Australian Government

Department of Health and Aged Care

Ministerial Submission – Standard
MS23-000782
Version (1)
Date sent to MO: 5 June 2023

To: Minister Butler

Subject: Prostheses List Reforms - Revised approach for the removal of General Use Items

Critical date: 9 June 2023 – communications to key stakeholders needed before 1 July 2023

Recommendations:

1.	**Note** the issues raised during consultation undertaken by the Department on the previously approved approach to establish bundled benefits following the removal of General Use Items from the Prostheses List (PL) on 1 July 2023, including the high level analysis of submissions and additional consultation undertaken by the Department (**Attachments A1 and A2**)	1. **Noted / Please discuss**
2.	**Note** the revised proposal to progress removal of General Use Items from the Prostheses List as foreshadowed with the sector since 2021.	2. **Noted / Please discuss**
3.	**Note** the bundles developed by Independent Health and Aged Care Pricing Authority and the bundling tool will remain available to support negotiations between hospitals and insurers to enable fair reimbursement for the GUI group of items.	3. **Noted/ Please discuss**
4.	**Agree** to retain General Use Items on the Prostheses List for a further 12 months before cessation of benefits from 1 July 2024	4. **Agreed / Not agreed / Please discuss**
5.	**Agree** to an additional annual benefit reduction of 10 per cent being applied to all General Use Items from November 2023 to bring these items closer to alignment with the lowest public benchmark price rather than the average weighted benchmark price whilever these items remain on the PL.	5. **Agreed /Not agreed / Please discuss**

Signature .....

Date: 08/06/2023

Media Release required? NO

Comments:

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Issues:

1. You previously agreed to the Department progressing a transitional arrangement to remove nearly 500 General Use Items from the Prostheses List (PL), temporarily requiring insurers to pay benefits for bundled General Use Items under the Private Health Insurance (Benefit Requirement) Rules 2011 (BRRs) from 1 July 2023 (**Attachment B**).
2. The Department engaged the Independent Health and Aged Care Pricing Authority (IHACPA) to develop advice on appropriate bundling arrangements to inform implementation of bundled benefits, with three possible variants proposed by IHACPA (**Attachment C**). Each variant was developed on the basis that the overall benefits paid for the proposed bundled arrangements for General Use Items remained largely consistent with the benefits currently paid for General Use Items. Due to the averaging effect of bundling, there would be some variances where some hospitals would see a relative increase in benefits paid, while other hospitals would see a relative decrease in benefits paid. Similarly, some insurers would see relative increases or decreases.
3. IHACPA has conducted an initial analysis (**Attachment D**) of these variances and determined that approximately 95 per cent of total existing benefits for General Use Items would be delivered to the same individual hospitals under a bundled arrangement. IHACPA has also determined that Variants A and B lead to 7 per cent of total benefit variance at the hospital level, and Variant C reflects only 4 per cent of total benefit variance at the hospital level.
4. The Department released a consultation paper to the sector and held numerous additional meetings with software vendors, private hospitals and technical officers to inform implementation of the bundling methodology under the BRRs from 1 July 2023.
5. Consultation has concluded there are significant issues with adjusting internal business systems that manage the patient admission, theatre fees, billing and claiming as well as procurement and inventory control that would not be ready for 1 July 2023 implementation. This response was unexpected given that removal of General Use Items is not a new initiative, with the sector originally advised in 2021 of removal of these items from the PL to occur from March 2022 before an extension to 1 July 2023 was agreed. The sector has assumed that reforms will be delayed if they take no action to implement them, and for hospitals no reform is the preferred approach.
6. Private hospitals have advised that even with a longer lead time for implementation, they do not support bundling arrangements for General Use Items due to an unacceptably high degree of variance from their current expenses and revenue. Again, this response was unexpected as the concept of bundling arrangements was originally proposed by private hospital representative organisations and a private health insurance representative in 2021 (**Attachment E**) and IHACPA's modelling indicates minimal variances from the current benefits.
7. Private hospitals also indicated that even in the event the "least worst" of IHACPA's options (Variant C) is implemented, the investment required by the sector is significant so do not support its introduction as a temporary arrangement.
8. Considering all consultation feedback on the implementation of bundled General Use Items outside of the PL from 1 July 2023 as originally agreed, the Department has concluded that implementation of this approach is no longer feasible. Further information on the concerns raised by stakeholders in response to the consultation paper is at **Attachment A1** and a summary of the additional consultation undertaken by the Department in relation to General Use Items is at **Attachment A2**.

