Submission by the Australian Nursing and Midwifery Federation

Submission to the Department of Health, Disability and Ageing on Specialist Affordability: Options to Address Excessive Fees

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Australian Nursing & Midwifery Federation

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Key Points

1. The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 356,000 nurses, midwives and care-workers across the country. The ANMF thanks the Department of Health, Disability and Ageing for the opportunity to provide feedback on the Specialist Affordability: Options to Address Excessive Fees consultation.

2. Excessive specialist fees are a barrier to timely and equitable access to healthcare, particularly for people on lower and middle incomes and those requiring ongoing or complex care. Nurses and midwives see the impact every day when patients present later, with more advanced or complex conditions, after delaying care due to cost. The impact falls hardest on people in rural and remote areas, Aboriginal and Torres Strait Islander Peoples, older people, people with disability and culturally and linguistically diverse communities.

3. While most specialists do not charge unreasonably high fees, greater transparency and appropriate regulation are needed to protect patients from the minority who do. A patient's ability to pay, or their insurance status, should not determine whether they receive timely and effective specialist care.

4. **A benchmark comparison to the MBS Schedule Fee is the ANMF's preferred framework for defining excessive fees.** An interim threshold, set as a multiple of the Schedule Fee that may vary by item or specialty and is informed by the Department's data, should be established now. A broader review of whether MBS Schedule Fees appropriately reflect the costs and complexity of care should follow, without delaying action on excessive fees.

5. **The Medical Costs Finder should be expanded** to give consumers and referrers, including general practitioners and nurse practitioners, accessible information on benchmark fees, fee ranges, provider-level fees and likely out-of-pocket costs. It should make clear that higher fees do not indicate better quality care.

6. Consistent with the ANMF's submission on Fee Transparency in Health Care, **informed financial consent should be mandatory and legally enforceable**. Reforms to prevent split billing and the use of deposits or administration fees to avoid scrutiny should be implemented alongside, not after, any cap on excessive fees.

7. **Transparent maximum fees (price caps), applied to each service, should be introduced as the most direct way to address excessive fees**. Review of a provider's average billing, as proposed by the Grattan Institute, may be a useful monitoring tool but should not replace service-level caps.

8. **The consequences of charging excessive fees must fall on the billing provider, not the patient or nurses and midwives who do not set fees**. The ANMF recommends a legislated obligation that fees for Medicare services must not be unreasonable, a clear remit for an appropriate regulator, refunds to affected patients, and escalating consequences for repeated or serious breaches. Excessive fees should not be made ineligible for Medicare benefits, as this would disadvantage patients.

9. **Fee regulation should be designed to maintain specialist participation in Medicare**. Caps should be communicated as a threshold for excessive charging rather than a recommended fee. The Department should monitor and publicly report on fee levels, bulk billing, claiming patterns and Medicare participation, with a timely and formal evaluation.

10. **Specialist professional bodies should actively promote transparent, reasonable fee-setting.** The AMA's recommended fee guide should be made publicly available. These measures, and targeted 'nudge letters', should complement regulation rather than replace it.

11. **Charging patients higher fees based on their private health insurance status should be prohibited**.

12. **Government should expand affordable alternatives to high-fee specialist care**. These include midwifery continuity of care, stronger MBS arrangements for endorsed midwives, and expanded funding pathways for nurse practitioner and mental health nurse-led care.

Introduction

13. The Australian Nursing and Midwifery Federation (ANMF) is Australia's largest national union and professional nursing and midwifery organisation. In collaboration with the ANMF's eight state and territory branches, we represent the professional, industrial and political interests of more than 356,000 nurses, midwives and care-workers across the country.

14. Our members work in the public and private health, aged care and disability sectors across a wide variety of urban, rural and remote locations. We work with them to improve their ability to deliver safe and best practice care in each and every one of these settings, fulfil their professional goals and achieve a healthy work/life balance.

15. Our strong and growing membership and integrated role as both a trade union and professional organisation provides us with a complete understanding of all aspects of the nursing and midwifery professions and see us uniquely placed to defend and advance our professions.

16. Through our work with members, we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.

17. The ANMF thanks the Department of Health, Disability and Ageing for the opportunity to provide feedback on the Specialist Affordability: Options to Address Excessive Fees consultation.

Impact of Excessive Fees

18. Unreasonably excessive fees charged by medical specialists can create significant barriers to timely, equitable access to healthcare, particularly for people on low and middle incomes, those with ongoing specialist healthcare needs, complex presentations, and other compounding factors that can impact access to and affordability of specialist healthcare services. High out-of-pocket costs can lead patients to delay or forgo necessary consultations,

diagnostic investigations and treatment, potentially contributing to poorer health outcomes and greater pressure on health and social services. When patients delay accessing care, they present later and often require more intensive, costly, and complex care.

