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Our ref: 0514125

09 December 2011

Dr Richard Chadwick
General Manager
ACCC - Adjudication Branch

Ms Clare McGinness
Senior Project Officer
ACCC - Adjudication Branch

By email

Dear Dr Chadwick & Ms McGinness

CABRINI HEALTH - EXCLUSIVE DEALING NOTIFICATION - N95607

We refer to the ACCC's letter of 23 November 2011 and its request for further information from Cabrini Health (**Cabrini**).

Cabrini responded to Question 1 of the ACCC's request for further information on 6 December 2011.

We are instructed to respond to Questions 2 to 7 of the ACCC's letter as follows:

Question 2

Cabrini regularly makes decisions regarding resource allocation to its medical practitioners who wish to use them, for example, access to operating theatre time, consulting room rental opportunities or catheter laboratory time.

In response to your question, Cabrini may choose to make decisions on the basis of the number of criteria, including:

- quality of care provided to patients;
- Cabrini's operational requirements. For example, whether Cabrini needs another plastic surgeon to provide on call availability;
- whether the person exemplifies Cabrini's Mission, Values and Code of Conduct;
- the person's commitment to postgraduate and undergraduate education;
- the person's participation in management committees;
- the person's participation in Clinical Governance;

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- the person's record of resource utilisation, for example:
 - does the person utilise 70% or more of the time allocated to them;
 - does the person frequently cancel the allocated session;
 - when the person cancels a session, does the person provide Cabrini with adequate notice if the cancellation is foreseeable;
- financials. For example, the contribution from direct patient care and the impact of the person's utilisation of Cabrini's services.

Question 3

It would only be necessary that one of the four requirements in section 2(b) of Form G be met.

Question 4

Upon request, the practitioner would have to demonstrate to Cabrini's satisfaction (acting reasonably) that they are meeting their obligations under (a) and (b).

For inpatients pathology, there would be an expectation that all would be performed through Cabrini Pathology. If the doctor sought to outsource the tests, they would be expected to provide and discuss their reasons with the Executive Director - Medical Services, prior to having Cabrini staff provide the specimens to the external provider.

For outpatients, the question would only be raised in the context of a doctor seeking access to new or increased resources. If the current or intended referral practice was to outsource pathology for patients who are being seen within the confines of Cabrini Health's facilities or for whom an impending admission to Cabrini is planned, Cabrini would seek from the practitioner valid reasons to justify this outsourcing. It is not Cabrini's intention to reduce any existing access arrangements on the basis of current referral practices.

Question 5

Cabrini intends to use various methods of communication including the Medical Staff Newsletter and the Specialty Group Meetings to ensure that medical practitioners are fully informed.

Question 6

Cabrini is unable to comment on the price of services at Cabrini Pathology and Cabrini Medical Imaging with respect to the prices of competing pathology and medical imaging service providers. However Cabrini notes that under the Notification a medical practitioner may form the opinion that it is in the best interest of the patient to be referred to a third party provider if they charge a lower price. Consequently, Cabrini does not understand the need for the ACCC to compare its prices with those of its competitors.

The price lists for all services offered by Cabrini Pathology and Cabrini Medical Imaging are noted in the billing schedules under Annexure 1. Also noted in the billing schedules is information concerning out-of-pocket patient expenses and applicable rebates.

All Cabrini patients are advised of out of pocket expenses prior to agreeing to admission or performance of any diagnostic tests.

Question 7

Cabrini would generally not require a patient to travel any more than 5km to utilise its facilities for out-patient investigations. An inpatient would not be required to travel at all.



Cabrini considers 'out-patients of the hospital' to be those attending specialists within Cabrini's consulting rooms or patients attending specialists in other consulting rooms for whom an admission to Cabrini is planned.

Interested Party Submissions Received by the ACCC

Cabrini notes that a wide range of issues have been raised and considers that these have been adequately addressed in its responses to the ACCC's request for further information. Please advise if further information is required in relation to any specific parts of the interested party submissions.

If you have any queries please contact Marko Filipovic on (03) 9274 5349.

Yours sincerely

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ANNEXURE 1 - CABRINI BILLING SCHEDULES

Cabrini Pathology Billing Schedule

PATIENT STATUS	Billing Rate	Out of pocket (OOP)
Inpatients		
Health Funds – agreed funds	Variable depending on agreement	Nil
Privately Billed – non-agreed funds	184% of Schedule Fee	Maximum OOP of \$400/hospital stay
Privately billed pensioners, staff or Chemocard holders	Schedule Fee	Nil
Outpatients		
Bulk billed	MBS rebate	Nil
Privately billed	184% of Schedule Fee	Maximum OOP of \$90/episode
Pensioners, staff or Chemocard holders	Bulk billed	Nil
Pre-admission Clinic	Bulk billed	Nil
ED patients	As above depending on admission status	

Cabrini Medical Imaging Billing Schedule

PATIENT STATUS	Billing Rate	Out of pocket (OOP)
Inpatients		
Health Funds – agreed funds	Variable depending on agreement	Nil
Privately Billed – non-agreed funds	Variable on test requested. Not set %	Maximum OOP of \$500/hospital stay
Privately billed pensioners, staff or Chemocard holders	Schedule Fee	Nil
Outpatients		
Bulk billed – eg. Ref Drs	MBS rebate	Nil
Privately billed	Variable on test requested Not set %	Maximum OOP of \$180 /episode Maximum \$ 300 for multiple examinations
Pensioners, Healthcard ,CCC holders	Bulk billed	Nil
Pre-admission Clinic	Bulk billed	Nil
ED patients	Av above depending on admission status	