Revised approach for the removal of General Use Items

9. The PL structure has been designed for single use implantable devices and for setting benefits for these devices that insurers must pay. This funding mechanism is not considered appropriate for General Use Items that are typically low cost, multi-purpose items used widely in hospital procedures.
10. Tightening the scope of the PL and removing ineligible General Use Items is an important piece of structural reform. It allows the PL to be refocussed on high-cost implantable devices and other specific purpose medical devices used in medical procedures. This includes adding to the list some high-cost non-implanted devices that the sector has lobbied for.
11. It also ensures clearer boundaries between products where the Government regulates the price, and those input costs to hospital treatment where the Government does not regulate prices. There are several sponsors seeking to list General Use Items on the PL that are either direct competitors for existing listed items, or would like Government-regulated prices for other types of consumable goods used in hospital treatment. The Department is currently deferring these applications due to the Government Budget decision to remove General Use Items from the PL.
12. Given the timing, opposition from the sector and issues with implementing a bundled benefit requirement for General Use Items on the BRRs from 1 July 2023, the Department recommends that the existing benefits for General Use Items should be retained on the PL for a further 12 months from 1 July 2023 to 30 June 2024.
13. This will:
    a. allow the sector additional time to make the necessary arrangements (e.g contracting) prior to cessation of regulated benefits;
    b. reaffirm the Government's commitment to removal of these items from the PL;
    c. ensure no adverse impacts to privately insured persons, by continuing access to the existing benefits for these items.
14. IHACPA's publicly available General Use Items Bundling Tool will be available for the sector to support its own funding agreement negotiations or other insurer funding arrangements for non-contracted hospitals (under their fund rules).
15. The sector has reported that a further 12 months is the minimum amount of time required to make the necessary arrangements prior to removal of these items from the PL (e.g. contracting and adjustment of internal business processes including system changes and sufficient workforce resourcing to facilitate additional contract negotiations). As the removal of these items has been foreshadowed with the sector for many years, 12 months is considered an adequate amount of time to establish alternate funding arrangements.
16. It is also proposed that you agree to additional annual benefit reductions being applied to General Use Items while they remain on the PL. It is proposed this is achieved through a 10 per cent reduction from November 2023 to work towards bringing these benefits closer into alignment with the lowest public benchmark price (over time) rather than the average weighted benchmark price as is the case effective 1 March 2023. This approach would encourage timely action by private hospitals and insurers to establish direct contracts, noting that further reductions for these items (should the sector lobby Government to retain these items beyond 30 June 2024) would make retention on the PL less desirable over time.
17. Agreeing to further reduce the benefits for these items is also in line with the request from Private Healthcare Australia on 8 May 2023 (**Attachment F**) to ensure consumers and their health funds are not further penalised by a further delay to removal of General Use Items from the PL.

18. Additionally, the Department will mitigate the perception that temporary retention of the benefits for General Use Items on the PL is an opportunity for the sector to seek a further extension through further delay and/or permanent mandating of benefits by Government through a legislated self-repeal date of 1 July 2024.
19. Legislating an end date for the benefits for these items has not been done previously and will clearly signal to the sector the Government's position is confirmed and work, including systems work, to implement new funding arrangements must commence.
20. It is important to note that the sector is likely to lobby Government to enforce the Department's processing of new applications for similar items to be added to the PL while General Use Items remain on the PL. To date, the Department has deferred approximately 100 applications for these items on the basis that General Use Items were to be removed from the PL from 1 July 2023.
21. In the event that these and any additional applications are required to be processed, they couldn't be accepted until 11 September 2023 when the new Health Products Portal launches. Further, even if these applications were prioritised for processing, the earliest listing on the PL would be 1 July 2024 which would align with the timeframe for removal of these items through the proposed legislated self-repeal date of 1 July 2024.

Stakeholder interest in regulated benefits for hospital care

22. The removal of regulated benefits for General Use Items from 1 July 2024 will not be welcomed by private hospitals. The commencement of consultation on the *Hospital Default Benefits Arrangements Study* (MS23-000432 refers), will provide an opportunity for stakeholders to make submissions on the scope of the existing hospital default benefit arrangements and to explore alternate payment methodologies such as bundled payments for entire episodes of care. Following the consultation process the Department will provide you with advice on PHI reform options for consideration by Government in the context of the 2024-25 Budget.

Background:

The PL, established in 1985, sets the minimum benefit insurers must reimburse hospitals for a surgically implanted prosthesis received by a private patient in a privately insured episode of hospital treatment and has grown in both size and complexity, now including more than 11,600 items. In 2019-20, more than 3.1 million prostheses on the list were supplied at a cost – to private health insurers – of approximately $2.1 billion.

The Department is currently implementing four years of reform activity to better align the benefits set for devices in the private system with the prices paid for the same devices in the public system, and comparable to those in international markets.

A key element of the structural reforms to the Prostheses List (PL) was to provide greater clarity and certainty over what items can be included. Consequently, a group of nearly 500 General Use Items have been identified for removal from the PL on 1 July 2023 because they would not meet the criteria for listing in the PL.

