

Consultant 140

24 September 2012

Dear Sir,

I offer evidence to the Competition Commission inquiry into private healthcare, dealt with under the suggested headings.

1. Definition of Relevant Market or Markets.

The independent private healthcare sector is a small but important element of healthcare provision in the U.K. It is not appropriate to consider the market in isolation. It is entirely dependent on other services and could not function without these:

- a. the NHS.
- b. the regulatory bodies
- c. the training providers (universities and hospitals)
- d. professional indemnity

The private sector's clinical staff, without which it could not function, comes almost entirely from the NHS. The private sector makes no direct contribution to remuneration, professional indemnity payments, or regulatory requirements. The private sector acts as a parasite in the U.K. health system. Vast profits are made, director's take high pay and bonuses and work independent of their members and there is no feedback into the NHS or support of training or regulatory bodies.

2. Ease to enter relevant markets, the structure and conduct of current providers.

The private sector depends on NHS consultants to provide its consultant base. It is not easy to obtain such a position in the NHS: there is a competitive process through medical school, post-graduate training, accreditation, and registration, to obtain an NHS consultant post. This pathway is well regulated and difficult: it has to date provided a high quality NHS consultant, and GP base.

The vast majority of clinical staff providing services in the private sector have come through this process, and it has been the case that only a consultant with an NHS appointment, present or past, can obtain admitting rights to private sector facilities. This could be seen as a restrictive practice; it acts entirely to the benefit of the private sector. Recently the private sector has attempted to contract doctors to more restrictive practices, establishing tariffs, conditions and pathways. Should the private sector wish to continue and develop this practice it would be only fair that it should contribute directly to the training, regulation, indemnity, pension and employment costs.

3. The role of conduct of private medical insurers.

The main provider of private healthcare is BUPA (British United Provident Association). This name is a misrepresentation: it is not a provident association, it is not a charity, it has no shareholders. It is a private company with guarantors; the guarantors are the members, who should be the decision makers for the company. BUPA fails here; it has a very small member representation, solely appointed by the company. BUPA makes large profits and there is no evidence that the profits are used to support the members: membership fees increase year on year. BUPA has an unfair trading position. The Association acts against, and independent, of the members, their guarantors.

All private medical insurers increase fees year upon year. Members often contribute significant funds over a working life and continue this into retirement. The membership fee increases increase with age to the extent that they become unaffordable and many members are forced to relinquish their private healthcare cover as they approach the age at which they might have the need to draw on their funds. It is the accrual of this large fund for the benefit of the insurer that is not available to the member who has been priced out that is inappropriate conduct: surely it would be fairer if the member had access to an accrued fund at this time.

Private medical insurers do not protect the interests of their members. They agree tariffs with the hospital providers that are excessive and work in favour of the hospital and insurer and against the patient. Examples are charges for removal of Plaster of Paris, fine needle aspiration, sigmoidoscopy. The mark ups are many hundreds percent, resulting in the patient's small out-patient cover being exhausted very quickly, so the hospital makes a tidy profit and the patient has to find significant costs themselves

Many members carry an excess that they have to pay themselves. This excess always appears to be levied against the consultant fees. Surely this should be fairly distributed between all providers.

Recently BUPA has decided to target complexity of procedures, reducing cover by designating procedures into lower categories with lower tariffs. It is not fair to argue that a procedure is less complex than in 1994, when the last grading was done. With developments in surgery many procedures have increased in complexity and require new skills for their safe and efficient completion. BUPA has imposed such a revision with no consultation outside its own organisation and no discussion with their recognised partners.

Maxima fee tariffs have been introduced by insurance companies. It is difficult to see how this practice differs from the tariff structure suggested in the past by the BMA as guidelines for its members. This was deemed unfair by the OFT. Tariffs are restrictive and against fair trading, the more so if the insured is told that they are compulsory and the consultant is not at liberty to charge his normal fee if this is above that company's tariff. If previous rulings are to be followed, tariffs should be abolished.

4. Role of NHS and of GP

The NHS is crucial to the private sector in the training and employment of all the doctors who are recognised as independent practitioners in the private sector. The private sector is in danger of fracturing this relationship. Most consultants are now well remunerated in the NHS, they work in teams and are not trained for the independent practice of the private sector. Many feel no need to develop an independent practice. The private sector has to cease its limited liability for training, regulation and employment now to enable it to find a credible way of providing consultant care of high quality in the private sector.

General practitioners are seen by the insurers as gatekeepers. Often patients are not allowed to make a claim if they do not have a GP referral letter. This seems to be appropriate, it provides patients with an informed choice of consultants and offers protection to patients from the direct referral of insurance companies to inappropriate specialists.

5. Extent and Quality of Information available to Patients.

There is a lot of information relating to consultants. Public information can be obtained regarding qualification and accreditation from the GMC. Consultant performance and outcomes are monitored through regular audit in the NHS: the volume is sufficient here to provide valid performance indicators. The private sector makes no attempt to audit performance either in terms of outcomes or appropriateness of specialised procedures undertaken: it is not uncommon for consultants to undertake procedures in the private sector which they do not undertake in the NHS.

The new approach of the private insurer to contract newly appointed consultants, on cheaper fee structures, and target work towards them has no basis in the skills or experience needed for safe and expert practice in the independent sector. The insurer take no responsibility for poor outcomes: this can leave the patient exposed to inadequate care and the doctor large legal attacks with no support. Many contracts are being forced on new consultants to secure recognition of an insurer without comment from the Defence Associations or the GMC.

Information regarding consultant performance can be provided. It is widely available in NHS and insurance company databases. It would need to be comparative and independently validated

Insurance companies provide little comparative information. This is pertinent to the development of fee maxima; no comparison is given of fee maxima for specific insurers for given procedures. The present system exposes the patient to shortfalls in insurance cover and a need for an excess to be settled. One example of this is for the common procedure hernia repair (T2000): the level of fee guaranteed by BUPA cover from 1993 until 2012 was £335, recently reduced to £249; WPA cover is £450; PPP £350; PRU Health £352, and Aviva £360. This information is not given to the insured. BUPA has failed to inform members of the changes in fee maxima, the vast majority of which have been reductions. (I know this as a BUPA member—I have only been sent information as a provider.) BUPA advertises an online website for members. When I approached them I was informed I was not allowed access.

6. Any other Issues.

There is a triumvirate involved in medical care in the private sector working for the benefit of patients. Only one part of this triumvirate is essential—the consultant.

The insurance companies through aggressive bullying tactics are producing an atmosphere of distrust amongst patients and doctors. The levels of annual membership subscriptions are such that they often exceed the total costs of many common procedures. Hospitals and insurers should make plain to members these costs so that they can make an informed judgement about whether they would prefer to fund their own care directly.

The relationship between insurers and hospitals should not be used to disadvantage members. Early this year BUPA withdrew recognition of many of the BMI group of hospitals during a financial spat between them. This left many members totally without regional private healthcare. Only certain private hospitals have specialised facilities: these were made unavailable and in fact in discussion with BUPA I was informed that I would just have to go to the NHS! Such negotiations, which are clearly going to be settled, should not be allowed to expose patients to inadequate provision.

Private medical insurers should at the outset make it clear to members how much the proposed scheme is likely to cost over the next 25 years: there are other available products which would accrue the same fund that would be available to the member if they elect to leave the policy. This limitation of benefits may be considered to be inappropriate selling: better products may guarantee members life-long cover and even contribute to later care sector fees. Members need to have a guaranteed benefit from their contribution: the current provision is unfair to members.