agreement did not document that some \$2.2 billion of the \$13.8 billion that the Commonwealth 'will deliver' for pharmacy remuneration was sourced from patient co-payments, which were not a cost to government.
- The department's annual report aggregated the cost of pharmacy remuneration (expenditure on services) with the cost of PBS medicines (expenditure on products), without differentiating between the two types of expenditure.¹⁷

Health could not accurately determine whether the Commonwealth is getting value for money

2.20 Limited departmental information, plus shortcomings in Health's performance reporting and 5CPA evaluation framework, meant that the department was not well positioned to assess whether the Commonwealth was receiving value for money from the agreement overall, or performance against the agreement's principles and objectives.¹⁸

¹⁵ ANAO, *Report No. 25 2014-15*, p. 21.

¹⁶ ANAO, *Report No. 25 2014-15*, p. 21.

¹⁷ ANAO, *Report No. 25 2014-15*, p. 25.

¹⁸ ANAO, *Report No. 25 2014-15*, p. 24.

2.21 While some aspects of the agreement were evaluated, the 5CPA evaluation framework did not make provision for reviews of the agreement's two major financial components – pharmacy remuneration (\$13.8 billion) and CSO payments to pharmaceutical wholesalers (\$950 million). Indeed, pharmacy remuneration has not been fully reviewed since 1989.¹⁹

Key negotiation objectives not realised

Health did not achieve key negotiation objectives for the 5CPA

- Objective regarding the restructuring of pharmacy remuneration arrangements 'to diminish their link to the price of PBS medicines' was not realised with the structure of remuneration remaining essentially unchanged from 4CPA to 5CPA.²⁰
- Objective (considered non-negotiable by Ministers) regarding obtaining access from pharmacies to the full range of PBS data, including information relating to prescriptions that cost less than the general patient co-payment (which would help the Commonwealth determine actual PBS pharmacy remuneration from all sources, including patients and the total volume and cost of the PBS to both government and consumers) was only partially realised. The 5CPA only made provision for pharmacies to provide certain prescription information from 1 April 2012; it did not make provision for the receipt of cost information.²¹
- Objective relating to support for IT systems that are fully interoperable with broader e-health systems was not realised. The two Prescription Exchange Services (PESs) that were approved by Health for the purpose of downloading electronic prescriptions by pharmacies did not have systems that were interoperable and government funding was subsequently re-allocated to pay the PESs directly to make their systems interoperable.²²

2.22 Regarding the 'non-negotiable' Commonwealth objectives that were not met, Health advised the ANAO in February 2015 that 'in any negotiation, objectives may or may not be fully realised for a variety of factors. While it is therefore correct that not all the negotiating objectives agreed by Government prior to the commencement of the negotiations were met – it is reasonable to assert that nonetheless, Government was satisfied sufficient objectives were realised through their agreement to the final

19 ANAO, *Report No. 25 2014-15*, pp. 24-25.

20 ANAO, *Report No. 25 2014-15*, p. 86.

21 ANAO, *Report No. 25 2014-15*, p. 86.

22 ANAO, *Report No. 25 2014-15*, p. 91.

package of measures at the conclusion of negotiations, as approved by Cabinet.²³

Significant administrative issues – keeping records, seeking approvals, and meeting legislative requirements

Shortcomings in key aspects of administration, negotiation, and implementation

2.23 There were shortcomings in key aspects of Health's administration at the development, negotiation and implementation phases of the 5CPA. The ANAO identified key issues relating to: the clarity of the 5CPA and related public reporting; record-keeping; the application of financial framework requirements; risk management; and seeking Ministerial approvals.

- Health did not keep a formal record of its meetings with the Pharmacy Guild during the 5CPA negotiations, and did not document its subsequent discussions with the Guild on the negotiation of related contracts.²⁴
- Health did not assess whether financial framework requirements would apply to the Pharmacy Guild officials when making payments of public money pursuant to the administration of 5CPA professional programs, resulting in a risk of non-compliance with legislative requirements.²⁵
- Health reallocated funds without prior Ministerial approval (as required under the 5CPA) for:
 - ⇒ \$5.8 million communication strategy to be delivered by the Pharmacy Guild. Despite not being a professional program, the communication strategy was nonetheless funded mainly from professional program allocations; and
 - ⇒ \$7.3 million of funding originally approved by Ministers as a component of pharmacy remuneration (the Electronic Prescription Fee (EPF)) to other purposes, including financial assistance paid to Prescription Exchange Services and \$896,110 to the Pharmacy Guild to increase pharmacies' understanding, awareness and uptake of EPF. Health advised that discussions were held with the Minister's office but was unable to provide documented evidence to support this.²⁶