The Department sought advice from the Clinical Implementation Reference Group (CIRG) on the items identified for removal, where it was confirmed these items could be removed without clinical implications or adverse outcomes to patients (provided the items are still available for use under different funding arrangements to be agreed on between insurers and private hospitals).

In November 2021, private hospital representative organisations (Catholic Health Australia and Australian Private Hospitals Association) wrote to the then Minister for Health outlining that they had met with the private health insurance representative organisation Australian Health Service Alliance to discuss options for reform of the Prostheses List.

As part of these discussions, the two industries agreed that bundling arrangements for General Use Items should be explored and if agreed to, would allow for the removal of these items from the Prostheses List, following a process of clinical review (which was already underway through the CIRG).

Impact of the Memorandum of Understanding (MoU) with MTAA

While the original intention was to remove these General Use Items from 1 March 2022, this was delayed as part of the MoU with MTAA. Under the MoU, the benefits for these General Use Items were to be reduced to the difference between the weighted public price and the PL benefit, as follows:

- 60% from 1 July 2022
- the remaining 40% of the difference from 1 March 2023
- before being removed from the PL on 1 July 2023 when bundling arrangements for General Use Items are implemented.

Sensitivities:

Hospitals have called for benefits for General Use Items to remain on the PL so that benefits are mandated, which will give certainty to hospitals that private health insurers will continue to be obliged to reimburse claims (pay benefits) for these items on behalf of private patients.

Proceeding in this manner would not be in keeping with the spirit and intent of the reforms, as the intention of the reform was to provide for alternative funding arrangements for General Use Items to be negotiated directly between hospitals and insurers, as they do now for other consumables used in surgeries, and for other input costs to privately insured episodes of treatment such as accommodation and theatre fees.

Several insurers have advised the Department that they believe there is a system of financial incentives or restrictive agreements in place between manufacturers and hospitals that use General Use Items (glues, staples, etc) that are currently listed on the PL, as opposed to competitor products.

- The Australian Competition and Consumer Commission (ACCC) is responsible for regulating potentially anti-competitive conduct and agreements under the *Trade Practices Act 1974*. The Treasurer has the power to direct the ACCC to conduct inquiries into the prices of specified goods and services under the prices surveillance provisions in Part VIIA of the *Competition and Consumer Act 2010* (CCA).
- This PL Reforms will be subject to an independent evaluation through which savings achieved following the work to reduce benefits paid for medical devices in the private sector in line with those in the public health system will be a key focus.
- Using the CCA prices surveillance provisions, an outcome of the PL reform evaluation could be used to support a request from you to the Treasurer to request a pricing inquiry into medical devices by the ACCC.

Consultations:
The Department has and is continuing to undertake numerous consultations with all key stakeholder groups including consumers, the private hospital networks, private health insurance industry, clinicians and medical technology industry.

Regulatory Burden Implications and/or Deregulation Opportunities: Nil.

Communication/Media Activities: Nil.

Attachments:

A1: Analysis of stakeholder feedback in response to General Use Items consultation paper
A2: Additional consultation with the sector undertaken by the Department
B: MS22-001308 – original approach to removal of General Use Items
C: IHACPA variant options
D: IHACPA analysis of impact to variant options
E: Letter from private hospital and private health insurance sector seeking bundling arrangements
F: Letter from Private Healthcare Australia re: further reduction to benefits

Australian Government
Department of Health and Aged Care

PL Reforms Consultation Paper 5 - Bundling of Benefits for General Use Items

5 May 2023

Introduction

The purpose of this report is to provide an analysis of stakeholder feedback received in response to the *Prostheses List Reforms Consultation Paper 5 – Bundling of Benefits for General Use Items*.

The submission period for responses to this paper occurred between 13 February and 27 March 2023. A total of 55 submissions were received by the Department.

