



Australian Government  
Professional Services Review

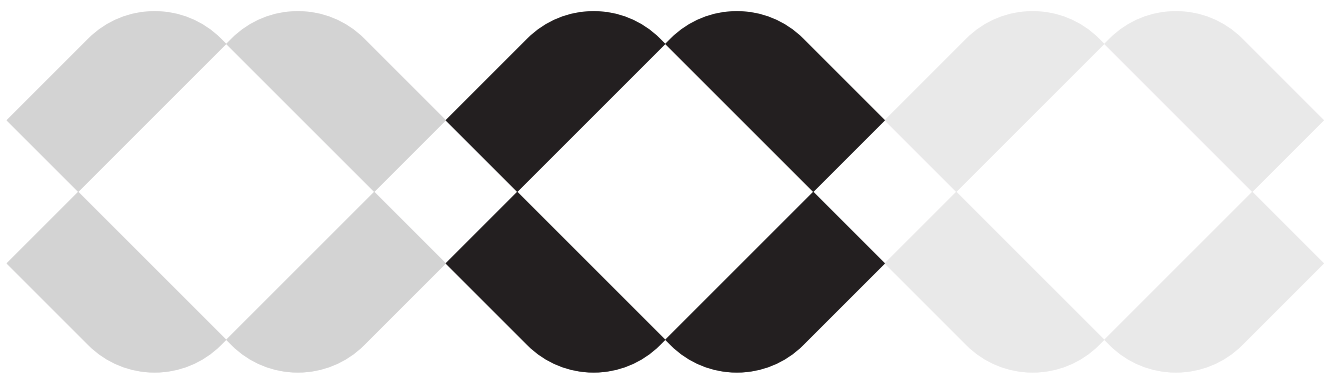
# Your Guide to the Professional Services Review Process

A resource for those  
who are referred  
to PSR



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Professional Services Review  
PO Box 74 Fyshwick ACT 2609  
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## Disclaimer

This reference guide is not a substitute for legal advice. The guide is intended to assist those persons to understand the Professional Services Review process. The guidance provided within this document is presented for general information only.

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# INTRODUCTION

## The Professional Services Review Scheme and how to use this Guide

Professional Services Review Agency (PSR) examines suspected cases of inappropriate practice referred to it on behalf of the Chief Executive Medicare. PSR cannot initiate its own reviews.

PSR is established under Part VAA of the *Health Insurance Act 1973* (the Act) which sets out the role and powers of PSR, as well as the process that PSR must follow when conducting its work.

Key provisions of the Act relating to the PSR Scheme are set out in the Endnotes at the end of this guide under 'Appendix C: Key Sections of the Act'. Commonly used terms in the Guide are listed in the Endnotes at 'Appendix D: Glossary'.

PSR may investigate the provision of services on the Medical Benefits Schedule (MBS) or Child Dental Benefits Schedule (CDBS) or prescribing on the Pharmaceutical Benefits Scheme (PBS) by an individual practitioner, or the conduct of an individual, organisation or corporate body that employed or engaged practitioners who provided services. As most PSR investigations relate to individual practitioners 'you/your' is used throughout the Guide. Where the PSR review relates to an organisation, there are some variations to the process.

PSR is committed to protecting your privacy. PSR cannot disclose that you are under review to a third party unless the disclosure is specifically permitted under the Act. PSR operates within a secure environment, inaccessible to members of the public. All documents relating to your case will be stored securely on protected IT systems. PSR is bound by the *Privacy Act 1988* and section 130 of the *Health Insurance Act 1973*, both of which require PSR staff to protect your privacy and that of your patients. Should your matter progress to a Committee further restrictions apply to the use and handling of information.

You can find further information about the PSR Scheme, including further resources for those under review, at the PSR website ([www.psr.gov.au](http://www.psr.gov.au)).

## Part A: What should you do now that you have been referred to PSR?

You may find the PSR process time consuming, complex and stressful. However, there are key steps that you should take at the start of the process to assist you, including:

- **Engage your medical defence organisation or a legal representative as early as possible to assist you through the process.** Medical defence organisations are familiar with the administrative and legal requirements of the PSR process and will be able to provide you with advice and guidance.
- **Inform people close to you that you have been referred to PSR.** While this is your choice, having someone to discuss the matter with you can be beneficial and make the matter less stressful for you.



- **Familiarise yourself with the request to review document.** This document has been sent to you on behalf of the Chief Executive Medicare. It contains information outlining concerns and statistics about your practice during the review period. This document explains why you have been referred to PSR and being familiar with it will help you to remain fully informed during the PSR process.
- Please refer to **Appendix A** to this guide for further resources on your wellbeing while under review.

## Part B: Involvement of other regulatory authorities

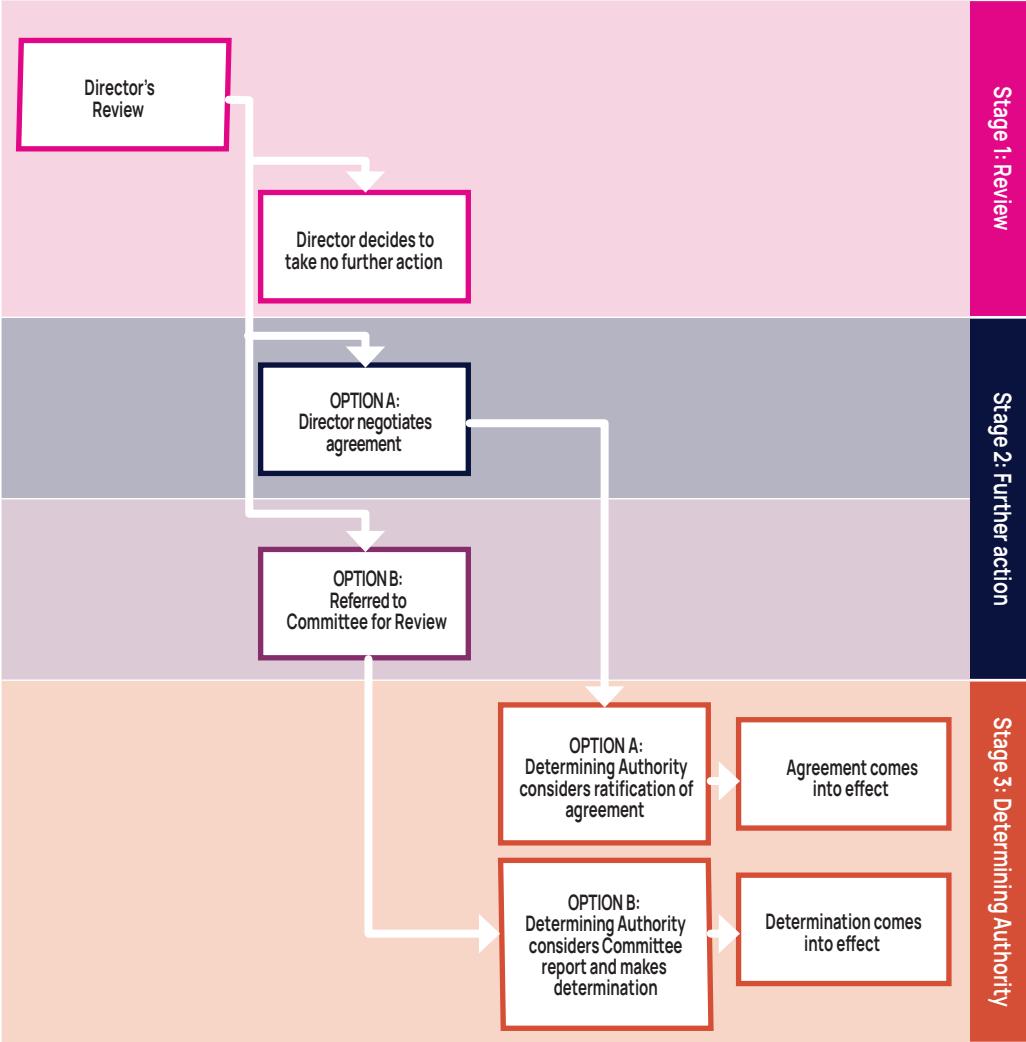
At any time during the PSR process, a referral to a regulatory body can be made. This will occur if the Director, a Committee or the Determining Authority is concerned that a person has not complied with appropriate professional standards or has caused significant threat to somebody's life or health. Such a referral can be made to the Australian Health Practitioner Regulation Authority (Ahpra) or another regulatory authority.

If there is concern that the person under review has behaved fraudulently in their practice, PSR can refer the matter to the Chief Executive Medicare for further consideration or investigation.

If there is concern that a person has behaved fraudulently in part of the PSR process (for example, falsification of medical records), PSR may engage the Australian Federal Police.

