Public Pathology
AUSTRALIA

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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 MBS fee for COVID tests and episodic items (i.e. patient episode initiation and bulk billing incentive) as private for profit and not for profit pathology providers. This would enable public pathology 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. 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. 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.

Public Pathology Australia recommends that the Government action the pathology related MBS Review recommendations. Any savings should be reinvested in underfunded pathology items and new items should receive additional funding.

The Pathology Services Table of the MBS is highly cross-subsidised and has not changed to reflect modern testing practice. The new temporary COVID-19 Respiratory Nucleic Acid Amplification Tests (NAATs) must be made permanent and replicated for other systems. Other MBS Review recommendations should be made in a scheduled way with savings reinvested in underfunded items and additional funding for new items such as those in genomics. This would deliver a sustainable contemporary pathology sector in the long term.

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

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. Public pathology 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

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 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 and SA in particular have relatively large networks 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 74 collection centres. 52 (70%) of these are located outside the metropolitan area and 17 collection centres are located in remote Western Australia.

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[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 COVID-19 tests, PEI fees and Bulk Billing Incentives.

COVID Fees

Since the commencement of the National Partnership Agreement on COVID-19 Response (NPA), public pathology providers have been penalised a 50% fee reduction for COVID-19 tests under the MBS. With the NPA ceasing and the proposed new NPA being limited and not consistent with the MBS Items, this inequity must be addressed. MBS items 69506, 69507, 69508, 69509, 69510 must be removed and public pathology providers must have access to MBS items 69511, 69512, 69513, 69514, 69515.

PEI & BBI 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. 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.

Both private and public pathology providers incur PEI costs 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.

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. This has not materialised.

Current Status

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 through reduced access. There has also been significant cost shifting to the private pathology MBS sector under the current arrangements.

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 does 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 receive 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 a hospital admission 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. Higher MBS fees for private providers gives them a competitive advantage over public providers. There are also inherent risks in the market with only two dominant private providers. Equal remuneration for all pathology providers 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 address inequity in MBS fees challenges the sustainability of public pathology and its role in providing a balance in the pathology market.

As private pathology providers receive funding from the same sources as public pathology providers, there is no basis for differential MBS fees. Private pathology providers receive State Government funding for public inpatient testing (which is supported by outpatient MBS testing at the higher rate), and COVID-19 testing reimbursed under the National Partnership Agreement between the Commonwealth and the States/Territories.

Cost of Collection

The public PEI of $2.40 does not cover the 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, staffing costs alone 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. Specimen transportation costs can be significant, for example when they are couriered from remote Western Australian communities or the APY lands in South Australia.

Other Medical Specialties

Nowhere else in the MBS is there a distinction between public and corporate (private) medicine. There is no clinical rationale for the funding differential.

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 3 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, changes are required to COVID MBS items, MBS Rules (e.g. P.6.2), P10 PEI (and associated items) and P13 Bulk Billing Incentive items. Given that COVID testing volumes have declined and that the public pathology sector is only 11% of the MBS market, the financial impact of the change is not significant.

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 tests, 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 access to high quality pathology testing as close to home as possible. Increasing MBS fees to the public pathology sector to the same level as private pathology providers 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 South Australia, funding parity would enable consideration of improving accessibility in rural and regional areas where there are currently 49 pathology collection centres.

In Western Australia, funding parity would enable an increased number of collection centres in the outer metropolitan areas where population density is increasing but pathology services are limited. It would also facilitate an increased number of inner metropolitan based centres allowing patients greater convenience and accessibility.

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 Public Pathology Australia's position statements and take action to ensure that the pathology sector can appropriately serve the needs of patients in a way that is sustainable.[9]

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

[9] https://publicpathology.org.au/wp-content/uploads/2019/01/PPA-MBS-Review-Submission-full-submission-30-Nov-2018.pdf and https://publicpathology.org.au/wp-content/uploads/2020/06/Public-Pathology-Values-and-Opportunities-Paper.pdf

Implementing the MBS Review

The Department of Health has only instituted one of the MBS Review recommendations in pathology to date and has done so in a temporary manner. The new Microbiology Respiratory Nucleic Acid Amplification Test (NAAT) MBS ladder must be made permanent and public pathology providers must receive the same MBS fees as private pathology providers. A 50 per cent fee reduction for public pathology providers conducting COVID NAATs cannot be justified as the previous 50:50 cost share arrangements between the Commonwealth and the jurisdictions have changed.

There subsequently needs to be a replication of the respiratory NAAT MBS ladder to other systems such as gastrointestinal, urogenital and skin. This will enable the Department to have a greater understanding of the types of specimens tested using molecular techniques.

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 lesser 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 profitable tests are over-ordered.

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 must 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 MBS 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 that would ensure the sustainability of the pathology sector so patients have access to the tests 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 long term 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 PCR test under item 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 also be an 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 MBS fees for public pathology services to the same fee paid to private pathology providers.

For the same test episode (for COVID-19 tests, Patient Episode Initiation and Bulk Billing Incentive), all pathology providers should be paid the same fee under the MBS to ensure fair access to quality pathology services for all Australians. Introducing funding parity 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. This will ensure the Government receives maximum value for its investment in the pathology sector.

Public Pathology Australia recommends that the Government action the MBS Review pathology recommendations. The Microbiology Respiratory NAAT PCR ladder items (with funding parity) must be made permanent and replicated for other systems. Any savings made in implementing the MBS Review recommendations should be allocated to underfunded pathology items and new items should receive additional funding. This will result in a contemporary and sustainable MBS funded pathology sector.

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 appropriate payment under MBS. This will ensure specialised tests will remain available without co-payments charged to patients.

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