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Indirect employment in aged care AMA submission to the Productivity Commission Enquiry

Submitted via <https://www.pc.gov.au/inquiries/current/aged-care-employment#issues>

The AMA does not support indirect employment in aged care. It is the AMA position that continuity of care is crucial for provision of adequate health and personal care in the aged care setting. An indirect employment model that relies on independent contractors (including those in labour hire agencies) and workers engaged through digital platforms is not conducive to continuity of care and therefore the AMA cannot support it.

The Issues Paper cites the Royal Commission into Aged Care Quality and Safety (Royal Commission) finding that indirect employment that relies on worker employment through agencies and digital platforms erodes the quality of care, accountability for the care provided, and pay and conditions for the workforce.

The AMA believes that any care stripped of accountability will be detrimental not just to older people receiving aged care services, but to the employees in the sector too, who are forced to rely on insecure, low wages that are then further reduced by the intermediaries who connect them to the clients. These intermediary platforms have no responsibility for the quality of service that is provided nor are they accountable for complying with the Aged Care Quality Standards.¹

The AMA disagrees with the Issues Paper proposition that “there is little evidence on the prevalence and impacts of these employment arrangements in aged care”. The Royal Commission took two years to conduct its work and provide the Final Report that thoroughly addresses aged care employment and provides clear recommendations for the way forward. The prevalence and impacts of casual and online platform type employment are discussed in detail in Volume 4C of the Royal Commission’s Final Report.

Ultimately the AMA questions the Government’s reasoning behind tasking the Productivity Commission with conducting this enquiry one year after the Royal Commission completed its work and provided a specific recommendation: that aged care providers be required to preference direct employment of workers engaged to provide personal care and nursing services.

¹ https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-volume-4c_0.pdf page 956

Impact on consumers

The AMA does not support independent contractors (including those in labour hire agencies) and workers engaged through digital platforms providing nursing care and personal care in residential aged care and in home care.

Existing digital platforms connecting consumers to aged care workers lack transparency in the information they provide to older people who engage with them. The platforms do not disclose that they are not accredited to provide aged care services and that they are not required to comply with the Aged Care Quality Standards.

Older people have limited knowledge of aged care services and a limited ability to navigate the aged care system. This was thoroughly examined by the Royal Commission, and was a key reason why the Royal Commission was established in the first place – to examine the needs of the consumers and improve the system to better respond to their needs.²

The lack of accountability of these digital platforms was identified as an issue during the Royal Commission, with confusion even among the Department of Health as to the accountability mechanisms applied to independent contractors and online platforms, and the requirement to conform with the Aged Care Quality Standards and the Charter of Aged Care Rights.³

For example, one of such online platform continues to receive Federal funding to provide surge workforce during COVID-19 outbreaks in aged care facilities.⁴ Despite the aged care providers who were the recipients of their services claiming during the inquiry by the Royal Commission that their services were unsatisfactory and that the “staff did not have the skills or qualifications needed in the particular circumstances”,⁵ there has been no meaningful action on the part of the Aged Care funder – the Department of Health, or the Aged Care Regulator – the Aged Care Quality and Safety Commission – to look into the practices of the online platform, nor any attempt to regulate them or to limit their further engagement.

Impacts on aged care workforce

The Senate Committee on Job Security Second Interim Report, titled *Insecurity in publicly-funded jobs*, tabled on 19 October 2021⁶ thoroughly examines the impact of rising number of intermediary agencies and online platforms on insecure and precarious work. Relevant to the consultation, the co-founder and CEO of an online platform that connects workers to NDIS participants and aged care recipients warned of “on-demand platforms leading to a 'race to the bottom' on wages and conditions” for care workers.

² <https://agedcare.royalcommission.gov.au/publications/letters-patent-6-december-2018>

³ https://agedcare.royalcommission.gov.au/sites/default/files/2021-03/final-report-volume-4c_0.pdf pages 954-958

⁴ <https://www.health.gov.au/sites/default/files/documents/2022/04/covid-19-outbreaks-in-australian-residential-aged-care-facilities-14-april-2022.pdf>

⁵ <https://agedcare.royalcommission.gov.au/system/files/2020-08/WIT.0787.0001.0001.pdf>

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https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024780/toc_pdf/Thejobinsecurityreport.pdf;fileType=application%2Fpdf

The Senate Committee Report called on the Government to implement Recommendation 87 made by the Royal Commission, requiring aged care providers to have policies and procedures that preference the direct employment of all aged care workers as a condition of holding an approval to provide aged care services.

The Senate Committee also recommended that “Aged care providers should be required to ensure all work, including through indirect work arrangements such as on-demand platforms, is paid in accordance with the relevant award, and this should also be enforced by the Aged Care Quality and Safety Commission and relevant unions”.⁷ The AMA supports this recommendation.

Broader aged care reforms stemming from the Royal Commission

In its response to the Royal Commission’s recommendations, the Government committed to ensuring dignity, quality and safety to older Australians and agreed that strong action is needed for fundamental and ambitious reforms.⁸ Implementing recommendation 87 made by the Royal Commission would have been one way of ensuring safety and quality of care for older Australians.

The Government also accepted in principle the recommendation for a new Care at Home aged care program and committed to commence the new program from July 2023. Yet it provided no explanation how having an entire segment of care and a cohort of carers outside of that system – independent contractors (including those in labour hire agencies) and workers engaged through digital platforms – fits with that planned reform.

The AMA believes there are more important areas of reform required following the Royal Commission that the Productivity Commission could have been tasked to conduct an enquiry on, to ensure quality of care, dignity and safety for older Australians. Those areas include gaps in medical care older Australians receive, sufficiency of funding provided to GPs to continue to care for their patients in aged care, intersections between aged care, primary care and the hospital system, and how those three care components influence each other.

Aged care and health care operate as separate systems that enable very little or no continuity of care for older people is the key problem facing older Australians. This is to the detriment of not only the health outcomes and quality of life of older people, but also to public finances and the sustainability of our hospitals. The AMA estimates that if governments invested sufficiently in health and aged care for older Australians, over four years (2021–22 to 2024–25), \$21.2 billion could be saved in public and private health care from avoidable hospital admissions, presentations and stays from older people in the community or in nursing homes. Improved funding for GPs would ensure less hospital transfers and admissions. For example, the AMA

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https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/024764/toc_pdf/Secondinterimreportinsecurityinpublicly-fundedjobs.pdf;fileType=application%2Fpdf

⁸ <https://www.health.gov.au/sites/default/files/documents/2021/05/australian-government-response-to-the-final-report-of-the-royal-commission-into-aged-care-quality-and-safety.pdf>

estimated that it would cost \$145 million per year to increase MBS rebates for GP attendances in nursing homes.⁹

Considering that the role of the Productivity Commission is to provide independent research and advice to Government on economic and social issues affecting the welfare of Australians, the AMA feels it would be ideally placed to look into intersections between aged care and health care, perform cost-benefit analysis and provide recommendations for improvement that lead to improved health outcomes for older Australians.

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⁹ <https://ama.com.au/sites/default/files/2021-04/130421%20-%20Report%20-%20Putting%20health%20care%20back%20into%20aged%20care.pdf>