# Figure 1: Standard PSR pathways

## High level process



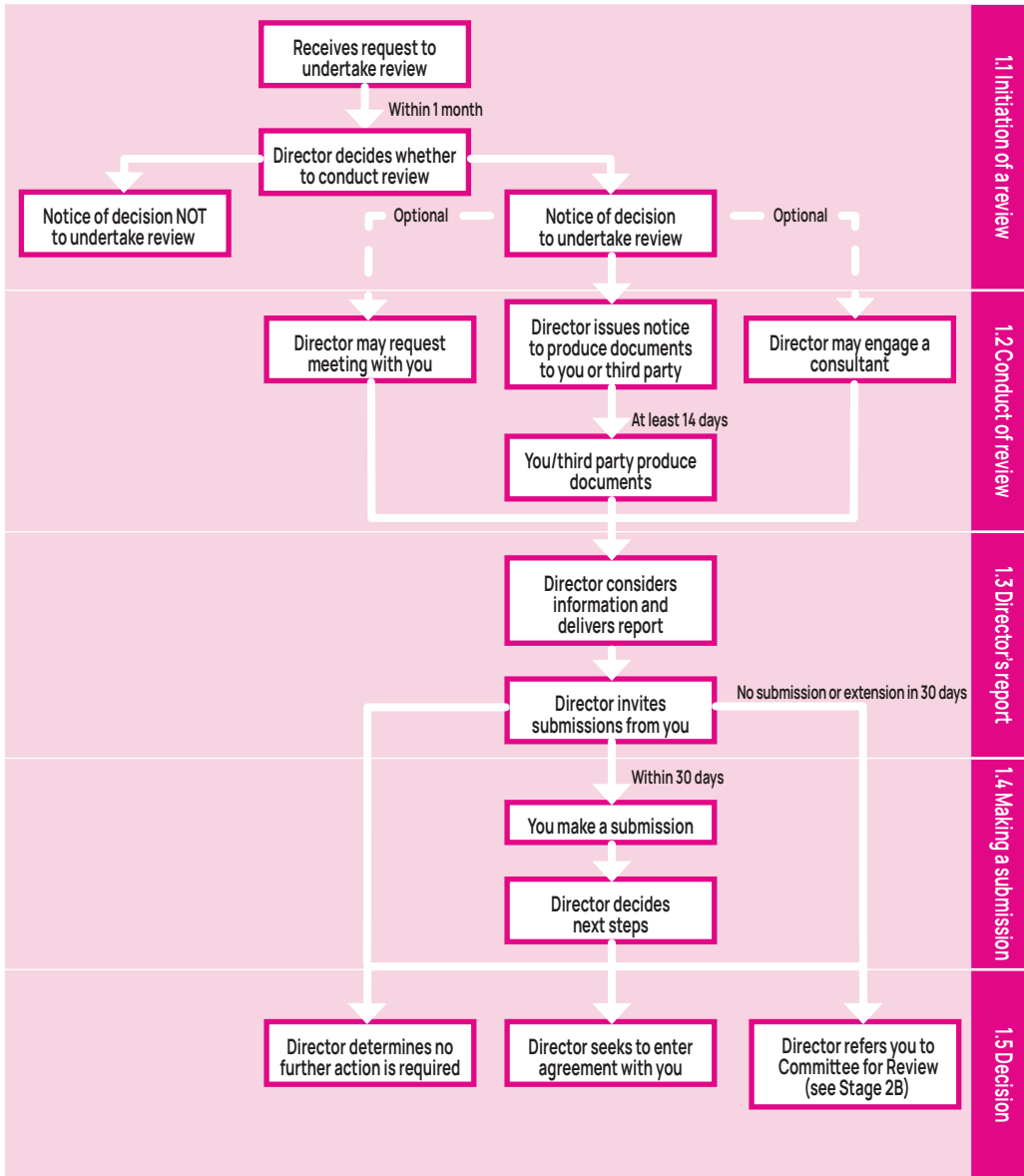
## Stage 1: Review by the Director

### Key points

- A review is required because of the possibility of inappropriate practice
- The review will focus on your provision of services
- You may be required to produce documents relevant to the review
- The duration of the Director's review will largely depend on the type and complexity of the matter being investigated
- During the review process you will have an opportunity to make written submissions on what decisions you think the Director should make
- The Director may invite you to attend a meeting to discuss the practice under review.
- Where the review relates to an organisation that engages practitioners, the practices of the engaged practitioners and of the organisation's administrators will be reviewed

# Figure 2: Summary of typical Stage 1

## Director's review process



# Overview

Following a request from the Chief Executive Medicare, the Director will decide whether to initiate a review. There is a time limit of one month for making this decision. If no decision has been made within one month, the decision is to undertake a review.

Once the Director has completed their review, they must either:

- decide to take no further action
- enter an agreement with you, or
- refer you to a PSR Committee.

## 1.1: Initiation of a review

The PSR process begins when the Chief Executive Medicare requests the Director to undertake a review of your provision of services during a specified period (the **review period**). The period must be within the 2 years prior to the request. The Director must undertake a review if, after considering that request and any other relevant material, it appears that there is a possibility that you engaged in **inappropriate practice** (defined by section 82 of the Act):

'Inappropriate practice' is conduct in connection with rendering or initiating services that a Committee could reasonably conclude was unacceptable to the general body of your profession or, if applicable, medical specialty.

A person (including a practitioner) engages in inappropriate practice if the person knowingly, recklessly or negligently causes (or permits), a practitioner employed or otherwise engaged by an organisation to engage in conduct that constitutes inappropriate practice.

The Director must decide if there is a possibility that you engaged in inappropriate practice in providing services during the review period. The Director will rely on the documents provided by the Chief Executive Medicare and may seek other documents to assist in deciding whether to undertake a review.

If the Director decides to conduct a review, they will advise you of this. You will receive a letter from PSR informing you of the review. The letter will have a form attached with questions relevant to the review. You need to fill out that form and return it to the nominated PSR staff member. A delay in returning this form could prolong the duration of your review.

## No further action

The Director will take no further action in relation to your review if satisfied that:

- there are insufficient grounds on which to make a reasonable finding that you engaged in inappropriate practice during the review period, or
- circumstances exist that would make a proper investigation by a Committee impossible.

The Director can make this decision at any stage during the Director's review. If the Director decides to take no further action, you and the Chief Executive Medicare will be informed of the decision and the reasons for it.

## 1.2: Conduct of review

The Director gathers information to conduct their review, which can include:

- issuing a notice to produce documents to you or a third party
- seeking advice from a consultant or professional body
- meeting with you and/or your legal representative to discuss your practice.

### Requirement to produce documents

After deciding to undertake a review, the Director may send you and/or a third party (or parties) a notice to produce documents (notice) that are relevant to the review. This generally comprises clinical records for patients to whom the services under review were provided.

If you have any queries about a notice, please contact the PSR staff member nominated on the cover letter of the notice. They will assist you in providing the requested documentation.

If the notice requires you to produce patient records, **PSR strongly prefers that you produce electronic records**, and will provide you with guidance materials to help facilitate this. PSR utilises a secure online file sharing platform called 'Kiteworks' which enables users to quickly and easily upload documents. You will be provided with guidance materials on how to upload your records to Kiteworks. PSR staff can also organise a courier service to collect your records from you.

There can be serious consequences for not complying with a notice. These include criminal or civil offences for individuals and the possibility of Federal Court orders for such failures by an organisation.

## Appointment of consultant or professional body

The Director may seek advice and assistance in relation to the review from consultants with relevant expertise. More than one consultant may be used during your review.

A consultant appointed to assist the Director will:

- typically be a professional whose qualifications and experience should, as closely as possible, match your experience and qualifications
- not have any perceived or actual conflicts of interest in relation to your review.

The Director will take practical steps to ensure that the consultant is drawn directly from your profession or speciality. This is achieved in most circumstances. However, there may be some circumstances where this is not possible and would in fact compromise the integrity of the process. This may be where, for example, it is not possible to find members who do not have a perceived or actual conflict because of the limited number of members in the profession or speciality. In those circumstances, the Director may seek advice from other appropriate sources.

The Director will assess any advice provided by the consultant. Not all advice is accepted. Copies of reports provided by consultants are not routinely made available during the process as ultimately it is for the Director to form a view regarding whether there may have been inappropriate practice. The consultant report is just one piece of information used in that assessment. Any such report is not provided to a Committee should the matter progress to that stage or to the Determining Authority.



## Meeting with the Director

Once the Director has considered the relevant documents and any consultant advice, the Director (or another person on the Director's behalf) may seek to meet with you to discuss the review. This meeting may be held by videoconference, at your practice, or at the office of your legal representative. This meeting is not required by law and may not be offered. You may also decide not to attend a meeting.

The meeting is intended to exchange information and to assist the Director to make an informed decision. Your legal representative, or a support person from your medical defence organisation (or equivalent) should be present during the meeting. The attendance of other persons at the meeting is at the discretion of the Director, given that confidential patient material will be discussed. At this meeting, you should expect to discuss:

- your practice, background and training, and if relevant your billing or prescribing statistics during the review period
- the Director's preliminary views of the materials that were provided in response to any notice (which will be outlined in a letter sent to you ahead of the meeting)
- any other matters relevant to the review.

