To:

Senate Committee 12-04-12

I worked as an employee dentist, no administration role what so ever, only a clinical role, in a suburban clinic in lower socio economic south for the period of my audit which was April 1st 2009 till March 31st 2011.

My personal involvement in the scheme ceased on May 28th 2010. When I was participating in the Scheme I had no knowledge of the paperwork requirements or its implications.

I first became aware of the Department's concerns by phone call on Thursday November 10th, 2011. I understand that the practice has been sold; I am not in a position to counter Department claims against me.

I have noted that Department claims of full recovery against me effectively mean that I have a demand to pay them approximately five times what I have finally netted, for the administrative oversight of another person's business. This is monies that I must fund my living expenses.

Monies paid to another person, I have received none of it from the Department. The Department claims are of five billings errors out of 1273 items claimed, an error rate of .0039% and then all the others relating to the administrative paperwork requirements.

Not providing paperwork has in no way adversely impacted on the patient treatments and patient outcomes. Personally, I have not ever heard of any negative feedback from neither patients, nor doctors regarding this matter. If I had been made aware earlier on and if proper education had been provided by Medicare, I and my practice would have ensured that we met these administrative/ paperwork requirements.

I have never had any previous experience in dealing directly with Medicare Australia as a dental provider, apart from my experience with the DVA. I have never had any major concerns with the DVA, which had dentist liaison officers to assist with communications and any possible misunderstandings. Otherwise I have successfully complied with their rules and "Pre approval" requirements.

I have had many years' experience dealing with other third party funders of dental treatment, including private funds and Governments in the UK and South Australia. Compliance with the requirements of these agencies was about honest correct billings, provision of a professional standard of care and no doubt eligibility. There was never anything remotely equivalent to the Section 10 requirements.

I have noted elsewhere how these private funds and government agencies operated and how this influenced my understanding of Medicare Australia's Compliance requirements. Discrepancies with the payment of benefits with all of these agencies resulted in either immediate or very rapid feedback to the dentist of any concerns of failures to comply. This should have been Medicare's practice, not to wait around 3-4

years after the scheme commenced to carry out these audits and then take such extreme and punitive steps.
-It didn't take a number of years for the other third party funding agencies to find out about discrepancies.
It's clear that the Department needed time to get itself used to the new experience of dealing with third party dental funding

Honest dentists want continued business, we are a very cooperative group of people when given half a chance to be educated, even about systems with which we have had numerous years of experience and with which we are very familiar. Please compare that to my limited experience with the Department.

The CDDS commenced in late 2007, I finally became aware of Department concerns in my particular case virtually four years later, on November 10th, 2011.
Indeed it wasn't until the time I ceased my involvement in the scheme, in May 2010, that word of Department concerns finally began to percolate through to the profession from mid 2010 onwards.

From this time on, reports that came out centred firstly on billings discrepancies and then eventually the term "Technical Compliance based on Administrative Oversight" became the key catch phrase for dentists to "get their house in order".
Sometime after I had ceased my personal involvement in the scheme, the exact nature of the Department's concerns were still being reported to dentists out in the field with rather mixed and confused messages regarding the true significance and implications right through till very late 2011.

In March 24 2010 the ADA reported disappointment with the prospect of any dentists "defrauding the scheme" and recommended that they be fully prosecuted. Media reports, fomented by public claims of "rorts" by leading figures, reported that dentists had (knowingly??) "abused the CDDS". Being an honest person I felt both dismayed at these unconscionable colleagues who were discrediting the name of my profession, but personally felt comfortable that I was not making "incorrect claims".
It was always my intention to make "correct claims", as was the advice in the ADA newsletter of February 2010 when it informed us of the Department's advice to it regarding the reason for audits was as follows:

"Audit is…….

-contacting a dentist to inform of **identified concern in claims history** and seek an explanation or evidence to support that the claims have been made

-aimed at addressing **incorrect claims** that have resulted from

-misunderstanding
-carelessness
-recklessness

Criminal investigations commence when there is suspicion, evidence of

-intentional fraud
-deliberate non compliance

The majority of Medicare Australia audits end with our concerns being addressed and no further action being taken."

