

Application for Authorisation (AA1000671) from St. Luke's Medical and Hospital Benefits Association

St Lukes response to ACCC Request for Information dated 24 July 2024

Metric Reports

1. We note St Lukes' response to the ACCC's information request dated 13 June 2024 confirms St Lukes' is also seeking authorisation for the ability to issue 'Dental Services Utilisation and Servicing Metrics' reports (**Metric Reports**) to Participating Dental Partner Providers regarding their services delivery and billing to St Lukes members.

a. We note that St Lukes considers it does not '*anticipate that this conduct will actually give rise to competition concerns*'. Please clarify why St Lukes is seeking authorisation for the Metric Reports. We note that the ACCC is empowered to grant authorisation for conduct to which one or more of the competition provisions of the *Competition and Consumer Act 2010* (Cth) would or might apply.

St Lukes is seeking authorisation for the Metric Reports on the basis that, in the past (eg, in the Australian Egg Association cartel case), the ACCC has flagged concerns that similar reports have the potential to influence the behaviour and trading of those businesses who receive those reports.

Whilst St Lukes' intention is naturally to ensure that the Metrics Reports are generated in a manner that will not raise competition concerns, it cannot control how the Metrics Reports will be utilised. Accordingly, given the existence of this risk, St Lukes would prefer that the conduct be authorised.

b. We also note that St Lukes has confirmed '*the Metrics Reports will contain data regarding each Participating Dental Partner Providers' service delivery and billing of St Lukes members and how their practices compare to a de-identified data set of their peers (i.e. other Tasmanian dentists)*'. Please provide further information regarding the preparation and circulation of the Metric Reports, including:

i. what data/information will be collected from Participating Dental Partner Providers and how will this be collected;

No new data will be collected by St Lukes from the Participating Dental Partner Providers. All data that St Lukes will be utilising for the purpose of preparing the Metrics Reports will be historical claims and billing data (such as fees, benefits paid and service codes utilised) which has already been captured through St Lukes' claims engine as part of the claiming and benefit payment process, including HICAPS. Accordingly, Participating Dental Partner providers will have already agreed to the collection and aggregation of that data by St Lukes pursuant to St Lukes General Treatment Service Provider Terms and Conditions.

ii. how will confidential information be treated;

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This data utilised in the Metrics Reports will be aggregated and de-identified and so will not include confidential information that can be linked to a specific provider (with the exception that each individual participant's metrics would be confined to that provider). As the data is historical, it is already quarantined and stored securely on St Luke's internal systems in accordance with its Privacy Policy and APRA Prudential Standard APS234 – Information Security.

iii. how will the Metric Reports be prepared and how will they be circulated to Participating Dental Partner Providers;

At this time, it is proposed that reports will be generated through our analytics reporting software. It will be shared in person with providers when they meet with our Provider Network Manager, followed by sharing by email if requested.

iv. what specific data/information is proposed to be presented to Participating Dental Partner Providers in the Metric Reports;

As per above, historical service delivery and claiming metrics (including billing data such as fees, benefits paid and service codes utilised)

v. will the Metric Reports include competitively sensitive data/information in de-identified single form or aggregated form only (i.e. maximum, minimum and average/median results) of Participating Dental Partner Providers and/or Applicant Dental Practices.

Aggregated and de-identified form only.

St Lukes' Applicant Dental Practices

2. We note that St Lukes will have control over the services provided in an Applicant Dental Practice and that its dental practices will be open to both St Lukes members and the general public at large. We also note that St Lukes' Applicant Dental Practices may compete with other dental practices in Tasmania (including the Participating Dental Partner Providers) and that St Lukes will have access to the usual fee schedules of those Participating Dental Partner Providers per clause 5.8 of the St Lukes Gap Free Network Terms & Conditions.

a. Please provide further information regarding how St Lukes intends to set its prices at its Applicant Dental Practices.

St Lukes intends to set the prices at its Applicant Dental Practices completely independently. This involves benchmarking in the ordinary way against its competitors and by reference to publicly available information and customer feedback. In setting prices for its Applicant Dental Practices, it will not refer to or use in any way copies of any usual fee schedules that are collected from Participating Dental Partner Providers pursuant to clause 5.8 of the Terms & Conditions of the St Lukes Network.

St Lukes intends to use the usual fees schedules for the sole purpose of ensuring claims integrity by detecting any improper price distortion or price inconsistencies on the part of Participating Dental Partner Providers. Accordingly, this purpose is entirely consumer focused and separate/unconnected from decisions about the operation of the Applicant

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Dental Practices. To ensure that any usual fee schedules obtained by St Lukes are used for the intended purpose, and are not used to set prices at its Applicant Dental Practices (or to gain any form of unfair competitive advantage for the Applicant Dental Practices), the usual fee schedules will be appropriately quarantined and secured within St Luke's systems.

b. Please clarify how St Lukes intends to manage any commercially sensitive data/information it may collect from the Participating Dental Partner Providers for the Metric Reports.

The commercially sensitive information collected by St Lukes will be treated in the same way it treats all other commercially sensitive information (such as member, provider or claiming data) that it currently holds in accordance with its Privacy Policy and APRA Prudential Standard APS234 – Information Security.