23 ANAO, *Report No. 25 2014-15*, p. 91.

24 ANAO, *Report No. 25 2014-15*, p. 25.

25 ANAO, *Report No. 25 2014-15*, p. 25.

26 ANAO, *Report No. 25 2014-15*, p. 26.

Poor estimation methodology with regards to savings

- 2.24 The 5CPA stated that the initiatives covered by the agreement would result in \$1 billion in gross savings over the term of the agreement (net savings were estimated to be \$600 million). However, ANAO analysis indicated that the net savings estimated before the agreement was signed were closer to \$400 million due to shortcomings in Health's 5CPA estimation methodology. The principle issues related to: unexplained increases in the baseline cost of professional programs; the application of inappropriate indexation factors; and the treatment of patient co-payments.²⁷ In particular:
- The baseline budget for 5CPA professional programs in the Commonwealth forward estimates was \$638.7 million (before adjusting for the negotiated 5CPA savings and spending measures). However, Health's records showed that the approved baseline budget for 5CPA professional programs was only \$511.6 million, and there was no documentary evidence of authority to increase the 5CPA baseline budget in the forward estimates by \$127.1 million.
 - The official indexation factors released by the then Department of Finance and Deregulation (Finance) were not utilised in estimating 5CPA savings, resulting in an overestimate of 5CPA savings of approximately \$43.2 million.
 - Health advised, in the course of this audit, that the estimated savings for the 5CPA incorrectly included \$42.7 million in co-payments made by patients to pharmacies for the receipt of pharmaceutical benefits. Co-payments are a private contribution to the cost of PBS medicines, which are not a cost to government.

Audit conclusion

- 2.25 The 5CPA was the head agreement in a complex scheme of legal, financial and administrative arrangements involving both government entities and third parties in its implementation. The 5CPA arrangements were developed and negotiated by Health, which had overarching responsibility for the 5CPA's administration, and agreed by Government.
- 2.26 Overall, the Health's administration of the 5CPA had been mixed, and there was a limited basis for assessing the extent to which the 5CPA had met its key objectives, including the achievement of \$1 billion in expected savings. The department developed and negotiated a complex agreement and related contracts with the Pharmacy Guild in a timely manner, enabling the 5CPA to be signed by the Health Minister and Pharmacy

27 ANAO, *Report No. 25 2014-15*, p. 22.

Guild on 3 May 2010, prior to the expiry of the 4CPA on 30 June 2010. However, a number of key government negotiating objectives for the 5CPA were only partially realised and there have been shortcomings in key aspects of Health's administration at the development, negotiation and implementation phases.

- 2.27 Actual pharmacy remuneration (paid by government and patients) in the first four years of the 5CPA aligned closely with the commitment made originally in the 5CPA. However, during the life of the agreement there had been two estimates variations (in 2011 and 2013) relating to the cost of one component of pharmacy remuneration – the Premium Free Dispensing Incentive – which increased the expected cost to government of pharmacy remuneration by \$292 million and also impacted the level of savings from the 5CPA.
- 2.28 In addition to the shortfall in anticipated savings, a number of the Government's other strategic negotiating objectives were only partially realised, as previously indicated. In this context, the then Government and department considered that the 5CPA offered an opportunity to improve health outcomes and value for money by restructuring pharmacy remuneration arrangements 'to diminish their link to the price of PBS medicines'. The Commonwealth anticipated doing so by shifting financial incentives from the volume driven sale of medicines to the delivery of value-adding professional services. However, the structure of pharmacy remuneration remained essentially unchanged and key wholesaler and pharmacy mark ups continued at previous rates.
- 2.29 Six broad principles and objectives were included in the 5CPA. Limited departmental information, plus shortcomings in Health's performance reporting and 5CPA evaluation framework, mean that the department was not well positioned to assess whether the Commonwealth was receiving value for money from the agreement overall, or performance against the six principles and objectives.
- 2.30 In addition to shortcomings in 5CPA costings, performance reporting and the evaluation framework, this audit identified scope for improvement in key aspects of the department's general administration which covered the 5CPA's development, negotiation and implementation phases.
- 2.31 The 5CPA was a substantial agreement that was integral to the parties achieving shared objectives – the maintenance of a national network of retail pharmacies as the primary means of dispensing PBS medicines to the public, and providing professional services to patients. Features of the 5CPA included complexity in policy design and administrative arrangements, and a key lesson of the audit was the importance of identifying and treating risks at the earliest opportunity. The successful

