



**CALMS**

Canberra After hours  
Lodum Medical Service

PO Box 5066 Garran ACT 2605

Fax: 6285 1811

1300 422 567

1300 4CA LMS

Australian Competition and Consumer Commission  
Adjudication Branch  
GPO Box 3131  
Canberra ACT 2601  
Attn. Richard Chadwick  
General Manager Adjudication Branch  
21/09/11  
Re Interim Authorisation Request.

FILE No:

DOC:

MARS/PRISM:

Dear Sir,

Please find attached with this letter application Form FC for the Substitution and Revocation of our existing Authorisation A91092 for CALMS Ltd to operate a "not to exceed fee schedule" for consultations.

I understand that the Commission's timeline for processing such an application is in excess of the time available to our current authorisation expiry date of 31<sup>st</sup> October 2011. In the circumstances I hereby request that the Commission consider the issuing of an interim authorisation to CALMS Ltd whilst the full authorisation process is being undertaken. This will enable CALMS Ltd to continue to offer patients fee guidance with some surety during the application process that extends beyond our current expiry date. Any additional fees that apply in the circumstances we would be happy to pay.

Should you require any further information please do not hesitate to contact me by email on [graeme@calms.net.au](mailto:graeme@calms.net.au), or on my mobile 0438 812 651, or by mail to PO Box 5066, Garran, ACT 2605.

Sincerely,

Graeme Sellar  
General Manager  
CALMS Ltd.

AUST. COMPETITION &  
CONSUMER COMMISSION  
CANBERRA

23 SEP 2011

CALMS Ltd.  
ABN 12 074 282 338

~~AUST. COMPETITION &  
CONSUMER COMMISSION  
CANBERRA~~

~~22 SEP 2011~~

**Form FC**

Commonwealth of Australia

*Competition and Consumer Act 2010 — subsection 91C (1)*

**APPLICATION FOR REVOCATION OF A NON-MERGER  
AUTHORISATION AND SUBSTITUTION OF A NEW  
AUTHORISATION**

To the Australian Competition and Consumer Commission:

Application is hereby made under subsection 91C (1) of the *Competition and Consumer Act 2010* for the revocation of an authorisation and the substitution of a new authorisation for the one revoked.

**1. Applicant**

A91276

(a) Name of applicant: CALMS LTD

(Refer to direction 2 (b) Description of business carried on by applicant: *refer to direction 3*) MEDICAL DEPUTISING SERVICE

(c) Address in Australia for service of documents on the applicant:

PO Box 5066 Garran ACT 2605

**2. Revocation of authorisation**

(a) Description of the authorisation, for which revocation is sought, including but not limited to the registration number assigned to that authorisation:

A91092 – Authorisation to have a not to exceed fee schedule.

(b) Provide details of the basis upon which revocation is sought:

Existing Authorisation is due to expire and the fees are being raised.

**3. Substitution of authorisation**

- (a) Provide a description of the contract, arrangement, understanding or conduct whether proposed or actual, for which substitution of authorisation is sought:

A "Not to exceed" fee schedule for locum practitioners working on the CALMS roster. Copy enclosed See attachment A

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- (b) Description of the goods or services to which the contract, arrangement, understanding or conduct (whether proposed or actual) relate:

Patient consultations in the Afterhours period by locums working with the medical deputising service.

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- (c) The term for which substitute authorisation of the contract, arrangement or understanding (whether proposed or actual), or conduct, is being sought and grounds supporting this period of authorisation:

3 years

.....  
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.....

**4. Parties to the contract, arrangement or understanding (whether proposed or actual), or relevant conduct, for which substitution of authorisation is sought**

- (a) Names, addresses and description of business carried on by those other parties to the contract, arrangement or understanding (whether proposed or actual), or the relevant conduct:

CALMS LTD. Medical Deputising Service.

PO Box 5066 Garran ACT 2605

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- (b) Names, addresses and descriptions of business carried on by parties and other persons on whose behalf this application is made:  
(Refer to direction 5)

Not Applicable

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- (c) Where those parties on whose behalf the application is made are not known - description of the class of business carried on by those possible parties to the contract or proposed contract, arrangement or understanding:

Locum Medical Practitioners working with CALMS Ltd.