Discounts and benefits

3. We refer to part 7 of St Lukes' response to the ACCC's request for further information dated 13 June 2024. Please clarify under the St Lukes Gap Free Network Terms & Conditions whether and by how much Participating Dental Partner Providers will be required to extend discounts to St Lukes' members:

a. If the Participating Dental Partner Provider is also a member of another health insurer's capped-fee or no-gap services program that imposes a maximum fee below St Lukes' Maximum Chargeable Fees for the same or similar service.

We would not expect the agreements between other health funds, their members, and dental providers to have any bearing on St Lukes' members, their care or billing.

b. If the Participating Dental Partner Provider offers percentage (rather than fixed dollar) discounts off its usual fees to particular classes of non-member patients, such as health care card holders or seniors.

We would expect this offer to be extended to St Lukes members who satisfy the provider's relevant criteria.

c. If the Participating Dental Partner Provider offers discounts on a discretionary basis based on a patient's financial or other personal circumstances.

We would expect this offer to be extended to St Lukes members who satisfy the provider's relevant criteria.

Future without the Proposed Conduct

4. In applying the authorisation test, the ACCC compares the likely future with the conduct that is the subject of the authorisation, to the likely future without the conduct. St Lukes' submission dated 18 June 2024 states that an alternative model it could potentially adopt includes '*opening Applicant Practices without seeking to collaborate with the existing dental community*'.

Please confirm/clarify whether St Lukes is likely to pursue this model in the event the proposed conduct is not authorised. If St Lukes has considered other options in the event the proposed conduct is not authorised, please provide details.

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At this stage, St Lukes does not have fixed plans on what happens if the Proposed Conduct is not authorised by the ACCC. Our intent is to improve the access to gap-free preventative dental care across Tasmania. As per [response to RFI 2](#), St Lukes developed an alternative offering in 2012 to reduce out of pocket expenses, where participation was effectively at the providers' discretion. Over time, participation decreased, which resulted in more frequent, higher costs to members (i.e. the same public benefits of the model proposed here would not be present).

If the Proposed Conduct is not authorised, Applicant Practices would certainly need to play a greater role in meeting our objectives. However, this model would be unlikely to have the same geographic reach as the proposed model or be capable of delivering the same short term level of improvement to access to gap-free preventative dental care in Tasmania.

Interim authorisation request

5. Thank you for the clarification provided regarding St Lukes interim authorisation request dated 13 June 2024. We note that, if interim authorisation is granted, St Lukes submits that it *'would present the Conditions to potential dental partner providers and, if they agree to participate in the Network, would require them to sign the Conditions'*.

a. Please confirm whether St Lukes proposes to share any commercially sensitive information (such as the 'Maximum Chargeable Fees') with potential Participating Dental Partner Providers if the requested interim authorisation is granted.

Yes - we confirm that St Lukes is proposing to share Maximum Chargeable Free schedules. The intent of interim authorisation if it is provided is to commence engaging with potential participants as soon as possible. Sharing information in respect of proposed fee structures would permit a greater degree of transparency by allowing us to give potential dental partner providers an understanding of what their participation in the Network might look like.

b. If not already addressed in your response to the above, please clarify whether St Lukes is also seeking interim authorisation to collect the information intended to inform the Metric Reports.

As set out earlier in this response the data that will inform the Metrics Reports is historical claims data that is already held by St Lukes.

Gap Free representation

6. We note the concerns raised by interested parties regarding the proposed naming of the program 'St Lukes Gap Free Network'.¹ We also note St Lukes' submission dated 13 June 2024 that *'the nature and extent of the gap free services will be made clear in all promotional material'* for the network and in membership documentation, and that the provision of gap free services is a common benefit amongst other private health funds and that the term 'gap free' only referring to a specific list of service *'is well understood by consumers'*.

¹ Submissions by [A Dental Practice \(25 June 2024\)](#) and [A Dental Practice \(27 June 2024\)](#).

St Lukes is conscious that the proposed name 'St Lukes Gap Free Network' appears to be a recurring issue of concern for the ACCC and the public.

Notwithstanding that St Lukes remains of the view that the proposed name is appropriate,

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that this is a consumer issue (rather than a competition issue), and that the accompanying explanatory materials would mean there was no realistic risk of consumers being confused or misled, it is prepared to adopt an alternative name moving forward (most likely 'St Luke's Dental Network') in the interests of alleviating the concerns that have been raised to date.

- a. Please explain how the nature and extent of the gap free services under the proposed 'St Lukes Gap Free Network' will be made clear in promotional material and membership documentation.

N/A (see above)

- b. Please confirm whether this will be made clear in all promotional material and membership documentation or just in certain instances.

N/A (see above)

- c. Please provide examples of all promotional material and membership documentation which explains the nature and extent of the gap free services under the proposed 'St Lukes Gap Free Network'.

N/A (see above)

- d. Please provide further information supporting the claim that the term 'gap free' only referring to a specific list of services '*is well understood by consumers*' (for example, consumer surveys).

N/A (see above)

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