

28 November 2017

Committee Secretary
Senate Standing Committee on Community Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

By email: community.affairs.sen@aph.gov.au

Dear Committee

**Inquiry into the value and affordability of private health insurance and out-of-pocket medical costs:
Additional Information**

The ADA thanks the Committee for its invitation to provide additional information to the Inquiry.

The additional information provided in the attached documents includes brief responses to:

- a statement made by Bupa in its submission to the Inquiry
- several statements made by Bupa in its Question on Notice response, and
- Whitecoat's "Adverse Comment Response" (Submission 222).

Documentary evidence in support of the figures provided in the *Rebate Disparity Case Study* tabled by the ADA at the public hearing on 31 October 2017 is provided at *Attachment B*.

The ADA would be pleased for the information provided in the document *ADA Additional Information for the Senate PHI Inquiry* to be published. However, to protect the identity and privacy of individual practitioners and patients concerned, I request that Committee withhold from publication the documentary evidence contained in:

- *Appendix B: Rebate Disparity Case Study Confidential Supporting Evidence*, and
- *Appendix C: Confidential Whitecoat Case Study*.

Should you require any further information, please do not hesitate to contact me.

Yours faithfully

Dr P H Sachs
President

Senate Community Affairs References Committee

Inquiry into the value and affordability of private health insurance and out-of-pocket medical costs

Additional information

Australian Dental Association

Response to BUPA statements on entry into its network of contracted dental providers

On page 4 of its submission to the Inquiry, BUPA states that

“The Bupa Group has preferred provider and branded dental networks who agree to charge set fees for their services to Bupa customers. These services increase the value of ancillary products for our customers. It is erroneous to claim this is anticompetitive, *when it is open to any provider who wishes to sign up* and open to any provider to opt out at any time”. *[italics added for emphasis]*

The ADA must point out that BUPA's claim that entry into its preferred dental provider network is “open to any provider who wishes to sign up” is false.

Evidence that entry into BUPA's preferred dental provider network, and similar networks run by other health funds are *not* open to all dentists who are willing and able to accept the fund's preferred provider contract conditions (including adherence to the fund's prescribed treatment fee schedule) is provided in the following:

- First-hand accounts given by dentists given in their submissions to the Inquiry. With specific reference to BUPA, see submission numbers 100, 102, 168, 223, 176, and with reference to barriers to entry to many health fund networks (which may include BUPA, although it is not specifically mentioned), see submission numbers 130, 200, 112, 20, 103, 194, 98, 31 and 141.
- Correspondence from ADA members provided at Appendix A, some of which dates back to 2013. This demonstrates that barriers to entry to BUPA's network are not a new development.

Given these barriers to entry, preferred provider arrangements and associated systems of rebate inequality which discriminate against non-contracted dentists and their patients via payment of lower rebates, even when treatment fees are the same, or lower than those charged by contracted dentists, are clearly anticompetitive.

Response to BUPA's Question on Notice Response

The ADA stands by the *Rebate Disparity Case Study* which was tabled at the public hearing on October 31, 2017.

The two Bupa-related examples used in that document - 'Patient X' and 'Patient Y' - relate to Item 613 services provided to BUPA extras policy holders in South Australia in mid-to-late 2015. For obvious reasons, the ADA did not include receipts and invoices in its tabled document, so as to protect the identity of the particular patients and dentist involved.

However, the ADA has now provided this evidence to the Senate Committee in the form of a confidential appendix to this document. This appendix includes copies of the original patient invoices/receipts from which the examples provided in the tabled document were drawn, and BUPA receipts for the same services. It also includes a copy of the South Australian Members First Dental Network Fee/Rebate Schedule effective 1 March 2015, which was then in force.

Contrary to Bupa's assertions, these documents show that the Contracted/Bupa Clinic Fees cited for these patients are indeed correct. They also show that the fee charged by the non-contracted dentist for Item 613 was, as shown in the *Rebate Disparity Case Study*, considerably lower than BUPA's fee.

There are two minor errors in the figures shown for Patient X and Y which occurred in transcription. The first is that the documentary evidence shows that BUPA's rebate to Patient X was \$440, not \$444.

In other words, even though the dentist he saw charged less for a crown than many BUPA-contracted dentists, Patient X got back less than half the rebate of \$888 that BUPA was then providing to a policyholder on their cheapest extra/dental cover who received the same service from a Bupa-contracted dentist.

