

1 March 2011

Dr Timothy Kendall
Acting Committee Secretary
Senate Standing Committees on Community Affairs
PO Box 6100
Parliament House
CANBERRA ACT 2600

Dear Dr Kendall

Human Services Legislation Amendment Bill 2010

The Consumers Health Forum of Australia (CHF) welcomes the opportunity to provide input to the *Human Services Legislation Amendment Bill 2010*. This Bill amends the *Medicare Australian Act 1973* and *Commonwealth Services Delivery Act 1997* to integrate the service delivery of agencies administered under the Human Services Portfolio. The amendments include changes to amalgamate Medicare Australia and Centrelink into the Department of Human Services, including amendments to secrecy provisions.

CHF is the national peak body representing the interests of Australian healthcare consumers. CHF works to achieve safe, quality, timely healthcare for all Australians, supported by accessible health information and systems.

CHF's interest in this Bill relates to the provisions around Medicare Australia, particularly those relating to patient records. We note that Schedule 1, item 74 of the Bill removes the previous obligation on the Chief Executive of Medicare to notify a patient that their records have been seized as part of an investigation, replacing this with an obligation to notify a patient only if their record has been examined. The Explanatory Memorandum for the Bill argues in relation to the previous obligation that

It is onerous and expensive for Medicare Australia to notify patients on that broad scale. In addition, unnecessarily broad notification could cause needless worry to patients whose records have not been examined.

Item 76 reduces the notification requirement further, providing an exception to the notification requirement when a medical record has been examined, but the examination of the record did not result in person examining the record obtaining any knowledge of any of the clinical details relating to the patient.

CHF has significant concerns about this substantial reduction in notification requirements. It is essential that health consumers and other community members have confidence in how Medicare is storing, accessing and using their personal information. Australians assume that the information that Medicare holds about them will be protected, and that they will be informed of any atypical access to their information. The proposed Bill has the potential to substantially reduce Australians' confidence that their information is safe with Medicare.

Past Medicare privacy breaches raise further concerns about the appropriateness of reductions. Considerable media coverage in recent years has raised concerns about Medicare staff 'snooping' and accessing records inappropriately.¹ CHF is concerned that, if Medicare is to have the power to seize and examine records without being required to notify patients, there will be more opportunities for inappropriate access to patient information.

CHF acknowledges that there are processes in place at Medicare to monitor and act on inappropriate access to records. However, it is unclear how these processes would apply to seized records, and particularly whether these processes are sufficiently refined to determine whether clinical data has been viewed. There must be safeguards in place to ensure that the privacy of patients' personal and clinical information is maintained.

CHF argues that the obligations of the Chief Executive to notify patients about access to their records must not be reduced. We urge the Committee to recommend that items 74 and 76 of Schedule 1 of the *Human Services Legislation Amendment Bill 2010* be changed to ensure that the obligations of the Chief Executive of Medicare are maintained at their current level.

Yours sincerely

Carol Bennett
CHIEF EXECUTIVE OFFICER

¹ eg Laird, C. 2010 'Medicare privacy breaches 'only the beginning'', 2 March 2010, <http://www.abc.net.au/news/stories/2010/03/02/2834702.htm>; Dearne, K. 2010 'Medicare data breaches increase privacy fears', 16 March 2010, <http://www.theaustralian.com.au/australian-it/medicare-data-breaches-increase-privacy-fears/story-e6frgakx-1225841101367>.