



Medicare compliance audits: An update

In providing Medicare-funded psychology services under various government initiatives, psychologists are required to comply with Medicare Australia's auditing arrangements. Psychologists are currently being targeted in another round of Medicare Australia compliance audits, the second since the introduction of the Better Access initiative in 2006, so it is an opportune time to provide members with information on the audit process. The APS has held numerous meetings with Medicare Australia to clarify details of audit processes and outcomes, and to advocate for arrangements that are fair for psychologists and protect client confidentiality. This article provides details of the audit process and a review of the common claiming errors identified in compliance audits conducted by Medicare Australia to date, along with information to reduce future claiming errors.

Focus of compliance audits

According to Medicare Australia, most health providers want to comply with requirements associated with providing government-funded services. The aims of the Medicare compliance audits are therefore to:

- Support people in doing the right thing through the provision of information and advice
- Educate those who make honest mistakes
- Actively pursue those who deliberately misuse the system.

The primary aim of a compliance audit is to verify that both the provider and the client were eligible for Medicare benefits and that the services provided met all Medicare requirements. The focus of the compliance audit is not on clinical aspects of the service such as the quality of the treatment provided or the psychologist's clinical decision-making, but only on determining that the billing of the service is legitimate.

In conducting the audit program, Medicare Australia is supported by legislation which includes the Health Insurance Act 1973, the National Health Act 1953, and the Human Services (Medicare) Act 1973. An important change in the Health Insurance Act 1973 occurred on the 9 April 2011 which provided Medicare Australia with increased powers in conducting compliance audits. Prior to this date compliance by a health provider with an audit was voluntary and a Medicare provider was under no obligation to provide the requested documentation. Under the new legislation, if a health professional does not voluntarily provide requested documents a notice will be issued requiring the health provider to comply with the request within 21 days. The new legislation is not retrospective and will apply only to services provided after the date at which the legislation changed.

The audit process

Compliance audits of retrospective services, for up to two years previous, are conducted with Medicare service providers either by telephone, letter or through a face-to-face interview. Please

note that it is therefore a Medicare requirement that information confirming the validity of a service provided under Medicare is retained for a period of at least two years. Typically, a list of up to 20 clients seen by the Medicare provider will be identified and information to substantiate the provision of services to these clients is sought. Psychologists will need to demonstrate the following key requirements as part of a Medicare compliance audit.

1. The psychologist must be in receipt of a valid referral by an eligible medical practitioner for each course of treatment of up to six sessions (if in hard copy this should be signed). The referral should be dated prior to or on the day on which the services commenced. The referral should indicate the services required under the specific government program or that a Mental Health Treatment Plan or a Chronic Disease Management Plan is in place.
2. All of the reporting requirements associated with the particular initiative must be met.
3. The services must be provided by the psychologist who has made a claim for the Medicare funding.
4. All services must comply with Medicare requirements for the particular program (e.g., were face-to-face and eligible interventions).

Although Medicare Australia does not require the release of client notes, there may be some cases where this is the only option for verifying a claim. In such situations psychologists should seek to have their client records released only to a medical adviser to ensure confidential records are respected (the APS has sought for psychologists to also form part of this professional board of audit advisers). In general, the APS has ascertained that Medicare Australia understands and supports the ethical and legal obligations of psychologists to protect personal client information. For example, as part of many Medicare compliance audits the clients of health professionals may be interviewed, however, Medicare Australia has a policy that this is not permitted for clients of psychologists.

If any one of the four compliance audit requirements listed above cannot be verified, Medicare Australia may decide that an incorrect payment has been made and may seek to recover any funding provided under the incorrect service(s). In addition, an administrative penalty – which is another change introduced with the new legislation in April 2011 – may also apply. The administrative penalty has a base rate of 20 per cent for unsubstantiated amounts totalling over \$2,500.

Medicare Australia provides the opportunity for the health provider to voluntarily identify errors in claiming and this is favourable to the health provider with an automatic reduction in penalties in such cases. However, the penalty may also be increased if the health provider is non-compliant. Following a determination by Medicare Australia, the psychologist has a right to seek a review of the audit outcome and any such request must be lodged within 28 days of the decision notification.

Who is likely to be audited?

Medicare Australia regularly reviews each health professional group and the various government initiatives where Medicare rebates apply – for instance, this is the second time since 2006 that psychologists as a group have been targeted for an audit of services provided under the Better Access and Chronic Disease Management initiatives. It is also likely that psychologists working under other Medicare-funded initiatives (e.g., Helping Children with Autism) will be the target of a retrospective audit sometime in the future. In addition, some random audits of Medicare providers may occur as well as investigations of practitioners who are reported for allegedly inappropriate service provision.

Within the regular auditing process, Medicare Australia decisions on who to audit within each professional group are largely based on an analysis of Medicare item usage data. Audits are targeted at individual health providers whose billing patterns are different from their peers and may indicate inappropriate practice. The review of the Medicare data for individual health providers includes looking at:

- The number of services provided overall (high users)
- The number of services provided per patient (possible over-servicing)
- Any unusual service patterns (e.g., all out-of-office services).

Provider percentile charts are available on the Medicare Australia website (www.medicareaustralia.gov.au/about/stats/provider-percentile-charts.jsp), which allow individual psychologists to compare their billing practices in relation to others.

