



Australasian College of Podiatric Surgeons

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ACPS001/SUBMISSIONS

Via Email: phireport@acc.gov.au

Mr David Salsbury
General Manager
Consumers and Small Business Strategies Branch
Australian Competition and Consumer Commission

Dear Ms Leggett

ACCC Report to Senate on Private Health Insurance

The Australasian College of Podiatric Surgeons (ACPS) thanks the Commission for again inviting a submission regarding private health insurance. This submission follows four previously provided in 2010, 2012, 2015 and 2016.

The College can report there has been no change in the anticompetitive behaviour that private health insurers (PHIs) use when continue to manage podiatric surgical claims. This behaviour continues to place podiatric surgeons at a competitive disadvantage and reduces patient choice.

PHIs continue to be inconsistent in providing funding to their members for podiatric surgery with some providing support and others not funding services at all. This still entrenches anticompetitive challenges relating to patient choice and equity.

The intention of the *Podiatric surgery and other matters Bill 2004* was to ensure admitted private patients being treated by an accredited podiatrist (podiatric surgeon) are able to access benefits, under an applicable benefits arrangement, for the hospital treatment costs **as they would if a medical practitioner provided a professional service**. Unfortunately, the intention of the bill has still not been followed by the majority of PHIs. This represents failure of the intent of the legislation.

The College still believes the refusal of PHIs to follow the intention of the *Podiatric Surgery and Other Matters Bill 2004* represents anticompetitive behaviour. This view is underpinned by the good quality published evidence that exists to demonstrate safety, quality and equivalency with orthopaedic surgeons. Such evidence includes, the College's ACCESS Economics Report submitted in 2012, demonstrating cost effectiveness. In addition, the ACPS Annual National Audit Reports (2013, 2014 & 2015) supplied previously demonstrates safety and quality further supporting equivalency.

Further, podiatric surgeons use the same Medical Benefit Schedule item numbers used by orthopaedic surgeons as service descriptors. In short, podiatric surgeons provide cost effective, safe, efficient and efficacious foot and ankle surgery that is at least equivalent to orthopaedic foot and ankle surgery. Based on this premise, PHIs should be funding podiatric surgery to the same level as orthopaedic surgery to support competition.

Unfortunately, however it is still the case that the majority of PHIs continue to provide misinformation to consumers regarding the training and recognition of podiatric surgeons. Such misinformation includes statements such as, “podiatric surgeons are not recognised”, “they are not real surgeons like orthopaedic surgeons” or “podiatric surgeons are not specialists”. The offending PHIs use the above incorrect premise as a basis for paying limited rebates for hospitalisation, theatre, surgeon and anaesthetist fees. The College has an ongoing file of such correspondence from PHIs to members of the public as further evidence of anti-competitive behaviour.

The ACCC should be acting in this matter considering that, under *National Law 2010*, podiatric surgeons are recognised as AHPRA registered specialist surgeons with accredited training, this approach by PHIs can only be considered anticompetitive.

The anticompetitive manner used by the PHIs described above, means a large discrepancy in the out of pocket expenses which exist between the costs for podiatric surgeons as compared to orthopaedic surgeons. These findings were highlighted on page 3 of the Australian Senate Report on anticompetitive behaviour and other practices by PHIs for the period 1 July 2011 to 30 June 2012. To date, the majority of PHIs have not changed their anticompetitive behaviour.

Recently, a single practice audit of all patients requiring foot or ankle surgery undertaken demonstrated that currently podiatric surgeons operate on only 37% of patients where surgery is indicated and recommended by the podiatric surgeon. The primary reason for the remaining 63% of patients not proceeding to surgery under the care of the podiatric surgeon has been identified as funding. It is not known how many of these patients progress to surgery with the comparator but, given the nature of their condition, it is likely that a substantive number of patients seek alternative professional support. The alternative option would be that they proceed to live with a disease burden that has significant societal impacts, such as productivity loss, as well as significant effects on them personally.

Also noted by the Senate report, was the need for assessment of the costs and/or benefits of recognising particular categories of health care provider. As mentioned above, the ACCESS Economics Report (2010) and the ACPS National Audit Reports (2013 & 2014) provide good evidence of cost effective, safe, efficacious and efficient service provision by podiatric surgeons. Equivalency with orthopaedic surgery is therefore supported answering the question of cost/benefit raised in the 2012 Senate Report. The office of the Private Health Insurance Ombudsman implicitly acknowledges on its website fact sheet the inequity in funding of podiatric surgery when recommending that patients confirm the funding arrangements for podiatric surgery with their individual private health insurer (<http://www.phio.org.au/facts-and-advice/podiatric-surgery.aspx>);

The College also notes with concern the long-standing practice by the majority of PHIs to link their hospital and other rebates to the providers covered under the Medicare Benefits Schedule (MBS). This position is then used as justification for the ongoing refusal to rebate for podiatric surgery or associated services.

The College wishes to inform the Commission it will be submitting a 3rd application to the Medical Services Advisory Committee (application 1344) for listing podiatric surgery on the MBS. It is anticipated that this 3rd application be successful and if so the College expects all PHIs to fund podiatric surgery to the same level as orthopaedic surgery, without exception. However, based on their behaviour over the past 10 years, the College is concerned that equivalent funding by the PHIs will not occur. The College asked again that should this concern be realised, will the Commission investigate and rectify such continued anticompetitive behaviour?

The College continues to believe that considering the equivalency described above, PHIs should be open to rectifying the long standing anticompetitive stance they have taken. "The intention is to ensure that an admitted private patient being treated by an accredited podiatrist is able to access benefits, under an applicable benefits arrangement, for the hospital treatment costs as they would if a medical practitioner provided a professional service." The College again requests any assistance the Commission can provide regarding improving the funding of podiatric surgery both now and in the future. Can the Commission please indicate how it can assist in this matter?

Kind regards

A handwritten signature in black ink, appearing to read 'Peter Manuel', with a stylized flourish at the end.

Mr Peter Manuel, FACPS
President