



Public Pathology  
AUSTRALIA



# Pre-Budget Submission 2018/19

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.

The Commonwealth Government pays a higher MBS fee for pathology services provided by private (for profit and not for profit) pathology providers, compared to public pathology providers.

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

MBS funding parity requires an investment of approximately \$20 million per annum. This investment would enable public providers 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. The investment would also ensure that services are provided to patients in rural and remote areas where private providers deem it not profitable to service. 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.

MBS fees should be changed so that all pathology providers receive the same MBS fees for the same tests, to ensure patient access to bulk billed pathology services.

# 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, pap smears) 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 providers also provide community based collection services for patients upon referral from GPs and Specialists under the *Commonwealth 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.

## Public Pathology

**Provides comprehensive access for all patients**



**Provides high quality, integrated care**



**Provides expertise in complex medicine**



**Helps protect our communities**



**Undertakes research, education and training**



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



## The Pathology Market

The Federal Government pays over \$2.7 billion for pathology services under the MBS.<sup>1</sup> The MBS funded pathology market is dominated by two private providers, Sonic Healthcare and Primary Healthcare (with market shares of 41.4% and 32.7% respectively<sup>2</sup>). 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. 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.

Public pathology providers are disadvantaged in competing with private pathology providers. Public providers are paid less for collection fees and bulk bill incentives compared to private providers. MBS expenditure for collection fees was \$217.5 million and private providers received between \$5.95 and \$17.60 per collection compared with \$2.40 if the same collection was done by a public provider. Bulk bill incentive payments were \$100.8 million and again private providers were paid more than public providers.<sup>3</sup> Private providers are subsidised by >10% of their income compared with the public sector.

Public pathology providers occupy around 11 per cent of the MBS pathology market.<sup>4</sup> 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.<sup>5</sup> WA, SA and NSW have a relatively large network of collection centres to service the needs of their respective populations. 30.6% of all collections in Approved Collection Centres (ACCs) are processed by public laboratories<sup>6</sup>. 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). Nationwide access to pathology exists because the public sector fills an important gap in the market.

There are 5442 Approved Collection Centres in Australia.<sup>7</sup> Several hundred of these are operated by the public sector. The public sector plays a very important role in the MBS-funded pathology market. The public sector provides quick turnaround times for pathology results, an alternative provider of bulk-billed services and ensuring that patients do not have to travel extensively to access pathology services.

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<sup>1</sup> Australian Government, [http://medicarestatistics.humanservices.gov.au/statistics/mbs\\_group.jsp](http://medicarestatistics.humanservices.gov.au/statistics/mbs_group.jsp).

<sup>2</sup> Ibis (2014) Pathology Services in Australia.

<sup>3</sup> Australian Government, [http://medicarestatistics.humanservices.gov.au/statistics/mbs\\_group.jsp](http://medicarestatistics.humanservices.gov.au/statistics/mbs_group.jsp) for 2015.

<sup>4</sup> Australian Government, [http://medicarestatistics.humanservices.gov.au/statistics/mbs\\_group.jsp](http://medicarestatistics.humanservices.gov.au/statistics/mbs_group.jsp) for 2016/17.

<sup>5</sup> Public Pathology Australia (2014), Member Survey.

<sup>6</sup> Australian Government, [http://medicarestatistics.humanservices.gov.au/statistics/mbs\\_group.jsp](http://medicarestatistics.humanservices.gov.au/statistics/mbs_group.jsp).

<sup>7</sup> Australian Government <https://www2.medicareaustralia.gov.au/pext/pdsPortal/pub/approvedCollectionCentreSearch.faces>

By way of example, PathWest operates 77 collection sites in Western Australia. 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.

The pathology market is one of the most concentrated pathology markets in the world due to the way MBS funding is directed for pathology testing and specimen collection, as well as regulation issues.<sup>8</sup> Combined with increasing activity from an ageing population, rising levels of chronic disease, new technologies (such as digital anatomical pathology, molecular, genetics and point of care testing), pathology providers have been under significant pressure. This has resulted in a significant loss of diversity in the market and a reduction in patient choice.<sup>9</sup>

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<sup>8</sup> <https://theconversation.com/true-blood-cutting-through-confusion-about-pathology-cuts-55140>

<sup>9</sup> <https://www.accc.gov.au/search/accc-funnelback/pathology>

## Issue

### 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 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.

Public pathology providers receive a nominal \$1.60 in Bulk Billing Incentive compared to between \$2.00 and \$4.00 for private pathology providers.

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.

PEI fees are for the collection and management of specimens and reporting of results. Both private and public 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.

Despite support for fee parity, there has been no progression of the issue. Different fees for public and private pathology provides a competitive advantage to private providers. Inability of the public sector to financially sustain these services will disadvantage patients in terms of access (through a reduction in service locations) and affordability (reduced competition will make it easier for private companies to charge co-payments).

