Australian
Private Hospitals
Association

MBS Review: Report from the Gynaecology Clinical Committee 2018

16 October 2018

Australian Private Hospitals Association ABN 82 008 623 809

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Introduction

The Australian Private Hospitals Association (APHA) is appreciative of the opportunity to make a submission to the Medicare Benefits Schedule (MBS) Review in response to the recommendations in the report from the Gynaecology Clinical Committee (2018).

In this response, the APHA has focused on issues that could arise for private hospitals if these recommendations were adopted. Some of these issues lie outside the scope of the terms of reference for the MBS Review, for example they pertain to potential implications for the regulations governing private health insurance.

The Private Health Insurance (Benefit Requirements) Rules 2011 (Compilation No. 51, as of 24 September 2018: "the Rules") make detailed reference to relevant MBS items, and it is therefore essential to consider whether recommendations from the MBS Review will give rise to the need for changes to private health insurance regulation.

The issues in this submission are raised with the intention of informing implementation of the proposed recommendations should they be adopted by the Australian Government.

APHA has noted in this submission it would be undesirable if recommendations from the MBS Review resulted in increased 'certification' requirements. Certification refers to a process where-by clinicians are required to confirm a hospital admission has been necessary for clinical reasons. Some of the recommendations released in this consultation have identified the need for clinicians to keep additional clinical records, photos and histology/pathology results for audit purposes. While such recommendations may be entirely appropriate in the context of the MBS, APHA would want to ensure these requirements remain specific to the MBS alone.

The APHA also advocates there should be sufficient time allocated by the Department of Health for the implementation of the flow-on changes when changes are made to the MBS, such as the Rules (above) and the National Procedure Banding Committee processes, especially when there are changes to a large number of MBS items simultaneously.

It may also be necessary to consider whether there will be a need for education or guidance to the private sector as a whole including hospital operators and health insurers to ensure unintended consequences are avoided.

The APHA is largely supportive of the recommendations made in the gynaecology clinical committee report, and will therefore not address all recommendations separately. Below are the APHA comments for a select number of recommendations.

In making these comments, APHA remains fully supportive of the objectives of the MBS Review and recommendations intended to promote sound, evidence-based clinical practice.

General feedback

Minimum duration of procedures

The APHA wishes to highlight an overall concern regarding the use of duration of a procedure as a proxy for complexity. A minimum procedure duration has been recommended for item descriptors for several MBS items (such as items 35754, 35756, 35661, and 35637). The APHA is concerned the inclusion of minimum duration in the item descriptors will not 'future-proof' the MBS and will in fact not allow for technological advances and efficiencies in some cases.

Whilst the intention of including a minimum timeframe is to restrict current misuse, funders might take a rigid interpretation of a minimum procedure length, and refuse to pay for procedures completed under the required amount of time, even if only a couple of minutes short. As technology improves, the MBS might provide an unintended disincentive to providing shorter surgeries, potentially keeping patients under anaesthetic for longer to meet time requirements.

Setting minimum duration time requirements for individual MBS items rewards poorly trained surgeons, inefficient hospitals and slow anaesthetists and does not encourage swift highly skilled efficient doctors and their nursing teams. It does not delineate the complexity of the surgery.

The APHA suggests not including minimum duration of procedures for the items pertaining recommendations 21, 22, 24 and 25.

Histological and photographic documentation of pathology

The requirement to provide histological and/or photographic evidence of pathology which has been included in the item descriptors for a number of new or amended items (recommendations 20, 21, 24, 26, 27, 58, 62 and 72) should be reconsidered prior to implementation.

Whilst the APHA appreciates the necessity to review and audit certain aspects of the MBS, the Department of Health should remain mindful of administrative and storage burdens these kinds of requirements place on clinicians and private hospitals.

These recommendations are not consistent with current practice. Currently, management is based on visual diagnosis and pathology is only used to confirm if there are conditions such as scar tissue, endosalpingiosis or endometriosis. However, this pathology will not always occur prior to the procedures being undertaken.