implementation of complex programs requires active management and a disciplined and co-ordinated approach to managing risks and challenges through the program life cycle – including the development, costing, negotiation and implementation phases. Further, there is a need to ensure that there is appropriate authority for revised positions and outcomes when events do not unfold according to expectations.

Audit recommendations and agency response

2.32 Table 2.2 sets out the recommendations for ANAO Report No. 25 (2014-15) and the agencies' responses.

Table 2.2 ANAO recommendations, Report No. 25 (2014-15)

1	<p>To clarify the nature of financial commitments entered into by the Australian Government, the ANAO recommends that the Department of Health presents, in key documents, estimated government payments and patient payments for both subsidised and unsubsidised Pharmaceutical Benefits Scheme and Repatriation Pharmaceutical Benefits Scheme medicines.</p>
<p>Health response: <i>Agreed.</i></p>	
2	<p>To provide assurance regarding the basis of costings for the next community pharmacy agreement, the ANAO recommends that the Department of Health applies the relevant forecast indexation factors released by the Department of Finance.</p>
<p>Health response: <i>Agreed.</i></p>	
3	<p>To improve its ability to satisfy accountability requirements and capacity to protect the interests of the Commonwealth in the event of disputes or legal action, the ANAO recommends that the Department of Health:</p> <ul style="list-style-type: none"> • maintains an adequate record of the negotiation of the next community pharmacy agreement and related contracts; and • reviews its internal guidance on record keeping for the negotiation of significant contracts and agreements.
<p>Health response: <i>Agreed.</i></p>	
4	<p>To improve the accuracy and transparency of reporting on Australian Government expenditure under the Pharmaceutical Benefits Scheme and the Repatriation Pharmaceutical Benefits Scheme, the ANAO recommends that the Departments of Health, Veterans' Affairs and Human Services liaise on the collection, recording and sharing of information regarding payments to suppliers, so as to clearly identify the actual cost of medicines and the components of pharmacy remuneration.</p>
<p>Health response: <i>Agreed.</i></p>	
<p>Veterans' Affairs response: <i>Agreed.</i></p>	
<p>Human Services response: <i>Agreed.</i></p>	
5	<p>In order to effectively discharge its advisory, accountability and contract management obligations in a timely manner, the ANAO recommends that the Department of Health reviews its record keeping arrangements for the Fifth Community Pharmacy Agreement and the next community pharmacy agreement.</p>

Health response: *Agreed.*

- 6 To improve transparency in agreement-making, the ANAO recommends that the Department of Health documents anticipated levels of Australian Government funding for third party administration for the next community pharmacy agreement.

Health response: *Agreed.*

- 7 To improve transparency and the quality of program performance reporting, the ANAO recommends that the Department of Health reports annually on the actual cost of each major component of the Fifth Community Pharmacy Agreement and the next community pharmacy agreement, including pharmacy remuneration, CSO wholesaler payments and professional programs.

Health response: *Agreed.*

- 8 To inform decision-making and the assessment of outcomes by stakeholders, the ANAO recommends that the Department of Health reviews performance reporting to improve alignment between the next community pharmacy agreement and public reporting against the program objectives, deliverables and KPIs relating to the department's Program 2.1 and Program 2.2.

