

24 April 2009

The Secretary
Senate Community Affairs Committee
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Parliament House
Canberra ACT 2600
Email: community.affairs.sen@aph.gov.au

Cc: Medicare Integrity, Department of Health and Ageing
Email: medicareintegrity@health.gov.au

Dear Secretary

Submission to Senate Committee inquiry into compliance audits on Medicare benefits

The Australian General Practice Network (AGPN) welcomes this opportunity to provide comment on the Government's proposal to increase the audit powers of Medicare Australia as detailed in the *Exposure Draft of the Health Insurance Amendment (Compliance) Bill 2009* (the *Bill*).

AGPN is the peak national body of the divisions of general practice, comprising 111 divisions across Australia, as well as eight state based organisations. Approximately 90 percent of GPs and an increasing number of practice nurses and allied health professionals are members of their local division. The divisions network plays a pivotal role in the delivery and organisation of primary care through general practice and broader primary health care teams and aims to ensure all Australians can access a high quality health system.

AGPN supports, in principle, measures to ensure appropriate claiming of benefits under the MBS as supporting the honest and efficient use of public monies and public confidence in the integrity of claimants. These measures must also be balanced with supporting consumer access to a health system that functions efficiently and ethically, including by:

- limiting the administrative burden on providers
- upholding patient privacy and assuring patients that their privacy will be respected.

To support the efficient and ethical function of the health system, AGPN recommends that:

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- compliance auditing is only conducted when providers demonstrate consistently unusual patterns of claiming
- interference to usual practice from the audit process is kept to the minimum necessary
- revisions to the current legislation continue to provide safeguards to ensure that patient privacy rights are upheld.

Maintaining system efficiency alongside enhanced compliance audits

Enhanced measures to ensure appropriate claiming of benefits under the MBS must be balanced against requirements to support consumer access to a health system that functions efficiently. This includes limiting the administrative burden on providers associated with compliance measures. One critical measure for doing this is to restrict the conduct of compliance audits to instances where there are indications of unusual claiming patterns which may potentially indicate incorrect claims.

AGPN supports auditing of health professionals whose services attract Medicare rebates including general practice, other medical specialities and allied health, in proportion to their use of the items. As GPs have already been the focus of much previous audit activity, it is possible that they are already over-represented in audit activity. AGPN therefore questions the need to further increase audits of general practice as part of the Increased MBS Compliance Audits (IMCA) initiative, especially where this increase could have a detrimental effect on system efficiency.

AGPN is concerned that auditing processes centred on specific MBS item numbers may have a negative impact in discouraging providers claiming that item number and, potentially, providing the associated service. AGPN recommends that audits are only conducted following observation of consistently unusual patterns of claiming.

To maintain the integrity of compliance audits it is critical that they remain restricted to considering matters of fact and do not assess the clinical relevance of services provided. Matters relating to clinical relevance should continue to be referred to Professional Services Review (PSR) for review by a practitioner's peers.

Upholding patient privacy in legislative amendments

If enacted, the amendments in the *Bill* will have a privacy impact in providing Medicare Australia with authority to require a provider to produce documents to substantiate a Medicare benefit paid, which may involve the disclosure of information from a patient medical record (i.e. individual health information.) AGPN notes that most practitioners/providers already voluntarily cooperate with Medicare Australia in providing documentation to substantiate benefits claims made, which may include individual health information, and that the *Privacy Act 1988* allows personal information to be disclosed to bodies such as Medicare Australia where that disclosure is reasonably necessary to protect public revenue.

However, the need to ensure the effective use of public monies through auditing of Medicare funded services must be balanced against the need to promote and protect the privacy of individual health information. In working to strike this balance we should consider not only whether disclosure of health information is appropriate and justified,

but also concerns about the (perceived) risk of inappropriate disclosures which some consumers may experience.

It is imperative that any revisions to the current legislation should continue to provide safeguards to ensure that privacy rights are upheld. AGPN acknowledges that protections for health information which may be provided to Medicare Australia as a result of the proposed legislative amendments exist within current legislation. However, in the interests of promoting individual privacy and limiting consumer concerns about inappropriate disclosure of health information, AGPN recommends that further consideration be made, in consultation with the Privacy Commission, to best options for promoting individual privacy within the context of MBS Compliance audits.

One measure for doing this would be to restrict compliance audit reviews of medical records to health professionals, who are most likely to be trusted by providers and consumers to respect patient privacy. Implementing best options for promoting patient privacy in this context may also include further measures, for instance: notifying all patients of providers who claim Medicare benefits that their records may be accessed as part of a compliance audit; notifying those patients whose records are to be accessed as part of an audit of this fact; or, addressing potential consumer concern about potential access of individual health information by Medicare Australia by informing consumers of processes and guidelines employed to protect personal privacy in instances where it is necessary to access an individual's health information.

For further information on these issues, please contact Rachel Yates, Director of Policy, on 02 6228 0815 or email ryates@agpn.com.au

Yours sincerely



David Butt
Chief Executive Officer