Public Pathology AUSTRALIA

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Putting patients first

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Executive Summary

Public Pathology Australia is the national peak body for public - government owned and operated - pathology services across Australia.

Pathology services under the Medicare Benefits Schedule (MBS) play an important role in enabling patients in the community to receive timely diagnoses, monitoring of appropriate management and optimising the treatment of disease.

Public Pathology Australia recommends that the Government increase MBS fees for public pathology services to the same rate received by other pathology providers.

Public pathology providers must be rebated the same patient episode initiation and bulk billing incentive fee as private for profit and not for profit pathology providers. This would enable them to sustainably provide bulk billed pathology services to patients in the community. These bulk billed services exert competitive pressure on private providers to continue to bulk bill pathology tests. These services avoid higher downstream costs associated with delayed diagnoses and treatment. The investment would also ensure that services are sustainably provided to patients in rural and remote areas where private providers deem it not profitable to service. The introduction of funding parity between pathology providers would require an investment of approximately $20 million per annum. Funding parity would address issues of health inequity, provide greater patient choice, continuity of care and competitive pressure to ensure the Federal Government receives value for its investment in the pathology sector.

A $20 million investment in pathology MBS fee parity would ensure patient access to bulk billed pathology services in areas of need.

Public Pathology Australia recommends that the Government action the pathology related MBS Review recommendations. Public Pathology Australia recommends that any savings made in this process be committed to rectifying underfunded pathology items. Any new items proposed in the MBS Review must receive additional funding.

The pathology MBS table is not in line with contemporary clinical practice and needs to be updated. The financial impact of the MBS Review recommendations on the pathology sector and patients depends on which recommendations are pursued, together with when and how they are implemented. There is a risk that the pathology sector would be destabilised and access to pathology services threatened if the MBS Review recommendations are instigated in the absence of reinvestment, additional funding for new items and careful scheduling when implementing changes. This is due to the high degree of cross-subsidisation within the Pathology Services Table of the MBS.

MBS Review pathology recommendations should be actioned. Any savings should be reinvested in underfunded pathology items and new items should receive additional funding to sustain viable contemporary pathology practice.

Public Pathology Australia recommends that the Government change the referred pathology test MBS rules so that all MBS claimable tests referred to an unrelated laboratory for testing receive payment under the MBS.

Referred tests should always be paid as they require specific expertise and are clinically necessary for the care of patients. The current MBS rules must be changed to minimise claiming rejections and ensure that pathology providers will continue to provide these specialised tests and not charge for these tests.

MBS rules must be amended so all appropriately referred tests are claimable to ensure these specialist tests are available without co-payments.

Background

Public Pathology Australia

Public Pathology Australia is the national peak body for public pathology in Australia.

Pathology is the medical specialty that focuses on determining the cause and nature of disease. By examining and testing body tissues (e.g. biopsies) and fluids (e.g. blood, urine) pathology helps doctors diagnose and treat patients correctly. 70 per cent of all medical diagnoses and 100 per cent of all cancer diagnoses require pathology.

Public pathology is the foundation of pathology in Australia. Public pathology represents a core part of Australia's public hospital and health care services. Unlike other pathology providers, public pathology providers operate for the benefit of the public health system and its patients.

Public Pathology Australia members are the major government owned and operated pathology services in each State and Territory in Australia. They provide the vast majority of pathology services in Australia's public hospitals and service several private hospitals. Public pathology also provides community-based collection services for patients upon referral from GPs and Specialists under the Medicare Benefits Schedule (MBS).

In addition to diagnostic services, our members conduct research and teaching in the areas of new and existing diseases, tests and treatments, and collaborate closely with colleagues in all areas of patient care, with many pathologists also performing clinical roles. Their laboratory testing and medical consultation services play a crucial role in timely clinical diagnosis, in monitoring therapy and in prevention of disease in individuals and the community.