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.....

**5. Public benefit claims**

- (a) Arguments in support of application for substitution of authorisation:

See Attachment B

.....  
.....  
(See Direction 6 of this Form)

- (b) Facts and evidence relied upon in support of these claims:

See attachment B

.....  
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**6. Market definition**

Provide a description of the market(s) in which the goods or services described at 3 (b) are supplied or acquired and other affected markets including: significant suppliers and acquirers; substitutes available for the relevant goods or services; any restriction on the supply or acquisition of the relevant goods or services (for example geographic or legal restrictions):

See Attachment B.

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.....  
(See Direction 7 of this Form)

**7. Public detriments**

- (a) Detriments to the public resulting or likely to result from the substitute authorisation, in particular the likely effect of the conduct on the prices of the goods or services described at 3 (b) above and the prices of goods or services in other affected markets:

See Attachment B

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*(See Direction 8 of this Form)*

- (b) Facts and evidence relevant to these detriments:

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.....

**8. Contracts, arrangements or understandings in similar terms**

This application for substitute authorisation may also be expressed to be made in relation to other contracts, arrangements or understandings (whether proposed or actual) that are, or will be, in similar terms to the abovementioned contract, arrangement or understanding

- (a) Is this application to be so expressed?

Not Applicable

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.....

- (b) If so, the following information is to be furnished:

- (i) description of any variations between the contract, arrangement or understanding for which substitute authorisation has been sought and those contracts, arrangements or understandings that are stated to be in similar terms:

.....  
.....

*(See Direction 9 of this Form)*

- (ii) Where the parties to the similar term contract, arrangement or understanding(s) are known - names, addresses and description of business carried on by those other parties:

.....  
.....

*(See Direction 5 of this Form)*



## DIRECTIONS

1. Where there is insufficient space on this form to furnish the required information, the information is to be shown on separate sheets, numbered consecutively and signed by or on behalf of the applicant.
2. Where the application is made by or on behalf of a corporation, the name of the corporation is to be inserted in item 1 (a), not the name of the person signing the application and the application is to be signed by a person authorised by the corporation to do so.
3. In item 1 (b), describe that part of the applicant's business relating to the subject matter of the contract, arrangement or understanding, or the relevant conduct, in respect of which substitute authorisation is sought.
4. In completing this form, provide details of the contract, arrangement or understanding (whether proposed or actual), or the relevant conduct, in respect of which substitute authorisation is sought.
  - (a) to the extent that the contract, arrangement or understanding, or the relevant conduct, has been reduced to writing — provide a true copy of the writing; and
  - (b) to the extent that the contract, arrangement or understanding, or the relevant conduct, has not been reduced to writing — provide a full and correct description of the particulars that have not been reduced to writing; and
  - (c) If substitute authorisation is sought for a contract, arrangement or understanding (whether proposed or actual) which may contain an exclusionary provision — provide details of that provision.
5. Where substitute authorisation is sought on behalf of other parties provide details of each of those parties including names, addresses, descriptions of the business activities engaged in relating to the subject matter of the authorisation, and evidence of the party's consent to authorisation being sought on their behalf.
6. Provide details of those public benefits claimed to result or to be likely to result from the contract, arrangement or understanding (whether proposed or actual), or the relevant conduct, including quantification of those benefits where possible.
7. Provide details of the market(s) likely to be affected by the contract, arrangement or understanding (whether proposed or actual), in particular having regard to goods or services that may be substitutes for the good or service that is the subject matter of the application for substitute authorisation.
8. Provide details of the detriments to the public, including those resulting from the lessening of competition, which may result from the contract, arrangement or understanding (whether proposed or actual). Provide quantification of those detriments where possible.
9. Where the application is made also in respect of other contracts, arrangements or understandings, which are or will be in similar terms to the contract, arrangement or understanding referred to in item 2, furnish with the application details of the manner in which those contracts, arrangements or understandings vary in their terms from the contract, arrangements or understanding referred to in item 2.



