



RACGP

Royal Australian College of General Practitioners

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RACGP submission

Australian National Audit Office

Managing health provider compliance

December 2019

1. Introduction

The Royal Australian College of General Practitioners (RACGP) welcomes the opportunity to provide a submission to the Australian National Audit Office's *Managing health provider compliance* audit.

The RACGP is Australia's largest professional general practice organisation, representing over 41,000 members working in or toward a career in general practice.

The RACGP is responsible for:

- defining the nature and scope of the discipline
- setting the standards and curricula for training
- maintaining the standards for quality general practice
- supporting specialist general practitioners (GPs) in their pursuit of excellence in patient and community service.

The information provided in this submission is based on member feedback. Of note, the RACGP has received significantly more feedback on compliance activities since the Department of Health (the Department) assumed responsibility for managing health provider compliance in 2015.

2. Submission overview

In summary, this submission highlights:

- that Medicare Benefits Schedule (MBS) item descriptors and requirements are overly prescriptive and focus on administrative processes as opposed to quality patient care
- an increase in compliance activities targeting GPs
- that the Department of Health (the Department) has displayed a willingness to engage with the RACGP around compliance activities. However, its approach to compliance remains focussed on identifying billing outliers and recuperating funds rather than implementing educative and preventive measures
- that many providers feel they have been unfairly targeted by the Department's compliance activities, when in fact they have legitimate reasons for billing or prescribing a certain way
- that providers don't have confidence in the advice provided by government agencies, such as AskMBS, as they frequently report receiving unclear and contradictory advice
- that a greater focus on compliance education and preventive measures is needed for all key stakeholders
- that providers would also benefit from improved transparency regarding Professional Services Review processes.

3. Background

3.1. Complexity of the MBS

GPs have to meet a number of requirements to claim certain MBS items. For example, there are over 30 mandatory requirements for General Practitioner Management Plans (GPMP) and Team Care Arrangements (TCA). The RACGP has consistently argued that these requirements are unnecessarily overly prescriptive and focus on process rather than the quality of the service provided.

Given the extensive regulatory requirements imposed, it is not surprising that many GPs find it difficult to meet all legislative requirements, and subsequently find themselves subject to the Department's compliance activities. In many instances, failing to meet each requirement is not an indication that patients are receiving inappropriate and sub-optimal care.

The RACGP will continue to advocate for involvement of GPs to ensure MBS item descriptors and compliance requirements are fit for purpose.

3.2. Overview of recent compliance activities targeting GPs

The Department has initiated a number of compliance campaigns which are intended to address incorrect payment of Medicare benefits, inappropriate billing or high prescribing rates.

A recent compliance activity summary is detailed below:

Date/Year	Compliance Activity
June 2018	Letters were sent to the top 20% of opioid prescribers warning of relatively high prescribing rates. Further information regarding the Department's efforts to curb excessive opioid prescribing is provided in the case study in Section 3.3.
October 2018	Around 550 GPs and 70 practice managers across the country were sent letters regarding Medicare's Prescribed Pattern of Services compliance rules, known as the '80/20 rule'. The letter states GPs should monitor the number of daily professional attendances and ensure all items billed under their Medicare provider number align with MBS requirements.
July 2019	425 providers – mostly GPs – were sent a 'Review and Act Now' letter regarding claiming activity for bulk bill incentive items 10990, 10991 and 10992.
October 2019	The Department announced its intention to conduct audits of medical practitioners over the next two years in relation to a series of MBS item numbers. Included were items for after-hours attendances, health assessments, GP Management Plans, Team Care Arrangements, Multidisciplinary Care Plans and attendances at operations.
October 2019	Letters were sent to a small number of doctors regarding their alleged incorrect claiming of MBS items relating to acupuncture (173, 193, 195, 197 and 199) and assistance at operations (51300 and 51303) according to the Department of Health's data.
December 2019	The Health Legislation Amendment (Data-matching and Other Matters) Bill 2019 was passed into law. The legislation will enable information held by the Chief Executive Medicare (CEM) to be subject to data-matching for the purposes of ensuring the integrity of programs including the MBS and the Pharmaceutical Benefits Scheme (PBS).

