

**Supplementary  
Submission  
No 10a**

**FIFTH REVIEW OF THE EXERCISE OF THE FUNCTIONS  
OF THE LIFETIME CARE AND SUPPORT AUTHORITY**

**Organisation:** The New South Wales Bar Association

**Date received:** 31/01/2014

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## **SUBMISSION TO STANDING COMMITTEE ON LAW & JUSTICE**

### **SUPPLEMENTARY SUBMISSION OF NEW SOUTH WALES BAR ASSOCIATION REGARDING LIFETIME CARE AND SUPPORT AUTHORITY 2012-13 ANNUAL REPORT**

1. The SCLJ has invited the Bar Association to make a supplementary submission following receipt of the 2012-13 Lifetime Care & Support (“LTCS”) Authority Annual Report. The New South Wales Bar Association (“the Association”) does so below.

#### **INADEQUATE INFORMATION CONCERNING SCHEME PERFORMANCE**

2. The most surprising thing about the Annual Report is the lack of information about scheme performance.
3. Whilst it is prominently advised that there are currently 796 participants in the scheme, less prominent is the fact that there are 73 LTCS Authority staff administering the scheme and the benefits paid out.
4. Digging into the financial data, it is possible to learn that the income in 2012/13 from CTP premiums was in the order of \$740 million, taking the total assets under management to approximately \$2.5 billion. Despite the very substantial income and assets, the actual amounts paid out by the scheme to the 796 participants was less than \$65 million, broken down as follows:

Attendant care	\$24.4 million
Equipment	\$4.4 million
Home modifications	\$3.7 million
Hospital	\$11.2 million
Medical	\$4.7 million
Rehabilitation	\$11.1 million
Other	\$5.2 million

5. It is unclear from the information presented just how much of these payments were additional administrative costs (such as drawing up case management plans), as distinct from actual services.

6. It is noted that the total cost of scheme administration exceeded \$13 million (combining personnel services - \$6 million and other operating expenses - \$7 million). It is unclear if this is the full bureaucratic cost. Are payments to case managers to draw up care plans and payments to doctors for reports supporting funding for activities included here or as part of the substantive costs of services?
7. The Association appreciates that this is a very, very long tail scheme. It is necessary to collect substantial sums of money up front in order to cover the lifetime care costs of participants. Nonetheless, the Association is concerned that very substantial amounts are being collected from CTP premium (about 20% of the premium) in order to fund the ongoing care and treatment of a relatively small number of scheme participants.
8. The \$64 million in total expenditure works out at just over \$80,000 per head for just under 800 scheme participants. Given that there are some high dependency brain injury and quadriplegic members of the scheme whose care costs must come close to \$1 million per year, there must be a significant number of scheme participants who are receiving very little by way of service or support. This in turn begs the questions:
  - (i) What are they doing in the scheme?
  - (ii) Are they are receiving the care and support to meet needs that saw them admitted to the scheme in the first place?
9. The Association respectfully suggests that there are important questions that could and should be addressed in the LTCS Authority Annual Report. The whole purpose of the scheme is to meet the treatment and care needs of scheme participants. However, there is almost no analysis in the annual report of the delivery of services. The only offering from the LTCS Authority is that they have surveyed scheme participants and 90% are happy enough with the service being provided. However, the sample size of the survey and the details of the questioning and responses remain a mystery. Is this the sole key performance indicator (“KPI”) for measuring successful delivery of services?
10. It is noted that page 15 of the Annual Report identifies that 20% of participants in the scheme are now without the services of a regular care manager. This might be a sign of independence, but it might equally be a sign of neglect. The report does not make clear which it is.

## **QUESTIONS FOR THE LTCS AUTHORITY**

11. The Bar Association suggests that the Standing Committee on Law and Justice may care to direct some of the following questions to the LTCS Authority:

### **A. Breakdown of service provision**

- (i) What is the breakdown of service provision amongst scheme participants?
  - (a) What are the most expensive 10% of scheme participants costing per head?
  - (b) What are the least expensive 10% of scheme participants costing per head?

- (c) How many scheme participants go twelve months receiving no treatment or care from the LTCS Authority? Why?

## **B. KPIs and Service Delivery**

- (i) Where are the KPIs?
  - (a) There is not a single mention in the Annual Report of any key performance indicators. Has the LTCS Authority sent benchmarks for service delivery and if so, what are they?
  - (b) What is the timeliness of decision making with regard to admission into the scheme?
  - (c) What is the timeliness of the provision of case management services?
  - (d) When there is a need to change case managers or change attendant care service providers, are there unreasonable delays and if so, how chronic are they?
- (ii) Are scheme participants promptly receiving the equipment they need or are they kept waiting? If they are kept waiting, for how long?

Quoting from a December 2013 care plan for RH

*“Standing on a tilt table is considered the most appropriate method for increasing ankle ROM for R. A hire tilt table has not been available to date. Aidacare have indicated that a tilt table may become available in the near future and they have been asked to reserve this for R.”*

With the LTCS Authority managing \$2.5 billion in funds to provide for the care and treatment needs of scheme participants, why is anyone kept waiting for equipment considered essential to their rehabilitation?