My reading of this ADA advisory in late February 2010 appeared to confirm my suspicion that there must have been some kind of minority of dentists out there who were "carelessly or recklessly making incorrect claims" My interpretation of this was that my desire to create honest "claims" to the Department stood me in good stead. Surely if my actions proved to be wrong, that would be simply due to a "misunderstanding"? We are talking about an entirely new experience here aren't we? In any case "the majority of MA audits end with no further action being taken" I felt at ease, my record of honest claims history to third party providers looked to be intact. I had always interpreted "claims history" as referring to "billings history".

The substantive information about the Scheme came after I had ceased working at the Practice. We had never experienced this type of thing in our previous dealings with third party funders of dentistry.

The Department did not highlight in any of its brochures, documents and web site downloads these requirements and the potential consequences of not meeting them. The Department and Political strategy is all about soft sell talk of "Discretion, Education and Flexibility", but in actual practice it is all about "The Legislation". It's there and we will use it……..no buts. If you have finally been properly educated and are attempting to retrospectively correct your ways then bad luck…….we've already gotcha.
"Get your house in order" is the easy part…….now that you dentists have finally cottoned onto what's going on, now that you have finally been educated, go ahead and "comply"……but if our efforts at education were so bad in the past then too bad, we can simply default back to the legislation….it's on our side, and that's all that matters. After all "there is no scope for the DHS to not follow through on recovery action when warranted".

"The Department will provide education and not seek recovery based on the particular pattern of behaviour as "where the dental practitioner is found to be generally compliant with the requirements of the CDDS, this will generally be the end of the audit" and "if the audit indicates a significant pattern of non compliance by the general practitioner (dentist?), the audit may then proceed….."
Which is code for "if you look like you cottoned onto a bit about the Section 10 Legislation, but instead simply ignored it to some degree such that the amounts the Department can get off you are not too much, then we'll let you off…..this can look good when we report to Enquiries, that we didn't just go after everyone in some kind of unfair manner. But heaven help if you, or your employer, didn't read between the lines and somehow work out from our information literature that there were extremely serious ramifications in those one or two sentences that we left completely un highlighted. Because you, and your employer, are now quite unaware of the legislation and its potential ramifications, your pattern of behaviour is likely to mean no compliance at all and this is where we can hope to really get some investment return on our compliance activities. It's a win-win for us, we let those off the hook, that we can't get much out of and we go after those that can best net us a return for our labours. And we can tell the committees that we have been showing some discretion and flexibility. Terrific stuff.

I refer the reader to the senate questions of February 16th and note that Department spokesmen were unable to furnish the questioner with exact average dollar amounts

per dentist that it has seen fit to "educate or let off" versus those that the Department "seeks recovery from". But then, they were also unable to give clear information regarding Department Policy on Discretion apart from nonsensical soft sell mantras about "Patterns of Behaviour". No documents, no written policy nor clear parameters. The questioner was right to wonder aloud about the true basis for "Department flexibility". It will be interesting to see the "average per dentist" figures come out.

"That the legislative requirements associated with the CDDS are aimed at assisting patients suffering from chronic disease. These requirements are essential and facilitate appropriate communication between the patient, the treating general practitioner and the dental practitioner to ensure adequate patient care is provided", along with other comments about "Medicare is required to conduct assurance activities to ensure that the public funds expended on the CDDS are being used in accordance with legislative requirements……and I appreciate your efforts in ensuring that dental practitioners have all the information they require to successfully operate within the requirements of the CDDS"
-so it's all about Communication between Dentists, Doctors and Patients as it is beneath the Department to simply use "Red Tape" just for red tape's sake.
Being a paternalistic government Department we believe that we have to use the sledgehammer of Government Legislation in order to enforce the simple act of communication between highly qualified professionals who have been doing this very thing for years, but now simply can not be trusted. Not only do we have the legislation but we have the right to bring financial hardship on some and even ruin on others for simply not communicating our way. You may not be familiar with dealing with us, or this new legislation. We'll make sure we do not communicate the legislation with clarity or not at all, but we'll put just enough of a mention and a turn of phrase in our literature in order to cover for ourselves when we face the investigators. We will say that this is all about communication, but we will perfect the art of mis communication.