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Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra, ACT, 2601.  
Attn. Richard Chadwick  
General Manager Adjudication Branch.  
Re Authorisation Registration Number A91092  
Revocation and Substitution Application  
21/9/11.

Dear Mr. Chadwick,

Please find following supporting notes to our Revocation and Substitution application referred to above. These notes are to be considered as supporting documentation to the information provided in our application form which you will find enclosed with the relevant application fee as discussed. Please do not hesitate to contact me if you have any queries or require any further supporting information.

Sincerely,

Graeme Sellar  
General Manager  
CALMS Ltd.

CALMS Ltd.  
ABN 12 074 282 338



Australian Competition and Consumer Commission  
GPO Box 3131  
Canberra ACT 2601.  
Re Authorisation Registration Number A91011  
Revocation and Substitution Application  
21/9/11

Mr. Richard Chadwick,

The following information is provided by CALMS Ltd; where applicable the information is numbered in order to directly relate to the questions posed in the corresponding numbered sections of the ACCC Revocation and Substitution application form.

CALMS Ltd submits the attached form in the belief that the circumstances that led the Commission to grant an authorization for a "Not to Exceed Fee" fee schedule for Calms Locum doctors still exist today. Notably that the public benefits of such an arrangement outweigh any public detriment. Also CALMS still have a requirement under their accreditation to provide a transparent schedule of fees to enable patients to make informed decisions when determining choice of service. As was the case in 2005 and again in 2008 CALMS Ltd also have contractual obligations in their funding agreement with ACT Health, through to 30<sup>th</sup> June 2013, to provide a "Not to Exceed" schedule of fees. This application is in respect of these obligations and authorisation is requested through to the end of June 2013. It is noted that without authorisation the contract between CALMS Ltd and ACT health would be amended to enable operation without such schedule in place.

**Section 5. Public benefit Claims.**

- (a) CALMS maintains that a not to exceed fee schedule provides a public benefit in that it gives prospective patients of CALMS some surety as to the fees they are likely to encounter for a range of consultations. Without such a schedule the lack of certainty about the fee structure used by CALMS could mean that a significant number of patients who are willing to use the service may choose not to. A capped fee structure will ensure that service charges are transparent, improving access to the service by consumers. The capped fee structure will also ensure that no medical practitioner will charge above the agreed amount, while still being able to charge less or bulk bill. CALMS continue to offer the same valued service in an environment of decreased access to General practice services in hours. (ACT region currently thought to be short at least 70 F.T.E practitioners). CALMS continues to provide in excess of 800 nursing home visits a year with the resultant cost savings to ACT health in provision of both ambulance transport and hospital admission.
- (b) During the initial period of authorisation it can be seen that that consultations were indeed charged at reduced rates or bulk billed indicating the locum practitioners do indeed treat the schedule as intended, i.e. a fee cap.

## **Section 6. Market Definition.**

CALMS Ltd operates solely in the ACT. It provides surgery consultations at co-located clinics on the sites of The Canberra Hospital and The Calvary Hospital, and at Tuggeranong Health Centre. Surgery hours are every evening on weekdays, and during the day on weekends and public holidays. Home visits are part of the service at all sites. The Tuggeranong site operates only on weekends and public holidays. As an accredited Medical Deputising Service, CALMS must provide a service for the entire after-hours period; i.e. from 6pm to 8.30am. CALMS is the only service of its type operating in the ACT.

Patients can seek alternative after-hours primary care in some of the period covered by CALMS at other extended hours medical clinics in the region. These other providers have differing business models resulting in both private and bulk billing services being available. Some of the providers offer home visits and some do not. Patients also can access the Emergency Departments at both The Canberra Hospital and Calvary Hospital. There is no direct cost to the consumer for attending the emergency departments.

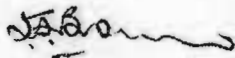
As a direct result of the new model of care implemented by Calms in 2005 patients no longer need to be patients of CALMS member surgeries to access care. Universal access is now guaranteed under the new model (geographical exception for home visits aside).