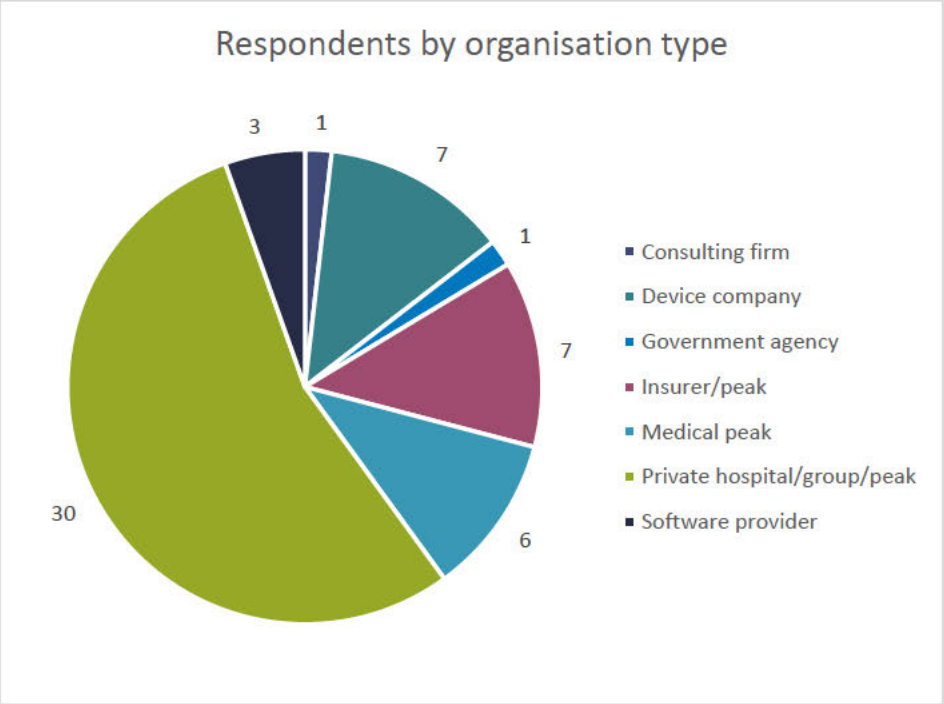

Figure 1: Number and type of respondents to Prostheses List Reforms Consultation Paper 5

Evaluation of the submissions considered responses to the five matters outlined in the consultation paper, broadly:

- Preferred bundle variant
- The use of AR-DRG in bundle variant C
- Proposed settings across all bundle variants
- Sector business readiness implications
- Defined terms used

Next steps

All the submissions to the consultation paper will be published (where material is not identified as confidential) and the concerns raised, including alternative options, will be considered by the Department along with other feedback received from stakeholders.

Key feedback

The following sections summarise the key feedback against these five matters.

Preferred bundle variant

- Most hospitals and their peak bodies assert:
    - data used to determine the bundles is not complete or is in some way inaccurate
    - none of the bundle variants are suitable due to benefit variation across procedures, specialties and hospitals and no further refinement will address this
    - risk sharing across procedures/specialties/hospitals is not possible
    - some procedures may become financially unviable, including:
        - more complex procedures
        - some specialties such as bariatric surgery and chemotherapy
    - may require hospitals to limit services or charge patients out of pocket fees
    - maintaining the current prostheses list (PL) Part D arrangements is preferable
- A mix of stakeholders suggested maintaining elements of the PL Part D arrangements including for:
    - items used by day hospitals
    - staples and tackers
    - arterial closure devices
    - gastro-intestinal staplers
- Insurer peaks support moving directly to contracting between insurers and hospitals
- Of those stakeholders which indicated a preference:
    - the majority preferred variant C (Major Diagnostic Category) as best accounting for benefits variability
    - the second most preferred was variant B (facility type)

The use of AR-DRG version 10 in bundle variant C

- A number of stakeholders across device, insurer, medical and hospital organisations supported using AR-DRG version 10 as:
    - supporting a more detailed variant such as variant C that reduces benefit variation
    - standardising classification across the sector, including to support contracting.
- The majority of hospital stakeholders indicated that, while it is feasible to use AR-DRG version 10, it will be administratively burdensome, particularly for those stakeholders not already using it for contracting or other purposes.

Proposed settings across all bundle variants

- No gap requirement:
    - Majority of hospital organisations did not support this due to the potential need for hospitals to charge patients where bundles do not adequately cover costs
    - Majority of other organisations supported this as protecting patients from increased costs
- Excesses can apply:
    - Majority of all stakeholders considered excesses should be able to apply as they do to the rest of private health insurance benefits
- Contracting permitted, including to override bundle benefits:
    - Majority of hospital organisations assert contracting below the mandated benefit should not be permitted due to the perceived power imbalance with device organisations and insurers
    - The majority of other organisations support contracting
- Transitional arrangements:
    - Majority of hospital organisations do not support the mandated minimum benefits being transitional and indicate they need to be permanent although some support a longer transition period, for example to align with three-year contract cycles
    - Insurers did not support a transition period preferring a direct move to contracting
- Fixed bundle benefits:
    - Majority of all stakeholders supported regular updates to the bundle benefits to reflect changes in utilisation volume/mix, cost and new products

Sector business readiness implications

- Majority of hospital stakeholder organisations indicate:
    - changes required to multiple hospital and other non-payer software and manual systems will take up to 12 months to implement and may require additional expertise/training
    - manual claiming will result in additional administrative burden and delays
    - will take some time to consider the effects of bundled benefits on viability of services including reviewing contract benefits and product pricing
- Insurer organisations indicate implementation possible by 1 July 2023 if existing PL Part D item codes are replaced with bundle codes
- Substantial number of submissions across a range of device, insurer and hospital organisations indicated more detailed specifications would be required to progress implementation

