

Submission: Regulation of legal costs for work capacity decision reviews

Name of organisation or individual making this submission: Name withheld

Date of submission: 10 November 2015

Focus question 1: Should the regulation provide for payment of legal costs in connection with all work capacity decision review types. i.e. Internal Reviews, Merit Reviews and Procedural Reviews?

Yes. The internal review process is broken and a waste of time. It would be like being on trial and having your family members on the jury.

Focus question 2: Should the regulation provide for payment of legal costs only where the review results in a recommendation to change the work capacity review decision?

No

Focus question 3: Should a new class of review be prescribed to regulate legal costs such as reviews where legal services are provided by approved providers, or reviews where the worker first engaged an approved advocacy service?

yes

Focus question 4: What is a fair and reasonable maximum cost for provision of legal services in connection with a work capacity decision review and what criteria should be used to determine a fair and reasonable maximum cost?

There should be no maximum cost as the scheme agents would use this to their advantage. They would make appeals, extra paperwork etc. anything in their power to make sure the injured worker reaches that maximum cost before a final decision is made.

Focus question 5: Should the regulation use a single fixed maximum cost that will generally apply across all eligible reviews, or should the regulation use a more complex maximum cost structure to more directly influence behaviour (such as sound primary decision making) and achieve positive regulatory outcomes (such as early and sustainable return to work)?

I am sure that if provisions were in place for legal costs then of course the scheme agents would need to make CORRECT decisions in the first place and not use the fact that most injured workers will just give up as the system is too hard for them to navigate.

Focus question 6: In what circumstances should one party be required to bear the other party's legal costs?

When the legislation is conveyed to the worker in plain English and the worker still wants to challenge the decision against the advice of their lawyer.

Focus question 7: What measures might be included in the regulation to better promote and encourage compliance?

The internal review process is broken and a waste of time. It would be like being on trial and having your family members on the jury. This should be scrapped.

Focus question 8: How should eligible legal costs be billed, paid and claimed?

Not sure

Focus question 9: What are important operational and administrative matters that must be considered when designing this regulation?

No answer supplied.

Focus question 10: Do you have any innovative ideas that might be incorporated into the legal costs regulation or otherwise enhance the regulation?

Maybe have an impartial team of lawyers who the injured worker could first contact for advice on work capacity decisions (telephone hotline, online service). These lawyers would then advise whether or not the worker should receive funding for legal assistance.

Focus question 11: Are there any other matters relevant to the legal costs regulation that have not been addressed elsewhere in the SIRA discussion paper or your submission?

No answer supplied.