## The 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

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 providers provides an unfair competitive advantage. It restricts competition. The public sector cannot afford to enter new markets and this restricts choice and greater access for patients. Patients are unable to make an informed choice about their pathology provider. Consumers are largely influenced by prominent branding on request forms, with the message that they can take the request to any pathology provider generally written in very small typeface.

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 continuum of care from an inpatient stay through to stabilisation and ongoing management in the community setting. 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 prioritising patient care over corporate profits. Funding parity would be an investment in the health of Australians.

### Capacity

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. Private pathology providers refer tests to public providers due to lack of expertise or to rationalise their practices.

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.

The larger private pathology providers are known to be paying significantly above market rent for Approved Collection Centre (ACC) space to secure referral streams. While Public Pathology Australia is supportive of the Australian Department of Health's Provider Integrity Division's compliance activities, stopping excessive rent and other inducements is not possible without regulatory change. Specifically, the definition of market rent must be changed to reflect what a non-pathology provider would be prepared to pay for the ACC space under the Prohibited Practice Regulations.



## 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. Where there is a strong public sector presence in the MBS funded community pathology market, private pathology providers are more likely to bulk bill and less likely to charge patients a co-payment. 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 market.

There is no competitive advantage for the public sector in being funded by state government. There is no identified subsidy in Commonwealth funding arrangements for publicly provided non-hospital pathology collection services.<sup>10</sup> Under the principles of competitive neutrality, private

providers have secured public hospital tenders for pathology services and are therefore also funded by state governments.<sup>11</sup> However, patients of outpatient clinics under these privatised arrangements 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 laboratory.

## Value

Public pathology providers play an important stewardship role in relation to appropriate ordering; they implement demand management activities to curb any inappropriate testing. Unlike private pathology providers, public pathology providers operate for the best interest of patients and governments.

Data comparing cost per person for health expenditure are publicly available and show that in western economies the absolute cost per citizen in dollars is higher in countries with a higher percentage of private healthcare expenditure.<sup>12</sup> For example the cost of health in the US was US \$ 8895 (46.4% public health expenditure-PHE), in Switzerland it was US \$ 8980 (61.7% PHE), in Australia US\$ 6140 (66.9% PHE), Germany US\$ 4683 (76.3% PHE), Japan US\$ 4752 (82.5% PHE) and UK US\$ 3647 (82.5% PHE).<sup>13</sup>

It is inappropriate to reward those private providers who engage in over testing and penalise those who limit the use of unhelpful or misleading tests. Better value could be achieved by ensuring public pathology providers can effectively operate in the MBS market.

<sup>10</sup> Commonwealth funding specifically excludes funding for MBS eligible services: [www.ihp.gov.au](http://www.ihp.gov.au).

<sup>11</sup> For example, Western Health and Latrobe Health in Victoria, Northern Beaches Hospital in NSW, and Midlands Hospital in WA.

<sup>12</sup> New England Journal of Medicine - International health care series; <http://www.nejm.org/doi/full/10.1056/NEJMp1413937>; accessed 21.04.17

<sup>13</sup> World Bank (2012)

### Cost of Collection

Given the costs and fees attributable for doing the tests are the same from both public and private, 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. In a suburban or metropolitan collection centre, the staffing cost alone will exceed the PEI by a factor of 2 to 3. Additional costs include rental, collection equipment, tubes and IT infrastructure to name only a few. The actual 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.

Specialists employed by the public sector may exercise their Rights of Private Practice and bill for Medicare-eligible services under certain circumstances. The costs of operating such practices (such as collection centre rent) are paid by public specialists in the form of infrastructure/facility fees to State Government. Under the MBS, a public sector pathologist

exercising their Rights of Private Practice receives less MBS fees compared to a private sector pathologist for the same service.

### 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 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.

### Impact of Change

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. 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. 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 and consideration of the closure or winding back of services is constant.

In SA alone, funding parity would enable:

- continuation of services at Yorktown (commenced mid 2015), Burra (commenced January 2017) and Crystal Brook (commenced July 2017). While these services have recently been established their financial position is marginal and viability uncertain. There is no other dedicated pathology collection within these areas; and
- establishment of dedicated pathology collection services in a number of regional locations such as Ceduna and Mount Compass. Under current arrangements the collection services are not able to be established.

The absence of dedicated pathology collection results in:

- a) the medical practitioner having to provide the service directly and as such reduces the number of patient consultations available;
- b) the patient needing to travel to the nearest ACC (often up to 100km); or
- c) the patient simply not having the tests undertaken.

The financial cost to the Commonwealth government from the failure of patients to receive timely diagnosis and treatment far surpasses the cost of MBS funding parity.

## Recommendation

**Public Pathology Australia recommends that the Government increase the MBS fee 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.

MBS fees for public pathology must be increased to ensure maximum value for investment and patient care.

