

GOVERNMENT NOTICES

Miscellaneous Instruments

WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION (MEDICAL EXAMINATIONS AND REPORTS FEES) ORDER 2016 NO 2

under the

Workplace Injury Management and Workers Compensation Act 1998

I, Anthony Lean, Chief Executive, State Insurance Regulatory Authority, make the following Order pursuant to section 339 of the *Workplace Injury Management and Workers Compensation Act 1998*.

Dated this 3rd day of May 2016

ANTHONY LEAN
Chief Executive
State Insurance Regulatory Authority

Explanatory Note

This Order is not relevant to medical treatment services provided to workers. Please refer to the *Workers Compensation (Medical Practitioner Fees) Order 2016*, *Workers Compensation (Surgeons Fees) Order 2016* and *Workers Compensation (Orthopaedic Surgeons Fees) Order 2016* for medical services fees.

**WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION
(MEDICAL EXAMINATIONS AND REPORTS FEES) ORDER 2016 NO 2**

Part 1 Preliminary

1. Name of Order

This Order is the *Workplace Injury Management and Workers Compensation (Medical Examinations and Reports Fees) Order 2016 No 2*.

2. Commencement

This Order commences on the day it is gazetted in the *NSW Government Gazette*.

3. Definitions

In this Order:

the Act means the *Workplace Injury Management and Workers Compensation Act 1998*.

Authority means the State Insurance Regulatory Authority as constituted under section 17 of the *State Insurance and Care Governance Act 2015*.

approved medical specialist (AMS) has the meaning given by section 319 of the Act. Schedules 3 and 4 of this Order apply.

File Review means a review of the file when the practitioner is able to provide a report on the basis of a file review alone.

General Practitioner has the meaning given by subsection 3 (1) of the *Health Insurance Act 1973* (Cth). Schedule 1 of this Order applies.

GST means the Goods and Services Tax payable under the GST Law.

GST Law has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guidelines mean the Authority's *Guidelines on Independent Medical Examinations and Reports* current at the time.

Health Service Provider has the meaning given by section 339 of the Act;

Independent Medical Examiner means any Medical Specialist who is not in a treating relationship with the worker and who provides an independent medical examination as defined in the Guidelines.

Medical Examination Report,

- i) means an examination and report completed by an Independent Medical Examiner where additional information is required by a party to a current or potential dispute in relation to a claim for workers compensation or work injury damages;
 - ii) includes a report prepared by a General Practitioner or a Medical Specialist, who is treating the worker, when requested to provide an opinion in relation to a dispute or potential dispute in respect of a claim made by the worker. E.g. when there is lack of agreement regarding liability, causation, capacity for work or treatment between key parties;
 - iii) **does not** include reports on the routine management of the worker's injury (fees for this type of communication are included in the relevant treatment fees Order);
 - iv) may be requested to assist decision making on any part of the claim when the management reports available do not adequately address the issue;
 - v) are categorised as follows:
 - a. **Standard Reports** are reports relating solely to a single event or injury in relation to:
 - causation; or
 - capacity for work; or
 - treatment; or
 - simple permanent impairment assessment of one body system.
 - b. **Moderately Complex Reports** are:
 - reports relating to issues involving a **combination of two** of the following:
 - o causation
 - o capacity for work
 - o treatment
 - o simple permanent impairment assessment of one body system;
- or
- reports of simple permanent impairment assessment of two body systems or more than one injury to a single body system.

c. **Complex Reports** are

- reports relating to issues involving a **combination of three or more** of the following :
 - o causation
 - o capacity for work
 - o treatment
 - o simple permanent impairment assessment of one body system;
- or
- A complex method of permanent impairment assessment on a single body system or multiple injuries involving more than one body system.

Medical Practitioner means a person registered in the medical profession under the *Health Practitioner Regulation National Law (NSW)* No 86a, or equivalent Health Practitioner National Law in their jurisdiction with the Australian Health Practitioner Regulation Agency.

Medical Specialist means a Medical Practitioner recognised as a specialist in accordance with the *Health Insurance Regulations 1975*, Schedule 4, part 1, who is remunerated at specialist rates under Medicare. Schedule 2 of this Order applies.

Senior Approved Medical Specialist means a Senior Approved Medical Specialist appointed by the President of the Workers Compensation Commission under section 320 (2A) of the Act. Schedule 5 of this Order applies.

Unreasonably late attendance means that the worker or interpreter arrives for the scheduled appointment unreasonably late to the degree that a full examination is prevented from being conducted.

Working Days means Monday to Friday (excluding public holidays).

4. Application of Order

This Order applies to an examination or report provided on or after the commencement date of this Order, whether it relates to an injury received before, on or after that date.