Defined terms used

- Product class
    - Majority hospital and device organisations assert the product classes are high level so may result in disputes with insurers or delays in claims, particularly for new products not previously listed on PL Part D
    - Small number of submissions querying the roles of hospitals, insurers and device organisations in determining the appropriate product class for claims
    - A range of device, insurer, medical and hospital organisations
        - most indicated need for item utilisation data collection to inform updates
        - some suggesting IHACPA would need to review them regularly for appropriateness
    - Small number of device, insurer and hospital organisations indicated the need for clear supporting documentation
    - Small number of submissions across all organisation types indicated the product class descriptions would encourage product substitution although differed on whether this would maintain or restrict clinical choice/effectiveness
    - Device and medical organisations indicated some potential improvements to product classes including consideration of
        - Narrowing/splitting scope
        - Eligibility of some items
        - Accessories coverage
        - Product size coverage
- Episode of admitted care
    - Device and hospital organisations assert the definition does not account for multiple theatre admissions or procedures
    - Broad range of hospital, insurer and device organisations
        - support the use of the AIHW METeOR definition
        - smaller number indicating some incentive for use of more bundles

Attachment Aii

Further consultation undertaken by the Department

February and April 2023

(via direct meetings with various organisations)

s47G

**IHACPA has undertaken separate meetings to provide assistance or guidance with the GUI bundling tool, which are not included in the table above.*

Australian Government

Department of Health and Aged Care

Ministerial Submission – Standard
MS22-001308
Version (1)
Date sent to MO: 8 November 2022

To: Minister Butler

Subject: Prostheses List Reforms - General Use bundling

Critical date: N/A

Recommendation/s:

1. s47C [redacted]

2. **Agree** to the preferred approach (Option 1). — **2. Agreed/Not agreed/ Please discuss**

3. **Note** the study currently under way into hospital default benefits due to report in December 2022 which could be used to inform a longer term solution to funding these items. — **3. Noted**

Signature .....

Date: 30 / 11 / 2022

Media Release required? YES/ NO
Comments:

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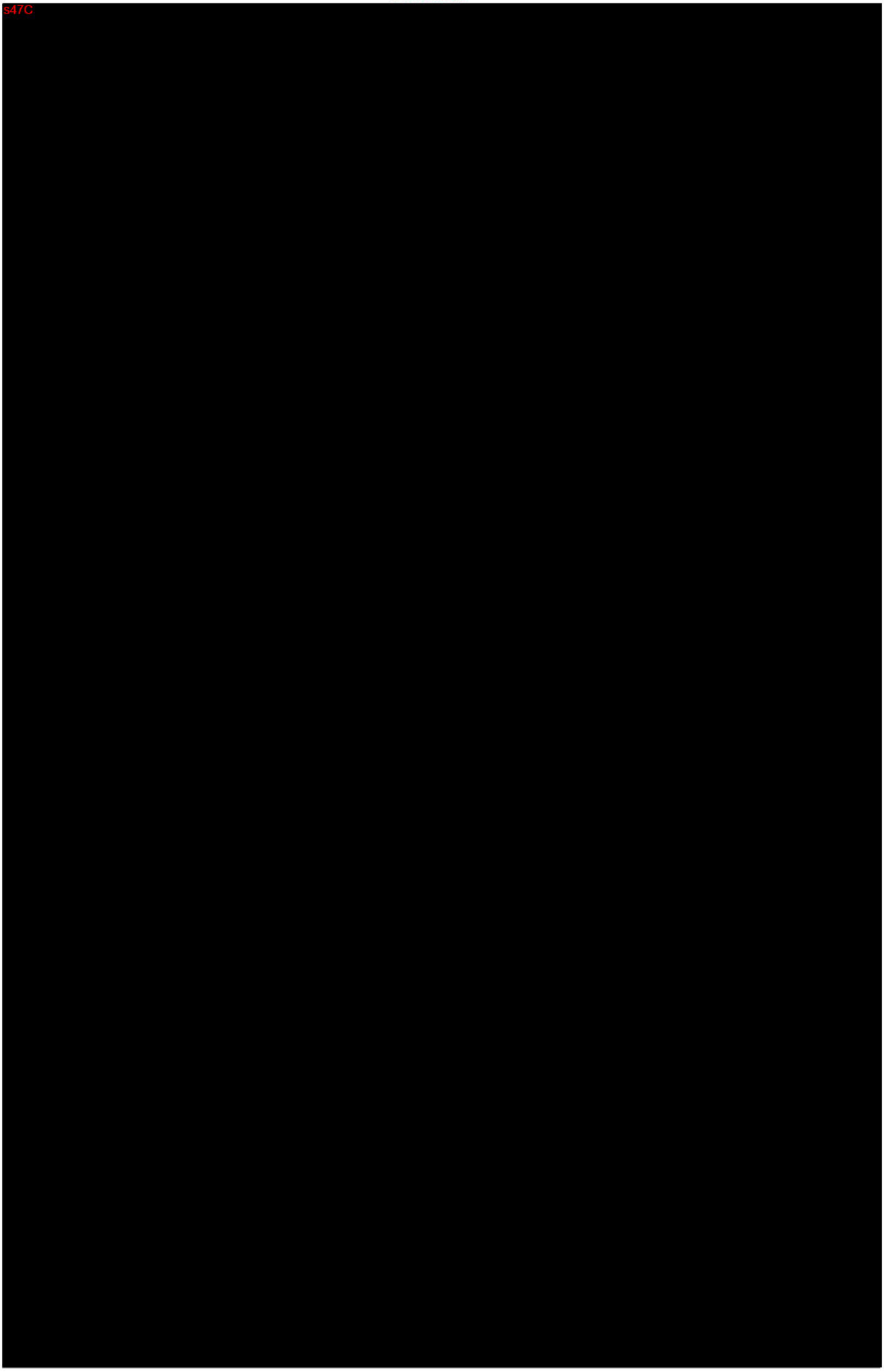
s47C [redacted]