Triggers. We are told that "Where tip offs or complaints are received about dental practitioner's compliance with the CDDS, DHS is obligated to assess the concerns raised in the complaints….."
"To date the majority of audits undertaken by the DHS have related to tip offs and complaints but will now be complemented by high billing category audits".
"The high billing category of audits to be conducted includes dental practitioners identified as high billers of the scheme with a high benefit claim per patient average when compared to their peers."

-These may well have been just enquiries. Categorisation as "complaints" and "tip offs" is simply the Department's interpretation.
-Since the "majority" of audits undertaken relate to "tip offs and complaints" and since my personal benefit claim per patient average figure was less than a quarter of the full allowance and approximately half that of my peers (according to the figure in the Senate transcript of Feb 16th") I think it is worth considering how the Department fulfilled its "obligation to assess the concerns raised in the complaints…."
After all "assessing the concerns raised by the complaints" must surely be all about its own professed desire for good communication, and it is these "complaints and tip offs" that TRIGGERED the audits in the majority of cases.
-usually when a person makes a legitimate complaint, they would have a "concern" that they would like to see addressed. Any risk management seminar will tell you that

most difficulties that customers/patients have are simply about issues that can be immediately and quickly dealt with by one to one communication. It's always recommended to hear the complainant out and do your best to look after the concern before it "all blows up out of context".
-because I have been given no specific information regarding what "triggered" my audit, and because my billing patterns were so low I must conclude that my audit was one of the "majority" to be triggered by a "complaint or tip off"
-so let's have a look at how the Department behaved as "we are also obliged to follow up on those complaints since November 2008"
-has there been an opportunity to resolve it amicably, has the complainant had his "concerns addressed", have I had any opportunity to be of assistance? In the interests "to ensure adequate patient care is provided", has the member of the public's action in making the complaint/tip off to the Department achieved satisfaction for the aggrieved party?
-Dentists are used to personal and direct communication, at least in the very first instance. I can not see any possibility that this process gets anywhere close to achieving any of the above.
-What might these complaints and tip offs against dentists have been?
If the public. "patients in particular and sometimes other associated health professionals" have the right to satisfaction and if dentists are to be educated and prosecuted then surely everyone deserves to have a clear categorisation of the very issues that have been raised, and in good time?
-some points……..
-possible concerns about the actual treatment, is there any opportunity given for the dentist to address these concerns under this populist system of "tip offs"?
-complaints "in relation to the operation of this scheme"
(quote Ms Jennifer Cook in her audio interview Dec 2011)
This can mean absolutely anything, from simple enquiries, technical issues, complaints about the high level of paperwork needed, confusion with now having to deal with doctors……..basically anything, whether it be the fault of the dentist, the doctor, the system itself, no one's fault, people who get that special sense of fulfilment by running off to a third party rather than deal with the issue directly, and of course that time honoured "anonymous tip off".
Because we are not even given a general breakdown of what may have been the concerns, let alone specific feedback for dentists to deal on a one to one basis, we are left to trust and rely on the Department's "assessment" and interpretation of these issues and their true significance.
And from what we are seeing here, according to the Department's interpretation, it is
-always the dentists' fault
-must always be related to Section 10 requirements. It must be, because no matter what the complaint/tip off is, the Department's response it always the same.
Don't forward on the issue of concern, don't give any possibility of mutual resolution, no the Dept simply defaults to the legislation when punishing the dentists. We don't know anything about clinical dentistry so we are not going to process or communicate anything that may have come in along these lines. However we know everything about administration, forms and paperwork……and we know the law. Yes indeed, when all else fails, there's simply Section 10 legislation…….and what's even better, is we have "ensured that dental practitioners have <u>all the information</u> they require to successfully operate within the requirements of the CDDS" but we haven't even made a direct reference to the legislation in any of our documents.

-if the Department is truly responsive to the specific "complaints and tip offs" that it reports that it is receiving from the public then the only conclusion that I must draw from this is……
-there has suddenly appeared a large number of calls made by the public and doctors to the Department for treatment plans and quotes on a mass scale
-they have either not bothered to ask dentists for these, and instead gone straight to the Department
-or the aggrieved parties did communicate their wishes for Treatment Plans and Quotes to the recalcitrant dentists, who then proved to be too unwilling or simply too stupid to be bothered to provide it.
-My personal experience……..

