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28st December 2013

Submission to Aviation Safety Regulation Review Board

Avmed

- 1) [REDACTED]
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accepted by the AAT despite its deficiencies, has resulted in onerous restrictions being placed on my medical certificate and has resulted in the destruction of my ability to earn income as a commercial pilot and has seriously restricted my rights to fly privately. This aspect is personal to me but his actions have far wider ramifications, if this is recidivist conduct on his part.
- 2) As a result, Avmed no longer commands respect. Nor does it enjoy the trust of the industry. Pilots now withhold medical information for fear of disproportionate treatment. Its people act "in bad faith".
- 3) A pilot may have as many as 4 favourable medical specialist opinions including the most senior medical specialist in his field, consultant to the FAA, but because the CASA Avmed CMO, who is not a specialist in the field, does not agree, the specialist opinions are rebuffed. This puts the lie to the claims of the CMO.
- 4) The CMO, nor the panel of medical staff, has the qualifications to override medical assessments that are made by specialists in the field of relevant medicine. (As one Melbourne Heart Specialist wrote "Sadly, I feel it is unlikely that you will ever get the restrictions removed from your licence, which always seems to be CASA's fall-back position).
- 5) Avmed deride organizations such as the FAA (see year book 2013, Page 9) for having predetermined treatments for a host of medical conditions that have been established over decades of experience from the hundreds of thousands of pilots in the US. (Pilot population 600,000 vs Australia with 30,000). What is wrong with this sound, sensible, fair, consistent and predictable approach?
- 6) Avmed seeks to make policy on the run and in defiance of overseas best practice and in so doing, applies barriers and then it seeks evidence to justify those barriers. This is not sound medical decision making. This policy leads to inconsistent and wrong decisions.
- 7) Avmed has lied in the yearbook 2013 entry at page 9 in relation to how it treats pilots and seeks to encourage a return to flight. Its case history contradicts the statement.



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- 8) All medical certificates should, I submit, be issued by the consulted DAME, just as existing Authorised Training Officers, (ATO's) issue flying licences, renewal of same and rating initial issues and renewals.
- 9) Avmed should not be involved with medical assessments, just as it is not directly involved in the work of the ATO's.
- 10) All DAMES are professional medical consulting practitioners. The issue of insurance for issuing medical certificates should not be an issue, unless the DAME is deemed as acting as agent for CASA. If that is the case, CASA should provide a global Professional Indemnity insurance cover which would be adequately funded from the savings made by removing from CASA the unnecessary medical staff and the accompanying support staff.
- 11) What is driving CASA's Avmed and through it the AAT, (because it lacks the necessary skill and expertise to assess medical decisions) is: fear, ignorance, lies, 1/2 truths and INEXPERIENCE.
- 12) What is required in the review process are: Facts, common sense, logic and the ability to apply EXPERIENCE.
- 13) CASA has a DAME handbook which is meant to act as a guide to decision making. The guidebook is not followed. So why have it. The FAA has a guidebook, it uses it. What is wrong with that?
- 14) The CMO, who boasts a specialty in Medical administration, cannot design a simple data base system to enable medical conditions to be searched by type. This is an outrage, because it guarantees inconsistent decision making.
- 15) What will be required when the decision is made to enable DAME's to issue medical certificates is a mechanism for DAME's to log, to a central data base, details of medical conditions and subsequent outcomes (including consulting reports if required). This will enable a central reference to help individual DAME's to make consistent decisions.
- 16) The concept of authorized CASA delegates issuing licences is not new. It is the norm in relation to the issue of student, Private and Commercial licences and then in relation to aircraft type endorsements, various flight ratings and instrument ratings. Therefore the concept of application to the medical certificate is not a revelation, it's common sense. The hard issue is that the Avmed bureaucracy has build a fiefdom which, at all cost, it will protect and resist any attempt to dismantle. But dismantling it is a MUST.



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Other concepts

1) "Fit to Fly"

This is a concept which has been completely ignored by CASA and those at Avmed. Every pilot of a VH registered aircraft is, I submit, either fit to fly or is not fit to fly. There can be no 1/2 measures. No woman can be ½ pregnant. No aircraft knows who's flying it, no aircraft knows who or how many passengers are on board and if those people have paid a fee or not paid a fee. The aircraft knows not if the flight is a cost share private flight or a charter flight.

