HEALTH MARKET INQUIRY HOLDS SEMINARS

By Neelofah Ally

Following the publication of its provisional findings and recommendations report (PFR) the Health Market Inquiry (HMI) held three seminars relating to the Funder's and Facilities market concentration, Excessive utilisation and Supply Induced Demand (SID), as well as related HMI recommendations, in April 2019. These are key areas where significant stakeholder submissions were received to the PFR. The purpose of the seminars was to allow the HMI to discuss and debate with stakeholders both the approach to the HMI's analysis, the interpretation thereof, and to engage stakeholders on the recommendations that were put forward in the PFR. Stakeholder presentations on these seminars were received on 15 March 2019, which enabled the HMI technical team to draft technical position papers in preparation for the seminars as detailed responses to the stakeholder submissions. These were published a week prior to the seminars.

The seminars were chaired by Chief Justice Sandile Ngcobo. Stakeholders who participated in the seminars were given an opportunity to present their views to the HMI panel. Presentations were made by hospital groups, funders, practitioners groups as well as interested members of the public. The presentations focused on areas where stakeholders agreed with or held a different view to the HMI's analysis, findings and or recommendations. Diverging views were ventilated through discourse and debate between panel members, members of the technical team and the stakeholders in attendance. Stakeholders presented broad ranging views on the HMI's findings and recommendations with some agreeing that the recommendations are necessary to fix symptoms of a flawed competitive industry structure which currently does not place emphasis in performing for the consumer.

The first day of the seminars took place on 9 April 2019 and dealt with issues relating to the HMI's analysis and findings on concentration in the facilities market. The HMI's analysis revealed that the private health facilities market exhibits substantial levels of concentration at both the national and local levels. High levels of concentration at the national level can provide a strategic advantage to large facility groups in national bilateral negotiations with schemes/administrators. Schemes/administrators operating nationally cannot avoid contracting with the large hospital groups providing them with a significant degree of bargaining power. Where hospitals have local market power due to a lack of competition, it can negatively affect funders' ability to negotiate significantly lower prices than the non-network prices of the same group. Accordingly, the HMI proposed recommendations aimed at addressing high concentration levels and the oversupply of beds in the facilities market, through formulation of a central licensing policy. Further, the HMI wanted to receive stakeholder views on the possibility of divestiture and a moratorium on issuing licenses to the three largest hospitals in South Africa. The three large hospital groups maintained a similar view that the facilities market is moderately concentrated at the national level and that the NHN has become a fourth competitive force in the market. Whereas most funders agreed that the facilities market is concentrated and that hospital groups wield market power during tariff negotiations and that there are must-have hospitals particularly in certain regions. There was ultimately broad consensus that a standardized central licensing framework is required, and most stakeholders highlighted the urgent need for this recommendation. The consideration of a divestiture and moratorium on hospital licences was criticised by the hospital groups.

The second day took place on 10 April 2019 and focused on issues relating to concentration in the funders market. The HMI found that concentration in the funders market can be divided into its effects on the downstream market, when providing coverage and services to beneficiaries, and in the upstream market, when procuring services e.g. from practitioners and facilities. In the HMI's view funder's could be doing more to contain healthcare costs by applying effective countervailing power on providers to the benefit of beneficiaries. Furthermore, the lack of transparency prevalent in the market mean that consumers simply do not know what they are purchasing and therefore cannot hold funders accountable. Lacking this disciplining force, medical schemes may have reduced incentives to contract effectively or innovatively with providers. Furthermore, the HMI's analysis showed that a small number of large funders dominate the market and is concerned with the potential anti-competitive outcomes arising from such concentration. In order to address the issue of transparency on options, the HMI has proposed a standardised benefit package to be developed that must be offered by all schemes (the obligatory 'base benefit option').[1] The HMI also recommended that, alongside the standardisation of benefits, a risk adjustment mechanism must be implemented to remove schemes' incentives to compete on risk factors and to encourage schemes to compete on value for money and innovative models of care instead. In terms of addressing transparency on outcomes, the HMI has recommended outcome registration and reporting in

1 Provisional Report Recommendations chapter

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order to facilitate contracting on value for money instead of FFS only. The HMI also made a number of recommendations in respect of networks in order to further encourage adoption, sustainable risk-transfer, value-based contracting, and ensuring no anti-competitive effects arise. Most stakeholders agreed with the recommendation to standardize benefit packages however whether this should be one standard base option was debated. Most funders indicated that they would support the development of a standard framework for presenting benefits to enable consumers to compare scheme options. Funder's also agreed that fee for service reimbursement contributes to higher costs and over servicing but also cautioned against a complete prohibition of fee for service which could result in unintended consequences. There was a discussion around remedies that could address demand-side causes of increased utilisation, including the introduction of mandatary membership as well as the possibility of introducing a mandatory healthcare pathway that prioritises primary healthcare and making the GP the first point of reference for patients.

The last day of the seminars which took place on 12 April 2019 was dedicated towards debating the issue of supplier induced demand (SID). SID is described as a phenomenon whereby, health practitioners both advise of the need for a service and then provide that service. Since practitioners are typically paid by volume of services provided (fee for service), a revenue-maximising professional will tend to recommend more, rather than fewer services. In an insurance market this is more likely to happen as there is low or no payment at the point of care. It is also more likely to occur in markets with asymmetrical information as patients are not in a position to know what they need. Overall the HMI found that there is an excessive use of services or use of higher levels of care than can be explained by the level of health, age, and level of cover (among other factors) of the medical scheme population.[2] The HMI found that, compared to similar populations, hospitalisation and some interventions and use of high care wards was higher in South Africa.[3] Providers vehemently deny the extent of the existence of SID or its main drivers, whereas funders maintain that they have observed and experienced excessive levels of utilisation and possibly SID in the industry.

For effective and efficient regulatory oversight of the supply-side of the healthcare market, the HMI is recommending the establishment of a dedicated healthcare regulatory authority referred to as the Supply Side Regulator for Healthcare (SSRH). Essentially the SSRH should address some of the key supply side failures identified by the HMI. Some of its key functions will address concerns relating to the licensing regime for facilities; standardised reporting of health outcomes; pricing of healthcare goods and services; coding, lack of evidence-based guidelines and treatment protocols; and lack of an effective Health Technology Assessment (HTA) framework. There is broad agreement with the overall proposed functions of the SSRH, however the major hospital groups and some funders disagree with the proposed SSRH's role in price determination. There is further concerns around models of implementation for the SSRH and how its mandate will fit in with the envisaged NHI policy.

The seminars proved to be a useful exercise to the HMI. Over the three days' certain areas of common ground emerged although there are still some areas of disagreement. Going forward the Chair thanked everyone for their participation and asked stakeholders to submit their observations of the seminars to the HMI identifying what they consider to be common ground and what they consider to still be areas of disagreement and how these issues might be resolved. The HMI has received the post-seminar submission and is engaging with the issues raised by the stakeholders. All seminar presentations as well as post seminar submissions can viewed on the Commission's website.

2 Provisional report at page 376, paragraph 1
3 Provisional report page 378, paragraph 11