

26<sup>th</sup> April 2012

Attn : Senate Finance and Public Administration Committees  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

**SUBMISSION TO : The Australian Senate on the Medicare Compliance Audits**

**History**

CanadaBay Medical Centre is a dedicated maxillofacial imaging centre utilising cone beam technology. Some of our prominent reporting clinicians such as Head and Neck surgeon Dr Peter Vickers, Maxillofacial Surgeon Dr Paul Hammans and a Maxillofacial Radiologist Prof. Malcolm Coombs provide patients and our referring dentists with clinically relevant radiological reports.

Our joint ventures within the context of this communication include the Australian Dental Association NSW Centre for Professional Development to provide cone beam imaging services to the patients of their members.

Presently Medicare are auditing our facility, theoretically under the Diagnostic Imaging Services compliance sector however the audit findings are showing many similarities with the methods of auditing conducted under the Medicare Chronic Disease Scheme whereby findings are based on technical breaches of the Act rather than fraudulent activity.

Although we have been involved in image quality for the last 30 years, our history in providing a cone beam imaging service started in November 2007 and since 2008 we have been contacting Medicare for advice to achieve compliance for billing procedures. Inclusive in 2009 we forwarded copies of a referral, the corresponding radiological report and copy of the item codes being billed to Medicare. (Further details can be supplied upon request.) The response to this particular communication was received in April 2011 unsigned.

The normal response we received to other communication seeking advice was "we cannot give advice" or when pushed, we received a citing of the legislation which was exactly what we had requested the clarification on.

We also requested Medicare verbally in August 2009 for an audit to be conducted on our centre in the aim to ensure compliance and was advised that it was the responsibility of another department and someone would contact me. This did not occur.



## Audit Findings

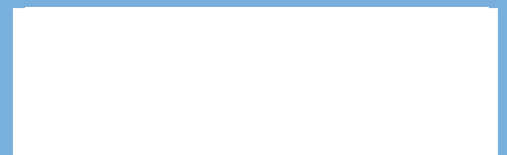
The findings cite technical breaches based on Regulation 19 of the Health Insurance Act 1975;

1. Where the referrer has not put a date on the referral or the date was incorrect ie. Dated the day after the date of service.
2. Their provider details and / or address was not specified or
3. Where Prof \_\_\_\_\_, Head Maxillo Facial Radiologist from \_\_\_\_\_ has given his written opinion of a patient scan under the supervision of Dr \_\_\_\_\_ who holds the provider number.
4. The Dept of Human Services have also determined that certain areas were not considered clinically relevant such as sinus and TM Joints unless marked. More than 48% of all patients had pathology detected in these regions alone which ultimately resulted in early diagnosis and treatment and in at least 7 cases less morbidity through the early detection of malignant brain tumors, pituitary and nasal tumors. Independent experts have confirmed in writing that these areas are clinically relevant and it is unethical not to report on these anatomical regions.
5. We were also in breach of Sections 23DR and 23DS of the Health Insurance Act 1973 in not producing the documents of more than 7000 patients within the mandatory 7 day period. We had advised the compliance officers of issues with the radiology information system accounting and database system which was purchased based on the fact that the software was approved by Medicare and listed on their website.

We have obtained letters from nearly all dental practitioners that referred their patients to us for the audit period confirming that they do need the areas imaged and reported on even though they forgot to tick the boxes on the referrals but apparently this is not good enough for Medicare and they advised verbally that they would not accept these signed letters.

Additionally where the date or provider number was missing on the referral, the referrer has also put specific information detailing the date the patient attended their surgery and confirming that they forgot to put the appropriate information required.

According to compliance officers this is not acceptable as the referral must be valid at the time the service was undertaken. They will not accept retrospective written statements.



Where the referral was missing a hand written date of issue but included a fax stamped date on the referral - the regulations and the MBS schedule requires the request to be dated prior to the service provision. In accordance with this requirement many requests were dated. The date is evidenced by completion of the date and/or the fax stamp.

According to compliance officers this is also not acceptable.

During a meeting on the 24<sup>th</sup> April 2012 with compliance officers we were advised that :

- (i) Where a patient presents with an invalid referral we have to send the patient back to the dentist to get the date or provider number put onto the referral.
- (ii) We are not permitted to fill in the missing date or provider number at the time of attendance as this constitutes fraud.

**Conclusion :**

1. There has been no fraud or rorting involved. All patients exist and have been referred by dental or ENT practitioners and a service provided exceeding that of medical radiology clinics offering similar services to the dental community.
2. The mistakes made have been honest mistakes to which we have made every attempt to rectify.
3. We have contacted Medicare on several occasions since 2008 seeking clarification to confirm compliance without success. Medicare have admitted in writing that no dedicated item codes existed for this type of technology – cone beam imaging
4. Medicare changed the rules for this type of technology on the 1<sup>st</sup> July 2011 and put an interim single item code (56025) without a formal definition in place under a different category of the MBS Schedule which has forced us to employ medical radiologists to verify the reports of our reporting head and neck surgeon, maxillofacial radiologist and our oral surgeon at an annual cost exceeding \$250,000.00
5. The audit has caused us to lose 6 of our centres as some of the site partners (who are primarily dentists / ENT surgeons) are too scared to deal with Medicare given the situation with the Chronic Disease Scheme. As a result we are facing extensive legal fees and a substantial loss in revenue.
6. Minimum 6 months of salaries for 3 staff members dedicated to prepare collect the documentation required by the Department of Human Services.

Where the audits undertaken for the Chronic Disease scheme amongst the dental community have demonstrated a non compliance of nearly 60%, should similar audits be conducted across all radiology / imaging groups and given our experience where findings have been based on technical breaches we are in no doubt that similar non compliance rates would be seen.

The actions of Medicare chasing refunds of fees based primarily on compliance with technical aspects of the legislation is likely to have a detrimental effect on future participation by private sector radiology / imaging groups in government funded diagnostic imaging care.



We, and I am sure that most other radiology / imaging providers are in complete agreement that fraudulent practice within the healthcare sector should not be condoned. If Medicare were to audit with the intent to target those who claimed for work that had not been performed or other fraudulent intention then there is no doubt very few within the health sectors would object to this process.

The Medicare Compliance audit website

<http://www.medicareaustralia.gov.au/provider/business/audits/files/3013-national-compliance-program2010-2011.pdf> clearly states that their philosophy is to support people who want to do the right thing and make it as easy as possible for them to meet their obligations and educate those who make honest mistakes. They also declare themselves to be fair and reasonable. None of our experience with Medicare / The Dept of Human Services has been fair and reasonable and their definition of educating those who make honest mistakes appears to be to force them out of business and lose everything they have spent years working for.

The stress and anxiety of entire process has been devastating and ultimately we are facing the loss of our home and a business that has been built on passion, dedication and a desire to help both patients and dentists.

We understand that whilst we are not directly related to the Chronic Disease Scheme with the Dental Community, we are indirectly related through the provision of complimentary services however we are facing the same outcome as the dentists audited therefore we also request similar assistance that may be provided to the dental community

Yours Faithfully

**CANADABAY MEDICAL CENTRE Pty Ltd**

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**Director  
&**

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 **THE MAXILLO FACIAL UNIT**  
MACQUARIE UNIVERSITY HOSPITAL