Health response: *Agreed.*

Committee review

Introduction

3.1 The Joint Committee of Public Accounts and Audit (JCPAA), through its review of submissions made to the inquiry and the public hearing, identified four themes of interest:

- Value for money
- Record keeping
- Key Performance Indicators (KPIs)
- Conformity with the relevant Commonwealth Acts

The themes

Value for money

3.2 As the ANAO acknowledged, value-for-money is what all Commonwealth departments should be striving for 'without saying'.¹ However, the Department of Health (Health) stated that suitable checks to ensure that value for money was being achieved under the 5PCA were absent:

I think that the ANAO report highlights that the Commonwealth does not have an overall evidence chain as to whether value for money was obtained. That has been some cause for thought and we are trying hard to improve our understanding of that, going forward. What I can tell you is that a range of programs were

¹ Dr Tom Ioannou, Group Executive Director, PASG, ANAO, *Committee Hansard*, Canberra, 13 August 2015, p. 5.

delivered, which have been evaluated and found to have positive outcomes, and that a great many scripts were delivered to the community through this supply chain in an effective manner, to the health benefit of the Australian community – but a specific evaluation of that? No.²

3.3 The Consumer Health Forum agreed that the value-for-money aspect was something that was not quantifiable:

We do not know, really, because this matter has not been explored since 1989, as you have heard. We argue, though, that we need more transparency in the whole pharmacy operation because there is a lot of money being paid out for it and it is not entirely clear, and nor are the key performance indicators telling us: 'For the several dollars you pay each time you get a prescribed medicine dispensed, what are you actually getting?' The pharmacists argue fairly that they are always there to advise the patient, but of course many times that is not needed. So we think that, given the vast amount involved and given the other issue of primary care... there is a lot of potential there for us to look at it and perhaps try to get better value for money.³

3.4 Health explained that certain reviews were done, and that closer examination of programs would be take place in future:

There were evaluations undertaken, during the fifth agreement, of areas of programs under the agreement. The department can give an account of what the volumes of services provided under the agreement were and what was bought and paid for. The more specific question being asked is about value for money, and that is something I think we are seeking to address more closely and clearly in the coming two-year review.

...the two-year review that we are going to undertake, which includes a review of the remuneration for the entire supply chain, both the wholesalers and the community pharmacy element. The review is to look at the remuneration components – which is the vast majority of the funding under the agreement – and to understand the economic efficiency of that funding.⁴

2 Mr Andrew Stuart, Deputy Secretary, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 5.

3 Mr Mark Metherell, Communications Director, Consumers Health Forum of Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 7.

4 Mr Andrew Stuart, Deputy Secretary, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 5.

- 3.5 Health stated that it is focussing on ensuring better transparency and quality of programme reporting in the 6CPA. Further, 6CPA components will undergo a formal and independent review. This will include:
- pharmacy programmes;
 - pharmacy trial programmes;
 - regulation of community pharmacy (including Pharmacy Location Rules); and
 - remuneration to community pharmacy for its dispensing role.⁵

Record keeping

- 3.6 The lack of records kept during the negotiation of the 5CPA was of concern to the Committee. For a \$15 billion programme such as this, extensive record keeping is essential and the ANAO found that the official public record relating to the actual negotiations was limited to one page – a one page Minute.⁶ Health conceded that their record keeping had been inadequate. Further they explained what transpired:

It is not correct to say that no records were kept in relation to the negotiation of the fifth pharmacy agreement. It is correct to say, as the ANAO found, that there were no formal records kept of each of the meetings. There are, however, on our files a number of kinds of documents that relate to the negotiations. For example, there are a number of versions of contracts to which changes have been made as changes were negotiated in meetings, there is correspondence between the guild and the department about the agreement that was being negotiated and there are records of emails between officers who met with the guild...⁷

The process that was undertaken was that there were drafts produced with an agreement, and the currency between the department and the guild was the moving to and fro of successive, marked-up versions of that agreement. That is what happened at the time. It would have been better practice, and the department accepts that it would have been better practice, to take minutes of those meetings and to exchange them between the parties so that we were able to document the rationale for the changes that were being made in the agreement. The department accepts that that

5 *Submission 6*, Department of Health, p. 8.

