

I disagree with the audit findings on the bases set out in this submission.

- 1 I was not aware of the details of the obligations under the *Health Insurance (Dental Services) Determination 2007* (the Determination), and in particular, I was not aware of the procedural requirements in subsection 10(2) of the Determination (the Requirements).
- 2 I did not receive any literature or communications from the Department of Human Services (DHS), any other government department or representative, or anyone else by way of education, or notification of requirements in respect of the Scheme, including the Requirements. I was not directed to any website or other public domain information for the purposes of informing me about the Scheme or the Requirements. Nor did I receive any reminder, or call for confirmation of my understanding, of the Requirements after becoming a participant in the Scheme.
- 3 The Letter is the second only written communication I have received at any time that relates to the Scheme, the first being the documentation sent to me in relation to the visit to my practice premises (the Visit) from Medicare representatives in July this year for the purpose of the audit of my records.
- 4 I have not had the experience of receiving referrals in relation to services provided under a Medicare scheme in the past, and so was not accustomed to that situation or the attendant requirements.
- 5 However, I have had referrals from Community Health in the past. In those cases, the patient presented with a voucher, similar to the presentation of a referral under the Scheme. I was never expected to provide a treatment plan in relation to those Community Health referrals.
- 6 I consider it reasonable to not have expected the Scheme to operate in a particularly different way.
- 7 Had Medicare requested confirmations from time to time, there would have been far less possibility of any dental practitioner being in the position some now find themselves, that is, with adverse findings being made several years into their participation in the Scheme. Certainly, there would not be the degree of misunderstanding and non-compliance apparent.
- 8 I would have thought it reasonable to have been alerted to the detail of any requirements of the Scheme, particularly the Requirements, after raising the first ever claim with Medicare. Surely, had this been done for all dental practitioners, they would all have been aware of the fact that requirements existed and there should have been minimal non-compliance in those circumstances.

- 9 Since I started participating in the Scheme I have spoken to Medicare on dozens of occasions regarding matters like whether accounts are active, checking balances, and in relation to claims and payments etc. There was not a single reference from anyone at Medicare in relation to a treatment plan or quotation, nor was anything ever said that prompted me or would have prompted me to consider them or enquire further about them.
- 10 To this day, I still have not received any education, directives, guidance or clarification in relation to the Requirements.

My actions and related circumstances

- 11 Following the Visit, I set in place a documented system for complying with the Requirements (Compliance System). The documentation records :
- (a) patients' and general practitioners' details;
 - (b) description of planned treatment (eg. restorations, extractions, prostheses etc.);
 - (c) cost of the treatment (to Medicare and to the patient). In this regard, I note that my practice has a policy of bulk billing patients under the Scheme.

The documentation containing details at (a) to (c) above is signed by the patient and countersigned by me or an appropriate member of my staff. Copies are provided to the referring general practitioner and to the patient, with a copy being retained in my records for the patient.

Separately, I keep a list of patients in relation to whom I am liaising with a referring general practitioner and that record shows, at any given time, whether complete documentation for each patient has been signed and countersigned, or is awaiting finalisation.

- 12 I note that **not a single** general practitioner who has received a treatment plan from me in relation to my patients has communicated with me in any way in relation to the relevant plan/s. This means to me that my compliance with the Requirements has made **no difference** in respect of the treatment of the patient. That said, I also note that if, as apparently anticipated by the DHS, general practitioners were to engage in communication or discussion around a patient's dental treatment plan, it is difficult to see how an eligible dentist could provide a firm quotation in respect of that treatment before such communications or discussions. With this in mind, it would seem that the very process required by the Requirements is probably unworkable.
- 13 I also note that the Determination does not provide any detail or guidance as to the nature or level of detail of the treatment plan referred to or the precise nature

of the quotation required, and I am not aware of the existence of such detail or guidance anywhere.

14 I did provide to each patient the subject of the Claims :

- (a) a course of legitimate, quality treatment that was appropriate and needed in each case;
- (b) a treatment plan (verbally) before beginning the course of treatment. With some patients I took as much as half an hour to take them through the plan;
- (c) a quotation (verbally) for each service or treatment involved in the plan, which quotation included the statement that there would be no cost to the patient because the treatment was being provided under the Scheme.

15 I did not provide information to the relevant referring general practitioners, consistent with the statements in paragraph 2 above. I note also, that :

- (a) at no time did any general practitioner follow up with me asking after a treatment plan for any patient referred (which may otherwise have alerted me to the Requirements); and
- (b) in that regard, I have, since receiving the Letter, ascertained that preparation and conduct of a team care arrangement (TCA) by a general practitioner (being Medicare Item 723, one of the items required to be in place for the purposes of a referral for dental services under the Scheme) involves (relevantly) the general practitioner :
 - (i) contacting the proposed providers participating in the TCA to obtain their agreement to participate;
 - (ii) collaborating with participating providers to discuss potential treatment/services they will provide to achieve management goals for the patient, such collaboration to be on a 'two-way basis';
 - (iii) documenting, among other things, the treatment/services that the collaborating providers have agreed to provide; and
 - (iv) providing the relevant parts of the TCA to the collaborating providers **all prior to** submitting a Medicare claim for preparation of a care plan (item 723), and
 - (v) in addition, reviewing all assessments and elements of the TCA.

No general practitioner followed that process with me in relation to any of my patients under the Scheme. This indicates to me that Medicare also did not ensure in a timely way or at all, that appropriate processes had been undertaken by general practitioners before they made claims that enabled dentists to proceed with their claims.

- (c) the fact that prior to the Visit no general practitioner involved in the referral of any of my patients treated under the Scheme, participated with me or contacted me in respect of any of the steps or actions referred to in paragraphs (b)(i) to (v) above (with the exception of a very few who wrote to invite me to be part of the TCA, and nothing more) :
- (i) meant that I did not have the opportunity to have my awareness of the Requirements raised through that interaction, not to mention the fact that, through no omission of my own, I also did not have the opportunity to participate as fully as envisaged and/or required, in my patients' TCAs;
 - (ii) indicates to me that the overall level of awareness of the details of the Requirements (and/or the Requirements in conjunction with the appropriate processes around preparation of a TCA) may not have been very high within the relevant professions; and
 - (iii) provides some further context and explanation as to why I am now in the position of having been found not to have complied with the Requirements.
- 16 Since the Visit, I have noticed a slight difference in the behaviour of general practitioners referring patients to me for the purposes of the Scheme, in that, only after a response from me agreeing to participate, does the patient's account become active. Nevertheless, it is still the case that no general practitioner has gone on to collaborate with me or discuss my proposed treatment of any patients.
- 17 Each course of treatment was :
- (a) provided as planned;
 - (b) carried out by me and, in appropriate cases, in part by third parties (such as dental laboratories) at my request;
 - (c) appropriate and necessary treatment for the relevant patient;
 - (d) accepted by the patient
- 18 Each relevant item descriptor detailed in each claim was met in the relevant treatment that I provided.

Gino Florio
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