Value of Public Pathology

Provides comprehensive access for all patients

Helps protect our communities

Provides high quality, integrated care

Undertakes research, education and training

Provides expertise in complex medicine

Operates for the benefit of the public health system and its patients

The Pathology Market

The Australian MBS funded pathology market is highly consolidated. Barriers to entry and compete in the industry are high. This has been due to heavy regulation, the high cost of building large laboratories, intensifying competitive pressures, the cost of collection centres, building a referral base and the presence of economies of scale and scope.[1] The basis of competition has been on volumes and securing market share by offering high rents for collection space within especially large and multi-provider medical practices or by vertical integration and buying out of medical practices. Growth by acquisition of smaller pathology practices has also been a driving strategy for the largest corporate pathology providers.

Collectively, public pathology providers occupy 11% of the MBS pathology market nationally, and in some states this figure is over 30%.[2] Public pathology providers compete on the basis of quality and accessibility to the service (particularly in rural and remote locations). They do not compete by offering artificially high rents for collection space. Volumes are dependent on the geographical area in which public providers are authorised to operate and to what degree the private pathology companies service those areas. Not all public laboratories undertake the same level of MBS billing. MBS revenue equates to 12% - 59% of expenditure budget of public providers.[3] WA, SA and NSW have a relatively large network of collection centres to service the needs of their respective populations. Public providers tend to provide the services that the private sector deems unprofitable. For example, public pathology provides after hours services, complex histopathological examinations, genetic tests and service remote communities (e.g. APY lands of South Australia). Public pathology providers fill an important gap in the market.

There are over 5000 Approved Collection Centres in Australia and several hundred of these are operated by the public sector.[4] The public sector plays a critical role in the MBS-funded pathology market. The public sector provides quick turnaround times for pathology results, is an alternative provider of bulk-billed services and ensures that patients do not have to travel extensively to access pathology services. By way of example, PathWest operates 77 collection sites. 55 (71%) collection centres are located outside the metropolitan area. 18 collection sites are in remote areas where there are no GPs, 25 are in rural areas and 12 are in regional areas.

Public Pathology for equitable access to pathology

[1] Ibis (2014) Pathology Services in Australia.
[2] http://medicarestatistics.humanservices.gov.au/statistics/mbs_group.jsp for 2019/2020. For example, SA Pathology occupies 35% MBS market share in South Australia.
[3] Public Pathology Australia (2014), Member Survey.
[4] Australian Government https://www2.medicareaustralia.gov.au/pext/pdsPortal/pub/approvedCollectionCentreSearch.faces

Inequitable Pathology MBS Fees

Pathology MBS Fees

Within the Pathology Services Table of the Medicare Benefits Schedule (MBS), there are three broad types of pathology items:

(1) Groups P1-P8 Pathology Test items.

(2) Groups P10-P11 Pathology Episode Initiation and Specimen Referral items. These are referred to as PEI Fees.

(3) Groups P12 and P13 Bulk Billing Incentive items.

Providers, whether public or private, are entitled to claim MBS fees for tests for MBS-eligible patients in line with the Pathology Services Table. Public pathology providers receive less under the MBS fees compared to private laboratories for PEI fees and the Bulk Billing Incentive.

PEI Fees

PEI fees are for management of specimens and tests. Public pathology providers only receive a nominal $2.40 PEI compared to fees between $5.95 and $17.60 depending on the nature of the specimen collection episode in the private sector.

Both private and public pathology providers incur the costs which the PEI was intended to be used as reimbursement, such as collection centre rent, use of equipment and consumables, staff, marketing, education, collection, transport, report delivery, invoicing and receipting. Pathologists employed by public laboratories are required to meet these costs usually by payment of infrastructure / management / facility fees. These costs are not covered by State Government funding.

Originally there were no PEI fees for the public sector. However, as the public sector incurs the same type of costs as the private sector, a PEI was introduced for the public sector on 1 May 2007. A lower fee was introduced with the **intention to remove the distinction between public and private laboratory access to PEI items** under the Pathology Quality and Outlays Memorandum of Understanding 2004-2009 signed between the Federal Government and the pathology profession.

Bulk Billing Incentive Fees

Public pathology providers receive a nominal $1.60 in Bulk Billing Incentive compared to between $2.00 and $4.00 for private pathology providers. This fee is tied to the PEI.