What do we know from compliance audits to date?

Medicare Australia has released findings from the audit of psychologists providing services under the Better Access and Chronic Disease Management initiatives for the 2009 to 2010 audit period and also from the current audit which is not yet completed.

The two primary issues that are consistently identified as problematic in audits of psychologists providing services under Better Access are: (1) the practitioner not having a valid referral; and (2) the reporting requirements associated with the particular initiative not being met. The problems in meeting reporting requirements were found for both the sixth session and completion of treatment reporting. Information to assist members to better understand what constitutes a valid referral and the reporting requirements appears in the boxed information on this page and overleaf.

Other problems identified in the auditing of psychologists include:

- The use of other professionals (e.g., psychologist trainees under supervision) to provide services which were billed under the one psychologist
- The use of the sixth session for writing the report to the referring doctor
- Backdating of referrals. ▶

VALID REFERRALS UNDER THE BETTER ACCESS INITIATIVE

According to the Medicare Benefits Schedule, November 2011, “The referral may be in the form of a letter, or note to an eligible allied health professional signed and dated by the referring practitioner. The allied health professional must be in receipt of the referral at the first allied mental health consultation.”

In direct correspondence with Medicare Australia and the Department of Health and Ageing, the APS has also been provided with the following additional information regarding what constitutes a valid referral.

- The referral can be in the form of an email from the referring practitioner. If the referral does not specify the number of sessions, under the Better Access initiative the practitioner can assume it is for six sessions. However, care needs to be taken to not provide a client with more than 10 sessions in a calendar year. (There are still some unanswered queries in relation to referral requirements for services that overlap across two calendar years since the changes to the annual session allowance introduced on 1 November 2011, but the APS is still waiting to receive advice from the Department of Health and Ageing.)
- The referral can be verbal rather than written. A recent check of the legislation by the Department of Health and Ageing confirmed that there is no requirement that the referral must be written – verbal is sufficient. However, the psychologist should be mindful that if audited, they must produce evidence of the referral. Hence, the APS recommends that information about a verbal referral is written in the psychologist’s notes and followed by written and signed confirmation from the referring practitioner.
- The referral letter can be directed to the psychologist by name or may be addressed generically to ‘the psychologist’. However, a psychologist should not provide Medicare services to a client based on a referral naming a different psychologist.
- If the referral is made by a general practitioner (GP) a Mental Health Treatment Plan (MHTP) must have been completed. A copy of the MHTP may be provided to the psychologist (with the client’s consent), but it is not a requirement that the psychologist has a copy of the MHTP.
- The GP Mental Health Treatment Plan alone does not constitute a referral unless the GP has indicated on the plan a direction to the psychologist for a request for services.



Professional practice

Medicare Australia has also communicated that some psychologists had a perception that all clients could receive 18 sessions per year rather than seeing sessions 13 to 18 as for exceptional circumstances only (please note that this is applicable for the retrospective audit for services provided prior to 1 November 2011). Psychologists are also reminded that the primary diagnosis of the client's mental disorder should be one of those listed in the MBS guidelines as eligible under the Better Access initiative (see www.psychology.org.au/medicare/psych_medicare_items/?ID=1345 for a reproduced list). For instance, the provision of services to clients with a primary diagnosis of personality disorder or relationship problems is not allowable. Psychological interventions provided should also be restricted to those listed as allowable in the MBS guidelines.

The APS will continue to liaise with Medicare Australia and the Department of Health and Ageing to ensure that members have the most up-to-date information on Medicare requirements, particularly in the face of the changes to session allowance under the Better Access scheme since 1 November 2011. Members who are unsure about their obligations under the different Medicare programs should read the comprehensive information provided on the APS website (accessed from the 'Medicare and Psychology' button on the right side of the home page), or contact the APS National Office advisory service. ■

More information on the Medicare Australia Compliance Program can be found on the website of Medicare Australia (www.medicareaustralia.gov.au/provider/business/audits/index.jsp).

Dr Rebecca Mathews MAPS
Manager, Practice Standards
National Office

REPORTING REQUIREMENTS UNDER THE BETTER ACCESS INITIATIVE

The psychologist must provide a report back to the referring practitioner:

- On completion of the initial course of treatment (which will be a maximum of six services but may be less than six depending on the nature of the referral)
- On completion of any subsequent course of treatment which forms the end of an episode of treatment.

A course of treatment is the number of services stated in the patient's referral (up to a maximum of six). Under the recent changes to the session allowance for Better Access a maximum of 10 sessions can be provided in two courses of treatment (6 + 4) with a report after the first course of treatment followed by review by the referring practitioner to access any further treatment. A report also needs to be provided on completion of the episode of treatment (maximum 10 sessions per calendar year). (The APS is still waiting to receive advice from the Department of Health and Ageing on reporting requirements for services that overlap across two calendar years.)

The amount of detail in the report to the referring medical practitioner is not specifically mandated. According to Medicare Australia the report should include information about:

- Assessments carried out
- Treatment provided
- Recommendations on the future management of the client's disorder.

In meeting these requirements, the psychologist should use clinical judgment on what information is appropriate to include in the report.