3.3. Case study: Compliance campaign targeting providers with high rates of opioid prescribing

Background

In June 2018 the Department ran a compliance campaign targeting providers with high rates of opioid prescribing. Letters signed by Australia's Chief Medical Officer, Professor Brendan Murphy, were sent to the top 20% of GP opioid prescribers. This included more than 3400 urban and 1400 rural and remote GPs.

The RACGP encourages its members to ensure they are prescribing opioids responsibly. However, issuing warning letters could place patients at risk if GPs' prescribing patterns and decisions are informed by threat of further scrutiny from the Department, rather than clinical best practice. It may also lead to reluctance from GPs to work with certain patient cohorts.

Prior to the campaign launch, the Department did engage with, and seek feedback from the RACGP.

In its feedback, the RACGP raised concerns about the methods used to identify GPs considered as excessive opioid prescribers.

Chief among these concerns was the overrepresentation of identified GPs, working in environments such as aged care, palliative care and rural hospitals where opioid prescribing is higher than other general practice settings.

In response, the Department advised that it was unable to find a reliable method of identifying GPs working in these contexts to reliably exclude them from targeted campaigns.

Experiences of GPs who received letters from the Department

While GPs support the need to reduce inappropriate use of opioids, many have criticised the Department's methods in identifying inappropriate prescribing. GPs have described the letters they received from the Department as threatening.

Palliative Care Australia advised the RACGP that efforts to contact the Department via the number provided in the letter were ineffective, with GPs receiving unsympathetic responses and no reassurance that appropriate prescribing practices would exempt them from further (unnecessary) review.

Following the release of the Department's letters to identified GPs in June 2018, the RACGP surveyed relevant members asking if the letters truly reflected their opioid prescribing patterns. Of those members who responded to the RACGP's survey, 41% stated that the letter did not accurately reflect their prescribing patterns. The majority of respondents (53%) stated that the letter did accurately reflect their prescribing patterns, however their work environments and specific patient cohorts rendered these prescribing patterns suitable and safe. Less than 10% of respondents agreed that the letter accurately reflected their prescribing patterns and they would consider and reflect upon their opioid prescribing as a result.

The RACGP received feedback that the letters had a direct impact on patient access to GPs providing care in palliative care and residential aged care settings. Specifically, one GP reported being told to reduce their opioid prescribing within six months or risk being referred to the Professional Services Review (PSR). This GP had recently taken on four new patients from other GPs who, after receiving the Department's letter, ceased care provision to these patients.

4. Feedback on the Department's approach to Medicare compliance

Measures aimed at preserving the integrity of Medicare and use of health resources by preventing wrongful and fraudulent claiming are supported by the RACGP.

However, the RACGP is concerned that the Department's compliance functions are not currently working as intended. Member feedback indicates that increased compliance activities and the fear of being audited is distracting GPs from their primary focus of delivering high-quality patient-centred care.

This creates a significant disconnect between the processes/requirements GPs need to adhere to (as set out in legislation) and their commitment to ensuring the delivery high-quality patient-centred care.

4.1. Summary of feedback regarding compliance processes

Member feedback suggests there are a number of issues with the Department's approach to managing potential cases of non-compliance. These have resulted in providers feeling they have been unfairly targeted, when in fact they have legitimate reasons for billing or prescribing a certain way.

Improvements can and should be made to more accurately identify cases of non-compliance.

Feedback received by the RACGP indicates that:

- there is a growing perception that compliance activities are designed to monitor and target statistical outliers, as opposed to targeting fraudulent activity

- providers are concerned of being identified as an outlier due to their patient population/practice context and subsequently involved in stressful and often lengthy processes when defending their billing patterns and billing frequency
- compliance measures are unnecessarily intimidating in some cases. For example, many of the Department's targeted compliance warning letters state that the GPs identified may be referred to the Professional Services Review
- the Department should adopt a more considered method of identification that takes into account clinical factors and the characteristics of patient cohorts
- GPs are often unaware of the different stages in the compliance process (ie warning letter, Practitioner Review Program interview, referral to the Professional Services Review) and the roles of the various agencies involved in managing compliance
- guidance on appropriate use of MBS items can be ambiguous and contradictory
- the stress of being placed under investigation can significantly affect the quality and timeliness of patient care and create great financial hardship . The RACGP understands that many GPs are reluctant to use item numbers which provide a larger patient rebate for longer consultations due to the possibility of being identified as an outlier among their peers
- where reasonable, providers should be given the opportunity to rectify issues with their billing before being required to repay funds
- in instances where providers must repay funds, the provider at fault should be informed in a timely manner to prevent the accumulation of incorrect MBS claims over a number of years; leading to fines totalling hundreds of thousands of dollars
- requests for further information following a Practitioner Review Program interview have apparently not been acknowledged.