The second is that the documentary evidence shows that Bupa's actual rebate to Patient Y was \$941.75 – even less than the \$990 cited in the *Rebate Disparity Case Study*, and almost \$400 less than she would have received had she obtained the service from a more expensive Bupa-contracted dentist.

On page 2 of its response, BUPA states that its preferred provider arrangements are designed “to support benefit and cost transparency” and to “provide customers with clear informed consent prior to undertaking any treatment”.

These statements are at best disingenuous.

Customers who see fund-contracted dentists have no more certainty around treatment fees than those who see independent dentists. As required by the Dental Board's *Code of Conduct*, it is standard practice for *all* dentists to provide patients with itemised quotes (usually written quotes) of fees for any recommended treatment items in order to obtain informed financial consent prior to providing that treatment.

All dentists would like to be able to provide customers with “clear informed consent” that includes an estimate not only of their treatment fees, but their out of pocket costs after any health fund rebate is applied.

However, health funds like Bupa make this more difficult than it needs to be, both for patients, and for dentists who are not contracted to them.

This is because they do not make publicly available written information on rebates for all dental treatment items applicable to each of the various policies they offer, or all “fund rules” that may affect whether or not a patient will receive a rebate for a particular treatment item in the context of any particular dental visit.

If BUPA was genuinely committed to “cost and benefit transparency” and informed financial consent it would provide a copy of its full Schedule of Dental benefits to all parties – contracted dentists, independent dentists, and most of all, BUPA extras policy holders and consumers shopping around for extras cover.

BUPA's claim that in calling for rebate equality, the ADA is out to 'maximise revenue for dentists' is nonsense. Rebate equality is about ensuring that extras insurance policy holders who pay the same premium for the same policy are treated equally.

It is also about restoring a level playing field in the market for dental services, such that differential rebates, and unequal access to contracted provider arrangements can no longer distort free and fair competition or consumer choices.

With respect to the relationship between dentist fees and health fund rebates, the key point to make is that the dentist fee should be irrelevant to the rebate, as is the case with Medicare rebates, which are set at fixed dollar amounts, rather than a percentage of the doctor's fee.

Set dollar rebates for treatment items that apply equally irrespective of the identity of the healthcare provider are fair because they treat all consumers and all doctors equally, without constraining competition in the market for health services.

Rebate equality is an important principle because it respects individual consumer choice, rather than imposing a financial penalty on consumers for that choice of provider they have made from amongst the many alternative providers they could have chosen in an open, fair, competitive health provider market.

Response to Whitecoat's "Adverse comment response" (Submission 222)

Whitecoat's claim that the ADA has "completely falsified how the moderations and rankings work" and made other "baseless claims" about Whitecoat in our submission to the Inquiry is clearly incorrect.

What the ADA has said is that Whitecoat's moderation policy gives it the right to edit, remove, or simply not publish reviews, and that this *puts it in a position* to favour dentists contracted to the three health funds with significant share ownership of Whitecoat and representation on its Board. The ADA stands by this statement, and reproduces the relevant part of the moderation policy below:

"Whitecoat does not guarantee that any comment submitted will appear or remain on the website. We reserve the right to edit or remove any material submitted to our website, or stored on our servers, or hosted or published on our website without notice."¹

How might this policy put Whitecoat in a position to favour certain dentists?

First, when a consumer searches for a local health provider on Whitecoat, search results appear in batches of five or so providers at a time. To see another five, the consumer must click "Load more". Where a provider sits within the order of search results presented depends on whether the provider has "opted in" to Whitecoat, whether the provider has paid Whitecoat a monthly fee (some \$200 a year) for use of the online booking function, and the number and quality of reviews.

Second, "star ratings" for providers are based on average ratings given in responses to survey review questions consumers are asked to fill in as part of their review of the provider. (Consumers also have the additional option of leaving a written review).

So, should Whitecoat choose to exercise the rights it accords itself in its moderation policy, for example, by opting not to publish, or include particular survey responses or written reviews about specific providers in its "count" for star ratings or ranking purposes, it may favour particular providers over others.

¹ <https://www.whitecoat.com.au/providers/Page/moderationguidelines> S3.

The ADA's concerns about the conflicts of interest inherent in Whitecoat's financial relationship with health funds are founded in past experience with nib's development of the earlier iteration of Whitecoat, prior to the establishment of the joint venture.