-I was happy to allocate dedicated time to go through treatment plans and diagnostic data with private patients and indeed anyone who was interested, patients who are co diagnostic about their treatment are the best patients

-sometimes it is hard to give away quotes to "bulk billed" patients

-I haven't heard ANY positive feedback from doctors regarding the need for the extra paperwork involved, nor have I ever had one feedback to me from a doctor expressing a desire to change or involve themselves in the provision of a dental treatment plan

-having said all of this, I can see where the legislation is coming from and I am sure that dentists are willing to co operate with this protocol if given good education and allowed time to adjust to new requirements.

-I did have the experience of one particular patient who had concerns "in relation to the operation of the scheme". They had received a referral from the doctor and were anxious about getting started and the time delays caused by the need to be compliant with the administrative paperwork as we waited for the doctor to deal with it from his end. In order to assist the patient, I did call doctor in question to see how we could get things going……
-the doctor could see no reason why there was such need for paperwork requirements between the GP and the dentists……..this is a common finding with medical practitioner in my social contacts as well
-could this patient have gone to the Department with his concerns, only to have "created a trigger"?
-Will we get a breakdown from the Department of what these "complaint/tip offs" actually were, since they were the "majority of the triggers for audit"?
-It's a witch hunt no less. The Departments action indicates to me that its interest in the public's concerns "in relation to the operation of the scheme" extends only in so far as it provides a trigger for Section 10 Compliance activity. They have the law and that's all that matters.
Communication with patients extends no further than "processing the trigger"
The Department's idea of communication is a cheap, anonymous dob in line, that has everything to do with triggering an opportunity for Section 10 Compliance activity and all the millions that lie at the end of the rainbow, and nothing to do with communication and resolution of concerns to the public's satisfaction.
Except the satisfaction of the "anonymous power kick" that so attracts certain types to this "tip off" style of populist communication.

And near the end of her letter the Minister concludes to the ADA President that "I appreciate your efforts in ensuring that dental practitioners have <u>all the information</u> they require to successfully operate within the requirements of the CDDS".

I again highlight that the actual requirements were never explained or spelt out to us and neither were the consequences of not meeting the requirements were explained to us. There was no mention of s10 legislation in the Department's formal literature, nor was there any layman's interpretation of this legislation.
One would think that this information would now be corrected in recent updates to these documents. But alas, not so. That would be too obvious, an admission of guilt.
The serious ramifications should have been expressed in clear unambiguous language, for example relating the severe sanction of "full recovery" to these requirements in close association, even on the same page of the documents.
Now that would be communication.

It would be an interesting exercise to test the culture of "dentist non compliance", as would seem to be at fault here, by comparing the "rates of non compliance" that dentists have with the CDDS, to that with all the other third party schemes that we have had to deal with over the years. If it is much less with the other schemes, as I would expect, then can we claim that our apparent non compliance with the CDDS is the fault of dentists who "seek to deliberately exploit the system"? Or is it that dentists have suddenly come up against a system that has ensured non compliance.
If you make the laws in the dead of night and don't bother to communicate them properly, then you will surely get the non compliance you are looking for.

Equally it would be interesting to get the statistics of our rate of "non compliance" with MA programs and compare these with doctors in other MA programs.
Then I expect that it would be a "feature of the operation of the program that there have been a significant number of complaints", as after all, Ms of DHS has told us so.
Is this due to the dentist and what must surely be our own particular culture of non compliance? Or is it due the system itself and the way that it has been managed?
This surely depends on who is doing the interpreting and what exactly they are looking for.

So the Department has put out five formal documents that I am aware of, that's 101 pages of formal Department documentation and at most we get only minor and very much un-highlighted mentions of the so called requirements, but no actual reference to Section 10 Legislation, nor what we now see are its truly serious implications.
Instead this is left to the informal communications with the ADA after early to mid 2010.
This is information that Minister Plibersek describes in July 2011 as "all the information that dental practitioners require to successfully operate within the requirements of the CDDS".

