



To: Senate Standing Committee on Community Affairs

**SUBMISSION
INCREASED MBS COMPLIANCE AUDIT INITIATIVE**

The *Private Mental Health Consumer Carer Network (Australia)* (hereafter Network) represents Australians who have private health insurance and/or who receive their treatment and care, and those that care for them, from private sector settings for their *mental illnesses or disorders*. As our title implies, the Network is the authoritative voice for consumers and carers of private mental health settings.

Mental health brings with it many challenges. As a consumer and carer organisation we are in a unique position to provide direct lived experiences and would welcome the opportunity to engage in further consultations, either independently or with other relevant organisations.

The Network is committed to working with the Senate Standing Committee on Community Affairs and Government and welcomes the opportunity to comment hereunder.

The Network has no concerns regarding the increased number of audits undertaken by Medicare Australia, neither the expansion of the audit program to include allied health providers nor the introduction of financial penalties for incorrect claims.

The Network however would like to raise the following concerns:

1 Proposed changes – notice to produce documents

The amended requirement for a provider to produce documents that are relevant to determining the validity of an MBS claim.

Psychiatry (and those services offered by allied health practitioners in clinical psychologists particularly) has a number of unique and different challenges which differentiate this specialty from all others. This is the development of an ongoing trusting therapeutic relationship between the psychiatrist and the patient. Psychiatry has less specific medical tests to diagnose and substantiate a diagnosis. Psychiatric diagnoses are made based upon mental investigations and thorough note taking. This forms in general, the main the basis of the clinical records.

Whilst the Network notes that Medicare Australia will not specify the documentation needed to be produced, apart from excerpts or whole clinical records in the case of complex and chronic mental illnesses, the Network does not know what evidence could be produced.

This therefore raises grave concerns. The relationship between the psychiatrist and their patient as mentioned previously is based on a trusting relationship where emotions, thoughts, experiences are explored in a safe environment. Many issues are discussed and the possibility of any of these very personal experiences or perspectives being exposed to an officer of Medicare Australia would be very

counterproductive. It has the potential to destroy the relationship and particularly in the case of psychotherapy, rend the position of the psychiatrist and their treatment and care void. This situation cannot occur under any circumstances.

Similar issues arose with the introduction of the Privacy legislation wherein patients could request access to their medical record. It was considered that a psychiatrist took their own notes, often in forming a diagnosis which could be counterproductive if not destroy their relationship with their patient if they were to have access.

Recommendation

In relation to the provision of validating documentation

As with the Privacy legislation, clear guidelines must be developed by the learned colleges, in this case the Royal Australian and New Zealand College of Psychiatrists (RANZCP, Australian Psychological Society, Government, Medicare Australia, the Network and others including consumer and carer mental health advocacy peak bodies.

In relation to the time allocation of the consultation

Government, Medicare Australia, together with the RANZCP, APS, the Network and others, develop clear guidelines to determine what is considered sufficient to meet the requirements of Medicare Australia that those time requirements are both appropriate and have been met.

2 How will providers respond to an audit request?

It has been determined that Medicare Australia can receive documents in either hard copy or electronically.

The Network has grave concerns about this process. Whilst the Network is assured that Medicare Australia has strict protocols around collection, storage and access to personal medical information, the safe transference of personally identified clinical information either electronically or via hard copy, leaves the patient vulnerable to unauthorised access.

Recommendation

Government, Medicare Australia, together with the RANZCP, APS, the Network and others, develop a comprehensive system of safe transference of validated documentation from the provider to Medicare Australia. This must address things such as encryption, safe data transference practices, access and audit trails of unauthorised access.

3 What type of records should a provider keep?

The initiative expresses the fact that there will be no requirements for any new record making or retention.

As the Network has previously expressed, Psychiatrists make many notes of their own in the development of diagnoses, important and highly sensitive information expressed by their patients in a trusting therapeutic relationship. These notes add to and often form the clinical record of their patient.

As psychiatry is unique in this sense, the Network holds concerns that the requirements of the initiative could change the record keeping and clinical expression on the psychiatrist to the detriment of the patient.

The initiative also details that where the clinical notes are provided to Medicare Australia to verify a particular claim; they may be censored so that only the details relevant to the audit are legible.

The initiative also details that it is currently unclear what Medicare Australia can ask for or what providers are obliged to provide.

Recommendation

Government, Medicare Australia, together with the RANZCP, APS, the Network and others, develop clear guidelines as to what would satisfy the requirements of comprehensively detailed documentation which does not require the production of the whole or explicit sensitive part of the clinical record.

4 Will patients know that a service they have received is being audited?

The Network is of the view that all Australians have the right to be informed of any access of their clinical records.

Having said this, a dilemma exists in that we again refer to the therapeutic relationship of the psychiatrist and their patient which is based on trust and openness. This relationship is one which is not mirrored within other medical specialities, except perhaps general practice, though to a lesser extent.

We consider that this information conveyed to a patient could escalate anxiety, particularly in relation to previous self disclosure. This has the potential to destroy the relationship, seriously undermine gains made and in some cases put the patient at risk of self or others.

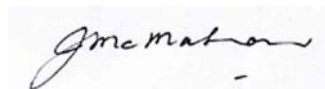
Recommendation

Government, Medicare Australia, together with the RANZCP, APS, the Network and others, develop clear protocols around the best way of conveying this information to patients in a manner which continues to the retention of the therapeutic relationship.

5 Conclusion

The Network has been pleased to provide this Submission to the Senate Standing Community on Community Affairs, providing a consumer and carer perspective from our lived experience of mental illness.

We would be pleased to engage with the Senate Standing Committee on Community affairs and Medicare Australia in further discussions around the particularly sensitive issues raised within this Submission. We would also welcome the opportunity of contributing to the development of key guidelines and protocols outlined within our recommendations.



Ms Janne McMahon OAM
Independent Chair
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