

SIRA

Executive Consultation Summary: Motor Accident Guidelines CTP Care

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1. Background

CTP Care, a program administered by the Lifetime Care and Support Authority (LCSA), provides treatment and care statutory benefits for people injured in a motor accident in NSW from 1 December 2017, who have needs five years or longer after their accident. Claimants can also elect to transfer to CTP Care Early by Agreement (EBA). From 1 December 2022, LCSA will assume responsibility for the payment of treatment and care to eligible people.

2. Purpose

SIRA undertook a review of Part 9 of the Motor Accident Guidelines (MAGs) version 8.2 which relate to CTP Care. This review was undertaken as part of SIRA's program of work to support the transition of claims for treatment and care statutory benefits for more than 5 years from the motor accident, or earlier by agreement.

New stand-alone **Motor Accident Guidelines: CTP Care** has been developed to replace clauses 4.103-4.105 and Part 9 of the MAGs. These Guidelines support the delivery of a smooth transition for the injured person from the licensed insurer to LCSA and outline the required procedures for the transition.

3. Consultation Process

SIRA held a public consultation on the proposed changes to the Motor Accident Guidelines: CTP Care from 4 to 22 July 2022. A total of five submissions with over 70 comments were received.

We would like to acknowledge and thank those stakeholders who provided considered feedback to inform final changes to the Guidelines.

This executive summary presents an overview of the stakeholder feedback provided during the consultation process and a high level summary of key changes that were made to the Guidelines in response to stakeholder feedback.

4. Key Themes and Summary of Changes

The key themes that have emerged from the stakeholder consultation process is summarised below:

4.1 Principles and general obligations

Stakeholder feedback suggested changes to ‘principles’ under cl 1.1 to include the requirement to apply SIRA’s Customer Service Conduct Principles. A change was also made to the general obligations under cl 1.3(f) to more closely align the obligations to the objectives of the *Motor Accident Injuries Act 2017* (the Act).

4.2 Standalone Guidelines

The new CTP Care Guidelines have been drafted to support a smooth transition of the payment of statutory benefits for treatment and care from a licenced insurer to the LCSA in accordance with the Act. The Guidelines broadly set out the required procedures for the transition of the payment of statutory benefits for treatment and care.

Some stakeholders expressed a preference for the CTP Care Guidelines to be incorporated in the MAGs rather than standalone Guidelines due to potential impacts to accessibility and readability of the Guidelines, and potential inconsistency.

As more substantive changes have been included in the new CTP Care Guidelines with the introduction of nine parts, further consideration would be required as to how these changes would be best incorporated into the substantive MAGs. SIRA will continue to review and consider changes to the Guidelines to ensure they are fit for purpose and easy to understand and apply.

4.3 Active and Inactive Claims

Stakeholders sought clarity around the definitions for ‘Active claims’ and ‘Inactive claims’ to support consistency in understanding and limit potential for variability in the transfer process. The definition of ‘Active claim’ and ‘Inactive claim’ has been amended.

Other changes at cl 2.6 to 2.8 clarify the actions required by an insurer before classifying a file as ‘inactive’, including contacting the person via their preferred communication method and ensuring they are aware that this does not affect their ongoing entitlement to claim future treatment and care statutory benefits.

Additional clauses include cl 3.9 to 3.13 which outline requirements when the LCSA is making a claim ‘inactive’ after it has been determined there is no ongoing treatment and care need.

4.4 Notification requirements and timeframes

Stakeholders have commented on the need for additional notification in the transfer notice period, reverting the payment terms for health service providers to 30 days for invoices, and specifying the timeframes for provision of data and information and to reopen a claim file. Numerous changes have been made to notification requirements from cl 2.9 to 2.13, as well as cl 3.1 to 3.3.

Feedback also identified the timeframe for complaint resolution should be 20 business days to align with the MAGs at cl 4.4.

4.5 Transfer of data and information

Stakeholders commented that data and information should be clearly labelled when claimant files are being transferred from the licensed insurer to LCSA; that cl 2.2 should refer to ‘supporting

documents and information' to correspond with the list of information requirements under that clause; and that cl 2.1 should clarify whether active and/or inactive claims are intended to be captured with the provision of data and information. Changes have been made to cl 2.1 and 2.2 in the Guidelines to clarify the above.

Other changes include a change to cl 2.5 to provide additional clarity that where it is agreed the injured person will transfer early to LCSA as the relevant insurer, the licenced insurer is to confirm in writing with the injured person and LCSA as soon as reasonably practicable, but not later than 2 weeks before the agreed date of transition.

4.6 Treatment and care

Stakeholders have expressed the need for more clarity about how claimant requests for treatment and care will be determined at around the transfer date and how internal reviews will be handled by the insurer or LCSA.

A new clause has been included at cl 6.5(b) to outline requirements if when determining a treatment request the request is declined. Other changes have been made to cl 6.9-6.10 regarding determining requests around the transfer date, and cl 8.3 regarding responsibility for making internal review decisions.

4.7 Recovery plan

One comment was received regarding terminology used, and that 'recovery plan' should be replaced with 'service plan' as the concept of a recovery plan is inappropriate for the needs of people with chronic injury. While the terminology has not been changed, noting 'recovery plan' terminology is retained in Part 4 of the MAGs, an insurer may consider adopting different language where appropriate as long as it is clear the plan is the recovery plan for the purposes of the Guidelines.

A further minor change was made to cl 5.5 to require the recovery plan be provided to both the injured person and their nominated treating doctor 'where relevant' in recognition that not all injured people will attend a regular nominated treating doctor or practice past the acute phase of their injury.

4.8 Editorial changes

Stakeholders identified some editorial changes to be made to the Guidelines including minor grammatical and punctuation corrections. Editorial revisions have been made throughout the Guidelines in accordance with stakeholder feedback.

Disclaimer

This publication may contain information that relates to the regulation of workers compensation insurance, motor accident compulsory third party (CTP) insurance and home building compensation in NSW. This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals, or as a substitute for legal advice.

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