6 Dr Tom Ioannou, Group Executive Director, PASG, ANAO, *Committee Hansard*, Canberra, 13 August 2015, p. 10-11.

7 Mr Chris Reid, General Counsel, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 10.

record is not available, and that it would have been better for transparency as to why and how that agreement unfolded had we done so. Were there records suitable for the purpose of negotiating? Yes, there were. Were there records suitable for the purpose of later public transparency including for the ANAO? No, I do not think that was adequate.⁸

3.7 Health accepted the ANAO's findings and stated that they have improved their record keeping process for the Sixth Community Pharmacy Agreement (6CPA). At the public hearing, Health explained that its submission provided further details of its effort in this area.⁹ Indeed:

The Department organised and implemented an internal review of its record keeping arrangements and processes in relation to the 5CPA in light of the ANAO's more detailed recommendations prior to the negotiation of the 6CPA to ensure that the lessons from the past informed processes for the 6CPA... This includes:

- the establishment and regular reminders to staff of record management disciplines;
- the provision of record-keeping and risk- management training to staff;
- specific assignment of responsibilities such as nominating individual staff members as 'record keepers' for large projects and negotiations such as the 6CPA;
- introduction of a mandatory requirements for all PBD staff to undertake record managements training and this requirement is required to be included in individual and team performance development agreements; and
- periodic review of records being kept.

Further in 2015, the Department ran for all staff in the Pharmaceutical Benefits Division, refresher training in record keeping and records management.¹⁰

Key Performance Indicators (KPIs)

3.8 The agreement's KPIs were also an issue that garnered the Committee's scrutiny given its interest in having suitable KPIs across the whole breadth of Commonwealth government. The ANAO reported that they:

8 Mr Andrew Stuart, Deputy Secretary, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 11.

9 Mr Andrew Stuart, Deputy Secretary, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 11.

10 *Submission 6*, Department of Health, pp. 6-7.

... examined Health's 2013–14 annual report to assess the extent of reporting of the costs, deliverables, and KPIs for the key components of the 5CPA... The ANAO also examined the department's website to identify any further information on costs, deliverables and KPIs.

In summary, in 2013–14, Health's reporting of the key components of the 5CPA was limited, both in its annual report and on its website. Health has not published the separate costs for the key components of the 5CPA, or any other component. Similarly, there were no deliverables or KPIs reported for any of the key components of the 5CPA. Without basic information about costs, deliverables or KPIs for 5CPA programs and activities it is difficult for stakeholders, including the Parliament, to form an overall view of what the 5CPA has actually delivered.¹¹

- 3.9 Given the relatively disappointing level of KPI reporting, the Committee sought information on what KPI's had been included as part of the Sixth Community Pharmacy Agreement. In response, Health stated:

We have the KPIs in place for the administration, but the KPIs for the individual programs have not been finalised as yet. They will be published either as part of our portfolio budget additional estimates statements or in the Mid-Year Economic and Fiscal Outlook. They are under active work.¹²

As to what the final KPIs are going to be with respect to the services and the outcomes that are achieved is something that is still being finalised by the department in consultation with the guild as they finalise those arrangements.¹³

- 3.10 In their submission, the Health explained further:

The Department has reviewed the current performance reporting structure to ensure the alignment between the 6CPA and public reporting against program objectives is improved. As a result, appropriate updates to the performance reporting structure for Programme Group 2.1 and 2.2 will be implemented as part of the 2015-16 Portfolio Additional Estimates Statements to align with [ANAO Recommendation 8].

11 ANAO, *Report No. 25 2014-15*, p. 201.

12 Ms Felicity McNeill, First Assistant Secretary, Office of Health Protection, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 12.

13 Ms Felicity McNeill, First Assistant Secretary, Office of Health Protection, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 13.

The measures associated with the 6CPA were announced after the 2015-16 Budget process, therefore they were not available for linking or updating the Department's objectives, deliverables and KPIs with respect to the 6CPA, in the 2015-16 Portfolio Budget Statements.¹⁴

Conformity with the relevant Commonwealth Acts

3.11 Ensuring that Commonwealth expenditure is conducted responsibly and accountably is governed by Acts of Parliament. Since 2013, the *Public Governance Performance and Accountability Act 2013* (PGPA Act) has been the relevant piece of legislation and it stipulates:

The objects of this Act are:

