



Review of Medicare Integrity and Compliance

TERMS OF REFERENCE

Introduction

The Minister for Health and Aged Care has requested an independent, high-level review of the Integrity of Medicare and the compliance mechanisms. The review will focus primarily on the Medical Benefits Scheme.

The three main outcomes sought are the delivery of:

- an assessment of the potential value of non-compliance across the Medicare system
- identification of specific integrity risks related to Medicare payment channels
- an assessment and options for improvements to pre-payment mechanisms and controls, specified compliance treatments and legislative arrangements.

Issues

The Medicare environment is complex and the administration of the scheme requires careful balancing of arrangements to ensure patient access to healthcare, policy objectives, efficiency and integrity priorities are supported.

Services Australia is responsible for the overall administration of the Medicare payments system including claims assessment, provision of claiming channels and management of access to claiming systems by software vendors and billing agents. Various policy areas within the Department of Health and Aged Care (the Department) determine the regulations and payment system restrictions and the Benefits Integrity and Digital Health Division manages health provider payment compliance functions. The Professional Services Review Agency (PSR) is responsible for risks associated with inappropriate practice and related costs to the Commonwealth.

The Department has three legislated planks of compliance treatment: Investigation for potential criminal prosecution, audits against legislative Medicare Benefits Schedule item requirements and requests to the PSR to review professionals who may have engaged in inappropriate practice. This is supported by a wide range of educative, voluntary and behavioural compliance methods.

The primary aim of the review is to consider whether regulation, enforcement and compliance settings are adequately balanced against policy and service priorities.

This is to be informed by an assessment of the levels of potential non-compliance and the Departments current compliance framework and approach.



Scope

The review will:

1. Assess at a high-level, additional measures/controls for the MBS to reduce the risk of fraudulent billing or overservicing before payments are made. Consider measures available to slow, deter and prevent incorrect claiming such as system blocks and authorisations.
2. Assess at a high-level, the integrity risks for the Medicare payment systems and multiple claims channels. In particular, consider whether some claiming channels are more susceptible to misuse and fraud, and steps which could be taken to minimise the risk of fraud and inappropriate practice through these channels.
3. Assess the possible value of fraudulent, non-compliant or over servicing risks in Medicare. Provide a methodology and evidence-based estimate of the likely value of non-compliance in Medicare.
4. Assess the effectiveness, transparency and independence of the Practitioner Review Program and Professional Services Review to identify and scope opportunities for improvements including addressing serious non-compliant behaviours that do not constitute fraud (non-provision) and are not considered auditable under current legislation.
5. Assess the effectiveness, transparency and independence of the Professional Services Review functions.
6. Review the Health Insurance Act and other associated regulations to identify potential improvements to upfront controls for payment and options to strengthen compliance treatments and penalties for fraud, inappropriate practice and non-compliance. Consider the effectiveness of current legislative arrangements for the treatment of non-compliance by non-health provider entities. Also assess the effectiveness of recovery mechanisms for debts due to the Commonwealth, and escalation processes for repeated non-compliance.

The review should consider any resources and other contemporary reviews, including those undertaken by the Australian National Audit Office (ANAO) and the independent review of the PSR and section 92 of the *Health Insurance Act 1973*.

Issues and recommendations that have application to other health programs such as the Pharmaceutical Benefits Scheme or non-legislated programs such as practice incentive payments, will also be articulated in the review.

Timeframes

Interim report to be submitted by 31 January 2023 and final report to be submitted 28 February 2023.



Australian Government

Department of Health and Aged Care

Accountability

Accountability for performance and compliance resides under relevant legislation, including the:

- *Health Insurance Act 1973*
- *Human Services (Medicare) Act 1973*
- *Public Governance, Performance and Accountability Act 2013; and*
- *Public Service Act 1999.*