

Community Affairs References Committee

ANSWERS TO QUESTIONS ON NOTICE

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

Department/Agency: Australian Competition and Consumer Commission

Topic: Community Affairs References Committee - Inquiry into the value and affordability of private health insurance and out-of-pocket medical costs

Date: 31 October 2017

MP: Stirling Griff

Hansard page number: 64

Question:

Senator Griff: Mr Gregson, you recommend the Private Health Insurance rebate for general treatment to be abolished and the funds made available to provide more accessible dental care for all Australians. Will that not increase the gaps already faced by consumers?

Mr Gregson: I might get David Salisbury to comment; he might be closer to some of that.

Mr Salisbury: I'm not quite sure where we did in fact make that statement and, if we have, I'd need to take it on notice.

Senator Griff: If you could do that, I would appreciate it.

Answer:

The ACCC is not aware of any public statement it has made that has indicated the ACCC supports this position.

Response to Written Questions from Senator Griff

Question:

The Consumers Health Forum has described a "single quote" model work? I take it this would be for a whole episode of care. Would this breach the ACCC price fixing regulations by binding together independent practitioners in a bundled fee?

Answer:

The answer to this question would depend on how the Consumers Health Forum (CHF) proposal would work in practice. The ACCC notes the CHF submission to the inquiry which described a 'single quote' model as applying to specialists as well as hospitals.

The provision of a single quote for a medical procedure comprising each of the fees of different health professionals does not inherently raise concerns of price fixing. It should be possible for a lead practitioner or third party to coordinate quotes and billing to give it effect. It is, however, possible that arrangements put in place to facilitate such practice could cause concern under the *Competition and Consumer Act 2010* (Cth). For example, systems providing for the sharing of sensitive price information to competing practitioners, or where the single quote involved competing practitioners and the direct exchange of sensitive pricing. The ACCC is able to discuss these matters with the relevant parties that are considering this in further detail.

Question:

ADA submission 222

Dentists who want to invite non-contracted dentists to work in their practices are coerced by health funds to make new colleagues sign up to a health fund contract on pain of losing their own contracted provider status if they do not. The ADA has long argued that this amounts to a prohibited form of exclusive dealing called third-line forcing under Australian Consumer Law, and recommends that the Australian Competition and Consumer Commission (ACCC) investigate and prosecute such practices.

Has the ACCC ever investigated any health funds for third line forcing? Why not?

Answer:

It is not clear that the conduct of health funds in coercing or requiring all dentists operating in the one practice to have arrangements with that fund constitutes third line forcing. In certain circumstances, any such requirement may induce new dentists to sign up to a health fund contract but specific circumstances would need to be assessed to form a view on whether third line forcing conduct might arise including whether the arrangements between the dentist and the fund involve the acquisition of services.

Additionally, from November 2017, third line forcing is no longer a per se provision under the *Competition and Consumer Act 2010* meaning that it will only contravene the law where it results in a substantial lessening of competition. In considering conduct under the third line forcing provisions or more general provisions prohibiting anticompetitive agreements, the ACCC is required to assess whether particular conduct met the threshold of purpose, effect or likely effect of substantially lessening of competition. While various issues involving interactions between dentists and health funds has been raised with the ACCC previously, we would be pleased to consider further information on specific conduct if available.

Question:

The ADA states it has made many submissions to the ACCC about the behaviour of PHI funds. What steps has the ACCC taken to investigate these claims?

Answer:

The ACCC has received reports of and assessed a number of issues involving interactions between dentists and health funds. On the information available and based on our assessment, we have not pursued matters under the competition provisions. We would be pleased to consider further information on specific conduct if available.

Question:

How does the current profitability on general treatment insurance compare with the hospital treatment component? Is there a cross subsidy between extras and hospital insurance?

Answer:

The ACCC does not collect data on the profitability of private health insurers.