

APHA is supportive of reforms that allow greater use of linked data to support government policy and planning however we are concerned that strong protections are retained to protect consumer privacy noting the highly sensitive nature of health related information and the level of targeting by cyber criminals towards health related data bases.

APHA has particular concerns regarding the use of information generated by private hospitals including data hospitals are legally required to provide to both insurers and government agencies. This includes claims information submitted through ECLIPSE and other systems managed by Services Australia, data provider to States/Territories and ultimately the AIHW through the National Admitted Patient Care Data Set, and data which hospitals are obliged to provide to insurers and government agencies under the Private Health Insurance Act (2007) in accordance with specifications for the Private Hospitals Data Bureau and Hospital Casemix Protocol (HCP) specifications. The HCP specifications are of particular concern because these specifications require private hospitals to provide details including:

- Insurer Membership Identifier
- Family Name
- Given Name
- Date of Birth
- Postcode - Australian
- Sex
- Admission Date
- Separation Date
- Total Psychiatric Care Days
- Diagnosis Related Group
- Mental Health Legal Status
- MBS codes specifying the treatment provided.

Hospitals are obliged to provide these details to health insurers through a process which is separate and additional to the actual claims process. Health insurers then add additional data and provide the expanded data set to the Department. However we also note that this information, together with high volumes of highly detailed claims related information is retained for long periods by health insurers. The extremely sensitive nature of the information retained by health insurers is evidenced by the sensitive nature of the information compromised by the Medibank cyberattack.

We are also extremely concerned that there is inadequate governance of the health insurance sector in relation to their use of claims related data. While it is entirely justified and necessary that insurers have access to the information necessary to justify claims. There needs to be tight governance of the retention of information beyond the claims settlement period. APHA agrees that the use of large data sets for the purposes of modelling and service design plays a critical role in supporting the efficient and effective delivery of health services. However technology is rapidly evolving, particularly in relation to the use of Artificial Intelligence, and there is an urgent need to ensure that consumers are supported and enabled to exercise informed consent over the purposes to which their data may be put.

Specific consideration needs to be given to whether it is appropriate for health insurers to be able to use information to profile consumers and target information to individuals in the guise of providing 'concierge services'. Consumers are often at a disadvantage when trying to navigate the health sector but they are equally at a disadvantage in evaluating the quality of information offered to them and the extent to which the information is independent and not tainted by conflict of interest. Australia is now seeing the emergence of vertical integration in the private health insurance sector whereby

insurers have a direct financial interest in steering consumers towards specific health services (eg services owned by the insurer) and away from other options (eg services not owned by the insurer for which a health insurance claim may be payable). Information may be provided to consumers directly without any consultation with the consumer's treating clinicians and in some instances may even contradict clinical advice.

It is not reasonable for insurers to claim that terms and conditions accepted upon purchase of a health insurance policy will be readily recalled or understood when, months or years later, the consumer seeks health treatment using the health insurance policy.

APHA is grateful for the opportunity to provide this submission and looks forward to further consultation opportunities. In particular we look forward to careful consideration of the implementation of any proposed rule changes. The private hospital sector is under severe financial pressure in the current environment and cannot afford additional regulatory burden. Every effort must be made to streamline additional regulatory requirements so that they can be effectively integrated into existing processes and ideally reduce overall regulatory burden.