19. The ANMF supports a health system in which a patient's circumstances do not determine access to clinically necessary care. A patient's ability to pay, or their insurance status, should not determine whether they receive timely and effective specialist care. The impact of excessive fees is not evenly distributed. People living in rural and remote areas, Aboriginal and Torres Strait Islander People, older people, culturally and linguistically diverse people, people with limited health literacy, people with disability and people on low incomes often have limited choice of specialist, longer travel and waiting times, and fewer accessible public alternatives. These groups are the least able to shop around and are therefore the most exposed to excessive fees. The ANMF recommends that the design and evaluation of any intervention explicitly consider its impact on these populations.

20. We understand that most specialists do not charge unreasonably high fees above and beyond Medicare Benefits Schedule (MBS) fees and that it is only a small minority of specialists that engage in this practice. Despite this, greater transparency and appropriate regulation of unreasonable out-of-pocket costs for specialist healthcare is important to protecting patients from financial hardship while supporting sustainable healthcare delivery. By determining when additional fees should be considered 'unreasonable' there is an opportunity to closely examine and determine whether existing MBS fees themselves are appropriate and cover the real cost of providing care. A national survey of nurse practitioners published in the Australian Health Review highlighted that the currently funded amount, breadth, and structure of the NP MBS item numbers have restricted the capacity of NPs to provide complete episodes of patient care.[1] As reported by the MBS Review Taskforce: Nurse Practitioner Reference Group, rebates available to patients of NPs under the MBS do not reflect contemporary NP practice

[1] Currie J, Chiarella M, Buckley T. Privately practising nurse practitioners' provision of care subsidised through the Medicare Benefits Schedule and the Pharmaceutical Benefits Scheme in Australia: results from a national survey. *Australian Health Review.* 2029;43:55–61. Available from: https://doi.org/10.1071/AH17130 [cited 2026 Oct 12].

in Australia.[2] The Reference Group also found that the lack of procedural items can increase out-of-pocket costs, perpetuate inefficiencies through duplication of care, and blur accountability for care.

21. Nurses and midwives see the consequences of unaffordable specialist care every day. Across emergency departments, general practice, community health, chronic disease management and aged care, our members care for people who have delayed or gone without specialist consultations, investigations or treatment because of cost, and who present later with more advanced or complex conditions. As the Consultation Paper notes, more than 1.9 million Australians delayed or did not see a specialist due to cost in 2024-25. This contributes to avoidable hospital presentations and admissions, adds pressure on an already stretched nursing and midwifery workforce, and shifts costs onto the public system.

22. While beyond the specific focus of the consultation paper, wider reforms should also coincide with efforts to reduce excessive fee charging by specialists. Expanded access to midwifery services including continuity of care models, strengthening MBS arrangements for endorsed midwives, and removing barriers to their practice support affordable alternatives for women who may otherwise face high out-of-pocket costs via obstetric specialists is also necessary. Obstetric services are within the scope of this consultation, and private obstetric fees can represent a significant cost for women and families. Midwifery continuity of care models, delivered through public services and by privately practising midwives, provide safe, high-quality and more affordable maternity care and are associated with improved outcomes for women and babies.

23. The Consultation Paper also identifies that people receiving ongoing psychiatric care are among those most affected by the cumulative burden of excessive fees, and the least able to change providers once care has commenced. Nurse practitioners and mental health nurses

[2] Medicare Benefits Schedule Review Taskforce. Post consultation report from the Nurse Practitioner Reference Group [Internet]. Canberra (AU): Australian Government Department of Health. 2019. Available from: https://www.health.gov.au/resources/publications/final-report-from-the-nurse-practitioner-reference-group [cited 2026 Oct 12].

are well placed to expand access to affordable, ongoing mental health care, particularly in rural and remote areas. The ANMF recommends that Government expand funding pathways, including MBS access, for nurse practitioner and mental health nurse-led care to improve access and reduce reliance on high-fee private specialist services.

Defining Excessive Fees

Reasonableness

24. While this approach provides flexibility, it relies heavily on subjective judgement and lacks a clear, objective threshold for determining when a fee is excessive. The absence of a benchmark may make it difficult for consumers to identify or challenge excessive fees, limiting the effectiveness of the model as a consumer protection mechanism. A case-by-case assessment process would also likely require complaints, investigations, and peer review processes, creating a significant administrative burden. This may result in slower identification and remediation of excessive fee charging. While the approach may have value as a review mechanism, it is unlikely to be sufficient as a standalone framework, nor would it address whole-of-system excessive charging.

