

# SUBMISSION

Wednesday, 7 February 2024

## **AMA Submission to PBAC March Meeting Agenda Item: Access to Medicines for People in Custodial Settings**

Submitted via [commentsPBAC@Health.gov.au](mailto:commentsPBAC@Health.gov.au)

### **Introduction**

The Australian Medical Association (AMA) is the peak body representing Australia's doctors, including those involved in providing healthcare to people in custodial settings. The AMA's submission speaks to the importance of health services in custodial settings being resourced and designed to provide a level of care that is responsive to diverse and complex population health needs. Healthcare provided to those in custodial settings should also be of equivalent professional, ethical, and technical standard to the wider Australian community, and this includes ensuring full access to medicines under the PBS. A particular concern is that currently people in custodial settings with complex medical conditions that require high-cost drugs currently have their treatment determined by state justice health departments – not the PBS. This is not equitable to the broader community.

At its 1-3 November 2023 meeting, the Pharmaceutical Benefits Advisory Committee (PBAC) considered a request from the Minister's delegate on PBS arrangements for access to medicines for people in custodial settings. The PBAC acknowledged barriers preventing people in custody from accessing medicines listed on the Pharmaceutical Benefits Scheme (PBS) General Schedule that are available to people in the community, and the need to improve access in these settings. The AMA is pleased to note that the Department of Health and Aged Care will update the PBAC on the advice received from jurisdictions during the PBAC 13-15 March meeting, as well as considering the submissions made during the agenda item consultation period.<sup>1</sup>

Corrective services operated 113 custodial facilities nationally on 30 June 2023, comprising 86 government operated prisons, 9 privately operated prisons, 4 transitional centres, and fourteen 24-hour court cell complexes (holding prisoners under the responsibility of corrective services in New South Wales). As of September 2023, 84% of prisoners were in secure custodial facilities.<sup>23</sup> In the 12 months from 30 June 2022 to 2023, Australian prisoners increased by 3% (1,338) to 41,929.<sup>4</sup> The custodial population is disproportionately male, at 92%.<sup>5</sup>

In Australia, there are disproportionately high numbers of Aboriginal and Torres Strait Islander men, women and children detained in custodial settings. Under the National Agreement on Closing the Gap, governments and mainstream systems have a responsibility to not only reduce the rates of incarceration of Aboriginal and Torres Strait Islander people, but to undergo a fundamental transformation to eliminate racism in the health system and improve health outcomes. The lack of appropriate PBS access in custodial settings for Aboriginal and Torres Strait Islander people has

adverse health outcomes, which affect the wider community, particularly in the release period of re-entry into the community.

The AMA recommends enhanced engagement with Aboriginal and Torres Strait Islander community-controlled health organisations to ensure medicine provision is needs-based and appropriate through the full custodial process.<sup>6</sup>

People in custodial settings are excluded from receiving Medicare and medicines subsidised by the PBS according to a 51-year-old piece of legislation (Section 19 (2) of the Commonwealth Health Insurance Act 1973). Simplistically, this exclusion was designed to avoid duplication of services, with the State and Territory governments funding prison-based health services. The AMA notes there are significant health treatment disparities for people in custodial settings, caused by this outdated and inequitable piece of legislation.

### **Please outline your experience with the medical/health condition**

The AMA advocates that the fundamental human rights of people in custodial settings must be upheld in custodial settings, including through equity of access to safe and appropriate health care. The AMA strongly advocates a human rights-based approach for people who have contact with the legal system.<sup>7</sup> Due to the both the population diversity and complex medical and mental health needs of people in custodial settings – primary health care must be comprehensive, adaptable, needs-based, and patient-centred.

Access to comprehensive primary health care should be equitable at all stages of the custodial journey, including and especially at the time of release to ensure people have continuity of care, including sharing of patient health records, health summaries, and consultation notes between custodial and community health providers. Primary health care providers in custodial settings should also be resourced to support people on release connect with social services to ensure they can access housing, employment, income support, mental health and other health and welfare services.

The AMA supports the Guiding Principles for Corrections in Australia (2018), which stipulate that people in custodial settings are provided with respectful and culturally safe health care and are provided a standard of health care that meets community expectations, and is responsive to their physical, mental, and social care needs.<sup>8</sup>

### **How is the medical/health condition currently treated?**

There is a strong association between incarceration and poor health. In comparison to the general population, people in custodial settings experience higher rates of chronic physical disease, mental ill-health, communicable disease, and addiction.<sup>9</sup> Current service delivery settings across Australian custodial settings do not always enable access to the same standard of health care that most Australians would expect.