## 1.3: Director's report

The Director will consider the information gathered and decide whether to take further action.

If the Director believes that there are insufficient grounds on which to find that you engaged in inappropriate practice, the Director will make a decision under section 91 of the Act and the review is finalised.

If the decision is to continue the review, the report may raise issues such as:

- your compliance with regulatory requirements and professional expectations
- the quality and adequacy of your records and other documentation
- the clinical relevance of your service provision
- your clinical input and decision making.

Each of these issues will be discussed with reference to your conduct in connection with your provision of the MBS, CDBS and/or PBS services in the period under review.

If the Director considered the advice of a consultant in making findings, the report generally includes:

- a summary of those parts of the advice of the consultant or professional body the Director has accepted
- an indication of the relevant qualifications and experience, where appropriate, of the consultant
- a statement confirming that no conflicts of interest with the consultant were identified.

If your matter concerns a 'prescribed pattern of services' (see Glossary), the Director will consider whether any exceptional circumstances existed in relation to particular days and take these into account. Exceptional circumstances may include:

- an occurrence causing an unusual level of need for relevant services on the day
- an absence, on the day, of other medical services for the practitioner's patients, having regard to the location of the practitioner's practice, and the characteristics of the practitioner's patients.

## 1.4: Making a submission

If the Director sends you a report that the review process is to continue, you will be invited to make a submission. Your submission must be received within one month of receiving the Director's report.

You will be provided with information on how to make submissions, and who to contact if you have questions.

The Director may suggest you include in your submission matters such as the accuracy of the evidence, any actions you have taken to address the concerns or to change practices since the period under review, and what actions you think the Director should take (see 1.5).

Any submissions you provide will be carefully considered by the Director.

## 1.5: Director decides whether further action is to be taken

Once the Director has considered your submission, one of the following occurs. The Director:

1. decides to take no further action, or
2. either:
  - a. seeks to enter into an agreement with you, or
  - b. refers the review to a Professional Services Review Committee.

# FURTHER ACTION

## Stage 2A: The negotiated agreement

### Key points

- Your matter will progress to Stage 2A if the Director has decided that you should be offered a negotiated agreement
- Agreements are commonly used to resolve matters
- The Director will propose an agreement if considered appropriate, based on the circumstances
- All negotiated agreements must include an acknowledgement of inappropriate practice
- Timeframes for completion of Stage 2A can vary significantly
- The time taken to complete an agreement varies with the complexity of the matter and the response time when you are asked to respond to an offer of an agreement.

# Overview

Negotiating an agreement is the most common way matters involving inappropriate practice are resolved. This is primarily because the time taken to reach an agreement is shorter than a Committee process.

The terms of any agreement must include an acknowledgement of inappropriate practice from you. The agreement can include the following actions:

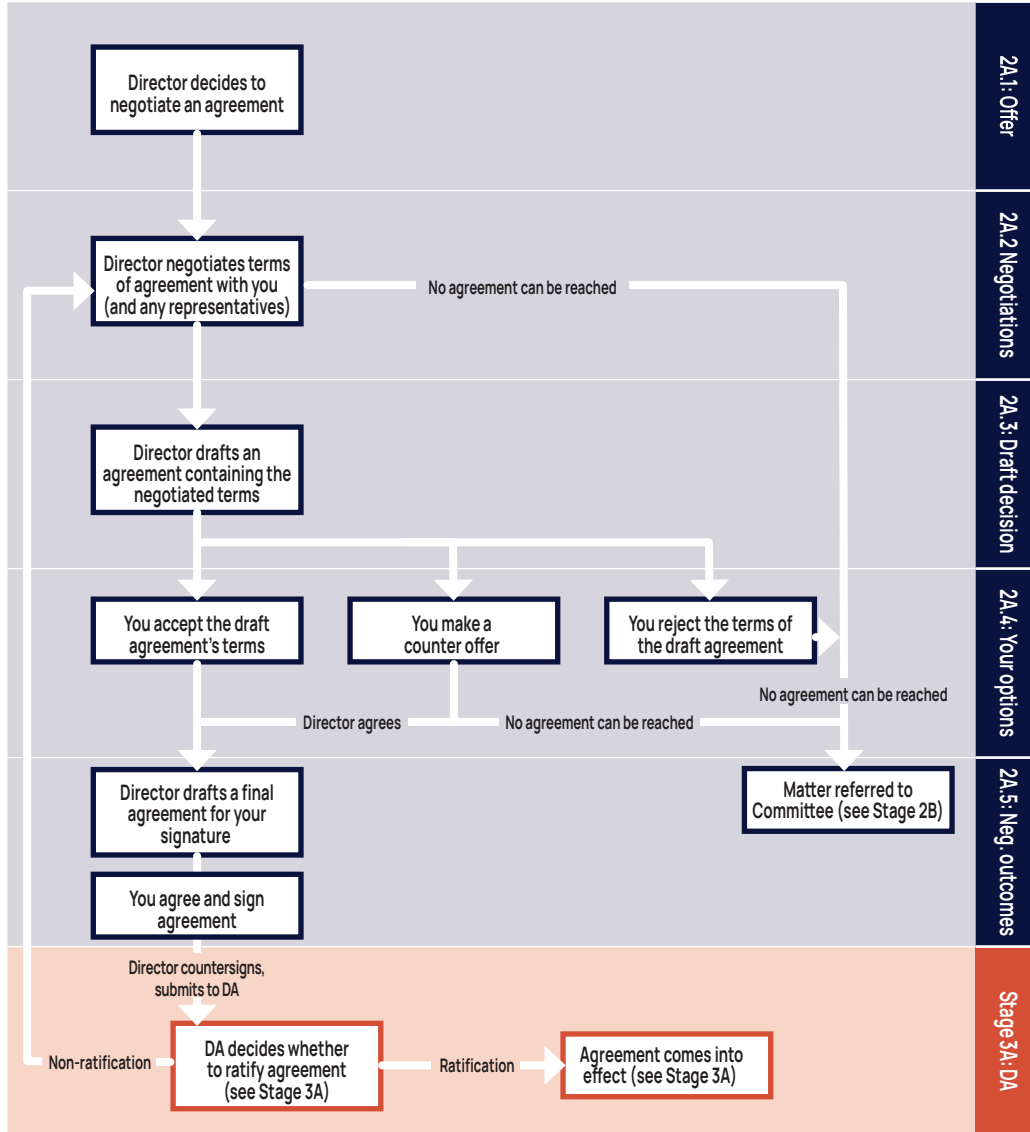
- repayment of Medicare or dental benefits
- disqualification from using the MBS (in whole or in part), CDBS (in whole or in part) or PBS for a set period with a maximum of 3 years (or 5 years if you have been referred to PSR before)
- a reprimand by the Director
- counselling from the Director.

Agreements are subject to ratification by the Determining Authority.

Agreements are usually confidential. If you reach an agreement, which has been ratified, but do not comply with its terms, the Chief Executive Medicare can alert the Director, who may cause your details to be published.

Figure 3: Summary of typical Stage 2A

Negotiated agreement



## 2A.1: Agreement offer

Following completion of their review, the Director may seek to enter into an agreement with you. In these circumstances, the Director will contact you or your legal representative to negotiate the terms of the agreement, including any proposed action requiring you to repay MBS or CDBS benefits.

During the negotiation of the agreement the Director may raise issues that persist after their review of any submissions you have made, such as:

- your compliance with regulatory requirements and professional expectations
- the quality and adequacy of your records and other documentation
- the clinical relevance of your service provision
- your clinical input and decision making.

Each of these issues may be discussed with reference to your conduct in connection with your provision of the MBS, CDBS and/or PBS services in the period under review. If your matter concerned a 'prescribed pattern of services' (see Glossary), the Director will take account of whether exceptional circumstances affected your rendering of services.

The Director will not offer to enter into an agreement for every matter under review where they have concerns you may have engaged in inappropriate practice. The Director may decide a matter is appropriate for consideration by a Committee rather than an agreement for reasons specific to your case. Reasons may include the nature of the potential inappropriate practice, the quantum of any potential repayment and whether you have any relevant PSR history.



## 2A.2: Negotiating the terms of an agreement

If the Director seeks to enter an agreement with you following completion of their review, they will contact you or your legal representative to negotiate the terms.

Negotiation of an agreement requires you to:

- acknowledge you engaged in inappropriate practice in connection with providing specified services during the review period
- accept the terms imposed.

Those terms may include one or more of the following actions:

- repayment of money expended by the Commonwealth on MBS and CDBS services provided by you during the review period
- a period of partial or full disqualification from access to MBS, CDBS and/or PBS services
- counselling by the Director with the aim of preventing future inappropriate practice
- requiring specified classes of associated persons to be given specified information about the appropriate provision of services
- a reprimand from the Director.