The APHA is concerned the requirement for photographic evidence and histology/pathology must not lead to more complex certification processes than those already required under the Rules. There are two reasons for APHA's concern. First, APHA would want to ensure patient privacy was protected in relation to the storage and use of photo images and histology/pathology results. Second, if such evidence was collected prior to a hospital

admission, it would form part of the treating specialist's clinical notes and would not form part of the medical record held by the private hospital.

Gynaecological oncology review

Many of the gynaecological oncology recommendations (recommendations 61, 62, 65, 66, 67, 71, 73 and 74) include a variation of the following wording:

> Include a requirement for review by a gynaecological oncologist or gynaecological cancer MDT before this item can be used.

The wording should be standardised across these recommendations and the recommended requirement, if adopted, continues to be for *either* a gynaecological oncologist *or* a gynaecological cancer MDT. It is essential to retain this flexibility (as drafted in the recommendations) as in practice, the majority of cases would have had a gynaecological cancer MDT, but not always a gynaecological oncologist review.

New items

All new items from the recommendations should be added to the Rules where appropriate if adopted by the Australian Government. The new items from the recommendations are;

- 132XX, 132XY and 132XZ (recommendation 1)

  As there are no direct comparator items classified in the Rules for public ART funding items, further consultation should be conducted by the Department of Health on appropriate classification. The APHA reserves its view on the classification of these items.

- 132ZX, 132ZY and 132ZZ (recommendation 2)

  As there are no direct comparator items classified in the Rules for altruistic oocyte donors, further consultation should be conducted by the Department of Health on appropriate classification. The APHA reserves its view on the classification of these items.

- The new item under recommendation 13

  As there is no comparator item classified in the Rules for surgical testicular sperm retrieval through microTESE, further consultation should be conducted by the Department of Health on appropriate classification. The APHA reserves its view on the classification of this item.

- The new item under recommendation 14

  There is no comparator item classified in the Rules for endometrial biopsy for embryo implantation in women with repeat implantation failure. The clinical committee noted this is appropriately done as an outpatient service, and could therefore be classified in the rules as a Type C procedure.

- The series of new items under recommendation 15

  As there are no direct comparator items classified in the Rules for pre-implantation genetic diagnosis, further consultation should be conducted by the Department of Health on appropriate classification. The APHA reserves its view on the classification of these items.

- The possible new item under recommendation 16

  If a new item is added to the MBS as a result of recommendation 16, the APHA suggests it should be classified similarly to the current item 63440, which is Type C, Category 5, Table I5.

- The new item under recommendation 17

  As there is no comparator item classified in the Rules for Anti-Mullerian Hormone testing, further consultation should be conducted by the Department of Health on appropriate classification. The APHA reserves its view on the classification of this item.

- The new item (35750X) after splitting 35750 (recommendation 19)

  The new item 35750X should be classified as a Type A, Surgical patient item, in line with the current classification of 35750.

- The new items 35638X, 35638Y and 35638Z (recommendation 26)

  The current item 35638 is listed in the Rules as Type A, Surgical patient, and both items 35638X and 35638Y should also be listed as Type A, Surgical patient. This suggestion is consistent with the proposed complexity and schedule fees for these items.

  The complexity and schedule fee for 35638Z is proposed to fall between the current items 35638 and 35641 (p73, clinical committee report). As mentioned, item 35638 is currently listed in the Rules as Type A, Surgical patient, and 35641 is listed as Type A, Advanced surgical patient. Therefore, 35638Z should be listed at least as Type A, Surgical patient, and be considered for Type A, Advanced surgical patient.

- The new items 3557X, 3557Y and 3557Z (recommendation 50)

  The clinical committee states proposed item 3557X should have a similar schedule fee as existing item 35570 (see rationale pp.107-8) due to comparable complexity. Item 35570 is currently classified as Type A, Surgical patient in the Rules. Therefore, item 3557X should be added under this same classification if the recommendation is adopted by the Australian Government.

  The clinical committee states proposed item 3557Y should have a similar schedule fee as existing item 35573 due to comparable complexity. Item 35573 is currently classified as Type A, Surgical patient in the Rules. Therefore, item 3557Y should be

added under the same classification if this recommendation is adopted by the Australian Government.