## **Section 7. Public Detriments.**

CALMS Ltd acknowledges that the existence of a schedule of not to exceed fees does directly affect the ability of Locum practitioners to set their own fees with complete freedom. This could be construed as a detriment to the public. However, we believe the increased transparency for patients of the fee structure is of more significance. A patient is able to make an informed decision when choosing between attending CALMS or the emergency department or other extended hours clinics if available. Furthermore, the fee schedule is a fee cap only, not a fee floor, leaving practitioners free to choose to charge less or bulk bill. This is proven to be a genuine choice by the continued greater than 90% of nursing home visits being bulk billed by CALMS locum medical practitioners.

Should the commission require further supporting evidence please contact myself on 02 6290 0900 or our general manager Graeme Sellar on 0438 812651.

Sincerely,



Dr Ian Brown  
President  
CALMS Ltd.

## CALMS AFTER HOURS FEE SCHEDULE- November 2011

The CALMS Board of Directors advises Locums they may charge a fee not to exceed the fee in this schedule.

Vocationally Registered Locums							
Service	Regular Patients				Concession Card Holders		DVA Patients
	Item No	CALMS not to exceed Fee	Medicare Rebate	Gap	CALMS not to exceed Fee	Gap	DVA Rebate
<b>After Hours Urgent</b>							
After hours Home Visit Mon-Fri 6-11pm, Sat 12- 11pm, Sun 7am-11pm	597	200	122.45	77.55	170	47.55	140.85
After hours Home Visit 11pm to 7am	599	220	144.30	75.7	185	40.7	165.95
Incentive / Veteran Access Payment	10992		8.75				10.25
<b>After Hours —use 5000 series for non-urgent after hours visits OR for second and further patients attended at same address</b>							
A/H Short Consultation	5000	70	27.35	42.65	55	27.65	31.50
A/H short Home visit/institution	5003	165	51.85	113.15	145	93.15	59.65
A/H short Nursing Home Visit	5010	165	71.40	93.60	145	73.60	82.15
A/H Standard Consultation	5020	90	46.25	43.75	80	33.75	53.20
A/H standard home visit/institution	5023	165	70.75	94.25	145	74.25	81.40
A/H standard NH visit	5028	165	90.30	74.70	145	54.70	103.85
A/H Long Consultation	5040	120	79.15	40.85	110	30.85	91.05
A/H Long Home visit/institution	5043	200	103.65	96.35	180	76.35	119.20
A/H Long NH visit	5049	200	123.20	76.80	180	56.80	141.70
A/H Prolonged Cons	5060	155	111.10	43.90	145	33.90	127.80
A/H prolonged Home Visit/institution	5063	220	135.60	84.40	205	69.40	155.95
A/H prolonged NH visit	5067	220	155.15	64.85	205	49.85	178.45
Incentive payment	10992		8.75				10.25
<b>In Hours</b>							
Short Clinic Consultation	3	60	16.00	44.00	45	29.00	18.40
Short Home Visit/institution	4	165	40.50	124.50	145	104.50	46.60
Short NH Consultation	20	165	60.05	104.95	145	84.95	69.10
Standard Clinic Consultation	23	80	34.90	45.10	70	35.10	40.15
Standard Home	24	165	58.40	106.60	145	86.60	68.35
Standard NH Consultation	35	165	78.95	86.05	145	66.05	90.80
Long Clinic Consultation	36	120	67.65	52.35	100	32.35	77.80
Long Home Visit/institution	37	190	92.15	97.85	170	77.85	106.00
Long NH Consultation	43	190	111.70	78.30	170	58.30	128.50
Prolonged Clinic Consultation	44	145	99.55	45.45	135	35.45	114.50
Prolonged Home Visit/institution	47	220	124.05	95.95	200	75.95	142.70
Prolonged NH Consultation	51	220	143.60	76.40	200	56.40	165.15
Incentive payment	10991		8.75				10.25