Even as I go through all of this with meticulous detail in hind site, I can not help but stay with my previous general understanding of that time, that the ramification of serious sanctions related to such issues as fraudulent billing and large scale and deliberate acts to charge for work that was not provided.
After considering all of the above my advice to any dentist who any has thoughts of engaging his services in the CDDS is that he should first consult with the ADA. THEY are the ones who will provide the clearest and most helpful advice. If he should decide to consult with the Department information that is considered to be

"adequate and appropriate" then he should consider bringing along a microscope to assist in pouring through every single page and piece of documentation lest he miss the vital piece of un-highlighted information that carries with it the prospect of severe financial sanction
As the bank advertisement says in joking fashion……
"It's not hidden, it's just hard to find"
But this is no joke.

Perhaps I'm being hard on the Department, perhaps they need time to adjust to working with a new profession in order to get things right.
Perhaps they should offer dentists that same courtesy.

Possibly one of the most bizarre observations I have regarding all this business is the media campaign that implicates dentists as "rorting a scheme" over an issue for which the Department has not paid one red cent. It's true, not one cent of Department money has been paid/lost on this issue of Section 10 compliance.
No matter how many Treatment Plans and Quotes have been sent out, the Department has not paid one cent for this. All this administration and no dentist has been paid a cent for it. So what's there to "rort"?
All Department monies have instead been paid out on another quite separate issue, that of actual dental treatment.
Now the Department has a beef about an issue that it has not paid out any money for, and it wants to reclaim money it has spent on a separate issue.
If dentists were claiming an item for issuing treatment plans and quotes, then I could see how it would have a case for recovering money. At least a case that is built on fairness and common sense rather than a poorly communicated alleged legislative technicality

Ms from the Department has stated that "we (the Department) are able to exercise discretion when we have a situation where a dental practitioner may have in most instances met the requirements of the scheme but in a small number and in minor aspects has not met them then we can exercise some the discretion, and we do. In those instances we will often provide education and information to make sure the dental practitioner knows those areas where there has been non compliance so it doesn't happen again in the future and in those instances we may not seek recovery of the benefits. But we'll be looking at the overall pattern and the overall pattern we are looking for is where the dental practitioner has in the vast majority of instances met the legislative requirements of the scheme".
ie where there is a small amount to be recovered we can let it go and claim we are being flexible and to have a sense of fairness, but we make sure we get a good return on investment by showing no flexibility on the big cases where the "pattern of behaviour" has resulted in less compliance.
While we get the full serve of the words "discretion, flexibility" spoken with heavy intonations and strong emphasis by Department spokesperson , it is clear that this is all simply window dressing the real issue here. There is no discretion and there is no flexibility when it comes to the poorly communicated Section 10 Legislation for which the Department has paid out not one red cent.
-This is followed up by the surprisingly frank admission that "**It is**…..why the Department chose to audit dentists claiming under the scheme because of that

legislation". So it would seem that the whole point of the Department receiving public "complaints and tip offs" is to trigger audits that are "because of the legislation".
So the Department is focused upon "the Legislation" rather than on the substance and possible resolution of Public "complaints…..enquires, issues, concerns, feedback…..tip offs" call them what you will. In a system that looks to be designed to "catch people out" I guess it is all about those negatives of "complaints and tip offs". Nevertheless, what ever you call it, the audits that result from these triggers are not about the triggers themselves, they are "because of that legislation". Could it be possible that without this legislation there would be no audits, but instead simply Department time and effort devoted to such communication attributes as "feedback and resolution" of patients concerns?
-If I were a member of the public and I had a legitimate "concern, complaint, enquiry" I would like to think that I was going to personally get something from this. It would be interesting to have a survey of all the people who apparently made contact with the Department and find out from them if they feel that their "issues" have been satisfactorily handled. Or has the issue simply faded into obscurity from the patient perspective. What do we truly know of how these people feel about the way their "complaints" have been dealt with?
-it is very interesting to note Ms comment that "Department first identified some compliance concerns associated with the CDDS, some of these concerns were the failure of some dental practitioners to provide treatment plans to referring general practitioners or quotes to patients prior to commencing the course of treatment"
The liberal use of the word "some" here simply has me asking, just what else has the Department not told us about? Are they advising compliance officers to "apply discretion", depending upon the exact form of "complaint", or are we seeing the "one size fits all" of "once triggered, it's all about the legislation" and "thanks Mr. Patient for your complaint…we'll be seeing you out now."
-"what exactly does Ms mean when she says that "the Department is obliged to follow up on those complaints since 2008"? If the "complaint" is about the actual treatment itself or the time that it took to get started because of all the paperwork involved, does the patient see the fruits of this Department "follow up" of their particular complaint? Or again, are they merely a statistic in the Departmental "trigger file"? Communication works best at the one on one level, it's why dentistry works best in small private clinics rather than big government departments.
-is the Department truly "following up on specific complaints" and addressing them or is this simply a fishing exercise for triggers?
-"it is vital that there is appropriate communication between the referring general practitioner, the patient and the treating dental practitioner. So from the perspective of the Department it is not an administrative red tape requirement it is essential to the effective operation of the scheme" and "so that's also seen a core requirement of the scheme and I also explained it's part of the legislative requirement of the scheme, it's not a discretionary part of it to provide that information."
So this legislation has been left languishing, unmentioned in Department literature for four years and only thinly cited as "the dentist must provide treatment plans and quotes" and now in early 2012, we are told it is "a core requirement and not discretionary".
A decision was made back in late 2008, 2009 to chase this legislation and it is clear from how the Department has now absolutely changed the way it is communicating about it, that this is not an explanation so much as a rationalisation of that decision.