- (a) to establish a coherent system of governance and accountability across Commonwealth entities; and
- (b) to establish a performance framework across Commonwealth entities; and
- (c) to require the Commonwealth and Commonwealth entities:
 - ⇒ (i) to meet high standards of governance, performance and accountability; and
 - ⇒ (ii) to provide meaningful information to the Parliament and the public; and
 - ⇒ (iii) to use and manage public resources properly; and
 - ⇒ (iv) to work cooperatively with others to achieve common objectives, where practicable; and
- (d) to require Commonwealth companies to meet high standards of governance, performance and accountability.¹⁵

3.12 For most of the 5CPA, the *Financial Management and Accountability Act 1997* (FMA Act) was the relevant piece of legislation that governed Commonwealth expenditures but its principles are very similar to the PGPA Act. ANAO identified a breach of the FMA Act:

Section 12 of the FMA Act established special requirements for agencies that entered into agreements or arrangements for the receipt, custody or payment of public money by 'outsiders' (third parties such as the Pharmacy Guild). Agencies either had to ensure that outsiders complied with all the requirements of the financial framework, or alternatively could make special arrangements through a 'section 12 agreement', which specified a set of requirements to be met by the outsider.

14 *Submission 6*, Department of Health, p. 8.

15 Australian Government, ComLaw, *Public Governance, Performance and Accountability Act 2013*, <<https://www.comlaw.gov.au/Details/C2013A00123>>, accessed 1 September 2015.

The ANAO sought Health's advice on whether the department had an FMA section 12 agreement in place to cover its arrangements with the Pharmacy Guild. It took Health some time to respond that it did not have any agreements in place under Section 12 of the FMA Act to support arrangements with the Pharmacy Guild.¹⁶

3.13 ANAO further testified that:

...the FMA Act applied for the majority of the period of the 5CPA. What we encountered was that there were some complex aspects of the *Financial Management and Accountability Act* that perhaps the department had not fully thought through, especially around the question of third-party administrators, such as the guild, handling public monies. We drew this to the attention of the department. We also took legal advice from [Australian Government Solicitor] AGS to help us settle our own position. The bottom line for us was that, given there was a transition from one specific framework to another – ...the general principles of the two acts are not dissimilar – was that we strongly suggested to the department, but did not recommend, that they pause and reflect on ongoing compliance with the new framework.¹⁷

3.14 Health has indicated that ANAO advice has been incorporated into the new 6CPA.

Yes [compliance with the new framework has occurred] through the negotiation process with the probity adviser, who was also across all of the issues of the PGPA Act and who provided us support and advice in that area. Again, we had a legal team that was also providing us support not just in respect of the PGPA Act but also the National Health Act, because that also has some specific legal requirements that we must also meet with respect to the medicines and how things are costed. Of course, the contracts for the services are now being entered into for administration of those programs. I am aware that my successor, Ms Jonasson, and Ms Quaine are actively working with the relevant areas of the department to make sure that contracts entered into are compliant with the requirements of the PGPA Act.¹⁸

16 ANAO, *Report No. 25 2014-15*, p. 186.

17 Dr Tom Ioannou, Group Executive Director, PASG, ANAO, *Committee Hansard*, Canberra, 13 August 2015, p. 15.

18 Ms Felicity McNeill, First Assistant Secretary, Office of Health Protection, Department of Health, *Committee Hansard*, Canberra, 13 August 2015, p. 15.

Committee Comment

- 3.15 The ANAO report uncovered a number of failings within the 5CPA implementation and administration and the Committee would like to commend the ANAO for its excellent work.
- 3.16 Given the the importance of health care to Australian community, the size of the 5CPA, and the experience the Department of Health has had with the previous four Community Pharmacy Agreements, the failures of process observed in this agreement are very disappointing.
- 3.17 The failure to provide suitable records for public accountability and the breach of the *Financial Management and Accountability Act* governing public expenditure were particularly egregious given the \$15 billion agreement.
- 3.18 Setting realistic and measurable KPIs both broadly and with particular respect to 'value-for-money' is also something the Committee strongly advocates. Ambiguous goals with even more ambiguous outcomes do not serve the goal of efficient use of public funds.
- 3.19 The Committee notes the up-coming independent two year review that Health will be conducting into the 6CPA. The Committee wishes to be updated on the review and its outcomes.
- 3.20 The Committee further notes that the 6CPA KPIs for the individual programs are still being finalised. The Committee recommends that Health report back on the KPIs for components of the 6CPA and how outcomes are to be achieved and measured.

