

13 July 2011

Department of Labour
PO Box 3075
Wellington 6140

By email: ACCdiscussion@dol.govt.nz

Attention: ACC discussion

Increasing Choice in Workplace Accident Compensation

Thank you for the opportunity to comment on this proposal. We have also appreciated the two workshops run by the Department of Labour which have helped to refine our thinking on this.

The NZMA is New Zealand's largest medical organisation and has a pan professional membership. We have just under 5000 members who come from all areas of medicine.

The NZMA aims to provide leadership of the medical profession, and promote:

- professional unity and values;
- the health of New Zealanders.

The key roles of the NZMA are to:

- provide advocacy on behalf of doctors and their patients;
- provide support and services to members and their practices;
- publish and maintain the Code of Ethics for the profession; and
- publish the New Zealand Medical Journal.

Our interest in the proposals to open up the work injury account to other insurers and extend the accredited employer programme to others is primarily a public health one in that we do not want to see patients disadvantaged as a result. In addition we are also concerned that doctors as providers of health services are not left out of pocket as a result of disputes over liability for the alleged injury.

Accredited Employers

While we have no problem in principle with the idea of increasing the number of accredited employers, there are some problems with the scheme that first need to be attended to.

One of the concerns our members have raised is that the scheme has had some perverse incentives in that where an employer has two injured workers, priority will be given to the employee who has suffered a work injury in getting that person back to work early, over an employee who has suffered a non work injury. While we raised this at the workshop the

view posited by the Department of Labour was that they were not aware of this issue as it was not reported in the review of the accredited employer scheme and they didn't think it would be a significant issue as it was in the employer's interest to have all its employees back at work. We challenge that view as

- the review of the accredited employer scheme was undertaken without asking for the input of the health providers, hence the Department not being aware of the issue, and
- while it is an advantage to get an employee back to his/her original job quickly, ACC are often trying to get accredited employers to find alternative duties for the injured employees while they are still recovering and often for only short periods. In those situations the accredited employer still has to employ a contractor to cover for the position previously held by the injured employee.

It is important that all injured employees are treated equally and that this perverse incentive is addressed.

Disputed injury

A common concern raised by doctors is that where there is a dispute by an accredited employer as to whether there was an accident or, if there was an accident then, whether it was work related doctors are generally left out of pocket until the dispute is resolved. We accept that where there is a dispute as to whether a personal injury by accident occurred, it would be unreasonable to require an insurer to pay until the dispute is resolved. On the other hand where there is a definite injury and the dispute is whether it is work related or non work related the doctor's fees should continue to be met as this is a matter that can be resolved between the insurer and ACC.

Prior approval processes

We understand that under the 1999/2000 system there were different prior approval timelines offered by different insurers with the ACC's company Catalyst generally being the quickest. In many instances the time to treat an injury is of the essence and system delays need to be minimised. While it is understandable that prior approval time periods will differ depending on the *nature* of the injury, they should not differ purely on the basis of *who* the insurer is. If the proposals as discussed proceed, we would welcome the government developing some regulatory guidelines in regard to this.

In regard to acute treatment¹ we believe that this needs to be treated immediately and should be fully funded regardless that the decision of whether a personal injury caused by accident has yet been made.

Claims Lodgement Unit

We are pleased to hear the proposal to establish a Claims Lodgement Unit, something the NZMA has long called for. In addition to fulfilling a post box function we would also like to see it developed into a treatment payment conduit which will allow all doctors to direct all invoices to a single "post box". We would be pleased to see the development of an online electronic claim form and strongly encourage the unit to allow the status of claims to be accessible to providers so that they will know whether their treatment fee is to be met by either ACC or the new insurance provider.

¹ As defined in Section 7 of the Accident Compensation Act 2001

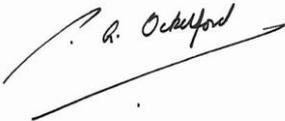
Serious Injury Unit

At the second workshop the Department of Labour asked participants to consider the issues around the Serious Injury Unit and in particular, whether serious injuries should all be handled by the one unit, or be treated by the insurance providers in the same way as they would treat any other claim. It was noted that only about 25 work related injuries occurred per year and that therefore an insurance provider might see only one or two of these per year. We were also advised that the current ACC Serious Injury Unit handles all serious injuries whether work related or not and that in total they deal with around 400 per year.

We think that while there are issues with the way the unit is currently operating, it is still the best way to deal with specialist claims and are concerned that were the matters to be handled entirely by each insurer independently, that much of the specialist knowledge of the unit will be lost. This is particularly the case given that much of the services offered through the unit are relationship based. It is also likely to lead to considerable duplication. We would therefore like to see the unit continue but that an operational review of the unit is immediately undertaken. In particular we understand that the service is currently relying on family members to take on more of the care and as a result are reducing the number of hours of care the service would otherwise offer. The expectations placed on family in regard to this are at times unreasonable.

We trust our comments are of help and look forward to hearing further from you as the review progresses.

Yours faithfully

A handwritten signature in black ink, appearing to read 'P. Ockelford', with a long horizontal line extending from the end of the signature.

Dr Paul Ockelford
Chair, NZMA