The clinical committee states proposed item 3557Z should have a similar schedule fee as existing item 35597 due to comparable complexity. Item 35597 is currently classified as Type A, Advanced surgical patient in the Rules. Therefore, item 3557Z should be added under the same classification if this recommendation is adopted by the Australian Government.

- The new item (35596X) after splitting 35596 (recommendation 55)

  The current item 35596 is classified as Type A, Surgical patient under the Rules. The new item 35596X should be added under the same classification.

- The new item (35618X) after splitting 35618 (recommendation 62)

  Recommendation 62 is to split item 35618 into two items; 35618 and 35618X, with item 35618X a more complex procedure.

  The current item 35618 is classified in the Rules as a Type B, non-band specific Type B day procedure.

  However, recommendation 63 is to consolidate item 35613 into items 35618 and 35618X. Item 35613 is classified as a Type A, Surgical patient. If this item is consolidated into a Type B item, it will no longer be viable for this procedure to be completed in private hospitals.

  The new item 35618X from recommendation 62 is classified as a Type A, Surgical patient to recognise the complexity associated with item 35613.

- The new item (35551X) after splitting 35551 (recommendation 65)

  The APHA suggests the two old items and the new item should be classified as Type A, Advanced surgical patient to reflect the increased schedule fee and complexity, see recommendation 65 in this submission for the rationale for this.

- The new item (35667X) under recommendation 67

  The new item 35667X should be classified as Type A, Advanced surgical patient, based on the rationale for the schedule fee given in the clinical committee's report (p135).

- The new item (35667Y) under recommendation 68

  The new item 35667Y should be classified as Type A, Advanced surgical patient, based on the rationale for the schedule fee given in the clinical committee's report (p136).

- The new item (35720X) after splitting 35720 (recommendation 71)

  The recommendation for item 35720X is to double the schedule fee currently available for (old) item 35720, as there is no direct comparator to this procedure, but the complexity and time required for the new item descriptor warrants a doubling in schedule fee.

  The APHA therefore suggests 35720 and 35720X are both (re)classified as Type A, Advanced surgical patient.

Assisted reproductive technologies recommendations

Recommendation 8: This recommendation is to consolidate 13290 and 13292 into 13292. It is important to note these items are classified differently under the Rules:

- 13290 is Type C, Category 3, Therapeutic procedures
- 13292 is Type B, non-band specific Type B day procedures.

It is important item 13292 remains a Type B (as it is currently), as Type B procedures can incorporate the complexity of Type C procedures, but not the other way around.

Recommendation 9: The consolidation of 13251 into 13200, 13201, 132XX, 132XY, 132XZ, 132ZX, 132ZY and 132ZZ bundles procedures which have not been bundled previously.

Whilst the reasoning and recommendation from the clinical committee (including the recommendation to increase the MBS fee for the existing items) takes into account the higher cost of bundling these services, this will not be reflected in the contracts between private health insurers and private hospitals, effectively causing private hospitals to no longer be able to charge for the procedure currently covered under 13251. Currently, private hospitals bill these services under the multiple procedure rules, and they will lose this ability if bundled.

Furthermore, item 13251 is classified in the Rules as Type A, Surgical patient, however, the items absorbing this one are classified as follows:

- 13200 is Type C, Category 3, T1
- 13201 is not classified
- 132XX, 132XY, 132XZ, 132ZX, 132ZY and 132ZZ are new items and not in Rules.

The APHA does not support the bundling of 13251 into these other items.

General gynaecological recommendations

Recommendation 22: Item 35756, dealt with under this recommendation, is classified in the Rules as Type A, Surgical patient. However, the complexity of this procedure is higher than both 35753 and 35754, which are both classified as Type A, Advanced surgical patient.

The APHA suggests the Australian Government considers reclassification of this item to Type A, Advanced surgical patient, to reflect the complexity of the procedure.

Recommendation 28: This recommendation (consolidate items 35687 and 35688 into 35637) is consolidating items currently classified differently in the Rules:

- 35687 and 35688 are classified as Type B, non-band specific Type B day procedures
- 35637 is classified as Type A, Surgical patient.

It is important the new item 35637 remains a Type A, Surgical patient, and is not classified as a Type B after incorporation of the other items if the recommendations 25 and 28 are adopted by the Australian Government.

