

Pfitzner, Laura

From: Adjudication
Sent: Tuesday, 15 November 2011 3:44 PM
To: McGinness, Clare
Cc: Dalins, Marie
Subject: FW: Exclusive Dealing Notification N95607 [SEC=IN-CONFIDENCE]

From: Samantha Gavel [mailto:sgavel@phio.org.au]
Sent: Tuesday, 15 November 2011 3:14 PM
To: Adjudication
Subject: Exclusive Dealing Notification N95607

Re: ACCC Reference N95607

I refer to the ACCC's request for submissions in relation to Exclusive Dealing Notification N95607 lodged by Cabrini Health.

By way of background, I can advise that the Private Health Insurance Ombudsman is a Commonwealth Government statutory agency, whose role is to protect consumers' interests in relation to private health insurance.

I have reviewed the information provided by Cabrini Health Limited in its Exclusive Dealing Notification. I understand that Cabrini Health requires access to 24/7 pathology and medical imaging services within its hospitals. Due to recent changes to Medicare Benefits for pathology services, Cabrini Health is concerned to ensure the continued viability of these services.

Cabrini Health is therefore proposing that it will require that any pathology services and medical imaging services for in-patients of Cabrini Hospitals are to be supplied by Cabrini Pathology and Cabrini Medical Imaging and not third party pathology or medical imaging providers. In certain circumstances, however, the patient's medical practitioner may choose a third party provider, for example if the service is unavailable at Cabrini Health or the third party charges a lower price.

Medical Practitioners treating out-patients at Cabrini hospitals will also be encouraged to use Cabrini Pathology and Medical imaging services, but this will not be mandatory.

In order to provide 24/7 services, Cabrini Health indicates that its pathology and medical imaging services need to receive sufficient referrals during the week to remain viable. Cabrini Health is also concerned about the impact on its services of "cherry picking" by outside providers, which may impact on its ability to continue to provide a 24/7 service. Cabrini Health contends that allowing medical providers to use outside providers where it is in the interests of the patient will still allow for competition and prevent any lessening of price competition.

I am not aware of what other pathology and medical imaging services are readily available in the vicinity of Cabrini hospitals, but appreciate that there would be benefits to hospital staff and patients in having ready access 24/7 to these services on site.

I note that Cabrini indicates in its submission that reimbursement for pathology and medical imaging services is mainly through Medicare rebates, which suggests that Cabrini patients do not generally incur out-of-pocket costs for these services. I would have concerns if the requirement to use internal pathology and medical imaging services exposed patients at Cabrini hospitals to higher out of pocket

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costs for these services. I would also expect that where out-of-pocket gaps were to be charged for a pathology or medical imaging service, informed financial consent to incurring the charge be obtained from the patient.

If the proposal is unlikely to increase out-of-pocket costs for patients and given the benefits of retaining 24/7 access to pathology and medical imaging services on-site, and the ability of doctors to refer to other providers in certain circumstances, I would have no objection to it.

Thank you for the opportunity to comment on this matter. Please contact me if you require any clarification or further information in relation to my comments.

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