

Department of Health and Aged Care Response to the Report on Review of Section 92 of the Health Insurance Act 1973

Recommendation	Response	Status
<p>1: Legislation be re-introduced into the Parliament along the lines of the Health Legislation Amendment (Medicare Compliance and Other Measures) Bill 2021 to ensure the reforms proposed for section 92 be implemented. These include that the PSR Director has the full range of options relating to sanctions that may be imposed by the Determining Authority.</p>	<p>The recommendation, while not directly related to the scope of the review, has been addressed through the Health Legislation Amendment (Medicare Compliance and Other Measures) Bill 2022, which was passed by the Senate on 27 October 2022.</p>	<p>Completed</p>
<p>2: The Professional Services Review (PSR) should publish in the <i>Guide</i> and on the website information in broad terms as to the reasons for, and the processes by which, calculations of repayment amounts are made.</p>	<p>The PSR has revised the <i>Guide</i> consistent with this recommendation.</p>	<p>Completed</p>
<p>3: The PSR should update the hard copy of the <i>Guide</i> and its website to include indicative information about the duration of the review processes. The timeline should run from the time of the CEM's 'Request to Review' to the PSR Director till the coming into force of the section 92 agreement following ratification by the Determining Authority.</p>	<p>The PSR has revised the <i>Guide</i> consistent with this recommendation.</p>	<p>Completed</p>
<p>4: The department, in consultation with the peak bodies for specialists and allied health professionals, take steps to finalise the legislative criteria for a 'prescribed pattern of services' for specialists and allied health professionals in light of the recommendation made in the 2007 Review.</p>	<p>The recommendation, while not directly related to the scope of the review, is a matter that is being considered in ongoing policy development processes.</p>	<p>Active</p>
<p>5: a. The Act be amended to permit delegation by the PSR Director of functions other than the decision-making function. b. Assuming the recommendation is accepted, the Act be amended to provide for the qualifications of the delegate and for consultation with appropriate bodies about the appointment.</p>	<p>Amendments broadly consistent with this recommendation are being progressed in the <i>Health Insurance Amendment (Professional Services Review Scheme) Bill 2023</i>.</p>	<p>Active</p>
<p>6: The Act be amended to permit the PSR Director to release information to AHPRA and to State and Territory regulatory bodies following a section 92 process but only if it is in the public interest to do so.</p>	<p>The recommendation, while not directly related to the scope of the review, is being considered as a part of the department's ongoing legislative review work program.</p>	<p>Active</p>

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<p>7: The Act be amended to provide in section 84 that the AMA consult allied health practitioners and organisations prior to the appointment of the Director.</p>	<p>This recommendation is superseded as the <i>Health Insurance Amendment (Professional Services Review Scheme) Bill 2023</i>, currently before the Senate, amends the AMA consultation requirements for appointment of the Director. Regardless of the amendment, the PSR will continue to consult with relevant stakeholders as necessary.</p>	<p>Superseded</p>
<p>8: a. The department provide to the Minister a proposal for ‘guidelines setting out the terms and conditions upon which consultants may be engaged under section 106ZP(4) of the Act’. The guidelines should reflect the current practice which is that the person appointed not have a conflict of interest and to the extent possible have qualifications and experience appropriate for the case on which advice is sought. b. The <i>Guide</i> and other material on the PSR website be updated to contain information at a broad level as to:</p> <ul style="list-style-type: none"> i) statutory criteria for, and steps taken, to identify an appropriate consultant or professional organisation appointed under section 90 to advise the PSR Director, taking into account the need to ensure the independence and objectivity of the person; and ii) that a consultant appointed under section 90 is a professional whose qualifications and experience should, as closely as possible, match the experience and qualifications of the practitioner under review but is not necessarily a direct ‘peer’ of the practitioner member. 	<p>a. The recommendation is being considered as a part of the department’s ongoing legislative review program. b. The PSR has updated the <i>Guide</i> consistent with recommendation 8b.</p>	<p>a. Active b. Completed</p>
<p>9: The PSR include in the <i>Guide</i> and other material on the PSR website information on the Director’s practice of summarising in the section 89C report relevant elements of the consultant’s advice that the Director accepts, the qualifications and, as appropriate, experience of the consultant, and the absence of conflicts of interest.</p>	<p>The PSR has revised the <i>Guide</i> consistent with this recommendation.</p>	<p>Completed</p>
<p>10: The PSR should:</p> <ul style="list-style-type: none"> a. update the <i>Guide</i> to expand the information relating to the section 92 agreement process taking into account the suggestions in this review. b. include a flow-chart of the process under section 92, updated as necessary. 	<p>The PSR has revised the <i>Guide</i> consistent with this recommendation.</p>	<p>Completed</p>

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<p>11: The PSR should:</p> <p>a. regularly review its website design to ensure the information published is consistent with the Australian Government Digital Service Standards; and</p> <p>b. ensure that its content on section 92 processes is enhanced by webinars and podcasts supplemented by other appropriate hard copy and online sources.</p>	<p>The PSR will continue to update information on its website as required to ensure its currency and to use different modes of communication to support providers in their understanding of the section 92 process.</p>	<p>Active</p>
<p>12: To combat misperceptions about the scheme, professional associations, the AMA, the PSR, and the department, should regularly update their websites to include statistics about compliance outcomes of reviews under section 92.</p>	<p>The department will continue to make improvements to its website to ensure information remains current and relevant for the audience. It is not possible to compel other organisations to do the same.</p>	<p>Active</p>
<p>13: The PSR include in the <i>Guide</i> and on other material on the website indicative examples of criteria used by the Director:</p> <p>i when not accepting a request for a section 92 agreement; and</p> <p>ii the kinds of clinical practices or conduct when deciding to negotiate an agreement.</p> <p>c. the Determining Authority:</p> <p>i when not ratifying an agreement;</p> <p>ii for ratifying an agreement.</p>	<p>The PSR has revised the <i>Guide</i> consistent with this recommendation.</p>	<p>Completed</p>
<p>14: The department should:</p> <p>a. expand the information on the Practitioner Review Program on its website;</p> <p>b. undertake an examination of its letters to practitioners in consultation with the AMA or appropriate College to ensure they are appropriate for the range of responses and recipients.</p>	<p>The department continues to update its website to ensure it contains information to support providers in their understanding of the Practitioner Review Program and the section 92 process.</p> <p>The department will continue to review and update its letters to ensure they are consistent with contemporary regulatory practice.</p>	<p>Active</p>