

18 October 2019

Hon Greg Hunt MP  
Minister for Health  
PO Box 6022  
House of Representatives  
Parliament House  
Canberra ACT 2600

By email: [HC.Consultation@health.gov.au](mailto:HC.Consultation@health.gov.au)

Dear Minister

**Health Legislation Amendment (Data-matching) Bill 2019**

The Royal Australian College of General Practitioners (RACGP) thanks the Department of Health (the Department) for the opportunity to provide feedback on the Health Legislation Amendment (Data-matching) Bill 2019 (the Bill).

The RACGP is Australia's largest professional general practice organisation, representing over 40,000 members working in or toward a career in general practice.

Measures aimed to preserve the integrity of Medicare and use of health resources by preventing wrongful claiming are supported, in principle, by the RACGP. It is reasonable that the government monitors available data relating to the use of public funds. However, we are cautious about any changes that:

- could be perceived by health providers as excessive and punitive monitoring for Medicare compliance purposes
- could potentially compromise patient privacy.

The RACGP seeks to support our members to gain a better understanding of the complex system in which they practise. We support Medicare compliance educative processes that look to prevent incorrect claiming as opposed to blunt punitive measures and instruments which can distract from providers' efforts to deliver appropriate and high-quality care to patients.

The attached appendix outlines several concerns the RACGP sees associated with the proposed Bill and its approach to addressing Medicare compliance issues.

The RACGP looks forward to contributing to further discussions around data-matching arrangements. Should you have any questions or comments regarding the RACGP's submission, please contact either myself or Ms Michelle Gonsalvez, National Manager, Policy and Advocacy, on (03) 8699 0490 or at [michelle.gonsalvez@racgp.org.au](mailto:michelle.gonsalvez@racgp.org.au)

Yours sincerely



**Dr Harry Nespolon**  
President

## Appendix 1: Issues with the Health Legislation Amendment (Data-matching) Bill 2019 as a mechanism to address Medicare non-compliance

The RACGP thanks the Department for providing a one week extension. However, we note that the overall timeframe provided for responding to the Bill remains too short to allow robust internal consultation amongst stakeholders. A longer consultation period would have allowed stakeholders to consider all facets of such a significant proposal, including the full impact on both healthcare providers and patients.

The RACGP has identified several broad concerns that should be considered before the Bill proceeds through the parliamentary process.

### 1. Need for greater clarity around proposed data usage

While the RACGP is not opposed to the matching of data to more accurately identify legitimate cases of Medicare fraud, there is a need for greater clarity and transparency around when and how the data will (and will not) be used. Data-matching is a complex exercise and there are numerous risks associated with it. Without proper safeguards, there is potential for the reforms to go beyond their purpose of strengthening Medicare compliance.

The RACGP recommends the development of an information guide for health practitioners regarding the Data Matching Bill, and what it means for them.

### 2. Provider perception of Medicare compliance mechanisms and the resulting impact on patient care

On several occasions, the RACGP has expressed concerns to the Department about the compliance measures currently in place, including the impact of lengthy investigative processes on the health and wellbeing of providers.

Member feedback has also indicated that there is a growing perception that compliance activities are designed to monitor and target statistical outliers, as opposed to targeting fraudulent activity. Providers are concerned that they may be identified as an outlier due to their patient population and be subjected to a stressful process of proving that they are not guilty of inappropriate billing.

High billing is not necessarily an indication of incorrect billing. Many providers have legitimate reasons for billing particular item numbers at rates higher than their peers. Should the Bill pass into law, it should seek to address incorrect billing as opposed to over-billing, and incorrect billing should be based on Medicare rules and regulations as opposed to outlier statistics.

This negative perception of existing compliance processes and the resulting stress associated with these processes, such as the possibility of being referred to the Professional Services Review, can interfere with good patient management and the delivery of appropriate and quality care.

For example, the Department recently ran a compliance campaign targeting providers with high rates of opioid prescribing. As a result, many providers with a high population of palliative care patients were identified and sent letters, despite having a legitimate reason for prescribing relatively higher rates of opioids. The RACGP heard of examples where providers had indicated they would stop providing care to palliative patients in an effort to avoid being targeted by compliance processes and potentially being referred to the Professional Services Review.

The proposed legislation, which would enable the matching of specific datasets with other Australian Government agencies, could further add to this negative perception. The RACGP recommends that the Department take active steps to ensure fraudulent activity is targeted, as opposed to statistical outliers.

### **3. Need for preventative rather than punitive measures and greater education of healthcare professionals**

Increased compliance activities should be balanced by corresponding efforts to improve education activities.

The RACGP notes that there is an increasing frequency of member enquiries regarding interpretation of Medicare items and compliance related issues – particularly in relation to when a Medicare Benefits Schedule (MBS) item number can or cannot be billed. Our members have reported that, on occasion, advice received through the AskMBS email service has been inaccurate or contradicted earlier advice. There have also been instances of conflicting advice being provided by AskMBS and the Professional Services Review communications, prompting members to seek clarification from the RACGP. While the RACGP is supportive of the MBS being regularly reviewed and updated to ensure that items remain clinically relevant, clearer education and communication must be provided in regard to Medicare claiming rules.

The RACGP seeks to work collaboratively with both the Department and the Professional Services Review to develop, improve or promote education and resources for providers in regard to Medicare compliance. We would also welcome the opportunity to assist the Department in communicating Medicare changes to GPs and, where appropriate, reviewing fact sheets and other resources designed to communicate changes to ensure they are clear and relevant to GPs.

### **4. Consideration of costs associated with implementing further compliance measures**

It is well known that the majority of providers are correctly billing Medicare and only a small proportion of the profession is intentionally committing fraud. While the consultation paper notes that \$180 million in funding would be lost if only one half of a percent of Medicare payments are fraudulently, incorrectly or inappropriately billed,<sup>1</sup> it does not indicate how much has actually been saved as a result of Medicare compliance measures. Therefore it is unclear whether the cost of the proposed data-matching reforms, as well as the amount spent on other compliance measures, is justified or whether the compliance measures being introduced are appropriately targeting the actual problem.

The RACGP is particularly interested in how much funding has been recuperated as the result of intentionally fraudulent behaviour. As identified in section 3, there are alternative ways to prevent incorrect billing (ie unintentional non-compliance) that are likely to be perceived as a far more collaborative, supportive and positive approach by the profession.

The RACGP seeks further information regarding the relative cost of implementing various compliance mechanisms in comparison to the savings achieved.

## **References**

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<sup>1</sup> Department of Health. Consultation guide – the Health Legislation Amendment (Data-matching) Bill 2019 and associated regulations. Canberra: DoH, 2019.