# Determining the terms of a proposed agreement, including repayment amounts

In arriving at proposed terms for an agreement, the Director will have regard to the likely outcome if your matter were to proceed onto a Committee and the Determining Authority (see Stage 3: Determining Authority).

The Director may consider:

- the amount expended by the Commonwealth for MBS or CDBS services you provided where the Director considers there to be a possibility of inappropriate practice
- the proportion of possible inappropriate practice in the Director's review
- the seriousness of the conduct considered to constitute possible inappropriate practice
- any mitigating factors, including your willingness to acknowledge inappropriate practice, and steps taken by you to mitigate the risk of repeating the conduct (for example, undertaking training courses and changes made to your practice since you received notice of the review)
- your circumstances, and whether the totality of the proposed agreement (for example, a combination of a repayment and disqualification) might suit those circumstances
- whether you have any relevant previous PSR history, if applicable
- your submissions as to the appropriate way forward.

The most you could be asked to repay is the amount expended for MBS or CDBS services you provided during the review period for which the Director considers there to be a possibility of inappropriate practice. The Director cannot ask for an additional 'penalty' amount.

A monetary repayment figure cannot be applied to PBS items, as it is not permitted by the Act. However, your prescribing practices may be considered when the Director is determining proposed terms, including a repayment figure.

The terms of finalised agreements, with identifying information removed, are set out on PSR's website ([www.psr.gov.au](http://www.psr.gov.au)).

## 2A.3: Director's draft agreement

The Director will provide you with terms of a draft agreement for your consideration and, if applicable, discussion with your legal representative.

The terms of the draft agreement will include a statement that you:

- acknowledge you engaged in inappropriate practice
- accept the terms of the agreement
- agree to take the actions as specified under the agreement, including – in most cases – the repayment of an amount to the Commonwealth.

## 2A.4: Your response options

You are under no obligation to accept the terms of the proposed agreement or come to any agreement.

Your response options may include:

- choosing to agree with the proposed terms (see 2A.5)
- proposing alternative terms which better suit your circumstances
- rejecting the terms of the draft agreement (see 2A.6).

If you choose to propose alternative agreement terms, the Director will consider whether your proposal is reasonable and appropriate to your circumstances having regard to the likely outcome if your matter were to proceed to a Committee and the Determining Authority (see Stages 2B, 3A and 3B).

## 2A.5: Director drafts a final agreement for signature and ratification

If you agree with the proposed terms of the agreement, the Director will write to you with a formal agreement and a written invitation to agree to the proposed terms.

If you agree, you will need to:

- sign the agreement
- arrange for a witness to sign it
- return it to the Director by the specified date.

An agreement must be ratified by the Determining Authority to take effect. Once an agreement has been signed by you and then the Director, the Director will then give it to the Determining Authority for ratification (see 3A). You will be advised when this occurs and provided a copy of the agreement signed by the Director.

If the agreement is ratified, it will take effect 14 days after ratification by the Determining Authority, or as otherwise specified in the agreement.

If the Determining Authority refuses to ratify the agreement, the Director may seek to enter into a revised agreement, which is acceptable to all parties. Any new agreement must be ratified by the Determining Authority within 3 months of the initial decision not to ratify, failing which the Director must refer the matter to a Committee. Alternatively, if an agreement is not ratified, the Director may decide it is appropriate to refer the matter to a Committee.

Further detail on the role of the Determining Authority in ratifying agreements is set out at Stage 3A.

## 2A.6: If an agreement cannot be reached

If for any reason you and the Director are unable to settle on an agreement, and the Director's concerns that you may have engaged in inappropriate practice remain, the Director will set up a PSR Committee and refer your provision of services to it.

The Director may also refer to a Committee if the Determining Authority refuses to ratify an agreement and no further agreement has been reached or ratified.

If a referral to a Committee occurs, the Director no longer has power under the Act to enter into an agreement with you. The Committee processes are set out in Stage 2B.

If a PSR Committee is set up, it will have sole responsibility for investigating whether you have engaged in inappropriate practice.



## How long do Director's reviews take to finalise?

### Response to Director's report (one month)

If the Director has preliminary concerns regarding your practice they will issue a report (under section 89C of the Act). You will be invited to make submissions in response to this report within one month of its receipt.



**If the Director has persisting concerns you will receive a report under s89C of the Act and be provided one month to respond.**

### No further action to be taken (notice within 7 days after decision)

If during the review at any point the Director decides to take no further action, the Director must give you and the Chief Executive Medicare:

- written notice of the decision
- a written report setting out the grounds for the decision.



**If a decision to take no further action is made you will receive correspondence from PSR advising of this outcome.**

## Outcome of Director's review (12 months)

If the Director has not made a decision 12 months after deciding to undertake the review, the Director is taken to have made a decision to take no further action in relation to the review. If there is a failure or delay in complying with a request for relevant documents, the Director may determine that the period of 12 months be extended accordingly.



**Within 12 months from the date of the referral (or any time extended by the Director for a failure to comply with a notice), your matter will either have been resolved by a decision to take no further action, entering into an agreement, or referral to Committee. All of these steps involve PSR liaising with you to advise the outcome.**

**If your matter is referred for investigation by Committee a new set of timeframes will apply as set out in section 2B of this Guide.**

# Stage 2B: Review by a Professional Services Review Committee

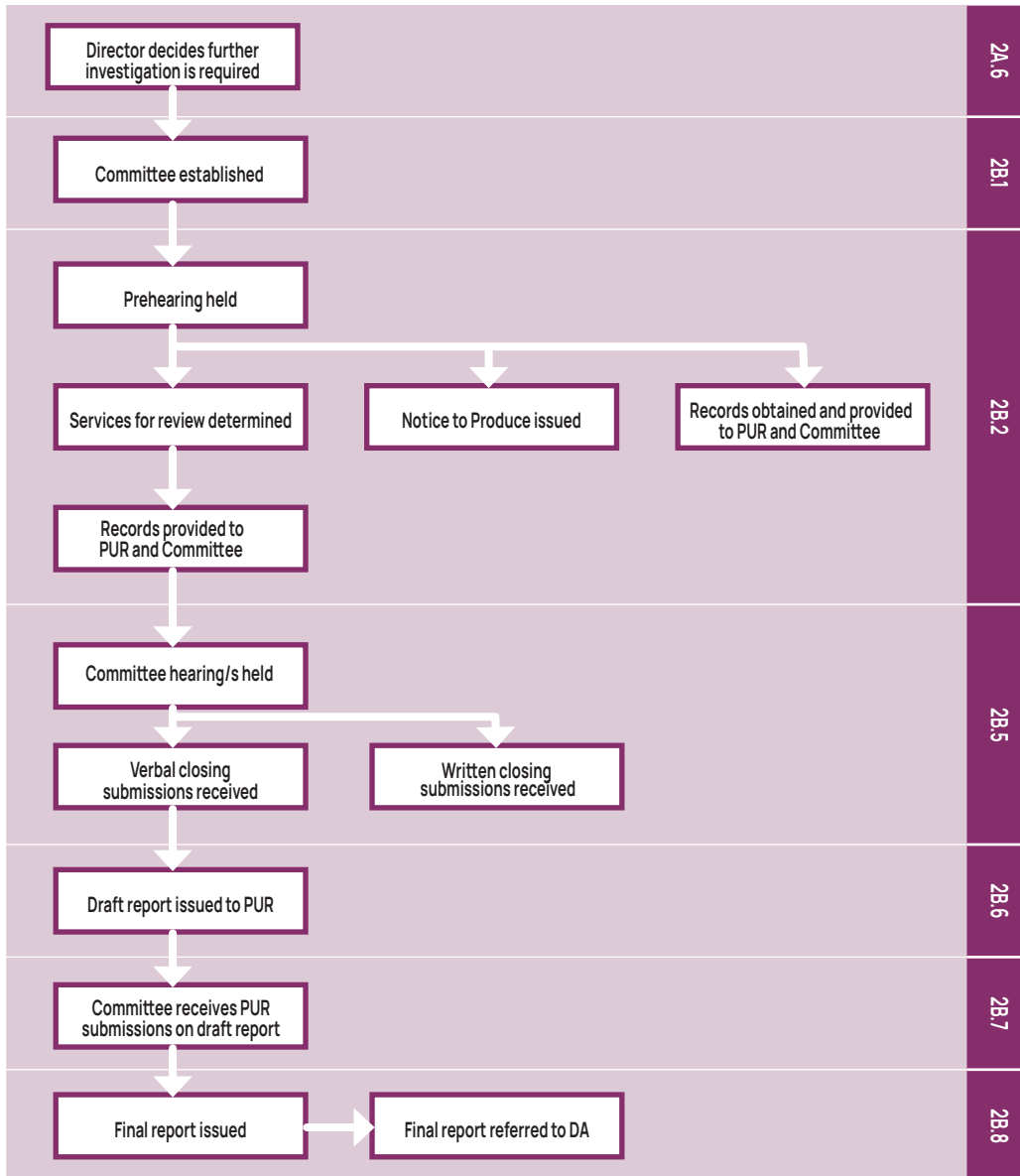
## Key points

- Your matter may be referred to a Committee for review of specified MBS, CDBS and/or PBS services you provided
- Committees are independent decision-making bodies, made up of members appointed specifically for your review
- Review by a Committee can be complex and time consuming
- The Committee has a range of powers to gather information from you or others
- You will have opportunities to participate in the Committee investigation process, by attending hearings and making submissions on the Committee's draft report.



