



MEDTECH

9 December 2022

Ben Harris
Director of Policy and Research
Private Healthcare Australia
Via email ben.harris@pha.org.au

Dear Ben,

RE: Johnson & Johnson MedTech follow-up of ex-gratia reimbursement for new technologies (VeraSeal and ECHELON CIRCULAR Powered Stapler)

On 23 August 2022, I wrote to you outlining the erosion of the value proposition of private health insurance and the risk to your members. As a result of the Prostheses List Reforms, medical technologies that are readily available in public hospitals will no longer be accessible to privately insured patients. Specifically, the Ethicon technologies VeraSeal, a haemostat used to control bleeding during surgery, and ECHELON CIRCULAR Powered Stapler, used for minimally invasive removal of cancerous tumours.

Following your advice to approach your members directly to seek ex-gratia payments for these items we have contacted several health funds, but the response has been disappointing to say the least. Under their current processes, your members insist that ex-gratia reimbursement requests are assessed on a "case-by-case" basis, for each patient and procedure, with no scope for broader approval by product. Attached are examples of responses received from two separate health funds (Attachment A). For the items in question, case-by-case requests for approval of ex-gratia payments would require approximately 900 unique requests for VeraSeal, and 200 unique requests for Echelon Circular, per month. By any measure, this is an absurd approach, and completely impractical. What is most concerning however is the fact that none of the health funds we have contacted are aware of any correspondence from Private Healthcare Australia (PHA) on this issue despite you stating that PHA would "prepare materials for funds' consideration" in your letter dated 24 August 2022 (Attachment B).

In the current climate of privately insured patients being denied treatment at the hospital of their choice (e.g. Healthscope termination of agreement with HCF), the inability to access the latest and most clinically superior medical technologies – all of which are available in public hospitals – calls in to question why Australians should take out private health insurance at all. As it stands currently, case-by-case ex-gratia payments are not a genuine solution to funding technologies outside the Prostheses List and we need to urgently discuss a collaborative approach to access these Ethicon technologies for privately insured patients and preserve the value proposition of your members policies. Given the seriousness of this issue, and the potential impact to patients, we feel it is necessary to notify the heads of the health funds we have been trying to reach of the issue, which we will be doing separately.

Following my letter and your response, to which you copied the Minister for Health, we took your word at good faith that you would work with us and your members to reach an outcome that would not see privately insured patients denied access or left out of pocket. Clearly this has not happened, and we remain in the same situation. We ask that you please align with your members on broad approval for ex-gratia reimbursement for these two Ethicon technologies, inform us which health funds have granted this approval, and provide contact details for the relevant personnel that we can coordinate with directly.

Yours Sincerely,

Sue Martin
Managing Director
Johnson & Johnson MedTech

ATTACHMENT A

From: ProviderSubmissions hbf <ProviderSubmissions@hbf.com.au>

Sent: Tuesday, 29 November 2022 4:56 PM

To: Barnett, Nicole [MEDAU] <NBarnet3@ITS.JNJ.com>

Cc: Costa, Michelle [MEDAU] <MCOSTA15@ITS.JNJ.com>

Subject: [EXTERNAL] RE: Johnson & Johnson MedTech request for New Technology ex-gratia reimbursement

Good Afternoon,

Thank you for your email advising of these two new technologies.

HBF handle requests on a case by case basis rather than a blanket approval approach for specific items.

Individual Hospitals submit our 'Additional Benefits Payment Request- Non Listed Medical Device' through to our team, which we then assess at the time received.

For any future requests for these two new technologies, the individual hospitals can continue to follow our process of submitting these forms to ProviderSubmissions@hbf.com.au and they will be assessed on an individual basis.

Kind regards

HBF Medical Relations

ProviderSubmissions hbf

E providersubmissions@hbf.com.au

T 1300 810 475

HBF Health Limited
570 Wellington Street
Perth WA 6000



From: Hospital Queries HBF <HospitalQueries@hbf.com.au>

Sent: Friday, 25 November 2022 8:53 AM

To: ProviderSubmissions hbf <ProviderSubmissions@hbf.com.au>

Cc: NBarnet3@ITS.JNJ.com; MCOSTA15@ITS.JNJ.com

Subject: FW: Johnson & Johnson MedTech request for New Technology ex-gratia reimbursement

Good morning Provider Submissions

Please see the above attachment for your review.

Regards

The Hospital Team

From: Barnett, Nicole [MEDAU] <NBarnet3@ITS.JNJ.com>

Sent: Friday, 25 November 2022 8:24 AM

To: Hospital Queries HBF <HospitalQueries@hbf.com.au>
Cc: Costa, Michelle [MEDAU] <MCOSTA15@ITS.JNJ.com>
Subject: Johnson & Johnson MedTech request for New Technology ex-gratia reimbursement

Dear Hospital Team,

Re: Johnson & Johnson MedTech request for New Technology ex-gratia reimbursement

Per guidance from Mr Ben Harris at PHA, we are emailing to request your consideration for ex-gratia reimbursement approval for two new technologies that supersede existing PL listed technologies:

- VeraSeal haemostat – superior clinical outcomes
- ECHELON CIRCULAR Powered Stapler – superior clinical outcomes

We provided Mr Ben Harris the attached written requests and included clinical evidence and written surgeon & surgical society letters issued to the Department of Health as support.

Subsequently Ben has confirmed he emailed all member PHI's with the attached information and subsequently has given us permission to follow-up directly with each insurer. We acknowledge per PHA advice, ex-gratia reimbursement reflects the November 2022 Prostheses List benefits of the listed comparator technologies.

