Australian Government
Department of Health and Aged Care

Ms Angelene Falk
Australian Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
Sydney NSW 2001
Via email to PrivacyRulesConsultation@oaic.gov.au

Dear Ms Falk

**SUBMISSION TO THE REVIEW OF THE NATIONAL HEALTH (PRIVACY) RULES 2021**

The Department of Health and Aged Care (the department) welcomes the opportunity to contribute to the remake of the *National Health (Privacy Rules) 2021* (the Rules). I acknowledge the continuing engagement by your Office on the detail of the Rules, and this submission provides policy context to support your considerations.

The Medicare Benefits Schedule (MBS) and the Pharmaceutical Benefits Scheme (PBS) are key components of Australia's health system aimed at providing Australians with affordable, accessible, and high-quality health care. The department uses MBS and PBS data, together with other data, to understand how patients interact with the health system, and to support evidence-based policy, well-targeted programs, evaluation, and best practice regulation. The department also uses MBS and PBS data for provider compliance purposes (for example, incorrect claiming, inappropriate practice, and fraud in relation to Medicare programs).

*Policy, Programs and Research*

Data held by the Australian Government are a strategic national resource, and it is critical that our datasets are used safely and securely for public benefit. The Department of Health and Aged Care Data Strategy 2022-2025 (Data Strategy) sets out our strategic objectives to support the effective use and sharing of data to drive better health and aged care outcomes for Australians. The Capability Review of Department of Health and Aged Care emphasises the importance of using data to lift our strategic capability to deliver integrated policy addressing the interactions between the various parts of the health and aged care system.

The department supports revision of the Rules to facilitate the effective use of linked MBS and PBS data. It is pleasing to see that the OAIC has noted government initiatives to remove obstacles to information sharing and foster data integration for research and public policy, and that the OAIC is seeking to update the Rules, so they continue to be fit for purpose. The department recognises the sensitivity of health data, and the importance of having appropriate safeguards in place to maintain the privacy and security of this information.

Linked data assets consist of a broad range of data from multiple sources. The integration of these sources enhances the evidence base for research providing insights that are not available from a single data source[1], and answers to complex questions. The ability to link key health datasets is critical to understanding patient pathways through the health system, and implications for patient health outcomes. For example, Case Study 1 in the Data Strategy describes how the use of linked data has demonstrated opportunities to target topical issues and inform policy. Health and aged care data linked with data from other portfolios enabled detailed analysis of vaccination coverage rates among priority groups during the COVID-19 response. This resulted in improved targeting of communications campaigns during the COVID-19 vaccine rollout and boosted the vaccination coverage rate for culturally and linguistically diverse groups.

The department has supported the inclusion of MBS, PBS and other departmental data in the enduring ABS Person Level Integrated Data Asset and the AIHW National Health Data Hub. Both these assets enable access by government and non-government researchers to de-identified data consistent with the governance arrangements in place for these enduring linked datasets. The department is currently collaborating with other government agencies to include departmental data such as MBS and PBS in the National Disability Data Asset which will allow governments to improve programs and services and better measure, track and report on outcomes for people with disability.

The department is also working with state and territory health authorities, and researchers, to support the linkage of MBS and PBS data with other datasets for a range of purposes, such as improving clinical care and access to services, improving quality and safety of health care, informing funding of value and outcome, and system planning.

*Health Provider Compliance*

The Rules provide authority for Services Australia to disclose MBS and PBS claims information to the department for health provider compliance purposes. It is critical that the new version of the Rules retains provisions to enable the department (or, if applicable, a successor department with responsibility for health provider compliance) to continue to collect, use, and disclose this information as appropriate.

[1] https://www.abs.gov.au/about/data-services/data-integration/use-and-benefits

Any updates to the Rules must support the full suite of compliance powers held by the Chief Executive Medicare and the department's Secretary, along with the resulting compliance functions and responsibilities performed by the department. 'Health provider compliance' encompasses a broad range of activities aimed at identifying various forms of non-compliance, including incorrect claiming, inappropriate practice, and fraud in relation to Medicare programs. These functions may relate to a variety of practitioners, non-practitioner individuals, administrators, practices, businesses, and other entities. It is critical that the Rules accommodate all scenarios in which the department may use health data in the process of exercising its powers to investigate or respond to instances of suspected non-compliance.

In addition, whilst the department has responsibility for health provider compliance under the current Administrative Arrangements Order, this has not always been the case and remains subject to change. As a result, it is important that the Rules accommodate the use of claims information within health provider compliance functions, regardless of which agency has responsibility for those functions at that time.

Yours sincerely

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