Figure 4: Summary of typical Stage 2

Committee investigation process



## Overview

The Director may establish a Committee to decide whether you engaged in inappropriate practice.

If referred, you will receive copies of the documents that evidence the Director's decision and reasons to establish the Committee and refer matters to it for review. The document that establishes the Committee includes the names of the panel members who will conduct the inquiry and the MBS, CDBS and/or PBS services that are referred for consideration. A report will set out the reasons why it appears to the Director that you may have engaged in inappropriate practice.

The Committee is responsible for determining whether you engaged in inappropriate practice during the review period. It may require you to produce documents as well as to appear and give evidence at a hearing.

The scope of a Committee's investigation is not limited to the reasons contained in either the Director's report or Medicare's initial request. The content of any negotiations between you and the Director regarding an agreement is confidential and is not provided to the Committee unless you choose to disclose this yourself.

Following a hearing, the Committee must prepare a written draft report setting out any preliminary findings of inappropriate practice and reasons for those preliminary findings, and you will have an opportunity to make written submissions suggesting changes to the draft report.

If, having considered your submissions, the Committee makes findings of inappropriate practice, those will be set out in a written final report.

## 2B.1: Panel members and the appointment of a Committee

Committee members are drawn from a panel of practising health or medical practitioners appointed by the Minister. Some panel members are appointed as Deputy Directors who Chair the Committee.

A Committee includes a Deputy Director from your profession and 2 other panel members who are from your profession or, if applicable, medical specialty. One or 2 more panel members may also be appointed by the Director to give the Committee a wider range of expertise.

You may challenge the appointment of a Committee member on the grounds of bias. The challenge must be made to the Director in writing within 7 days of receiving the referral. Any challenge must set out the basis on which the challenge is made. If the Director decides the challenge is justified, the member will be removed and another member will be appointed to the Committee to replace them.

## 2B.2: Pre-hearing arrangements

Once the Committee has been established, the Committee will choose which MBS, CDBS and/or PBS services to examine out of those referred to it by the Director.

A notice to produce documents will usually be sent to you or your legal representative and/or a third party specifying the documents that must be produced. Most often the notice will require the production of relevant documents, being medical records of patients to whom the services under review were provided.

The processes for producing documents to a Committee is the same as for producing records to the Director. If you have any queries about a notice, please contact the PSR staff member nominated on the cover letter of the notice, who will assist you in providing the requested documentation.

If medical records are produced these will generally be prepared by PSR in a PDF format with the progress notes and documents relating to the specific service or services under review electronically bookmarked for ease of reference during the Committee hearing. The same PDF version of the records will be provided to you and to each Committee member.

Please make sure that before the hearing you familiarise yourself with the documents provided to you. The Committee will likely ask you questions about the particular services that have been bookmarked in the relevant documents.

## 2B.3: Hearing

The Committee is required to hold a hearing if it appears that you may have engaged in inappropriate practice in providing the referred services. The Committee commences its investigation at the hearing.

Committee hearings are usually 4 to 6 days but can be longer. Hearings are usually held in-person in a meeting room in your closest capital city, but in certain circumstances can be held remotely. In most cases, hearings are held in blocks of 2 consecutive days.

The Committee will decide upon suitable dates and provide those to you or your legal representative. If any of the dates are untenable for you, contact PSR staff as soon as possible. Generally, dates will not be moved to accommodate practice arrangements or the unavailability of your preferred legal representative. While

the legislation identifies a 14 day minimum period for giving notice of a hearing, PSR will provide additional notice of proposed hearing dates.

Before the hearing you will be sent a Notice of Hearing, which will identify the hearing venue and time and dates of the hearing and require you to attend and give evidence on those dates. This notice will also set out the particulars of the referred services.

## 2B.4: Attending the hearing

A hearing is generally held from 9.30am–4.30pm. The Committee may adjourn throughout the day to confer and also to allow you to have a break from questioning. You may ask the Chair for a break at any stage.

The hearing is a closed hearing and only the following people will attend:

- the Committee
- PSR staff to advise and assist the Committee
- a person recording the proceedings
- you and any person(s) the Committee has agreed may accompany you
- your legal representative.

It is important to note that failing to attend a hearing can result in serious consequences which, if you are a practitioner, can include being disqualified from billing Medicare services.

You are responsible for your costs associated with attending the hearing, including travel and accommodation, if required.

## 2B.5: During the hearing

The Committee's aims during the hearing are to:

- collect information to assist it in determining whether your conduct in connection with providing services would be unacceptable to the general body of members of your profession or medical specialty
- give you an opportunity to respond to matters upon which the Committee may make a finding of inappropriate practice.

To do this, the Committee will consider:

- your clinical decisions and input
- whether the services you provided were necessary for the appropriate treatment of the patient
- whether the services you provided were justified and appropriate in light of the MBS item descriptor, CDBS item descriptor and/or PBS restrictions
- the adequacy of your medical records, including whether they were made contemporaneously to the services.

At the commencement of the hearing, the Chair will make an opening statement, informing you how the hearing will proceed.

You will be invited to provide any relevant documents for the Committee to consider. The Committee will ask you questions about your practice and experience, billing practices, recordkeeping, and other matters. The Committee will also question you about specific services you have provided. Committee members may take turns questioning you.

In the course of questioning you at the hearing Committee members may raise with you initial concerns they have. This does not indicate that they have made adverse findings, but it is to give you the opportunity to respond to any matters that might result in a finding of inappropriate practice.

The Committee hearing will be recorded and transcribed.

## Your rights during the hearing

During the hearing you are entitled, subject to reasonable limitations or restrictions the Committee may impose, to:

- be accompanied by a lawyer, legal representative or another adviser
- call witnesses to give evidence (other than evidence about your character)
- produce written character references
- question a person giving evidence at the hearing
- address the Committee on questions of law arising during the hearing
- make a final address to the Committee after the conclusion of the taking of evidence, on:
  - questions of law
  - the conduct of the hearing
  - the merits of the matters to which the hearing relates.

During the hearing, your legal representative or adviser is entitled, subject to any reasonable limitations or restrictions the Committee may impose, to:

- provide you with advice
- if they are a legal representative, address the Committee on questions of law that may arise

- after the conclusion of evidence being taken, the legal representative may make a final address to the Committee on:
  - questions of law
  - the conduct of the hearing
  - the merits of the matters discussed during the hearing.

An organisation's rights during the hearing (only if the review relates to an organisation) are broadly the same as those of an individual and are set out in section 103A of the Act.

## After the hearing

After the hearing, the Committee will consider the evidence and any final address, and produce a draft report.

## 2B.6: The Committee's draft report

If the Committee finds you have not practised inappropriately, your matter will be closed once it has issued its draft report. Otherwise, the Committee's draft report will outline its preliminary findings about each MBS, CDBS and/ or PBS service that involves inappropriate practice, along with the reasons for those findings. You have one month from the date that you receive the draft report to provide a written submission to the Committee in response.

If the Committee examined a random sample of your services or prescribed items, the Committee can extrapolate findings of inappropriate practice to the class of services from which the sample was drawn, using a statistical formula set out in the Sampling Methodology Instrument (see Glossary) or certified by an accredited statistician.



## 2B.7: Preparing your submission on the Committee's draft report

The purpose of the written submissions is for you to suggest changes to the draft report. It is important for you to consider the Committee's specific findings in your response.

Committee draft reports can be lengthy and while the legislation provides a period of one month for submissions to be prepared, reasonable requests for extension of time to complete your submissions will be considered by the Committee on a case by case basis.

## 2B.8: The Committee's final report

After receiving submissions on the draft report, or if no submissions are received, the Committee must prepare its final report.

The Committee will consider submissions that you make in preparing its final report.

The Committee cannot include a finding of inappropriate practice in the final report unless that finding was included in the draft report.

The Committee will send the final report to you and the Director. If the final report contains a finding of inappropriate practice, the Committee will send the final report to the Determining Authority not earlier than one month later. The Determining Authority will then decide what outcome should follow from the Committee's findings of inappropriate practice.

If the Committee finds that you did not engage in inappropriate practice it will provide a final report to you, the Director and Medicare, and no further action will be taken.



## How long do Committee matters take to finalise?

The duration of the review will depend on several factors. The timeframes provided for in the legislation are:

### Director's decision to refer matter to a Committee

If the Director makes a decision to refer a matter to Committee you will receive a copy of the materials within 7 days of the decision being made.



