

CORRS
CHAMBERS
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L A W Y E R S

22 July 1997

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Rev Monsignor Denis J Hart
Vicar General
Catholic Archdiocese of Melbourne
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BY FACSIMILE NO. 9667 0398

Dear Monsignor

FOSTER ACCOUNTS

Sue Sharkey has sent me a copy of her letter to you of 18 July 1997.

You will recall that the position we reached with the Fosters was as follows :

- Medicare accounts received to date: we said that we would pay these, subject to the Fosters agreeing to claim reimbursement from Medicare, assuming that the advice received from the Health Insurance Commission permits people such as the Fosters to claim reimbursement;
- Counselling invoices: these are not covered by Medicare or any form of health insurance, and Carelink was to pay these;
- Albert Road Clinic: these accounts are all covered by the Foster's private health insurance. We said that as they had not yet met with Professor Ball, they should submit the accounts to HBA for payment, on the basis that any gap would be met by Carelink.

The Foster have now told Sue Sharkey that Monsignor Cudmore allegedly said "that all medical costs would be paid by the Church". We were not previously aware of this. Sue Sharkey will confirm the claims with Monsignor Cudmore. However, even if what the Fosters say is correct, it is interesting to note that they were in the past claiming on Medicare.

It therefore seems to me that we can continue to maintain the position that paying "all medical costs" does not mean that even where Medicare is available, Carelink will pay the entire bill. Rather, what it means is that Carelink will ensure the Fosters are not out of pocket, i.e. that Carelink will pay what the Fosters would otherwise have had to pay themselves.

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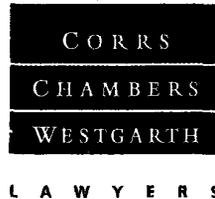
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The same argument could be applied with respect to the hospital accounts. That is, it could be said that as the Fosters have claimed these on HBA in the past, they should continue to claim, and look to Carelink if there is any gap. However, there is obviously a distinction between Medicare and private health insurance. The Fosters would be well within their rights in cancelling their private health insurance, in which event Carelink would need to pay the total amount.

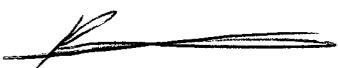
I am a little concerned that we have not yet heard from the Health Insurance Commission. I would like to know their attitude before adopting a final position in relation to the Fosters. However, it seems reasonable to assume that the HIC will ultimately agree that people such as the Fosters can claim on Medicare in respect of their doctors' accounts, and then look to Carelink for the gap. Based on that assumption, I would suggest that the following attitude be adopted:

- doctors' bills: a claim should first be made on Medicare. If there is a gap, Carelink will pay it. There is nothing inconsistent between this position and what Monsignor Cudmore allegedly offered, nor is there anything inconsistent with the operations of Carelink;
- hospital bills: having regard to Monsignor Cudmore's offer (assuming that he made it), and assuming also that all further hospital expenses are incurred on the authority of Professor Ball, these should be paid by Carelink;
- other expenses not covered by Medicare, such as counselling expenses: these should be paid by Carelink.

In dealing with the Fosters, it is I think important to keep in mind the fact that the delays and the arguments in relation to payment of bills is of their making. They have been told repeatedly that Carelink services are subject to an assessment by Professor Ball. They have sought to operate outside of the Carelink system and this has simply resulted in confusion and delay.

From my long discussions with Sue Sharkey, I know that this is a case that needs to be treated with both caution and compassion. It is, I think, appropriate that the Office of the Vicar General is seen to remain involved. To the extent possible, I think it is desirable that so far as the Fosters are concerned, I remain in the background. However, if you would like me to be present when you meet with Sue to discuss the issues, please let me know.

Kind regards



Richard Leder
 Partner

M/127810/RLeder/S2