Current Status

The pathology sector (as represented by Public Pathology Australia, the Royal College of Pathologists of Australasia (RCPA) and the private sector Australian Pathology group) reached agreement on the need for funding parity in the 2018 Pathology Agreement negotiations. Unfortunately, this Agreement was not finalised, and funding parity has still not materialised.

Different MBS fees for public and private pathology provide a competitive advantage to private providers. The inability of the public sector to financially sustain community services disadvantages patients in terms of access through a reduction in service locations and affordability as reduced competition makes it more common for the private pathology providers to charge co-payments.

MBS fees must be changed so all pathology providers are paid the same for the same tests for equitable access to pathology services

Need for Funding Parity

A sustainable and diverse pathology sector is essential to ensure patients have access to pathology services. Funding parity is required to enable the public sector to maintain its presence in the market, to offer effective competition and to provide bulk billed services in areas of need. This would address issues of health inequity, provide greater patient choice, continuity of care and competitive pressure to ensure the Commonwealth receives value for its investment in the pathology sector.

Health Equity

Retaining capacity to provide community pathology services through the public sector is critical to ensuring there is sufficient capacity to meet appropriate levels of demand. The private sector prioritises profit over patient needs and will not deliver services in unprofitable areas. The public sector provides these services and is the backbone of pathology services in Australia. A viable public sector is essential to ensuring health equity. Funding parity will demonstrate the Federal Government's commitment to ensuring all patients have access to pathology services.

Patient Choice & Continuity of Care

Higher fees for private pathology companies provides an unfair competitive advantage. It restricts competition. The public sector cannot afford to enter new markets, and this restricts choice and impacts access for patients. Patients tend to not make an informed choice about their pathology provider and rely on the branded request form they received from their requesting doctor.

Funding parity would offer patients more choice. Funding parity would enable public pathology services to extend their reach in areas of need. Public pathology is important in ensuring continuity of care from inpatient episodes to community treatment. For example, having pathology provided by the one public provider would enable consistent reporting and monitoring of patients as they pass through the continuum of care from an inpatient stay through to stabilisation and ongoing management in the community. Limiting public sector involvement in the community pathology market due to funding arrangements fragments the provision of healthcare to patients.

Funding parity would demonstrate government's commitment to prioritise patient care over corporate profits. Funding parity would be an investment in the health of Australians.

Capacity

The large private pathology providers are known to be paying significantly above market rent for Approved Collection Centre space to secure referral streams. The large private providers have also been acquiring medical practices to provide vertically integrated services with only one pathology and radiology provider. The public sector does not pay excessive rent for collection space as this would be misuse of public funds. Instead, they tend to operate in areas where private pathology providers have no or little presence or where they are required to support hospital services. Should public providers withdraw from the community pathology market space, it is unlikely that the private sector will fill the gap in the unprofitable areas such as rural and remote locations.

Competition

Where government changes to policies have a demonstrable flow-on effect to pathology, MBS fees can be and have been adjusted. However, public pathology MBS fees have not been adjusted to reflect principles of open competition that were the basis of the 2001 regulatory change. This change meant that public and private pathology providers could open collection centres wherever they deemed appropriate.

To have a world class pathology service, patients need to have access to high quality, affordable pathology services. A higher PEI and Bulk Billing Incentive for private providers gives them a competitive advantage over public providers. There are also inherent risks in the market with only two dominant providers. Equal remuneration would assist in levelling the playing field and mitigating these risks. High quality, bulk-billed public pathology services provide competitive pressure on the private sector to also deliver high quality services.

Competition affects pricing behaviour in the pathology market. Where public pathology providers have a strong presence in the community pathology market, improved access and higher bulk billing rates result.[5] This is supported by a review of private pathology billing policies which showed that the 'gap fee' or out-of-pocket cost charged by private pathology providers is lower in areas where public pathology providers have a strong presence in the community.[6] It has been stated that "**Public pathology provision in the community therefore serves important public health policy objectives**."[7] Failure to receive equity in PEI and Bulk Billing Incentives will challenge the sustainability and affordability of public pathology and its role in providing a balance in the pathology market.