The AMA has also previously advocated for access to the PBS for people in custodial settings, which is underpinned by a fundamental commitment to equity of access to health care for all people, no matter where they are in the community. While in theory, all medications available in the community should also be available through custodial health service providers, this is not always the case.

People in custodial settings with complex medical conditions that require high-cost drugs currently have their treatment determined by state justice health departments – not the PBS. This is not equitable to the broader community. The AMA believes health services in custodial settings must be resourced and designed to provide a level of care that is responsive to diverse and complex population health needs. They should also be of equivalent professional, ethical, and technical standard to the wider Australian community.

## What do you see as the advantages of this proposed medicine, in particular for those with the medical condition and/or family and carers?

It is paramount that people in custodial settings retain their entitlement to the PBS throughout all stages of the custodial cycle to ensure access to appropriate health care and treatment. This will ensure that people seeking health care in custodial settings can access appropriate medications to support ongoing treatment for their physical and mental health, improving health outcomes.

The difficulties accessing medical records in and outside of custodial settings can also lead to delayed administration of medications and impact on continuity of care, particularly in the case of mental health treatment pathways. In our 2015 Report Card on Indigenous Health, the AMA noted that for all people reintegrating with the community, post-release is a time of significant health risk.<sup>10</sup> While managing effective reconnection with the community requires multiple community supports – being able to continue with the same medication to treat physical and mental health is one area that can advantageously support better health outcomes. Therefore, the AMA maintains it is vitally important for all people within custodial settings to be able to access PBS listed medications.

The concept of integrated care, especially regarding medication access, should be central to the design and delivery of custodial health services, ensuring coordinated and continuous health care from a person's first point of contact with the legal system through to reconnection with the community. The AMA implores PBAC to consider the advantages of access to the full list of pharmaceuticals under the PBS for those in custodial settings. This access is an avenue for greater continuity of care, and improved health outcomes for these patients.

## What do you see as the main disadvantages of this proposed medicine?

NA

## Please provide any additional comments you would like the PBAC to consider.

Nil

### Contact

[president@ama.com.au](mailto:president@ama.com.au)

<sup>1</sup> PBAC (2023) March 2024- PBAC Meeting. Retrieved 29/01/2024 from:

<https://www.pbs.gov.au/info/industry/listing/elements/pbac-meetings/agenda/march-2024-pbac-meeting>

<sup>2</sup> ABC (2023) Corrective Services, Australia. Retrieved 29/01/24 from: <https://www.abs.gov.au/statistics/people/crime-and-justice/corrective-services-australia/latest-release>

<sup>3</sup> Productivity Commission (2023) Corrective Services. Retrieved 29/01/2024 from:

<https://www.pc.gov.au/ongoing/report-on-government-services/2023/justice/corrective-services>

<sup>4</sup> ABS (2024) Prisoners in Australia. Retrieved 29/01/24 from: [https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release#:~:text=From%2030%20June%202022%20to%2030%20June%202023%3A,%25%20\(191\)%20to%203%2C168.](https://www.abs.gov.au/statistics/people/crime-and-justice/prisoners-australia/latest-release#:~:text=From%2030%20June%202022%20to%2030%20June%202023%3A,%25%20(191)%20to%203%2C168.)

<sup>5</sup> Ibid

<sup>6</sup> AMA (2023) Custodial Health Position Statement. Retrieved 23/01/24 from: <https://www.ama.com.au/articles/ama-2023-position-statement-custodial-health>

<sup>7</sup> Ibid.

<sup>8</sup> Government of Australia (2018). Guiding Principles for Corrections in Australia. Retrieved 23/01/24 from: [https://files.corrections.vic.gov.au/2021-06/guiding\\_principles\\_correctionsaustrevised2018.pdf](https://files.corrections.vic.gov.au/2021-06/guiding_principles_correctionsaustrevised2018.pdf).

<sup>9</sup> AIHW <https://www.aihw.gov.au/reports/australias-health/health-of-people-in-prison>

<sup>10</sup> The Australian Medical Association (2015). 2015 AMA Report Card on Indigenous Health. Retrieved 23/01/24 from:

[https://ama.com.au/sites/default/files/documents/2015%20Report%20Card%20on%20Indigenous%20Health\\_0.pdf](https://ama.com.au/sites/default/files/documents/2015%20Report%20Card%20on%20Indigenous%20Health_0.pdf)