- (a) What are the delays in provision of equipment to scheme participants? How common are such delays? Why do they occur at all?
- (b) What measurements does the LTCS Authority undertake as to timeliness in the delivery of equipment?

## **C. Regional Services**

- (i) The Annual Report identifies that there are a significant number of scheme participants in regional areas (p12).
  - (a) What are the performance standards for the provision of services in regional areas?

- (b) The Association is aware of one instance where the only care and support being provided to a scheme member was a weekly cleaner. When the service provider for the South Coast was no longer able to provide a cleaner there was the delay of over four months before an alternate service provider was sourced and found. Is this sort of delay in country areas common? Why is it allowed to occur?

#### **D. Quality Standards**

- (i) The Association has real concerns about how the bulk purchase of services can lead to deterioration in service quality. For example, are the care providers who won tenders by providing the cheapest quote teaching untrained workers how to perform services (such as inserting a catheter) that should properly be performed by a registered nurse?
- (ii) The Association is further concerned that quality nursing agencies are not prepared to tender for the available work because they cannot provide quality staff for the rates allowed.
  - (a) What KPIs are there measuring the quality of care services being provided?
  - (b) What minimum training or qualification standards are applied to LTCS care providers? Is there a competency standard and is it mandatory?
  - (c) What is the incidence of staff from care agencies failing to show for regular shifts? How well are agencies performing in sourcing alternate staff when that occurs? What are the delays and inconvenience for scheme members?
  - (d) Does the LTCS Authority always accept the lowest tender? If so, does this result in trade-offs in service quality?
  - (e) What are rates of affordable hospitalisation for scheme members? Are quadriplegics being provided with a high standard of care that prevents pressure sores, pneumonia and the other sorts of conditions that sees these patients regularly hospitalised when there is not proper care provided?

#### **E. Independence**

- (i) The Lifetime Care and Support Guidelines make provision for payment of an annual lump sum to scheme participants capable of managing their own care and treatment needs. This is the ultimate goal of independence for scheme members – not needing to apply to the Authority for each \$50 item of expenditure.
  - (a) How many scheme members are currently receiving an annual payment, enjoying a degree of independence in choosing their own priorities and spending funds?

## **F. Utilisation**

- (i) The LTCS legislation was amended in 2012 to make clear that family members could never (under any circumstances) be paid for voluntary services to scheme participants. The Association understands that family members continue to provide a vast cross-subsidy to the scheme by stepping in to perform many of the care tasks that the scheme should be supplying. Where are the measurements as to the extent to which this is occurring?
  - (a) Over a twelve month period, what was the total allocated cost of care and treatment plans under the scheme?
  - (b) Having measured the total cost, what percentage of the allocated amount was actually spent? In simple terms, how much of the budget set for treatment and care (through care plans) was used? ie what is the under-utilisation rate?
  - (c) What is the extent of the scheme subsidy through either family members providing care and treatment or under-utilisation of services? If there is a significant under-utilisation rate, what is the Authority doing to address it?

## **G. Employment**

- (i) The Annual Report makes clear that vocational rehabilitation is one of the scheme's goals. However, there is a complete absence of hard data by which to measure the Authority's success in achieving this goal.
  - (a) How many of the current 796 scheme participants are of an employable age? Of that group, how many are capable of some form of employment?
  - (b) How many are actually in jobs? Of those, how many have received assistance from the LTCS Authority to find employment?
  - (c) How many are unemployed and capable of and looking for employment? What success has the LTCS Authority had in rehabilitating them into the workplace?
  - (d) What is the Authority's goal for vocational rehabilitation for the next twelve months to two years? What measurements will be made as to success in achieving these goals?
  - (e) What improvement can be expected to be seen (and reported on) in future Annual Reports?

## **CONCLUDING COMMENTS**

- 12. As can be seen from the questions identified above, there are a good many questions about the operation of the LTCS Scheme that the Annual Report just does not address.

The whole point of having this scheme is to meet the treatment and care needs of the catastrophically injured.

13. An Annual Report into the scheme should identify the scheme's performance in delivering services. Critical evaluation of weaknesses and shortcomings in the delivery of services is essential to understanding where future improvements can be made.
14. However, the Annual Report does not identify a single weakness or shortcoming in the delivery of services. Is the LTCS Authority unable to provide a critical evaluation of the strengths **and weaknesses** of the current operation of the scheme?
15. A number of LTCS scheme members do not have compensable rights (it is a no fault scheme). The Association's members have no contact with this group of scheme participants. The Association has urged that all scheme participants have access to advocacy services to help ensure that they are able to access and utilise the services they are entitled to. The Association remains concerned that there is a major under-utilisation of entitlements partially based on ignorance as to those entitlements.
16. The experience the Association's members do have with scheme participants is that there are a number of concerns about the delivery of services and the performance of the scheme. Those concerns are not reflected in the Authority's Annual Report which provides no critical analysis of scheme performance.
17. The Association would be delighted to expand upon the submissions above during the course of the Committee's hearings.

**31 January 2014**