Furthermore, under the principles of competitive neutrality, private pathology providers have secured public hospital tenders for pathology services and are therefore partly funded by state governments. However, patients of bulk-billed (so-called privatised) outpatient clinics have their samples collected in the community by the private provider, who will charge Medicare the private (higher) fees as their owner is not a prescribed (public) laboratory. There is no competitive advantage for the public sector in being funded by state government. There is also no identified subsidy in Commonwealth funding arrangements for publicly provided non-hospital pathology collection services.

Cost of Collection

Given the fee attributable for doing the tests are the same from both public and private pathology providers, unless there is a clear and explicit difference in costs for collection of the specimen, then the fees for the collection should also be the same.

The public PEI of $2.40 does not cover the true costs associated with collection and these transactional costs are not cheaper in the public sector compared to the private sector. Even in a suburban or metropolitan collection centre, the staffing cost alone will exceed the PEI by a factor of 2 to 3. Episodic pathology costs include rental, collection equipment, tubes and IT infrastructure to name only a few. The real cost of collection is in the range of $15-20 depending on the number of collections in the centre.

In addition, the public sector must fulfil community service obligations and provide services in rural and remote areas. One only has to think of a pathology specimen collected in a remote Western Australian community or the APY lands of South Australia by the public pathology providers, to put transportation costs into perspective.

Other Branches of Medicine

Nowhere else in the MBS is there a distinction between public and corporate (private) medicine. The PEI fee is unique in medicine in that it applies only in pathology. The reasoning that led to the introduction of the PEI does not appear to have been applied to any other branch of medicine.

Administrative Precedent

There is no administrative impediment to instituting fee parity, and this has been achieved elsewhere in the MBS, for instance when the public sector was given access to P11 items (prior to 2007). Catholic Healthcare laboratories associated with NSW Schedule 2 Hospitals (and analogous arrangements in other States) were given access to the private PEI in 1999/2000.

Change required

To ensure that the public and private sectors are remunerated the same amount for the same tests, a change to MBS Rules (e.g. P.6.2) and adjustment to P10 PEI (and associated items) and P13 Bulk Billing Incentive fees are required. The Department of Health has modelled the financial impact of this change to be in the order of $20 million per annum.

Funding Parity Impact

Public pathology providers play a critical public interest role in ensuring that the full range of testing is available, not just the most profitable, and that all patients can access pathology testing based on need, not on the ability to pay. Public pathology is committed to bulk billing its patients and maximising opportunities for equal access to high quality pathology service. However, the costs of operating collection centres are continually reviewed to maximise the efficiency and consideration to the closure or winding back of services is constant. Increasing MBS fees to the public pathology sector will enable greater financial stability and certainty for patients and medical practitioners, particularly in regional and rural areas.

[5] ACT Treasury (2012), Competitive Neutrality of Community Pathology Services Summary Paper.

[6] Public Pathology Australia billing policy survey 2018.

[7] ACT Treasury, Ibid.

In SA alone, funding parity would enable consideration of the following:

- continuation of services at Yorktown which commenced mid 2015 however its financial position is marginal – there is no other pathology collection within this area;
- establishment of a collection service at Burra where there is currently no collection service. Doctors visit from Clare twice a week and will collect specimens themselves where required, reducing the available consultation times;
- the financial position for pathology collection at Ceduna would support the business case to establish a collection centre at this Western Eyre Peninsula town.

MBS Review

Background

The MBS Group P1-P8 Pathology Test item fees do not generally reflect the cost of the tests performed, nor do they always reflect contemporary best practice. MBS pathology fees may exceed the cost of providing the test or be less than the cost of the tests. That is, there is a significant degree of cross-subsidisation within the Pathology Services Table (PST) of the MBS. Where MBS fees are less than the cost of the tests, pathology providers may charge a co-payment or not offer the test. This affects the ability of patients to access the pathology services that they need.