We look forward to providing any further information as may be needed, and your decision in due course.

Kind regards,
Nicole Barnett & Michelle Costa

Nicole Barnett
Associate Director, Health Economics Market Access



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P.O. Box 134, North Ryde, NSW 1670 Australia
T: +61 (02) 9815 3155
M: +61 (0) 400 735 984
nbarnet3@its.jnj.com
<http://www.jnj.com>

Provider phone number: **1300 810 475**

8am – 4pm WST, Monday to Friday, ex public holidays

Invoice submission: medicalinvoices@hbf.com.au



HBF Health Limited ABN 11 126 884 786

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From: nib Clinical <nibclinical@nib.com.au>

Sent: Friday, 25 November 2022 2:45 PM

To: Barnett, Nicole [MEDAU] <NBarnet3@ITS.JNJ.com>; nib Clinical <nibclinical@nib.com.au>

Cc: Costa, Michelle [MEDAU] <MCOSTA15@ITS.JNJ.com>

Subject: [EXTERNAL] RE: Johnson & Johnson MedTech request for New Technology ex-gratia reimbursement

Hi Team,

Thanks for the email and detail you have provided. nib considers all Clinical Ex-Gratia requests on a case by case basis with consideration of a myriad of factors before determining benefits payable outside of that included in a members applicable level of cover.

Our hospital products provide benefits inline with our fund rules, hospital contracts and PHI Legislation.

We will continue to assess and provide outcomes as per the above determinants.

Kind Regards,

Luke

James McCarthy

Benefits Adjudication Officer | Claims & Delivery



We acknowledge Aboriginal and Torres Strait Islander peoples as the Traditional Custodians of the lands where we live, learn and work.

Please consider the environment before printing this email.

From: Barnett, Nicole [MEDAU] <NBarnet3@ITS.JNJ.com>

Sent: Friday, 25 November 2022 9:23 AM

To: nib Clinical <nibclinical@nib.com.au>

Cc: Costa, Michelle [MEDAU] <MCOSTA15@ITS.JNJ.com>

Subject: Johnson & Johnson MedTech request for New Technology ex-gratia reimbursement

Moved to e5 on 25/11/2022 9:28:53 AM

To view the email and related work, [click here](#)

Dear Clinical Team,

Re: Johnson & Johnson MedTech request for New Technology ex-gratia reimbursement

Per guidance from Mr Ben Harris at PHA, we are emailing to request your consideration for ex-gratia reimbursement approval for two new technologies that supersede existing PL listed technologies:

- VeraSeal haemostat – superior clinical outcomes
- ECHELON CIRCULAR Powered Stapler – superior clinical outcomes

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We look forward to providing any further information as may be needed, and your decision in due course.

Kind regards,
Nicole Barnett & Michelle Costa

Nicole Barnett
Associate Director, Health Economics Market Access



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24 August 2022

Sue Martin
Managing Director, Australia and New Zealand
Johnson & Johnson Medical Australia
Via email smarti1@its.inj.com

Dear Sue

Re: General items not being assessed for the Prostheses List

Thank you for your letter of 23 August 2022 noting the Department of Health is now no longer assessing general items for the Prostheses List, which will be removed from the list in July 2023.

As you point out, the delay in removing these items has resulted in a short-term issue where some general items are on the Prostheses List and some are not. This is the result of the medical device industry and hospitals seeking a delay in the government implementing its decision to remove general items from the List. We regret this delay, as it has cost consumers millions of dollars and resulted in higher premiums.

For many years, Johnson & Johnson Medical has sold general items through the Prostheses List to private patients at much higher prices than the same devices in the public sector. We understand a more competitive market is likely to shift significant sums from device companies to consumers and to Australian hospitals, particularly as hospitals will be able to negotiate based on international market prices. As you know, medical device prices in Australia are among the highest in the world, with many devices sold by Johnson & Johnson Medical into Australia at 30-100% higher than comparable markets.

Once general items are removed from the List in July 2023, companies will be able to compete in an open market with both existing and new products.

I also note the agreement between your industry association and the previous Minister for Health means Johnson & Johnson Medical continues to sell many items to the private sector at much higher prices than the public sector – with some private prices still more than double, and in one case (SY728), still more than six times the public price (down from almost ten times the public price in June).

Given the significant supernormal profits Johnson & Johnson Medical continues to extract from the Prostheses List at the expense of Australian consumers, you may wish to consider providing your new products ex-gratia to Australian consumers during this transition period your industry body negotiated.

If this is an unattractive option to you, Johnson & Johnson Medical may wish to negotiate ex—gratia payments from individual health funds where it can be demonstrated a new product is a substitute for an existing product in the clinically nominated areas. For the Echelon stapler and staples, for example, you may wish to negotiate an ex-gratia payment equivalent to JJ812 and JJ425 when used for the clinical indications nominated, prior to these new devices being able to compete in an open market from July 2023. Private Healthcare Australia (PHA) would be happy to work with you to help prepare material for funds' consideration for this, and other upgraded general use items.

In the case of VeraSeal, this appears to be regulated as a registered medicine by the TGA, and thus not eligible for the Prostheses List as it is not a medical device. I am not clear why you have highlighted this as an example as an issue with the Prostheses List reforms.

We look forward to continuing to work with the device industry to ensure all Australians are able to receive high quality medical devices at reasonable prices.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'B Harris', with a long horizontal stroke extending to the right.

Ben Harris
Director of Policy and Research

cc The Hon Mark Butler, Minister for Health and Aged Care