



The Royal Australian
College of General
Practitioners

RACGP Submission to the Senate Community Affairs Reference Committee

Review of the Professional Services Scheme

11 August 2011

1. Introduction

The Royal Australian College of General Practitioners (RACGP) thanks the Senate Community Affairs Committee for the opportunity to contribute to discussions regarding the Professional Services Scheme.

The RACGP is the specialty medical college for general practice in Australia, responsible for defining the nature of the discipline, setting the standards and curriculum for education and training, maintaining the standards for quality clinical practice, and supporting general practitioners in their pursuit of excellence in patient care and community service.

This submission is made in response to the inquiry announced on 6 July 2011 regarding the Professional Services Scheme.

Details of the Senate Committee's inquiry can be found at:

http://www.aph.gov.au/senate/committee/clac_ctte/prof_serv_rev/info.htm

2. RACGP response to the Senate Inquiry

The RACGP supports the legislative framework for the Professional Services review scheme, including peer review, of inappropriate practice. Like any investigative process, the College believes that the PSR process must:

- be fair and transparent
- be clear and communicated to medical practitioners under investigation
- include allowance for medical practitioners under review to both respond to allegations and appeal decisions.

Notwithstanding the above, the RACGP has a number of concerns regarding the implementation of Professional Service Review (PSR) processes, including a lack of natural justice and procedural fairness, primarily due to communication and transparency issues.

In the context of the 'Review of the Professional Services Scheme' Inquiry, the RACGP submission responds to the following issues identified by the Senate:

- c) *Procedures for investigating alleged breaches under the Act*
- d) *Pathways available to practitioners or health professionals under review to respond to any alleged breach*
- f) *Any other related matter.*

2.1 Procedures for investigating alleged breaches under the Act

The RACGP has received advice from general practitioner members regarding a lack of transparency in relation to the PSR. Issues that have consistently been raised by general practitioners include:

1. *Vague allegations* regarding inappropriate Medicare billing or practice, with little information presented to the medical practitioners under review by the PSR regarding the specific consultations in question, dates, and the associated issues.
2. *A lack of communication*, with many general practitioners under investigation feeling ill informed of the stage of the process, including overall process, next steps, timelines, outcomes, and specific issues.
3. *Unreasonable and non-communicated timelines*, which often results in general practitioners being unable to adequately prepare for meetings with PSR, and meet the deadlines imposed during the investigation process.

Vague allegations, a lack of communication, and timeline issues undermine both the procedural fairness and the transparency of PSR processes.

2.2 Pathways available for practitioners or health professionals under review to respond to any alleged breach

Another key issue identified by general practitioners regarding the PSR process is the ability to respond to alleged breaches of the Act.

The College has received advice that many general practitioners have been unable to present evidence in response to allegations made, including pertinent information regarding expert opinions, expert reports, and other supporting documentation.

When combined with the procedural fairness issues identified in section 2.1 of this submission, many general practitioners under review have advised that it is almost impossible to properly respond to the allegations presented by PSR.

2.3 Other related matters – Interpreting the Medicare Benefits Schedule

3.4.1 Simplifying the MBS

The College has consistently advocated for a reduction in MBS red tape, simplification of the MBS, and the streamlining of items.

The RACGP believes that as the MBS remains too complex, there will inevitably be many medical practitioners who make unintended errors in relation to billing. This exposes honest, well intentioned practitioners to potential sanctions. The focus of audits should therefore be shifted to the Professional Review Program, focussing on education and quality improvement, rather than compliance and discipline.

Prevention, education, and guidance are always better than compliance, fines, sanctions, discipline, and unnecessary red-tape.

3.4.2 Interpreting the MBS

Whilst the RACGP acknowledges that the interpretation of MBS item numbers may be outside the scope of this inquiry, the College believes that interpretation is highly pertinent to the PSR.

The MBS needs to be interpretable by Medicare, medical practitioners, PSR, and professional organisations – including the RACGP.

Although general practitioners often attempt to contact Medicare Australia in order to receive clarification regarding MBS item numbers, the RACGP understands that there are instances where Medicare Australia has:

- provided conflicting advice regarding the interpretation of the item number
- not been able to interpret the item number
- referred the interpretation of the MBS item number to the RACGP.

The result is that medical practitioners will sometimes find themselves in a position where they are unable to obtain clarification regarding specific item numbers, but at the same time still be subject to PSR investigation for alleged breaches of the Act.

Another serious concern is Medicare referral of interpretation to the RACGP. It is not appropriate for Medicare to advise medical practitioners that the RACGP can interpret MBS item numbers relating to general practice without a formal agreement in place between the College and Medicare.

Regardless, the MBS remains incredibly complex and, as a result, many medical practitioners find it difficult to interpret some items. Where a medical practitioner

requires clarification, there must be mechanisms whereby they can contact Medicare, or a delegated organisation, to clarify specific MBS items.

3. Addressing the issues identified

The RACGP believes that the PSR processes as set out in legislation are appropriate, including the concept of peer review – as only a general practitioner can determine whether or not another general practitioner's billing and clinical patterns are appropriate. However, further transparency, and procedural fairness are required to strengthen and improve current PSR processes.

The RACGP understands that PSR has recently taken a number of steps in collaboration with the Australian Medical Association (AMA) to address issues around procedures for investigating alleged breaches of the Act, including the development of clear information and guidelines for medical practitioners subject to the PSR process.

Whilst the introduction of clear guidelines, steps, and processes are most welcome, the RACGP specifically recommends that:

1. A meaningful MBS review is conducted to reduce red-tape and clarify item descriptors.
2. Medical practitioners are provided with clear information and guidelines regarding the PSR appeals process.
3. Procedures for medical practitioners presenting evidence and responding to alleged breaches of the Act are developed, including protocols for PSR.
4. Protocols require that PSR clearly set out allegations regarding alleged breaches of the Act.
5. Protocols require that the PSR Director provide clear information to medical practitioners regarding the investigation – prior to the initial meeting with the medical practitioner.
6. Medicare Australia either:
 - a) improves information provided to medical practitioners seeking clarification of MBS item numbers; OR
 - b) develops formal agreements with professional medical colleges to interpret item numbers for and on behalf of Medicare.