

NOTICE TO STAKEHOLDERS

Panel position on the OECD / WHO working paper No 85

Dear Stakeholder,

1. During the course of 2015, the Organisation for Economic Development (“OECD”) and the World Health Organisation (“WHO”) submitted a document titled, “International Comparison of South African Private Hospitals Price Levels”, Health Working Paper, No. 85 (“Paper 85”) to the Health Market Inquiry (“HMI”) for consideration.
2. Paper 85 was subsequently presented before the HMI Panel during the first set of public hearings in February, 2016.
3. At the outset, the HMI wishes to clarify that the Panel did not request or mandate the OECD / WHO to produce Paper 85 for the HMI, nor to conduct any research on behalf of or for purposes of the HMI. Paper 85 describes preliminary results of research in progress by the author(s) and is published by the OECD / WHO as a working paper on the issues on which they are working.
4. Certain stakeholders, comprising primarily the private hospital groups, challenged the contents of Paper 85 on various grounds. These stakeholders also made a series of formal submissions to the HMI and provided supporting documentation to augment the positions advanced in their respective submissions.
5. It is in this regard that the HMI invited the OECD / WHO and all stakeholders to a Seminar to discuss the issues raised in Paper 85 and the stakeholder’s submissions on 30 August 2016. In addition to Paper 85, the OECD / WHO presentation included a section on price regulation, a topic the OECD / WHO had not made any submissions about on any prior occasion.
6. The HMI further received requests from both Netcare Limited and Mediclinic Southern Africa Limited to secure the following from the OECD / WHO:

- Access to all underlying data and information obtained and considered by the OECD / WHO in the production and compilation of Paper 85; and
 - A further opportunity, at an appropriate forum, to present to the Panel its critique on the contents of Paper 85.
7. The HMI has engaged extensively with the OECD / WHO in an attempt to secure the underlying data and information relied upon for purposes of Paper 85, but have to date been unsuccessful. The OECD / WHO have cited confidentiality agreements between themselves and the stakeholders who submitted data to them, for which the OECD / WHO are legally obligated to abide by, as the reasons for not providing the HMI with the underlying data and information for Paper 85.
8. The HMI, therefore, wishes to reiterate that it has not been privy to the underlying data, unlike other instances where submissions have been made under confidentiality provisions outlined in the Administrative Guidelines.
9. Having considered the matter in detail and after engaging with the key stakeholders in this specific matter, the Panel has arrived at the following resolutions:
- The HMI will cease attempts to secure the data relied upon to prepare Paper 85;
 - Without the underlying data, the HMI cannot place any significant weight or evidential value on Paper 85 in arriving at its provisional and final findings in line with Guideline for Submissions of Technical Data and Analysis¹. In this regard, the HMI may conduct its own analysis based on the evidence it receives; and
 - The OECD and/or WHO, like all other stakeholders, are not precluded from making further submissions on any subject matter when the HMI calls for inputs.
10. The Panel wishes to thank all stakeholders that have made input and submissions on the above matter.

Issued on: 29 March 2017
Clint Oellermann
Inquiry Director

¹ Published 1 August 2014.