The type of aircraft flown MUST only be determined on the basis of the skill and expertise of the pilot in relation to the specific aircraft be it C150, Turbo Prop or Beech Jet. It should not be determined by a class of medical certificate.

In the quest for "Fitness to Fly" the entire class system of medical assessment is an anachronism. It should, I submit, be scrapped.

The Class system of medical certification MUST be reviewed. For example Reg 67.150 and Reg 67.155 refer to neurological issues, by Class; BUT, the regulations ARE IDENTICAL. However, Avmed imposes quite different and draconian restrictions on the Class 1 certificate as opposed to the Class 2 certificate. There is no place in a vibrant regulator for such an archaic system.

2) In the Aviation Safety Yearbook 2013 at page 9, the CMO makes much of the fact that medical decisions that do not suit a pilot can be reviewed. It boasts that "CASA will send you to an external specialist for advice, for consideration. If this decision is still not acceptable, pilots have recourse to the wholly independent Administrative Appeals Tribunal (AAT)". This is a further example of deception by the CMO. The "external specialist" referred to is, in fact, the "Complex Case Committee" which is wholly or greater than 70% comprised of medical personnel from the ranks of CASA Avmed. None of these medical officers have the necessary qualifications and or experience, let alone the independence, to review complex medical cases which require specialist opinion. This complete bias toward CASA virtually guarantees that its decision will be rejected by the pilot who then has no option but to proceed to the AAT - IF the pilot can afford the \$20,000 to \$30,000 that it costs to effectively prosecute such a case against the might of CASA and its endless budget! Accordingly, most cases do not proceed and of those that do, the AAT find at least 50% of those cases in favour of CASA. (This is, of course, because the AAT itself does not have the necessary skill to deflect the "safety card" which is played by CASA at EVERY case). Any appeal against an AAT

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decision can only be made to the Federal Court where costs of between \$50,000 to \$100,000 is not uncommon and a loss of appeal will result in costs of the same magnitude being awarded against the pilot who brings the appeal. Accordingly an appeal is extremely rare and only brought by the most affluent in our society. Accordingly - there is NO REALISTIC LEGAL REMEDY against CASA.

CASA is well aware of this and bullies its way across the industry as a result.

3) FOI applications made to CASA and from it to the Office of the Australian Information Commissioner (OAIC) in an effort to obtain copies of documents used to support the findings of CASA Avmed have resulted in a "Stone Wall" of rejection. This is because the OAIC claim inability to make a judgement on documents that do not exist or which cannot be found. It cannot make any decision on what should exist or what should have been found. The position in which the applicant is left is simple. CASA says it does not have the documents and that is the end of the matter. There is NO redress against the CASA decisions or its incompetence in not creating the necessary documents in the beginning.

I do not accept that CASA can hide behind the veil of "documents that should be available either are not available or cannot be found".

At stake in this matter is the ability of a pilot to exercise his right to fly both privately and commercially without restrictions. The restrictions having been imposed because of the application of unsound medical opinion of people who lack the necessary qualifications and who make no record of the basis of their decision making process.

The OAIC is, of course, at liberty to make whatever decision it likes on whatever technical grounds it chooses, but I will not and do not accept its view and will not allow it to make that decision without the strongest possible objection and protest to that decision being made.

If that means that the system is deficient then so be it.

I simply do not accept that a failed system is a good enough excuse for denying natural justice in the quest for documentary evidence to justify fundamentally wrong and medically unsupported and unsupportable decisions by people who lack the necessary qualifications and experience to make those decisions.

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Sundry Item

1) I have recently received advice from CASA, in correspondence justifying its general charging regime, where it charges \$190 per hour per person as "COST RECOVERY". That is a cost equal to \$332,500 per person based on a 37.5 hour week. This is a cost which cannot be absorbed by the industry and nor should the taxpayer have to incur such a massive cost. If this is NOT cost recovery, again, I have been deliberately misled by CASA.

Yours faithfully

Tony Taggart, FCA

(Please also note that the writer holds a Commercial Fixed Wing Pilot Licence, a M/E Command Instrument Rating and has in the order of 2600 hours of genuine command aeronautical experience)