s47C



Background:
The Prostheses List (PL), established in 1985, sets the minimum benefit insurers must reimburse hospitals for a surgically implanted prosthesis received by a private patient in a privately insured episode of hospital treatment.

Since 1985, the Protheses List has grown in both size and complexity, now including more than 11,600 items. In 2019-20, more than 3.1 million prostheses on the list were supplied at a cost – to private health insurers – of approximately $2.1 billion.

The Department is currently implementing four years of reform activity to better align the benefits set for devices in the private system with the prices paid for the same devices in the public system, and comparable to those in international markets.

A key element of the structural reforms to the Prostheses List (PL) is to improve definitions for items that qualify for listing therefore providing greater clarity and certainty over what products can be included. Consequently, a group of nearly 500 general use and consumable products have been identified for removal from the PL because they either do not meet the current criteria or will not meet the new definition and have been scheduled for removal on 1 July 2023.

The Department sought advice from the Clinical Implementation Reference Group (CIRG) on the items identified for removal, where it was confirmed these items could be removed without clinical implications or adverse outcomes to patients (provided the items are still available for use under different funding arrangements to be agreed on between insurers and private hospitals).

In November 2021, private hospital representative organisations (Catholic Health Australia (CHA) and Australian Private Hospitals Association (APHA)) wrote to the then Minister for Health outlining that they had met with the private health insurance representative organisation Australian Health Service Alliance (AHSA) to discuss options for reform of the Prostheses List. As part of these discussions, the two industries agreed that bundling arrangements should be explored and if agreed to, would allow for the removal of some general use items from the Prostheses List, following a process of clinical review (which was already underway through the CIRG).

Impact of the Memorandum of Understanding (MoU) with MTAA

While the original intention was to remove these general use items from 1 March 2022, this was delayed as part of the MoU with MTAA. Under the MoU, the PL benefits for these general use items will receive reductions to the difference between the weighted public price and the PL benefit, as follows:

- 60% from 1 July 2022;
- the remaining 40% of the difference from 1 March 2023;
- before being removed from the PL on 1 July 2023 when bundling arrangements are implemented.

Sensitivities:
Hospitals have called for the bundles to remain on the PL so that prices are mandated to give certainty to hospitals that private health insurers will continue to be obliged to reimburse claims for these products on behalf of consumers.

Having been determined as ineligible to stay on the PL, proceeding in this manner would not be in keeping with the spirit and intent of the reforms.

There are currently non-listed competitor general use/consumable products which may seek to list under any continuing benefit arrangements for general and consumable items. Some of these may be covered by the bundles being developed by IHACPA, but other may require additional or new bundles to be developed. There may be significant challenges in precisely defining the product groupings to encompass all potentially comparable general use products.

Based on IHACPA's proposed timeframe for developing costing for the general use bundles and uncertainty regarding whether the funding will be mandated through regulation, insurers will not be certain regarding the impact of general use item funding in the 2023 Premium Round applications (due 15 November 2022).

Consultations: Consultation with private hospitals and private health insurers has been ongoing throughout the Reforms including the removal of the General Use items and bundling work currently being undertaken through the Working Group as part of the IHACPA process. Technology Assessment and Access Division have also consulted with Medical Benefits Division's Private Health Industry Branch, Legal Assurance Division and IHACPA in the development of this Ministerial Submission.