Benchmark Comparison to the Schedule Fee

25. Establishing a benchmark comparison to the Schedule Fee is the ANMF's preferred framework for capturing when a fee is excessive. This approach is reasonably simple and with appropriate and understandable communication and information, would be relatively readily communicated to consumers and stakeholders in a transparent and consistent manner. As every MBS item has an established Schedule Fee, this approach uses an existing and publicly available reference point and would be able to be updated over time as additional items are added or removed, and costs/prices change.

26. Noting that stakeholders have identified that Schedule Fees do not always reflect the actual costs of providing services, wider work is required to effectively determine whether current MBS fees are appropriate and feasible to ensure that a suitable threshold between

'reasonable' and 'unreasonable' additional fees can be set. Understanding that a review of all MBS fees would take a long time and delay any efficient response to excessive specialist fees, in the meantime, agreed benchmarks for fees could be set. An interim threshold could be set as a multiple of the Schedule Fee, which may vary by item or specialty and is informed by the Department's data. This could mean that elements of determining 'reasonableness' could be considered in relation to existing MBS items in terms of the time required to provide the service, practice and input costs, service and patient complexity, and relevant circumstances around which services are delivered. In time, undertaking this work in a consistent and comprehensive manner for all existing MBS items would ensure that MBS item fees are appropriately set which would underpin clearer benchmarks for additional fees that specialists charge on top and would also fit within a broader agenda of ensuring that MBS fees are set at an appropriate level to cover the costs and complexity of providing care.

27. As noted in the Consultation Paper, the Australian Medical Association (AMA) has a Position Statement on Setting Medical Fees and Billing Practices that sets out reasonableness considerations around fee setting. The AMA also publishes (not publicly) a guide for members regarding recommended fees for MBS items which could be made available to the public and stakeholders. Specialist provider bodies could also play a key role in communicating to members and the wider community about the extent and impact of charging patients unreasonable fees on top of existing MBS fees which could help to guide positive cultural shifts in specialists' fee charging practices. This could go hand in hand with writing to providers who have been identified as charging patients excessive fees with 'nudge letters' as the consultation paper suggests.

Peer Comparison Using the Median Fee

28. The main concern of this approach is that it assumes existing market prices are an appropriate benchmark against which to assess excessive fees. This also introduces the risk that widespread fee increases could increase the median fee and therefore raise the threshold for what is considered excessive. The approach may therefore undermine efforts to improve affordability.

Peer Comparison Using a Percentile Cut-off

29. While potentially useful as a monitoring or risk-identification tool, this approach is unlikely to drive system-wide reductions in excessive charging or improve transparency for consumers without being combined with a more substantive benchmark, as it would always flag a fixed proportion of fees regardless of whether fees overall are reasonable, and the threshold moves with changing costs and provider practices.

Options to Address Excessive Fees

Publishing Reasonable Fees or Other Fee Transparency Measures

30. The ANMF is supportive of approaches that provide consumers and referrers with greater transparency and insight into the fees charged by specialists. This approach would provide consumers with readily accessible information to support more informed decision making and financial consent regarding choice of specialist care. By publishing benchmark fees, fee ranges, and identifying providers whose fees are significantly higher than those of their peers, the existing Medical Costs Finder could be expanded to provide greater visibility of individual provider fees and potential patient costs. Importantly, the Medical Costs Finder should make clear that higher fees do not indicate better quality or more effective care. Referrers, including general practitioners and nurse practitioners, play a key role in guiding patients to particular specialists. Fee information published through the Medical Costs Finder should be readily accessible to all referrers, ideally integrated into clinical and referral software, so that likely costs can be discussed with patients at the point of referral.

31. It is important to recognise that even with greater access to information and transparency regarding fees, many patients have limited freedom to ‘shop around’ when it comes to selecting specialist medical providers. Likewise, limited health literacy is also a factor that results in many people delaying or avoiding specialist healthcare. Waiting times, urgency, geographical considerations, and services that are ongoing or that relate to complex presentations all combine and contribute to limiting patients’ capacity to choose simply based upon additional fee information alone.

32. Transparency must also extend to each patient's bill. As outlined in our submission on Fee Transparency in Health Care, the ANMF supports mandatory, legally enforceable informed financial consent, including a single, written, itemised estimate of all expected fees provided to patients before treatment commences, including the fees of other providers involved in their care such as anaesthetists and surgical assistants, whom patients rarely choose. As the Consultation Paper notes, reforms to address split billing and the use of deposits or administration and booking fees to avoid scrutiny are essential enabling elements of any fee cap. The ANMF recommends that these reforms be implemented alongside, and not after, any measure to cap excessive fees.

Introducing Peer Review of Excessive Fees

33. While this approach allows for flexibility, it is a retrospective process, and consumers may still be required to pay excessive fees before any assessment or intervention occurs, placing the burden on consumers rather than providers. This could be a good oversight or appeals mechanism; however, it is not sufficient by itself.