During consultations between nib and a range of health professional associations, it emerged that the ranking system and price comparison mechanism that nib had planned to use on Whitecoat was skewed to favour the Pacific Smiles Dental Group, with whom nib had a contractual relationship prior to the introduction of its First Choice Provider network.

Although nib undertook to rectify this bias at the time, this was only because it came under pressure to do so as a result of external scrutiny. Unless Whitecoat is subject to close monitoring by an independent regulatory authority, as recommended by the ADA, health providers and consumers cannot be confident that its operations are not affected by the conflict of interest posed by its financial relationship with several major health funds.

Whitecoat claims that it wants to help consumers "to make better and more informed choices" with respect to health providers. However, a key reason that the National Law prohibits the use of testimonials in advertising is that testimonials "may misrepresent the skills and/or expertise of practitioner", and the example included in the confidential attachment to this document (Appendix C) is a case in point.

Taken directly from the Whitecoat website, this example shows very recent screenshots of the reviews posted about a particular health practitioner on Whitecoat. These reviews are all very positive, as are the four and five-star ratings he is accorded on the site.

However, as shown in a separate screenshot of information publicly available on the AHPRA website, the registration of this same health practitioner is currently suspended. This means that regulatory authorities have decided that he is not currently a suitable person to practice in his health profession.

This real-life example illustrates the serious limitations of patient reviews as means of helping consumers "make better choices". It also illustrates why the ADA has recommended close monitoring of the content that appears on Whitecoat by independent regulatory authorities.

Appendix A: Correspondence from ADA members re barriers to entry to BUPA's preferred provider network

Example 1: BUPA, Vic, 21/3/12

From: [redacted]
Sent: Wednesday, 21 March 2012 8:06 AM
To: ask@adavb.org
Subject: ADAVB >> Contact Us >> Email Us

From	Dr. [redacted]
Email	[redacted]
Subject	Concern about Bupa
Message	<p>Dear ADAVB, I have sent you something similar about a year ago expressing my negative experience dealing with Bupa. I took over a dental practice in Noble Park in July 2010 when the owner dentist retired. The owner was "preferred provider" to HBA/MBF (now known as Bupa) and the clinic had a few hundred patients who had Bupa cover. At the time of the change over I could not enquire about application to become Bupa's provider because they said they were undergoing restructuring. Some months later I enquired again and got told that they already had enough Bupa providers in my area and they could only add me in later when their business needs changed. I didn't really understand the reason, so I wrote a 2 page letter to the Account Manager in charge of Victoria explaining my situation and the need to continue looking after my Bupa insured patients. Disappointingly I only received a one sentence reply from that manager saying he would add me when the business needs changed. No further explanation on the need to mlimit number of</p>

providers in one location. Since then, a lot of those Bupa insured patients left, most of them without notice, some did hand in a transfer request so we had a chance to actually talk to them to find out their concerns, they all only had nice things to say about my practice but said that they could not afford paying higher gaps so they had to go and see Bupa providers. Yesterday I had a chat with a Bupa consultant on the phone, voicing my concerns and asking to discuss with someone else, preferably on higher level than that Victorian manager. After listening to my story she said that was their policy and they could not give me any special consideration. Also that Victorian manager was the only one I could deal with. There was no one on higher level that I can contact to discuss or voice my concern/complaint. She went on to say that the membership was for the previous dentist and when she sold the practice she took it with her. It was not for the actual clinic, so when I took over I had to start from the scratch and wait till they could add me in. She also mentioned that having too many providers in one area could affect their ability to compete. When I asked how it could affect the quality of dental care, she said it was purely a business decision, nothing to do with that. She said that her family dentist wasn't Bupa but she chose to see him. Also the patients in my clinic were actually the health fund's patients but they had a choice to see whoever they wanted. But in my opinion not many people can afford to do it like her, with nowadays ever rising cost of living (and their health insurance premiums). Of course some Bupa patients are still happy to see me but I just want to do something to look after the majority. I asked her if the previous owner could take the preferred provider membership with her then why couldn't I bring my bupa provider membership from another location to my new practice. She said it would only make the process a bit simpler but I would still have to wait. I felt they gave contradicting info because previously my staff had been told by the Victorian account manager that if I joined all other dentists would also have to. Of course they are a private company, profit driven, but since this is about health care, I feel that the health benefit of their members should be considered as well, not just their business needs or their competitive ability. Hence I found HBA slogan Members first very much misleading. My family actually held HBA cover for basic hospital cover, for over 2 year, but right after the conversation yesterday I terminated it and changed to another fund. These are just my objective opinions. Would be great if you could give me some advice or let me know if they are valid. Thanking you [REDACTED]

nt 21 Mar 2012 08:06 from 120.144.24.28 using [Contact Us](#).