Regulatory Burden Implications and/or Deregulation Opportunities: Nil.

Communication/Media Activities: Nil.

Attachments:

A: Potential Options

B: Consultation Paper on Bundling Arrangements for General Use Items on the Prostheses List (IHACPA).

Attachment C

In December 2022, IHACPA provided its advice on Bundling Arrangements for General Use Items on the Prostheses List report to the Department, outlining three options for implementing an alternative funding arrangement that uses bundled benefits for these items:

Classification of GUI bundles

- Three classifications are defined for GUI bundles:
  - **Variant A: Product Only**
    - A single bundle variant is defined for each of the 24 GUI product classes
    - 24 bundle variants (ie. bundle classes)
  - **Variant B: Facility Type**
    - Each of the 24 product-only variants is split into three variants based on the facility in which episodes occurs (ie. private overnight, private day, or public hospital facility)
    - 72 bundle variants
  - **Variant C: Major Diagnostic Category (MDC) Grouping**
    - Each of the 24 product-only variants is split into (up to five) variants based on the MDC of episodes (note: MDCs are part of the AR-DRG classification system)
    - 54 bundle variants

IHACPA

Catholic Health Australia

Australian Private Hospitals Association

16 November 2021

The Hon Greg Hunt MP
Minister for Health and Aged Care
PO Box 6022
House of Representatives, Parliament House
CANBERRA ACT 2600

By email: Minister.Hunt@health.gov.au

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Dear Minister,

We are writing to you to provide an update on discussions relating to the Department of Health's request that private health insurers and private hospitals negotiate a path forward for reform of the General Miscellaneous Category of the Prostheses List.

On 12 November 2021, the chief executive officers of Catholic and non-Catholic private hospital providers met with the Australian Health Service Alliance (AHSA) to discuss options for reform of the Prostheses List. AHSA represents 24 small and medium-sized health funds. Hospital attendees included the CEOs of Ramsay Healthcare, Healthscope, and St Vincent's Hospital Network.

The parties had a productive, high-level discussion on the current reform efforts and identified a number of areas of in-principle agreement. While further discussions will be required to clarify and agree detail, we view the below principles as a more feasible and beneficial basis of reform than the current approach.

Reference pricing for General Miscellaneous Category items

There was collective support for a shift to public and international sector reference pricing (reference pricing) for the General Miscellaneous Category (GM), commencing from 1 July 2022. This approach has several key benefits, including:

- An immediate saving delivered to health insurers;
- Maintaining clinician choice; and
- Avoiding near term increases in out-of-pocket costs for patients resulting from GM reform.

We understand that the Independent Hospital Pricing Authority (IHPA) is already working on some form of reference pricing for GM products. We believe IHPA is best placed to implement reference pricing for GM products by 1 July 2022.

Developing an approach to bundling for products in the General Miscellaneous Category

The parties agreed that after the implementation of reference pricing for GM products, options for bundling these products should be explored. Again, IHPA is best placed to lead development of these bundling models, with the intention that bundling be in place by 1 July 2023.

If bundling arrangements can be agreed, it would allow for the removal of some General Miscellaneous products from the Prostheses List, if recommended for removal following a bona-fide process of clinical review.

Removal of topical adhesives from the General Miscellaneous Category by 1 March 2022

As you are aware, the Department has proposed the removal of eight products (topical adhesives) from the GM from 1 March 2022. Both private hospitals and the AHSA have concluded that it is not practical to negotiate alternative funding arrangements for these products by that date. It was agreed that maintaining these items on the Prostheses List and subjecting them to reference pricing as outlined above is a preferable approach.

Next steps

The parties agree that a new approach to GM reform is required. We propose reform of the General Miscellaneous Category based on the principles outlined in this letter. Reference pricing presents an opportunity to provide significant savings to health funds whilst maintaining clinical flexibility and patient choice. This contrasts to the current approach which threatens the financial viability of hospitals, will likely lead to increased out-of-pocket costs for patients, and increases the complexity and cost of negotiating arrangements between hospitals and health funds.

IHPA is well placed to support implementation of reference pricing and bundling for General Miscellaneous products. IHPA already works with a number of the stakeholders involved in the private hospital sector and is developing bundling for models of care in the public system with states and territories. Private hospitals are in the process of seeking meetings with other health insurers to discuss these proposals.

We look forward to discussing how this proposal can be implemented as quickly and cooperatively as possible.

Yours sincerely,

Pat Garcia
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Three MoU implementation issues

The removal of general use items will not proceed as planned on 1 July 2023. The government's preferred policy decision to remove generic, general use items from the Prescribed List (PL) will not proceed as planned. As you noted on 14 December 2022, "These general use and consumable items are the kind that could be used in any surgery performed in Australia, and the inclusion of separate entries for each on the Prostheses List appears to have been contributing to inflated costs for private patients."