Part 2 Fees for medical assessments

5. Maximum fees for medical assessments

The following maximum fees are fixed under section 339 of the Act:

- a. Maximum fees for the provision of Medical Examination Reports by General Practitioners as set out in Schedule 1,
- b. Maximum fees for the provision of Medical Examination Reports by Medical Specialists as set out in Schedule 2,
- c. Maximum fees for the provision of medical assessments by an AMS under Part 7 of Chapter 7 of the Act as set out in Schedule 3,
- d. Maximum fees for the provision of services by an AMS on an Appeal Panel constituted under section 328 of the Act to hear an appeal against a medical assessment as set out in Schedule 4.
- e. The incorrect use of any items referred to in this Order can result in penalties, including the Medical Practitioner being required to repay monies to the Authority that the Medical Practitioner has incorrectly received.

6. Goods and Services Tax

An amount fixed by this Order is exclusive of GST. An amount fixed by this Order may be increased by the amount of any GST payable in respect of the service to which the cost relates, and the cost so increased is taken to be the amount fixed by this Order. This clause does not permit a Health Service Provider to charge or recover more than the amount of GST payable in respect of the service to which the cost relates.

7. Procedure for Requesting & Paying for Schedules 1 & 2 Services

- (1) Consistent with clause 7 of Part 2 of the *Workcover Guidelines on Independent Medical Examinations and Reports* gazetted on 23 March 2012, the party requesting a Medical Examination Report described in Schedules 1 and 2 is to either:
 - a. agree the category of report being requested with the Medical Practitioner in advance and confirm the request in writing indicating that payment will be made within 10 days of receipt of a properly completed report and invoice; or
 - b. pay in accordance with a contractual arrangement between the medical practice and the referring body on receipt of a properly completed tax invoice.
- (2) Where the Medical Practitioner disagrees with the category of report stated in the referral, the Medical Practitioner must explain the complexity of the Medical Examination Report that is required by reference to the 3 categories of complexity specified in the definition of Medical Examination Report and obtain agreement from the referrer before accepting the referral
- (3) Under subsection 339 (3) of the Act, a Health Service Provider is not entitled to be paid or recover any fee for providing a service that exceeds the maximum fee fixed for the provision of that service by this Order. As such, the

contractual arrangement referred to in paragraph 7 (1) b. above must not provide for the payment of a fee above the maximum fees prescribed in Schedules 1 and 2 of this Order.

- (4) Schedules 1 and 2 apply to Medical Examination Reports that are requested for the purpose of resolving a dispute in relation to a claim for workers compensation or work injury damages, for example, by proving or disproving an entitlement, or the extent of an entitlement to workers compensation or work injury damages. Schedules 1 and 2 do not apply to medical or related treatment reports. Fees for those reports (which usually contain questions to assist the insurer determine prognosis for recovery and timeframes for return to work) are fixed under section 61 of the *Workers Compensation Act 1987*.
- (5) Schedules 1 and 2 provide the maximum fees allowed for the purposes of Items 4 and 5 respectively, of the disbursements regulated by Part 3 of Schedule 6, and recoverable under clause 98 of the *Workers Compensation Regulation 2010*.

8. Requirements for invoices

All invoices must be submitted within 30 calendar days of the service provided and must comply with the State Insurance Regulatory Authority, Workers Compensation Regulation’s itemised invoicing requirements for service providers to the workers compensation system at <http://www.workcover.nsw.gov.au/workers-compensation-claims/medical-professionals/invoicing> for the invoice to be processed.

9. No pre-payment of fees

Pre-payment of fees for reports and services is not permitted.

**Schedule 1
Maximum Fees for the Provision of Medical Examination Reports by General Practitioners**

Payment Classification Code	Service description	Fee
IMG001 or WIG001	Examination and report in accordance with the Guidelines – Standard Report (see definition of Medical Examination Report)	\$555.30
IMG002 or WIG002	Examination conducted with the assistance of an interpreter and report in accordance with Guidelines – Standard Report (see definition of Medical Examination Report)	\$620.10
IMG005 or WIG005	Cancellation with 2 working days notice or less, non attendance at scheduled appointment or unreasonably late attendance .	\$135.40
IMG006 or WIG006	File review and report	\$411.00
IMG007 or WIG007	Supplementary report where additional information is provided and requested or additional questions are posed (where they are not seeking clarification). This fee does not apply where clarification is sought as a previous report was ambiguous and/or did not answer questions previously posed	\$274.10
IMG008 or WIG008	Update examination and report of worker previously reviewed, where there is no intervening incident	\$346.20
IMG009 or WIG009	Travel	Reimbursed in accordance with the “Use of private motor vehicle” set out in Item 6 Table 1 (Rates and Allowances) to Part B (Monetary Rates) of the <i>Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009</i>

**Schedule 2
Maximum Fees for the Provision of Medical Examination Reports by Medical Specialists**

Payment Classification Code	Service description	Fee
IMS001 or WIS001	Examination and report in accordance with the Guidelines – Standard Report (see definition of Medical Examination Report)	\$750.30