Example 2: BUPA, NSW, 25/6/13

From: ADA Web Site [[mailto:](#)]
Sent: Tuesday, 25 June 2013 2:46 PM
To:
Subject: ADA Web Site Enquiry - Members site (Complaints)



MEMBERS WEB SITE

Who To Contact: Complaints

Branch To Contact: National (ADA Inc.)

Name:

ADA Membership Number:

Organisation: Dentist

Position: Principal

Postal Address:

Suburb/Town:

State/Territory: nsw

Post Code: 2204

Country: Australia

Phone:

Fax:

Mobile:

EMail:

Comments:

I have a complaint about BUPA. I have existing patients who are being told that they should be seeing a members choice dentist to get more back from their health fund. I am not a members choice provider (actually I have contacted BUPA on several occasions to join and they have said they are not taking new providers). If this is the case they should not be actively campaigning for my patients to be seeing their "members choice providers" as this is putting their providers at an unfair advantage. There should be a level playing field for dentists as far as benefits from a health fund are concerned. Can any action be taken on this issue?

City/Suburb of Practice

Goodwood SA

Summary of Incident

I spoke with [redacted] today re a new dental clinic starting up in opposition to us in Goodwood SA (small country town). The new clinic is advertising on their website - [redacted] that they will be preferred providers for BUPA.

Result of Incident

BUPA has advised us they are not taking on any more surgeries & have since April. We are concerned this new dental surgery can access all of our patients who are BUPA members thru BUPA third mail outs etc. which potentially may lead to a huge loss of clientele for us.

What further action is requested?

Can anything be done?

Dentist's Signature

[redacted]

Date

22.7.13.

Example 4: Nib, Medibank Private, BUPA, NSW, 1/8/13

Health Fund Name

NIB, Medibank, Bupa
NSW

Summary of Incident

Health funds declining applications to become providers through
their respective programs.

Result of Incident

The public is at a disadvantage because the funds are
not providing an even playing field. By not only selecting but where
a higher benefit is available, but actually limiting geographically,
the number of providers who can receive this higher rebate (and
therefore provide a lower out of pocket expense for services for patients)
providers are clearly showing anti-competitive behavior.

What further action is requested?

Equal reimbursement for services provided, or to
be allowed to join their respective programs

Dentist's Signature

Date

1/8/13

Example 5: BUPA, South Australia, 10/11/16

From: [redacted]

Sent: Thursday, 10 November 2016 2:41 PM

To: ADA Contact <contact@ada.org.au>

Subject: Fw: Members First Network

Hi,

My name is [redacted] I am an ADA member. I watched the time2switch seminar on Wednesday and remember it being said that if we had any proof that we had been denied joining a preferred provider membership and then a clinic had opened up in the vicinity to let the ADA know.

I believe this is proof enough. We tried looking at joining the BUPA members first network when we first decided to open our clinic, which was back in about January 2015, unfortunately I do not have any written evidence of this as we were advised verbally that there was already too many preferred providers in our area of [redacted] 1. And then a few months ago, BUPA dental opened up in [redacted] shopping centre.

Please let me know if i can provide any further help.

Regards,

[redacted]

From: [redacted] <[\[redacted\]@bupa.com.au](mailto:[redacted]@bupa.com.au)>

Sent: Thursday, 17 September 2015 10:32 AM

To: [redacted] <[\[redacted\]@bupa.com.au](mailto:[redacted]@bupa.com.au)>

Subject: Members First Network

Hi [redacted]

I met with [redacted] yesterday and she asked me to review the Expression of Interest for your clinic in [redacted]

I have reviewed this and at the current time, Bupa does not have a business need to change our Members First Network in the area. I will contact you if there is an opportunity in the future to join the Bupa Members First network in your area.

Kind Regards,

[redacted]

[redacted] Ancillary Networks Account Manager SA/WA, Health and Benefits Management

Bupa, Level 2, 80 Flinders Street, Adelaide, 5000

T [redacted] <[\[redacted\]@bupa.com.au](mailto:[redacted]@bupa.com.au)>

W bupa.com.au/healthandcaring