Public Pathology Australia supports the Federal Government's MBS Review and its aim to align items on the MBS with contemporary clinical evidence and practice and improve health outcomes for patients. Public Pathology Australia believes its response to the MBS Review recommendations[8] will achieve the goals of:

- affordable and universal access to healthcare;
- best practice health services;
- value for the individual patient;
- value for the health system.

There are many significant changes to the PST proposed in the MBS Review and these are largely well reasoned, sensible and in line with modernised clinical care and testing approaches within pathology laboratories. Public Pathology Australia trusts that the Federal Government will consider its position statement on the MBS Review to ensure that the pathology sector remains viable and patients can access the tests that they need.

[8] https://publicpathology.org.au/wp-content/uploads/2019/01/PPA-MBS-Review-Submission-full-submission-30-Nov-2018.pdf

MBS Review Impact

The financial impact of the MBS Review recommendations on the pathology sector and patients depends on which recommendations are adopted, together with when and how they are implemented. If the MBS Review recommendations are instigated in the absence of reinvestment and careful scheduling, there is a risk that the pathology sector would be destabilised and access to pathology services threatened.

There is a need to ensure that the PST reflects both contemporary clinical practice and the cost of tests. This requires some degree of cost shifting from other areas of the MBS. Significant cost savings from laboratory automation, reduction in staffing and centralisation of services have been made over time, but these innovations have mainly come in the areas of high-volume haematology and chemical pathology tests where there is little pathologist input and it has not been possible to extend these savings to some of the other areas of pathology particularly anatomical pathology which remains medically and scientifically labour intensive. Maintaining silos of funding for each discipline in PST Groups over the years to reflect relativities established when Medicare began in the 1980s has been in part responsible for the current state of underfunding of certain tests as they grew in complexity and cost over the decades. MBS rebates should cover the costs of providing pathology tests. Funding inequities can lead to perverse incentives to promote particular profitable tests at the expense of the less profitable tests. This can result in reduced access to less profitable tests and can waste health dollars if the profitable tests can be subject to over-ordering.

As a consequence of implementing the MBS Review recommendations, any financial reductions in MBS pathology outlays in one part of the PST must be applied to increase fees for underfunded items. Any new MBS items must be funded through additional funding. This is due to the high degree of cross-subsidisation in the PST.

Currently anatomical pathology, microbiology and genetics is underfunded, and is cross subsidised by chemistry and haematology. Anatomical pathology, microbiology and genetics should gain new items, have less coning and increased fees in balance, providing increased revenue for these disciplines as a proportion of all disciplines. The MBS Review recommendations should disincentivise over ordering whilst encouraging appropriateness of pathology ordering and therefore rebates must cover the actual costs of providing the tests in pathology episodes.

Changes to the PST will have to be scheduled to minimise disruption and negative changes must be balanced with positive financial outlays. Modelling the impact of changes based on activity levels and costings from both public and private pathology providers is crucial before any changes take effect.

There is a need to address cross-subsidisation and to ensure MBS rebates reflect the cost of tests. This must be considered in an episodic sense and therefore public sector PEI and Bulk Billing Incentive fees must be increased to achieve parity with other providers before the MBS recommendations are implemented.

Financial neutrality is required when making changes to existing items on the PST. New MBS pathology items must receive additional funding. This is the only approach would ensure the sustainability of the pathology sector so that patients have access to the testing they need.

MBS Review pathology recommendations should be adopted.

There should be financial neutrality for changes to existing MBS items and additional funding for new MBS items to ensure the viability of the pathology sector.

Referred Tests

A sustainable and diverse pathology sector is essential to ensure patients have access to pathology services. Not all laboratories have the expertise to provide the full range of tests, and in a number of cases the MBS rebate is insufficient to cover the costs of tests. In these cases, tests are commonly referred to other laboratories and Rule 6 of the MBS applies.

Rule 6 is an overly complex rule which deters providers from accepting referred tests. It also places an onerous administrative burden on the processing arm of Medicare as different payment rules are applied via a translation table to process claims. There are considerable risks to patients should providers cease to accept referred tests or instigate charges for referred tests.