I can not imagine that the author of the Department literature was in any way more enlightened about its interpretation of the Section 10 Legislation and its potential implications than the average dentist has been over time. This is simply manifest from the way these requirements were written up back then and how it is being spoken about now. I notice that the term "mandatory" of 2011 has now replaced the word "must" within the Department literature of 2007.

In this audio interview of Dec 2011, Jan 2012, there follows much practised double speak along the same lines as in Minister Plibersek's letter of July 2011 to the ADA. Make liberal use of common sense and fair minded sounding phraseology such as "discretion and flexibility" as applied to such utterly vague and in-determinant concepts as "overall pattern of behaviour", while leaving open the very clear implication that the Department will go after those from whom it expects to get the best return and leave alone those it can not expect to get much back from. In other words, those who showed by their "pattern of behaviour" that they didn't understand the Department's communications, and so didn't comply at all, can expect "the full force of the law". Those who may well have had some level of understanding but either chose or simply forgot to be "fully compliant" can hope for some Department largesse. It's the mentality of "the less you understood, the more confused you were, the more you'll suffer. The more you understood then the more likely that you will be offered some education".
Again, I am reminded of the inability of Department Officers to furnish any documented particulars regarding "policies for Discretion" to Liberals and Greens Senators at the hearing on February 16th. This suits the Department as it is hard to challenge vagueness as opposed to clear cut documentation. You've just got to hope that everyone falls for it. I agree with the questioner who suspected it had more to do with how much the Department could expect to recover and how much the Department could let go in its efforts to appear fair.

And then "The Department does consider that there has been a wide and adequate range of material provided to dental practitioners on the requirements of the scheme since its inception". I think I've been over this. "Adequate range of material since its inception" is not a term that readily comes to my mind.
Soft sell mantras aside, it is clear that when it suits, the Department will default back to the legislation that it has so successfully not communicated to the dental profession since the inception of the CDDS

-I have observed some comments that I have heard made in the media regarding work apparently completed by dentists and billed to the Department under the CDDS
-I have noted comments regarding dentists billing "lucrative and unjustified items" to the Departments. Items such as crowns and dentures have been mentioned, and I would like to make some points regarding this if I may please.
I have even heard of a dentist speak of "irregularly higher levels of billings for crowns" compared to some sort of "norm".

-Dental treatment is recommended to patients based upon clinical parameters by a trained clinician who has sound reasons for doing so.
-whether a patient takes up that recommendation is up to them, based upon informed consent.