**You will receive a copy of the referral documents.**

### First meeting of Committee (within 14 days)

The Committee will convene a meeting, which ordinarily occurs within 14 days of it receiving the referral. At this meeting the Committee will often make a decision on whether a hearing is required and what materials it requires for any review.

### Request for relevant documents (14 days minimum)

A Committee will usually request from you, or third parties, documents relevant to the review. The amount of time it takes for you and/or any relevant third parties to produce documents, and the nature of how the documents are produced, will significantly impact the time taken to prepare the records and the duration of the Committee process.



**If you are the holder of medical records you may receive a Notice to Produce (NTP).**

## Prior to a hearing (14 days minimum)

If the Committee considers a hearing is warranted, and once the hearing dates are finalised, you will receive a formal notice of hearing requiring your attendance.



**You will receive a notice of hearing setting out the time and location of the hearing and items under review.**

Prior to the hearing you will receive a copy of the materials to be reviewed. These materials will be made available to you at the same time they are available to the Committee.



**You will receive materials to be reviewed at the hearing.**

## Hearing (between 4 and 6 days on average)

Hearings occur on average 4 to 7 months after a matter is referred to a Committee with the variability in time being primarily due to the timeliness and quality of record production. You will usually be required to attend the hearing which last on average 4 to 6 days.



**You will be personally required to attend each day of the hearing.**

## Issuing of draft report (6 to 8 months post hearing on average)

The time taken to prepare a draft report varies and depends on how many services the Committee reviewed, the amount of evidence tendered and the complexity of the issues on hand. Most draft reports are provided around 6 months after the hearing.



**Draft report issued.**

## **Submissions on draft report (one month)**

After the draft report is issued you will have an opportunity to provide submissions. The Act provides a period of one month for submissions.

## **Issuing of final report**

The duration it takes to prepare a final report will depend on the nature of any submissions made on the draft report. The preparation of a final report will on average take 2–4 months.



**Final report issued.**

# DETERMINING AUTHORITY

## Stage 3: Consideration by the Determining Authority

### Key points

- The Determining Authority consists of members appointed by the Minister, and is separate from the PSR Director and the PSR Committee
- The functions and processes undertaken by the Determining Authority will depend on whether it has been referred an agreement or a Committee report
- The Department of Health and Aged Care is responsible for implementing the ratified agreements or the directions of the Determining Authority.

# Overview

The Determining Authority has 2 distinct functions. They are to:

- consider any agreement entered into by you and the Director and to decide to either ratify, or refuse to ratify, that agreement
- make a decision specifying what consequences should follow if a Committee finds that you engaged in inappropriate practice. These can include:
  - repayment of Medicare or dental benefits
  - disqualification from using the MBS, CDBS or PBS for a set period
  - a reprimand and/or counselling.

The Determining Authority consists of 3 members, including a:

- Chair, who is a medical practitioner
- member who is not a practitioner
- member who is a practitioner in the same profession as you.

The members of the Determining Authority are appointed by the Minister after consultation with the Australian Medical Authority (AMA) or organisations or associations representing the interests of the profession that you belong to.

The Determining Authority meets in private, usually each month.

## 3A: Ratification of an agreement

If you entered into an agreement with the Director, your matter will be referred to the Determining Authority for ratification and you will be provided correspondence advising the referral has occurred.

The Determining Authority will consider the documents provided by the Director which can include:

- the original request to review from the Chief Executive Medicare
- the report of the Director issued under s 89C of the Act as described in section 1.3 of this Guide
- a letter from the Director to the Determining Authority setting out the review process and outcomes (of which you are provided a copy)
- any submissions you have made
- the signed agreement.

The Determining Authority's role is to ensure that the agreement is fair and reasonable in the circumstances.

The Determining Authority will decide to ratify or refuse to ratify the agreement. The Determining Authority will write to you and the Director within 7 days of making their decision.

If the agreement is ratified, you will be advised of the date of effect for the agreement which if not specified, is 14 days after the agreement is ratified.

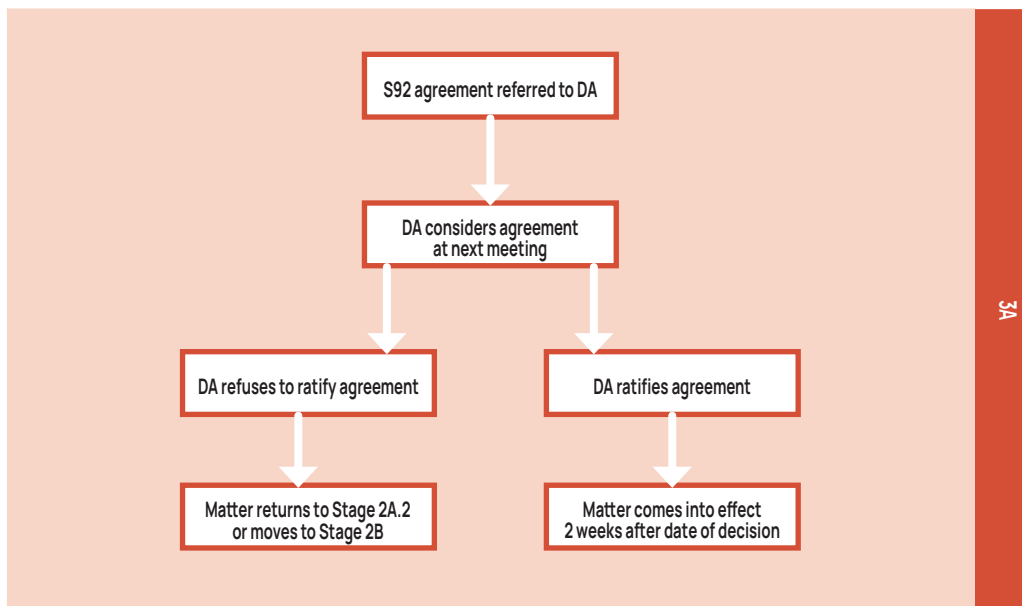


If the agreement is not ratified, the Determining Authority will advise you and the Director and provide reasons for the refusal. The Director will then seek either to:

- enter a new agreement with you, or
- refer your matter to a Committee (see 2B: Review by a Committee).

## Figure 5: Summary of typical Stage 3A

### The Determining Authority on receipt of an agreement





## How long does the Determining Authority take to ratify an agreement?

The duration of this process will depend on several factors. The timeframes provided for in the legislation (or the average times where not legislated) are:

### The agreement is given to the Determining Authority (3 weeks on average)

The Director will give the agreement to the Determining Authority together with a covering letter and other information that will assist the Authority to understand the basis of the agreement.



**You will receive correspondence advising that the agreement has been given to the Determining Authority.**

### The Determining Authority will decide whether or not to ratify the agreement (within one month)

The Determining Authority decides whether it will ratify the agreement within one month.

### Notice of the Determining Authority's decision (7 days)

The Determining Authority will notify you of its decision, usually within 7 days.



**You will receive a letter from the Determining Authority notifying of its decision.**

## 3B: Decision on consequences following Committee final report

Within one month of receiving a Committee's final report, the Determining Authority must invite you to make a written submission about the directions the Determining Authority should make following the Committee's findings of inappropriate practice.

The Determining Authority must accept and cannot revisit, a Committee's finding of inappropriate practice. Its focus is limited to making a draft and then a final determination on the consequences. The directions must include one or more of:

- a reprimand
- that you undertake counselling
- a partial disqualification from billing certain MBS or CDBS items, or providing services to a class of persons, or providing some or all services from a certain location for a period up to 3 years
- full disqualification from billing all MBS or CDBS services for up to 3 years
- repayment of some or all of the benefits for MBS or CDBS services for which you were found to have engaged in inappropriate practice
- full disqualification from all prescribing under the PBS for up to 3 years, as there is no power for partial disqualification from the PBS.

If you have previously acknowledged or been found to have engaged in inappropriate practice, the maximum duration of any disqualification is 5 years, rather than 3 years.

## Figure 6: Summary of typical Stage 3B

### The Determining Authority on receipt of a Committee report



## Submissions to the Determining Authority

Your submission should specifically relate to the directions the Determining Authority should make. There is no opportunity to make submissions about whether you engaged in inappropriate practice, as the Determining Authority must accept the Committee's findings.

The Determining Authority will receive a copy of the Committee's final report, including any attachments. The Director will routinely provide the Determining Authority with relevant materials such as any prior PSR history, any external referral the Director may have made about your conduct and in some cases, any billing information held by the Director the Determining Authority may require in order to perform its task.

You will receive a copy of the documents sent to the Determining Authority. If there is any additional material you would like the Determining Authority to consider, including any submissions you or your legal representative may have made to the Committee, you should attach it to your submission.

You have one month from receipt of the Determining Authority's invitation to make your submission.

## The draft determination

The Determining Authority will consider all the documents before it, including any submissions you make, when preparing its draft determination.