Payment Classification Code	Service description	Fee
IMS002 or WIS002	Examination conducted with the assistance of an interpreter and report in accordance with Guidelines – Standard Report (see definition of Medical Examination Report)	\$936.80
IMS003 or WIS003	ENT report (includes audiological testing), in accordance with the Guidelines – Standard Report (see definition of Medical Examination Report)	\$750.30
IMS031 or WIS031	ENT report (includes audiological testing) when examination conducted with the assistance of an interpreter and report in accordance with Guidelines – Standard Report (see definition of Medical Examination Report)	\$936.80
IMS004 or WIS004	Examination and report in accordance with the Guidelines – Moderately Complex Report (see definition of Medical Examination Report)	\$1124.70
IMS005 or WIS005	Examination conducted with the assistance of an interpreter and report in accordance with Guidelines – Moderately Complex Report (see definition of Medical Examination Report)	\$1312.50
IMS006 or WIS006	Examination and report in accordance with Guidelines – Complex Report including complex psychiatric (see definition of Medical Examination Report)	\$1492.10
IMS007 or WIS007	Examination conducted with the assistance of an interpreter and report in accordance with Guidelines – Complex Report (see definition of Medical Examination Report)	\$1867.90
IMS008 or WIS008	Examination and report in accordance with the Guidelines – psychiatric	\$1312.50
IMS081 or WIS081	Examination conducted with the assistance of an interpreter and report in accordance with the Guidelines – psychiatric	\$1643.20
IMS092 or WIS092	Cancellation with 2 working days notice or less, non attendance at scheduled appointment or unreasonably late attendance.	\$376.30
IMS010 or WIS010	File review and report	\$562.30
IMS011 or WIS011	Supplementary report where additional information is provided and requested or additional questions are posed (where not specifically seeking clarification). This fee does not apply where clarification is sought as a previous report was ambiguous and/or did not answer questions previously posed.	\$374.50
IMS012 or WIS012	Update examination and report of worker previously reviewed, where there is no intervening incident	\$555.40
IMS013 or WIS013	Travel	Reimbursed in accordance with the “Use of private motor vehicle” set out in Item 6 Table 1 (Rates and Allowances) to Part B (Monetary Rates) of the <i>Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009</i>
IMS014 or WIS014	Consolidation of assessments from different Medical Specialists by Lead Assessor to determine the final degree of permanent impairment resulting from the individual assessments	\$188.10

Schedule 3
Maximum Fees for Approved Medical Specialists (AMS)

These are maximum fees payable to an AMS for the provision of medical assessments on medical disputes referred under subsection 321 (1) of the Act.

Service description	Fee
Examination and report in accordance with Workers Compensation Commission standards – standard case	\$1340.40
Examination and report in accordance with Workers Compensation Commission standards – multiple medical assessments eg. for permanent impairment and general medical disputes	\$1795.60
Ear, nose and throat, includes audiological testing	\$1571.40
Examination and report in accordance with the Workers Compensation Commission standards – psychiatric	\$2242.30
Cancellation with less than 7 calendar days notice	\$446.80
Cancellation with 2 working days notice or less, non attendance at scheduled appointment or unreasonably late attendance by worker or interpreter that prevents full examination being conducted	\$893.60
Consolidation of medical assessment certificates by Lead Assessor	\$446.80
Re-examination + medical assessment certificate or reconsideration at request of Commission	\$670.90
When interpreter present at examination	Plus \$229.80
Miscellaneous Fee at the discretion of the Registrar or delegate	\$446.80 per hour
Travel	Reimbursed in accordance with the “Use of private motor vehicle” set out in Item 6 Table 1 (Rates and Allowances) to Part B (Monetary Rates) of the <i>Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009</i> Note: Other allowances as outlined in Table 1 (Rates and Allowances) may be claimed when appropriate.

Schedule 4
Rates for Approved Medical Specialists on Appeal Panels

These rates are payable to an Approved Medical Specialist when participating as a member of an Appeal Panel at the Workers Compensation Commission.

Service description	Fee
Assessment, initial telephone conference and decision on papers	\$893.60
Examination of worker and report by AMS	Fee as per Schedule 3 applies
Cancellation with less than 7 calendar days notice	\$446.90
Cancellation with 2 working days notice or less, non attendance at scheduled appointment or unreasonably late attendance by worker or interpreter that prevents full examination being conducted	\$893.70
Assessment, telephone conference, appeal hearing and decision	\$2018.30
Additional Hearing or teleconference when convened by Arbitrator	\$375.90 per hour

Service description	Fee
Travel	Reimbursed in accordance with the “Use of private motor vehicle” set out in Item 6 Table 1 (Rates and Allowances) to Part B (Monetary Rates) of the <i>Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009</i> Note: Other allowances as outlined in Table 1 (Rates and Allowances) may be claimed when appropriate.

**Schedule 5
Rates for Senior Approved Medical Specialists**

These rates are payable to Senior Approved Medical Specialists appointed by the President of the Workers Compensation Commission under subsection 320 (2A) of the *Workplace Injury Management and Workers Compensation Act 1998*.

Service Description	Fee
Provision of professional development to Approved Medical Specialists; input into relevant practice and procedures at the Workers Compensation Commission	\$580.00 per hour