4.2. Lack of clarity around Medicare claiming criteria

The frequency of member enquiries to the RACGP regarding interpretation of Medicare items and compliance related issues (particularly in relation to when an MBS item number can or cannot be billed) is increasing.

RACGP members have reported that, on occasion, advice received through the AskMBS email service has been unclear or contradicted earlier advice. There have also been instances where advice provided by AskMBS and Professional Services Review communications is not aligned, prompting members to seek clarification from the RACGP.

While the RACGP is supportive of the MBS being regularly reviewed and updated to ensure that items remain clinically relevant, clearer education and communication must be provided in regard to Medicare claiming rules.

4.3. Need for improved education of healthcare providers

Increased compliance activities should be balanced with corresponding educational activities. Where reasonable, health professionals must be given an opportunity to adapt their billing practices prior to being subject to an audit.

The RACGP seeks to work collaboratively with both the Department and the Professional Services Review to develop, improve or promote education and resources for providers in regard to Medicare compliance.

The Department should develop and implement an education program for providers to address specific compliance concerns that have been identified. After an agreed period of time, the Department could then undertake an audit to determine if provider billing behaviour has changed.

The RACGP also welcomes the opportunity to assist the Department in communicating Medicare changes to GPs and, where appropriate, reviewing fact sheets and other resources designed to communicate changes to ensure clarity and relevance to GPs.

5. Discussions with the Department

The RACGP supports members to gain a better understanding of the complex system in which they practice. As such, the RACGP is supportive of Medicare compliance educative processes focusing on prevention of incorrect claiming, rather than punitive measures and blunt instruments which can distract providers from delivering appropriate and high-quality care to patients.

The RACGP is involved in regular and ongoing discussions with the Department around Medicare compliance. We acknowledge that the Department has:

- displayed a willingness to engage with key stakeholders, including the RACGP, around compliance
- provided information and answered questions about compliance
- disseminated information about compliance to members through the RACGP's communication channels.

Despite this, the Department's approach to compliance remains focussed on identifying providers whose billing differs from their peers and recuperating funds rather than the implementation of preventive and educative measures.

The RACGP is committed to building a productive working relationship with the Department in order to benefit members by:

- working collaboratively to develop educational materials and provide advice on approaches to prevent incorrect billing
- improving providers' understanding of the legislative requirements around claiming Medicare items
- providing feedback to the Department on the impact of compliance activities.

6. Professional Services Review

While the Professional Services Review – as an agency separate to the Department – is outside the scope of this audit, we understand the Australian National Audit Office will consider some brief comments regarding the agency's handling of referred providers.

Feedback the RACGP has received from members indicates clearer information about and greater transparency of current processes would foster more trust and confidence in the Professional Services Review process.

Reported issues with the current process include:

- unclear or ambiguous interpretation of Medicare rules between the Professional Services Review and other government agencies
- insufficient provision of information to referred practitioners prior to a meeting with the Professional Services Review Director under Section 92 of the *Health Insurance Act 1973*, which provides an expedited approach to resolving reviews
- a lack of adherence to peer review principles, with Section 92 agreements not reached following discussion between a professional and a committee of their peers. RACGP members have advised that they were not informed of who had reviewed their case, and what their experience/qualifications were.

7. Conclusion

The RACGP welcomes further opportunities to discuss the Department of Health's approach to managing health provider compliance.

Should you have any questions or comments regarding the RACGP's submission, please contact Ms Michelle Gonsalvez, National Manager, Policy and Advocacy, on (03) 8699 0490 or at michelle.gonsalvez@racgp.org.au