Gynaecological oncology recommendations

Recommendation 58: Part of this recommendation is to consolidate item 35542 into item 35545. These items are classified differently in the Rules:

- Item 35542 is a Type B, non-band specific Type B day procedure
- Item 35545 is a Type B, Band 1, T8 Surgical operations.

The APHA suggests if item 35542 is consolidated into 35545, the latter may need to be considered for reclassification as Type B, non-band specific Type B day procedure, to recognise the flexibility associated with item 35542.

Recommendations 62 and 63: As these recommendations pertain to each other, they are dealt with together in this submission.

Recommendation 62 is to split item 35618 into two items; 35618 and 35618X, with item 35618X a more complex procedure. The current item 35618 is classified in the Rules as a Type B, non-band specific Type B day procedure.

Recommendation 63 is to consolidate item 35613 into the two split items above; items 35618 and 35618X. However, the current item 35613 is classified as a Type A, Surgical patient. If this item is consolidated into a Type B item, it will no longer be viable for this procedure to be completed in private hospitals.

The new item 35618X from recommendation 62 should thus be classified as a Type A, Surgical patient to be able to accommodate for the loss of complexity for item 35613.

Recommendation 65: The clinical committee recommended increasing the schedule fee for the two existing items (items 35551 and 35723), to align with the urology item 37610, as these procedures are 'substantially equivalent in terms of complexity and scope' (p131).

Items 35551 and 35723 are both currently classified as Type A, Surgical patient, however, the comparator item, 37610, is classified as Type A, Advanced surgical patient.

The two old items and the new item should be classified as Type A, Advanced surgical patient to reflect the increased schedule fee and complexity.

Recommendation 69: Of the four items listed for consolidation under one item (36717), two are currently not classified under the Rules, and two are classified as Type A, Surgical patient:

- Items 35712 and 35716 are not classified in the Rules
- Items 35713 and 35717 are both Type A, Surgical patient.

As item 36717 is classified, and it would absorb the other items, there will be no *prima facie* problem with the classification of this item. However, the clinical committee recommended the new item 36717 should attract a similar schedule fee as proposed item 35638Z (as per recommendation 26) due to comparable complexity.

Therefore, the APHA suggests the new item 36717, as with item 35638Z, should be listed at least as Type A, Surgical patient, and be considered for Type A, Advanced surgical patient.

Recommendation 71: Item 35720 is currently classified in the Rules as Type A, Surgical patient. However, the clinical committee recommended an increase in schedule fee for 35720 to somewhere between current items 32024 and 32025, both currently classified as Type A, Advanced surgical patient. The clinical committee also noted the new item 35720 is "technically more complex than the procedure covered by item 35641" (p143). Item 35641 is also classified currently as Type A, Advanced surgical patient.

The recommendation for item 35720X is to double the schedule fee currently available for (old) item 35720, as there is no direct comparator to this procedure, but the complexity and time required for the new item descriptor warrants a doubling in schedule fee.

The APHA therefore suggests 35720 and 35720X are both (re)classified as Type A, Advanced surgical patient.

Private hospitals in Australia

The private hospital sector makes a significant contribution to health care in Australia, providing a large number of services and taking the pressure off the already stretched public hospital system.

According to the most recent data available, the private hospital sector treats:

- 4.4 million separations a year.

In 2016–17, it delivered:

- More than a third of chemotherapy
- 60% of all surgery
- 79% of rehabilitation
- 73% of eye procedures
- Almost half of all heart procedures
- 73% of procedures on the brain, spine and nerves.

Australian private hospitals by numbers:

- Half (49%) of Australian hospitals are private
- 657 private hospitals made up of:
    - 300 overnight hospitals
    - 357 day hospitals
- 34,339 beds and chairs
    - 31,029 in overnight hospitals
    - 3,310 in day surgeries
- 69,299 full-time equivalent staff (AIHW 2018, ABS 2018).

The Australian Private Hospitals Association

The APHA is the peak industry body representing the private hospital and day surgery sector. About 70% of overnight hospitals and half of all day surgeries in Australia are APHA members.