You will be provided with the draft determination, and an invitation to make a further written submission. While the Act provides a period of 14 days to make submissions, some draft determinations are lengthy and some may be

complex. Reasonable requests for extensions of time to provide submissions will be considered on a case by case basis.

Your submission at this stage of the process should focus on the details of the draft determination and the reasons why any changes you suggest should be made. You may wish to suggest why directions in the draft determination are unsuitable given your particular circumstances.

## The final determination

The Determining Authority will consider any submissions you have made on the draft determination and following consideration of your submission, a final determination will be made.

The final determination will include:

- the Determining Authority's final decision on the direction/s that should be applied
- the reasons for the decision
- details of the material the Determining Authority relied on in making its decision including any submissions on the draft determination you may have made.

Unless court proceedings are instituted, the final determination will take effect 35 days after the day you receive a copy.

The Determining Authority will give copies of the final determination to the Director and the Chief Executive Medicare, who will also be provided with a copy of the Committee's final report.



## How long do Determining Authority determinations take to finalise?

### The Committee's final report is given to the Determining Authority (at least one month)

The Act does not permit the Committee to give its final report to the Determining Authority until at least one month after it is given to you. This is to enable you time to obtain legal advice and make an application to the Federal Court in respect of that report should you consider you have grounds to do so.



**You will receive a copy of the final report from the Committee at least one month before the DA receives it.**

### Invitation to make written submissions (within one month)

The Determining Authority will invite you to make a written submission about the directions the Determining Authority should make.



**You will receive a letter from the Determining Authority seeking submissions.**

### Give written submissions to the Determining Authority (one month)

You should provide submissions to the Determining Authority concerning what determinations the Determining Authority should make within one month.

## **The Determining Authority will consider submissions and issue a draft determination (2 months on average)**

The Determining Authority will consider your submissions and the Committee's final report and issue a draft determination. The timing of this process can vary depending on the complexity of the matter but on average a draft determination will be issued within 2 months of receiving submissions.



**Draft determination issued and submissions invited.**

## **Give written submissions to the Determining Authority (14 days minimum)**

You will be invited to provide submissions to the Determining Authority concerning changes you would like the Determining Authority to make to the draft determination.

## **The Determining Authority will issue a final determination (2 months on average)**

The Determining Authority will consider the submissions you have made and then make a final determination. The timing of this process can vary depending on the complexity of the matter but on average a final determination will be issued within 2 months of receiving submissions.



**Final determination issued.**

## **Final determination takes effect (35 days minimum)**

The Act provides that a final determination will come into effect 35 days after it has been made unless a Court action is commenced.



# FINALISATION OF CASE

## What happens next?

This section sets out what happens to each matter after it is finalised. Once the Determining Authority has made the decision to ratify your agreement or has issued its Final Determination, your matter is referred **back to the Director** to finalise.

## Date of effect

Once your matter has been finalised, the date of effect for:

- an agreement is
  - 14 days after the decision is made to ratify the agreement by the Determining Authority, unless otherwise specified in the agreement
- a final determination is
  - 35 days after the date you receive a copy of the final determination, unless you initiate legal proceedings.

If your agreement or final determination includes a partial or full (as relevant) disqualification from the provision of MBS, PBS or CDBS items, the disqualification will come into force on the date of effect.

If your agreement or final determination includes a repayment amount, a debt to the Commonwealth is raised on the date of effect.

## Case outcomes

Throughout the year, the Director publishes monthly reports of case outcomes on PSR's website. All matters referred to PSR are treated on their merits and with consideration of individual circumstances. Summaries of case outcomes, reported in the interests of transparency, are not indicative of a likely outcome in any particular case.

Please refer to the PSR Policy on the Publication of Case Outcomes published on the [PSR website](#). This policy is regularly updated.

## Section 92 agreements

An agreement entered into between you and the Director is confidential.

For matters resolved through an agreement, the Director will usually publish information relating to the review, including:

- your profession or specialty (unless it would tend to identify you)
- the relevant MBS or PBS item numbers (unless it would tend to identify you)
- general information regarding the acknowledged inappropriate practice
- the terms of the agreement.

The Director cannot publish any information that may cause you to be identified, unless the Chief Executive Medicare forms the opinion that you have not taken the action specified in your section 92 agreement. If the Chief Executive Medicare forms this opinion and writes to the Director, it becomes open to the Director to publish identifying information such as your name and address.

## Final determinations

When a matter is resolved through a Committee (Stage 2B) and a final determination (Stage 3B), the Director will usually publish information relating to:

- your profession or specialty
- the relevant MBS, CDBS or PBS item numbers
- detailed information regarding the conduct in respect of which the Committee found that you had engaged in inappropriate practice
- the directions contained in the final determination.

The Director can also publish identifiable information for practitioners who reached an outcome through a Committee (Stage 2B) and a final determination (Stage 3B).

Specifically, in addition to that listed above, the Director can also publish:

- your name
- your practice address.

## Process for decision on naming

After the Director receives a copy of the final determination, they can determine whether they are inclined to publish identifiable details regarding a matter.

### **Decision not to publish identifying information**

If upon reviewing the final determination and final report, the Director decides not to publish identifiable details, the final determination will come into effect and you will not be contacted by the Director.

## Decision to publish identifying information

If the Director is inclined to publish your name and practice address, before the final determination takes effect the Director will invite you to make any submissions regarding why you consider these details should not be published.

The Director will then make a decision on whether to publish identifying information. The decision will be provided to you.

If your name is published, your address will also be published to minimise the risk of a reader misidentifying another person with the same or similar name.

Identifying information about you may be removed from the Case Outcomes publication after a determined period of time. This decision will be made in accordance with the current Policy on the Publication of Case Outcomes.

# Processing outcomes

## Reprimand and counselling

If your agreement or determination includes an action for the Director or Director's nominee to reprimand or counsel you, you will receive correspondence from the Director on or after the date of effect.

## Disqualification and debt recovery

PSR is not involved in the process to disqualify you from providing MBS, CDBS or PBS services, or the repayment of benefits to the Commonwealth.

If your agreement or determination includes any of the above, you will be contacted directly by the Department of Health and Aged Care.

## Disposal of documents

With the exemption of records to be retained as national archives (RNA), the records collected or created during the course of your review will be disposed of in line with PSR's information management policies, Records Authority 2013/00636252 and the *Archives Act 1983*.

The retention period commences once the case is finalised. PSR will keep:

- medical and clinical records for 1 year
- case documents and other records for 7 years.

RNA records will not be destroyed, these include:

- decision points throughout the review (including any reports and determinations)
- submissions you made throughout the review
- referrals to external bodies
- the original request from Medicare.

# APPENDIX A

## Wellbeing of practitioners under review

The wellbeing of practitioners who are referred to the Professional Services Review (PSR) for review is important to PSR, the Director and PSR Committees.

PSR acknowledges that the process for review of practitioners' provision of Medicare or dental benefit services, or prescribing under the PBS can be lengthy, time-consuming, stressful and distressing. At this time, a decision has only been made to conduct a review and undertake an investigation. It can take some time for PSR to conduct its investigatory work and it is important to know that all of the information received will be carefully considered.

Whatever happens with your case, PSR staff and Committee members will at all times be respectful and polite, and will also ensure that information provided to you is clear and accurate. PSR is also committed to protecting your privacy. More information about how PSR does this is at **[Privacy and security | Professional Services Review \(psr.gov.au\)](#)**.

You may experience a range of emotions at different stages of the process or throughout the process, which can impact on your personal and professional lives as well as potentially impacting the progress of your case with PSR. You may feel:

- aggrieved that your clinical practice is being questioned
- ashamed and embarrassed about being referred to PSR or the potential for others, such as your patients, to find out about the review

- fearful or angry about the impact on your financial position, including your ability to earn an income and possible penalties.

It is important for you to contact your medical defence organisation or lawyer to assist you with the administrative and legal aspects of the PSR process, and it is also important for you to ensure support for your wellbeing. You are strongly encouraged to have your own general practitioner to assist you with clinical support for medical or mental health problems that may arise for you through the process. We also encourage you to notify the Director of PSR or the Chair of the Committee at any stage of the process if you are experiencing distress.

## Resources

There are a number of other services that may assist you with your emotional wellbeing. For example:

- Doctors' Health Advisory Service in your state or territory
- DRS4DRS: Help doctors stay healthy: [www.drs4drs.com.au](http://www.drs4drs.com.au)
- Doctors with Disabilities Australia: [www.dwda.org.au/](http://www.dwda.org.au/)
- Rural Support Services: [www.nmsupport.org.au/mental-health](http://www.nmsupport.org.au/mental-health)
- Nurse and midwife support – Mental health Support for Nurses & Midwives [www.nmsupport.org.au](http://www.nmsupport.org.au)

or you may contact other organisations, such as:

- Beyond Blue: [www.beyondblue.org.au/](http://www.beyondblue.org.au/)
- Lifeline Australia – Crisis Support and Suicide Prevention: 13 11 14  
[www.lifeline.org.au](http://www.lifeline.org.au)

# APPENDIX B

## Frequently asked questions

### Why am I under review?

The Director has decided to undertake a review because, after considering a request from the Chief Executive Medicare, it appears to the Director that there is a possibility that you engaged in inappropriate practice in providing services during the review period.