Introducing Maximum Fees (Price Caps) Providers Can Charge Patients Under Medicare

34. Introducing transparent maximum fees (price caps) that specialists can charge patients along with potential regulatory consequences and effective consumer protection mechanisms is likely to represent the strongest and most direct intervention that could result in reducing excessive fee charging and improvements in specialist care affordability. Undertaken alongside the above measures, setting caps at a reasonable level with appropriately set MBS fees, would reduce the risk of providers choosing to operate outside Medicare.

35. For a cap to protect patients, the consequences of breaching it must fall on the provider, not the patient or the nurse and midwife members of care teams. The ANMF does not support making excessive fees ineligible for Medicare benefits, as this would leave patients further out of pocket while the provider retains the full fee. Instead, the ANMF recommends the following options be considered:

a) A legislated obligation that fees charged for Medicare services must not be unreasonable, similar to that in the Aged Care Rules 2025 (Rule 273.15).

b) A clear remit for a designated regulator to investigate excessive fees, noting that regulators have to date treated fee charging as outside their scope.

c) A requirement for providers to refund the excess amount to affected patients, modelled on the refund powers of the Aged Care Quality and Safety Commission.

d) Escalating consequences for repeated or serious breaches.

36. The ANMF acknowledges the risks identified in the Consultation Paper, including that caps may become a price target, and that providers may increase lower fees, reduce bulk billing, shift charges between items, or exit Medicare. These risks do not outweigh the case for action, but they should shape the design of any cap. The ANMF recommends that:

a) Caps are clearly communicated as a threshold for excessive charging, not as a recommended or standard fee.

b) The Department monitors and publicly reports on fee levels, bulk billing rates, item claiming patterns and Medicare participation before and after implementation, with a timely and formal evaluation of the reforms.

c) Providers who significantly increase fees, or change their claiming patterns, after implementation are identified for follow-up.

d) The risk of providers leaving Medicare is managed by setting caps at an appropriate level, noting the Department's evidence that excessive fee charging is concentrated among a small minority of providers.

37. The ANMF notes the model proposed by the Grattan Institute, under which specialists whose fees average more than three times the Schedule Fee across a year would be identified as extreme-fee chargers. While this approach may be useful for identifying providers with

consistently high charging patterns, it is necessarily retrospective and offers no protection to individual patients at the point they are charged. It would also allow providers to continue charging a subset of patients excessive fees, offset by a volume of lower-fee or bulk-billed services, without exceeding the average threshold. As the Consultation Paper acknowledges, patients charged excessive fees under this model are also unlikely to be compensated.

38. The ANMF therefore considers that average billing review should not replace service-level fee caps. It may, however, have value as a complementary monitoring and compliance tool, for example to identify providers for nudge letters or referral for review, alongside the service-level caps and patient refund mechanisms outlined above.

Introducing an Incentive Payment to Encourage Fee Reductions, or Bulk Billing

39. While this approach is likely to be the most appealing for providers, it may result in excessive government investment in the private sector, and this approach is unlikely to impact those already charging fees well above what the incentives can offer.

40. The Consultation Paper suggests that no-gap and known-gap arrangements may have helped constrain excessive fees for in-hospital services, while out-of-hospital services, which cannot be covered by private health insurance, show greater fee variation. Any fee regulation should work alongside, and not undermine, these arrangements. The ANMF is also concerned by reports of patients being quoted higher fees on the basis of their insurance status, including for out-of-hospital consultations that insurance cannot cover. Charging differential fees based on a patient's insurance status should be prohibited.

Conclusion

41. Excessive specialist fees, while not representative of the practices of most specialists, can create significant barriers to timely and equitable access to necessary healthcare. A patient's ability to access clinically necessary care should not be determined by their capacity to meet high out-of-pocket costs. Greater transparency, clear benchmarks and effective consumer

protections are therefore needed to improve financial consent and protect patients from financial hardship, while recognising that many patients have limited ability to choose or change specialists due to urgency, geography, waiting times and the complexity or continuity of their care.

42. Relevant MBS fees could be used to develop transparent benchmarks for identifying excessive or unreasonable fees. Here, developing interim benchmarks followed by a review of MBS fees would ensure they appropriately reflect the costs and circumstances of contemporary specialist care and lay the foundation for establishing what can be considered reasonable or excessive. Expanding the Medical Costs Finder, strengthening professional expectations around reasonable fee-setting, and considering appropriate maximum fees or price caps could also provide greater protection for consumers and guidance and accountability for specialists and referrers. Any regulatory approach should balance affordability and access for patients with sustainable specialist participation in Medicare.