Recommendation 1

The Joint Committee of Public Accounts and Audit (JCPAA) recommends that the Department of Health report back to the JCPAA:

- **within 6 months of tabling this report with an update on progress of the two year review of remuneration and regulation of the 6th Community Pharmacy Agreement, including considerations of 'value-for-money' spending; and**
- **a further report upon the completion of the two year review.**

Recommendation 2

The Joint Committee of Public Accounts and Audit (JCPAA) recommends that the Department of Health reports back to the JCPAA on the final Key Performance Indicators (KPIs) for components of the 6th Community Pharmacy Agreement. That report should include:

- the KPIs;
- how the KPIs will be achieved; and
- how outcomes to the KPIs will be monitored and measured and reported.

3.21 The ANAO report's eight recommendations have been agreed to by all parties, and Health has given assurances that the 6CPA has incorporated the advice proffered by ANAO. Given the size of the expenditure for the 6CPA – some \$18.9 billion over the next five years¹⁹ – the Committee is of the view that the implementation of the 6CPA should be closely scrutinised to ensure that the lessons learnt from the 5CPA and this ANAO report are not lost.

Recommendation 3

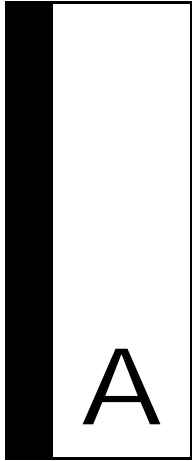
The Joint Committee of Public Accounts and Audit recommends that the Australian National Audit Office (ANAO) consider conducting a follow-up audit on the implementation of the Sixth Community Pharmacy Agreement to be completed no later than 30 months into the agreement's term.

The Hon Ian Macfarlane MP

Chair

Date: 23 November 2015

19 'Update – 6th Community Pharmacy Agreement', The Hon Sussan Ley MP, Minister for Health, Minister for Sport, <<https://www.health.gov.au/internet/ministers/publishing.nsf/Content/health-mediarel-yr2015-ley053.htm>> accessed 2 September 2015.



Appendix A – Submissions and Exhibits

Submissions

- 1 Professional Pharmacists Australia
- 2 Australian Medical Association
- 3 Pharmacy Guild of Australia
- 4 Society of Hospital Pharmacists of Australia
- 5 Pharmaceutical Society of Australia
- 6 Department of Health
- 7 Australian Pharmacy Council
- 8 Medicines Australia
- 9 Professor Philip Clarke, Centre for Health Policy, University of Melbourne
- 10 Consumers Health Forum of Australia
- 11 Australian National Audit Office

Exhibits

Department of Health

- 1 KPMG - 5CPA Combined Thematic Review
- 2 PWC - Combined Review of 5CPA Medication Management Programmes
- 3 Urbis - Medication Chart and Continued Dispensing Report
- 4 Deloitte - Medscheck-Diabetes Medscheck Pilot Evaluation Report
- 5 NRMC Phased Implementation NSW - Evaluation Report
- 6 Report to Parliament on the Operation of S 89A of the NHA 1953 ('Continued Dispensing')
- 7 Review of the Governance Structures established under the 5CPA



Appendix B – Public Hearing (Round Table)

13 August 2015

Australian National Audit Office

Mr Grant Hehir, Auditor-General

Dr Tom Ioannou, Group Executive Director

Ms Fiona Knight, Executive Director

Department of Health

Mr Andrew Stuart, Deputy Secretary

Ms Felicity McNeill, First Assistant Secretary, Office of Health Protection

Ms Julianne Quaine, Assistant Secretary, Pharmaceutical Access Branch

Mr Chris Reid, General Counsel

Department of Human Services

Mr Barry Sandison, Deputy Secretary, Health, Compliance and Information

Ms Alice Jones, General Manager, Health Programs

Ms Karen Hebditch, National Manager Pharmaceutical Benefits

Department of Veterans' Affairs

Mrs Letitia Hope, Assistant Secretary

Pharmacy Guild of Australia

Mr David Quilty, Executive Director

Ms Fiona Mitchell, Group Executive, Pharmacy Viability

Consumers Health Forum of Australia

Ms Leanne Wells, Chief Executive Officer

Mr Mark Metherell, Communications Director