### What is inappropriate practice?

'Inappropriate practice' is conduct in connection with rendering or initiating services that a Committee could reasonably conclude was unacceptable to the general body of your profession or, if applicable, medical speciality.

A person (including a practitioner) engages in inappropriate practice if the person knowingly, recklessly or negligently causes (or permits), a practitioner employed or otherwise engaged by an organisation to engage in conduct that constitutes inappropriate practice (see Glossary).



# How does the review process work?

The review process comprises 3 stages:

1. Director review: to determine whether there are possible grounds to conclude that you engaged in 'inappropriate practice' during the period specified in the request.
2. Agreement or Committee: if the Director has determined that further action is necessary. The Director will seek either to enter into an agreement with you (2A) or establish a Committee to determine if you engaged in inappropriate practice (2B).
3. Determining Authority: to decide either whether to ratify agreements reached between the Director of PSR and a practitioner or organisation, or to decide what actions should follow from a Committee's finding of inappropriate practice.

## What happens during the Director's review?

After deciding to undertake a review, the Director will usually proceed by obtaining details of a sample of the services you billed or the items you prescribed, and usually requires the production of medical records corresponding to this sample of patients.

Following a review of those records, the Director may decide to take no further action and the process will conclude. Otherwise, the process will progress to stage 2.

## What is the difference between the agreement and the Committee process?

Negotiating an agreement is the most common way matters involving inappropriate practice are resolved. This is because the time taken to reach an agreement is shorter than a Committee process and the outcomes are confidential.

Your matter may be referred to a Committee for review of the potential inappropriate practice. Committees are independent decision-making bodies, made up of members appointed specifically for your review. The Committee has a range of powers to gather information from you or others. You will have opportunities to participate in the Committee review process, by attending hearings and making submissions on the Committee's draft report.

## What is the role of the Determining Authority?

The Determining Authority consists of members appointed by the Minister, and is separate from the PSR Director and a PSR Committee. The functions and processes undertaken by the Determining Authority will depend on whether it has been referred an agreement or a Committee decision.

## Can a lawyer assist me through the review process?

Yes. A lawyer can assist you at all stages of the review process. PSR encourages you to engage your medical defence organisation or a legal representative as early as possible to assist you through the process. Medical defence organisations are familiar with the administrative and legal requirements of the PSR process and will be able to provide you with advice and guidance.

## How long will the entire review process take?

The duration of the review will depend on several factors relating to your particular circumstances. The Director has 12 months to perform their review. If your matter resolves through an agreement, the timeframe, including the Determining Authority process, would ordinarily take between 9–12 months.

If your matter is referred to a Committee, the timeframe depends on a wide range of factors including record production, hearing availability and the complexity of the evidence before the Committee. Most Committee processes, including the Determining Authority process, would ordinarily take 18–24 months.

## How many reviews are undertaken each year?

The PSR website ([www.psr.gov.au](http://www.psr.gov.au)) contains up-to-date statistics on the findings of PSR, including the number of reviews undertaken over a particular period.

## Where can I find out more information or additional resources?

Please visit the PSR website ([www.psr.gov.au](http://www.psr.gov.au)) for information about the review process and the role of PSR more broadly. It also contains additional resources that may assist you.

# APPENDIX C

## Key sections of the Act

Some key sections of the Act that may be referred to in letters from PSR:

| Section |  |
|---------|--|
| 82      | Defines the concept of 'inappropriate practice'.   |
| 88A     | The Director decides whether to review a health or medical practitioner's provision of services.   |
| 89B     | The Director requests clinical records from a person under review or a third party who owns the records (Notice to produce). You have at least 14 days to comply.                              |
| 89C     | The Director issues a report outlining their concerns following a review of records relating to services that you provided. You can make a submission in response (within 30 days of receipt). |
| 90      | The Director may obtain assistance in making his or her decision on a review from a Panel member or any consultant or learned professional body that the Director considers appropriate.       |
| 91      | The Director decides to take no further action with respect to a person under review.  |
| 92      | The Director enters into an agreement with a person under review.  |
| 93      | The Director refers a person under review to a Committee.  |
| 102     | The Committee advises of dates when a hearing will be held (Notice of hearing). You will be given at least 14 days' notice.  |
| 105A    | The Committee requests clinical records from a person under review or a third party who owns the records (Notice to produce). You have at least 14 days to comply.                             |

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|                                |   |
|--------------------------------|---|
| <b>106KD</b>                   | The Committee writes and issues a draft report. You can make a submission in response (within 30 days of receipt).  |
| <b>106L</b>                    | The Committee reviews submissions and issues its final report.  |
| <b>106T</b>                    | The Determining Authority issues a draft determination. You can make a submission in response (within 14 days of receipt).  |
| <b>106TA</b>                   | The Determining Authority issues a final determination.   |
| <b>106U</b>                    | The content of draft and final determinations. This provision also defines the term associated person.  |
| <b>106XA<br/>and<br/>106XB</b> | The Director, the Committee or the Determining Authority must refer a person to the Medical Board of Australia (or other regulatory body) if they form the opinion that that person endangered a person's life or safety or did not comply with professional standards. |

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# APPENDIX D

## Glossary

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**the Act** means the *Health Insurance Act 1973*.

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**AMA** means the Australian Medical Association.

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**Associated person** means

- a) an employee of the person under review, or
  - b) a person otherwise engaged by the person under review, or
  - c) an employee of a body corporate of which the person under review is an officer, or
  - d) a person otherwise engaged by a body corporate of which the person under review is an officer.
- 

**Case officer** or **case manager** means a PSR staff member who will coordinate the administration of your case.

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**CDBS** means the Child Dental Benefits Schedule.

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**Committee** means a Professional Services Review Committee (or PSRC) comprising generally three practitioners (two Panel Members and a Chair who is a Deputy Director).

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**Department** means the Department of Health and Aged Care.

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**Deputy Director** means a Panel Member who may serve as Chair of a Committee. A Deputy Director is appointed by the Minister following consultation with a relevant professional body (such as the AMA).

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**Determining Authority** is the body that decides whether to ratify agreements before they take effect, and decides in its draft and final determinations what will result from findings of inappropriate practice made by a committee.

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**Director** means the Director of Professional Services Review (or DPSR). The Director is appointed by the Minister following approval from the AMA.

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**Draft report** means the report of the preliminary findings of a Committee following a hearing.

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**Draft determination** a decision made by the Determining Authority after receiving a Committee final report that contains findings of inappropriate practice. Submissions to the Determining Authority may be made within 14 days of receiving the draft determination.

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**Final determination** means the final decision made by the Determining Authority after considering any submissions made in response to its draft determination.

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**Final report** means the report of the final findings of a Committee following consideration of submissions following a draft report.

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**Inappropriate practice** occurs if a practitioner engages in conduct in connection with their provision of services that would be unacceptable to the general body of the members of that profession or, if applicable, medical speciality.

If the person under review is an organisation or officer of an organisation that employs or otherwise engages practitioners, that person engages in inappropriate practice if they knowingly, recklessly or negligently caused or permitted a practitioner to engage in conduct that constitutes inappropriate practice.

The Director determines whether there are grounds on which a Committee could reasonably find that a person under review engaged in inappropriate practice in providing services during a 12 month review period.

A Committee is responsible for determining whether a practitioner engaged in inappropriate practice.

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**Kiteworks** is the secure file sharing platform used by PSR to send and receive encrypted information. It is the preferred method for producing records in response to a Notice to produce and providing submissions to PSR.

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**MBS** means Medicare Benefits Schedule.

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**Minister** means the Minister for Health and Aged Care.

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**Panel** means the pool of Panel members available for appointment to a Committee.

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**Panel member** means a health or medical practitioner appointed by the Minister following consultation with a relevant professional body (such as the AMA).

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**Person under Review** (or **PUR**) means a practitioner or another person who has been referred to the Director for review. See also: associated person.

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**PBS** means Pharmaceutical Benefits Scheme.

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**Practitioner** means a person capable of being referred to PSR. This may include, but is not limited to, medical practitioner, dental practitioner, optometrist, midwife etc.

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**Prescribed pattern of services** means the provision of 80 or more relevant services or 30 or more relevant phone services on 20 or more days over 12 months.

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**PSR** means Professional Services Review.

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**Request to Review** is the document received from Medicare requesting that the Director review a practitioner's provision of services.

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**Review period** means the 12 month period specified in the Medicare Request to Review.

The Director's review and a Committee's investigation is limited to that period.

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**Sampling Methodology Determination** means the Health Insurance (Professional Services Review – Sampling Methodology) Determination 2017.

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