-patient uptake of recommended dental treatment will depend upon many factors such as perceived value, their own schedule, ability to undertake extensive treatments, their own health and personal financial priorities.
-it is not surprising, to me, to find a higher uptake of proper and clinically recommended "lucrative items" if the patient does not have to pay for the service, particularly if there is not even any copayment required.
-the lower uptake in the case of patients who must make a payment actually represents cases of under provision of clinically recommended treatments, not visa-versa.
-some patients choose, for reason of cost and affordability, not to follow the recommendation for dental treatment. Does this mean then that those dentists who provide the service to those who can choose to accept the service, are to be accused of "over servicing of lucrative items"? Should we sanction the "upmarket restaurant" for "over servicing" their clients, when surely "a hamburger will do"?
-the higher uptake of "higher end" services in a situation of "free to the patient" dentistry represents nothing more than a lowering of the under service of clinically recommended dentistry that, as we all know, is rampant in the community.
-naturally it is a requirement for Taxpayer funded third party providers of dental funding to "spread the dollar" as wide and far as it can……this is the responsibility of the people to complete due diligence when setting up the scheme in the first place.
-following the advice of experienced players, such as the ADA, other Private Dental Funds, SADS and other State Governments, even those who remember the British National Dental Health Scheme, would have given the Department a lot of helpful information, prior to setting up this scheme. This advice can still be sort.
-Dentists run the SADS, they understand dentists and dentistry and how to manage the costs of such schemes.
-it is a dentist's role to justify dental treatment based upon clinical parameters
-it is a patient's role to justify whether they take up the recommendation, based upon their own values, schedules and financial resources
-it is not for a dentist to make the prejudicial judgement as to whom he should make the recommendation of dental treatment to
-it is the responsibility of a third party provider to justify the financial parameters of recommended "high end" dentistry
-in the case of other third party funders……..
  -private funds have fixed limits on rebates that depend on the membership level taken up by the patient and use of any fund rebates per calendar year
  -SADS simply doesn't allow any crowns to be done by private contractor dentists as their funds don't allow it
  -the DVA, the other DHS dental service, even has prior approval requirements and dental liaison officers to assist in smoothing over any misunderstandings
-yet dentists have been accused of providing "lucrative and unjustified" services

-it would appear to me that dentists have been expected to perform the task of the Department actuaries and provide the financial justification to recommended crown work in lieu of its absence in the Department information brochures.
-this could be considered prejudicial for a dentist to base his recommendations for treatment on his own perceived "financial eligibility" of a patient, in the absence of clear Department guidelines for such items.

-I have had a thorough look over the two main DHS documents that explain the CDDS to dentists

-Information for Dentists and Dental Specialists, November 2010

-Medicare Benefits Schedule, Dental Services, 1st November, 2010

-both these documents are dated six months after the time that I ceased to operate in the scheme

-the following are areas where there are limits placed on the use of specific item numbers

-oral surgery, some endodontics, dentures every eight years

-I am unable to locate any specific regulations relating to the use of the crown and bridge item numbers apart from the overall limits of $4250 over a two calendar year.

-Indeed I quote from the first document that …….

"Types of dental services covered……..

A comprehensive range of services are covered by the Medicare dental items, including dental assessments, preventive services, restorative services such as fillings, crowns, bridges and implants, extractions and other oral surgery (other than hospital services), orthodontic services, and dentures"

-and from the MBS –Dental Services document……..

"4. What dental services are covered by the Medicare items?

A comprehensive range of services is covered by the dental items."

-while also noting the very general statement……

"Clinically relevant services

The *Health Insurance Act 1973* requires that for a Medicare benefit to be payable, a professional service must be 'clinically relevant'. A clinically relevant service means a service which is provided by an eligible dentist, dental specialist or dental prosthetist and which is generally accepted by the dental profession as being necessary for the appropriate treatment of the patient."

-all of this points to the requirement for……..

-dentists to make recommendation based upon clinical parameters

-the need for the Department to make clear financial justifications for such items as crown and bridgework under the CDDS

Personally I am not too fussed as to whether it is CDDS or CDHP, Liberal or Labor. I simply object to being made a scapegoat to a Department that is lost in process, egged on by a Government that has big plans that don't involve the CDDS.

I think it would be worthwhile finishing off with a quote from the transcript of the "Senate Community Affairs Legislation Committee Thursday February 16, 2012"

-Senator Abetz: "The injustice that is being caused is quote gross. Quite frankly I could not believe it at first until I went through the detail".

-Senator Abetz: "Thank you. Can Medicare explain how a dentist who is an employee can face a demand for repayment of all Medicare benefits paid to a practice?"