It is now four years since the government announced this decision, and it is very disappointing that there will be further delays. Importantly, the poor practices identified by the department and the Ernst and Young report will continue, costing consumers significantly more than necessary.

I am advised that the Minister is currently considering advice from the department on options for delaying implementation. To ensure consumers and their health funds are not further penalised by this delay, I ask you to consider dropping the price of general use items to the lowest available public price from 1 July 2023, rather than the average public price. The department have these data to hand and could quickly implement the price cuts. While this will cut into the margins for the international medical device manufacturers, it will still ensure the devices can be provided at a profitable level and help ensure that consumers don't have to pay more than necessary.

I further ask that you ensure this delay is as short as possible. Health funds have rarely experienced hospitals being unable to bill for goods and services provided, and it seems incongruous that the hospitals are reporting that it will take many months to change their systems to implement the government's preferred policy position.

The regrouping of the PL will not proceed as planned. The Government has sound policy advice to regroup the PL based on function rather than device features. However, it has proven impossible for the department to fit the best policy into the constraints of the Hunt MoU, which protects the current, flawed approach preferred by the multinational device companies. The clash between reducing the prices closer to the public system, and that regrouping does not result in further savings, highlights the flaws in the current grouping system.

PHA will work with your department to provide advice on how to implement some regrouping in a staged approach so as to partially meet the policy objectives without disadvantaging consumers, but the Hunt MoU makes it very difficult to deliver a good policy outcome. We note that the advice from your department to Minister Hunt (FoI 4045) highlighted these concerns, but the previous Minister acted against the advice of his department.

As it is impossible to meet good public policy objectives with the two conflicting clauses of the Hunt MoU, we ask that the Minister consider directing the department to prioritise the price cuts for consumers, while minimising any costs to the multinational device companies (rather than requiring no net benefit changes). This will result in higher than necessary costs for consumers but will allow the department to address clear structural problems.

The department should also prioritise addressing errors in the PL. PHA has highlighted a range of errors in the PL over recent years (for example, knee revision suffix for devices not used for revisions, screws in the wrong category, neuromodulation leads being used as trial leads), and while a handful of these errors have been assessed and rectified, most have not. The department has told PHA that these issues would be addressed along with the regrouping process, but as the regrouping is again delayed, it is not reasonable for errors on the PL to remain in place any longer. This activity would not breach the Hunt MoU.

It is also imperative to act quickly and decisively on post-listing reviews. The draft review of surgical guides and biomodels found significant problems with both the scope of use of these devices and the number billed per procedure, yet six months later no action has been taken to protect consumer interests. Interim steps such as limiting the number of devices and restricting usage should be implemented on 1 July 2023, with full implementation to follow.

Savings promised for cardiac devices will not proceed in full on 1 July 2023.

On 4 May 2023, your department advised that the savings outlined in the Hunt MoU for cardiac devices would not proceed in full. The department is yet to advise the exact amount retained by the multinational device companies, but it is likely in the order of $20 million in 2023-24 (one off, not recurrent).

This is particularly disappointing, as these cardiac devices in the private sector are well over double the price in the public sector. For instance, for the most popular implanted defibrillator the PL benefit is around $36,500 and the public price is around $14,500 (FoI 4045).

The Hunt MoU delayed savings by a year as the device companies argue that they provide monitoring services to the private sector that require more funding. This is despite a report from a cardiac industry working group set up by the previous government to examine the issue of funding, which stated in 2020, “It is difficult to see how establishing a funding stream with public or private health insurers’ money to support current arrangements is justified,” and that currently only “3 per cent of services are unfunded or unnecessary”.

On this premise, the Hunt MoU thus delayed $64 million in savings in 2022-23 and referred the issue of cardiac monitoring services to the Medical Services Advisory Committee (MSAC). MSAC is yet to publicly report on its findings, so your department has decided as an interim step to delay the full price cuts, applying the 40% reduction to a proportion on the cost of the devices on 1 July 2023 (with the current intent a “catch up” price cut next year).

PHA have yet to identify another comparable jurisdiction where cardiac monitoring services receive a separated benefit payable to device companies, and nor have we identified a comparable jurisdiction that pays anywhere near what Australians with private health insurance pays for these devices.

PHA recommends that you overrule your department and implement the full $64 million in savings for 2023-24. Even if the device companies’ ambit claims are entirely accurate, the price cuts required by the MoU on 1 July 2023 would still ensure these devices were profitable; while noting the department has reported that they “found insufficient evidence to support [the industry’s] costings of cardiac technical support services” and that “estimates are inflated” (FoI 4045).

Private Healthcare Australia

8 May 2023