Under Rule 6, the recipient specialist laboratory (referral laboratory, practitioner B) is penalised and the originating laboratory can benefit.

I. Referred test coned out especially in a general practice setting.
Viz. the originating laboratory has already billed the three most expensive tests in the episode before the referral laboratory receives the sample and so when they claim for the referred test it is rejected by Medicare due to the grand cone.

II. Item fee does not cover the costs of performing the test.

Example – referral laboratory only receives $7.20 for referred part of a PCR test under 69498 which does not cover costs.

III. The originating laboratory can selectively refer tests depending on the financial impact. *Example item 66734 Thyroid Stimulating Hormone (TSH) plus 5 tests in item 66695 (which is item 66734 $90.55). Originating laboratory refers TSH so they can claim item 66707 ($83.35) otherwise all they would receive for the TSH is $7.20 as opposed to $25.05 under item 66716.*

The referred test rule discourages specialist laboratories from accepting samples from other laboratories. If the referral laboratory refuses to accept the specimen, access to tests is reduced. Alternatively the referral laboratory may issue a co-payment for the test which should be bulk billed at no cost to the patient.

By shifting the burden to another laboratory, the current arrangements provide a disincentive to move to new technologies and testing opportunities.

Referred tests should always be paid as they require specific expertise and are clinically necessary for the care of the patient.

Rule 6 should be simplified so that if the originating Approved Pathology Authority (APA) does not perform the requested test, and a referral APA does and *is not owned or related* to the originating APA, then the referral APA should be able to bill for the referred test at the same amount as would otherwise be payable within the MBS. Referred tests should then be treated as items in their own right and not subject to any coning or other rules from the original request.

Resolving issues associated with Rule 6 would not pose a significant cost to Government. There would be partial offset in administrative savings to Services Australia.

Changing Rule 6 would ensure access to the full range of pathology tests by patients. Amending Rule 6 would:

- be an investment in the health of Australians;
- ensure better access to the full range of pathology services;
- demonstrate the Government's commitment to Medicare funded pathology; and
- deliver on the MBS Review's goals of affordable and universal access to healthcare; best practice health services; value for the patient; and value for the health system.

Rule 6 must be replaced with a simplified rule that ensures all appropriately referred tests are claimable through the MBS.

Recommendations

Public Pathology Australia recommends that the Government increase Patient Episode Initiation and Bulk Billing Incentive MBS fees for public pathology services to the same MBS fee paid to private pathology providers.

For the same test episode, all pathology providers should be paid the same fee under the MBS to ensure fair access to quality pathology services for all Australians. This will allow the public sector to maintain its presence in the market, to offer effective competition and to provide bulk billed services in areas of need.

Funding parity would ensure the Federal Government receives maximum value for its investment in the pathology sector.

> A $20 million investment in pathology MBS fee parity would ensure patient access to bulk billed pathology services in areas of need.

Public Pathology Australia recommends that the Government reinvest any savings made in the MBS Review in underfunded pathology items. Any new items recommended in the MBS Review should be funded through additional funding.

The financial impact of the MBS Review on the pathology sector and patients depends on which recommendations are pursued, together with when and how they are implemented. There is a risk that the pathology sector would be destabilised and access to pathology services threatened if the MBS Review recommendations are instigated in the absence of reinvestment, additional funding for new items and careful scheduling when implementing changes. This is due to the high degree of cross-subsidisation within the Pathology Services Table of the MBS.

> MBS Review pathology recommendations should be actioned. Any savings should be reinvested in underfunded pathology items and new items should receive additional funding to sustain viable contemporary pathology practice.

Public Pathology Australia recommends that the Government change the referred pathology test MBS rules so that all tests referred to an unrelated laboratory for testing receive payment under MBS.

Referred tests should always be paid as they require specific expertise and are clinically necessary for the care of the patient. The current MBS rules must be changed to minimise claiming rejections and ensure that providers will continue to provide the tests and not charge co-payments.

> MBS rules must be amended so all appropriately referred tests are claimable to ensure these specialist tests are available without co-payments.

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