-Mr. Rimmer: "We can answer that. The Health Insurance Act relates MBS benefits to the professional practice of individual practitioners and is effectively in most cases, I think, blind as to the exact commercial arrangements between the practitioner and their practice and how those work in different circumstances. So, when an MBS claim is submitted, it is a claim that is submitted in relation to a particular provider. It is a benefit that is paid in relation to a particular provider. If there is a problem with that

claim, it is a benefit that is the legal responsibility of that particular provider to deal with. It is the way the legislation works".
Senator Abetz: "Telling us that is the way the legislation works doesn't justify it, and especially to you Parliamentary Secretary. If you know the legislation is going to lead to unjust circumstances, you then seek to amend the legislation or ensure that these unjust circumstances do not arise. You can have the principal of the practice being required to pay all the Medicare benefits paid to a number of dentists in that practice. Because he or she is the principal and holds the number, they can be responsible for everything and an employee as well. So this is a two-edged sword that seems to be cutting each way, causing unjust circumstances in both scenarios that I have just painted".
Senator Lundy: "Senator Abetz, when was the legislation that you are referring to brought before the Parliament"?
Senator Abetz: "I have no idea. If the legislation was under us or under a Green Government, I do not care. This is a circumstance that is unjust. When you have the Greens and the Coalition on a unity ticket on something, chances are there might actually be some merit in the case".
Senator Lundy: "Well, I think it is important that we have-----"
Senator Abetz: "I would ask the government to seriously consider this".
Senator Lundy: "Senator Abetz, as I said, I took your question on notice. I think it is incumbent upon me to point out that this was Howard Government Legislation. I am curious as to whether or not you raised the flaws back then".
Senator Abetz: "Nobody thought it would work out like this, and especially that a lack of discretion would be exercised by the Department. I still can not believe, quite frankly, that they can not exercise more discretion……This is a dentist acting in good faith simply not providing a treatment plan to the GP. How many of those plans have been rejected by GPs? Can you tell us that?"
Chair: "I was wondering when that question would pop up? Do we have that information?"
Mr. Rimmer: "That is not something that we would have."
Senator Abetz: "Because it makes no difference to the treatment of the patients in any way, shape or form."
…….and then on they go…….
-yes I agree with Senator Abetz that when I tell people about this saga, they can not believe it at first. "You mean you didn't follow the legislation? That's your fault" However when they follow me into the detail then they simply shake their heads in disbelief. The odd chuckle of black humour often follows.
-so this is a discussion about the legislation which actually commenced with the issue of the employee dentist being held accountable for all Medicare benefits paid to a practice, followed by the unconscionable throw away line by Mr. Rimmer that "It is the way the legislation works".
-and so here we have it all in a nutshell. When it all comes down to it, the Department may talk soft with "discretion and flexibility" regarding "patterns of behaviour", however in reality this is just platitudes. They have no clear documented guidelines on "discretion" and indeed they will always default "blindly" to the Legislation, "it's the way the Department works". There is simply no hope for common sense or fairness with this type of thinking from Department officials and their political masters who have embarked on a two year media campaign to discredit the dentists as much as they discredit the much hated CDDS.

-There then follows a classic exchange where the politicians both attempt to disclaim ownership of the Legislation and presumably look to the exits before the truth as to its source is revealed. It would be funny if it wasn't so serious.
-It is Labor member Senator Lundy who refers to it as flawed legislation and it is Liberal member Abetz who states that "nobody thought it would work out like this".

The truth of the matter is that this is just a very bad law, and we have a Government and a Government Department that shows no intention of applying any common sense or fairness to it, even though Labor Senator Lundy has referred to it as flawed legislation, when put under pressure of its ramifications from Senator Abetz.
I'm sure that the original intention of the legislation, as it specifically related to Section 10 was merely to influence the communication and administrative behaviour between doctors and dentists. Whether you believe that these requirements are necessary is not really for me to say, but if it is felt that it is a desirable thing then there simply has to be other ways to influence this behaviour without giving scope for such harsh actions as have been happening.

What politician can stand before a mirror and honestly say that the way this legislation is being used is what was originally intended?
We can not rely upon the Department to use the legislation as it must surely have been originally intended, so it must be up to the law makers to go back to the legislation and have another go, to right the wrong that has been done.

As Senator Abetz has said "Nobody thought it would work out like this".

I would then consider the passing of this legislation the logical next move and would urge the Committee to consider all these arguments when reviewing the new Bill.

Regards

Dr. John Lyster