March 2023

# Treatment and Care Re-Audit

Insurer claims and conduct assurance program

State Insurance
Regulatory Authority

NSW GOVERNMENT

# Contents

# 1. Introduction

The *Motor Accident Injuries Act 2017* (the Act) establishes the NSW Compulsory third party (CTP) insurance scheme. In conjunction with the Act, the Motor Accident Guidelines (the MAGs) support the delivery of the objects of the Act by establishing principles and requirements to ensure timeliness, fairness, transparency and better outcomes and experiences for injured people.

The State Insurance Regulatory Authority (SIRA) is the independent regulator of statutory schemes in NSW, including CTP. In line with Division 9.1 of the Act, SIRA has issued licenses to six insurers who operate within the scheme. These licenced insurers are required to adhere to the obligations placed on them under the Act, MAGs and the conditions of their licence. SIRA has a statutory function to monitor the compliance of the licensed insurers and has the authority to publish information about their level of compliance with requirements and duties imposed.

SIRA conducted a treatment and care Insurer Claims and Conduct Assurance Program (ICCAP) activity in July 2022. All six insurers were required to provide a remediation plan for areas where compliance was not at expected levels. Specifically, licence conditions were imposed on NRMA Insurance (NRMAI) and QBE Insurance (QBE) requiring them to:

- develop and provide to SIRA for approval an updated remediation which responded to the findings in the audit
- provide updates on the remedial actions in line with SIRA's expectations
- implement the remediation plan within the timescales in the approved plan

In accordance with its statutory functions and pursuant to section 10.24 of the Act, SIRA conducted a re-audit in February 2023 to review the effectiveness of the insurer's remediation plans and confirm compliance with the requirements as set out in the Act and MAGs. The audit also included Customer Service Conduct Principles as a consistent standard SIRA holds insurers accountable to across all claims. Where version 9 of the MAGs was applicable and any new requirements had been added, these were observed but not marked as part of this audit.

This report outlines the findings from SIRA's re-audit based on access to the insurer's claims management platform with additional information provided from the insurers where necessary.

SIRA notes and appreciates the insurer's engagement and transparency throughout this supervision activity.

# 2. Claims file audit

## 2.1. Scope

| | |
|---|---|
| Insurers | Allianz Australia Insurance Limited trading as Allianz (Allianz)<br>AAI Limited trading as AAMI (Suncorp)<br>AAI Limited trading as GIO (Suncorp)<br>Insurance Australia Limited trading as NRMA Insurance (NRMAI)<br>QBE Insurance (Australia) Limited trading as QBE (QBE)<br>Youi Pty Ltd (Youi) |
| Audit date | Audits were conducted in February 2023. |
| Scope | The claims file audit reviewed insurer's systems to determine:<br>• compliance to Division 3.4 of the *Motor Accidents Injuries Act 2017* (sections 3.24 – 3.33).<br>• compliance to the treatment and care decision requirements as defined the Motor Accidents Guidelines (4.6, 4.94 – 4.99).<br>• compliance to internal reviews as they relate to treatment and care decision requirements as defined the Motor Accidents Guidelines (7.4 – 7.13 & 7.24 – 7.28).<br>• Related compliance measures in line with the insurer's licence condition 10.<br>• SIRA's Customer Service Conduct Principles in accordance with insurer's licence condition 2. |
| Audit criteria | See appendix 1 |
| Audit cohorts | Stratified random sample of claims comprised of claims lodged after 1 October 2022 with treatment and care payments and internal reviews after 1 December 2022 (where available).<br>SIRA reviewed a larger sample for NRMAI and QBE to respond to the higher risk identified in the initial audit:<br>• Suncorp – 10 claims<br>• Allianz – 10 claims<br>• Youi – 10 claims<br>• NRMAI – 15 claims<br>• QBE – 15 claims |
| Access to information | Insurers provided SIRA with unrestricted access to their claims records and claims representatives were available to assist in the completion of the review. The SIRA reviewers engaged with insurer claims representatives where required to navigate the system and locate information. Initial findings were provided to the insurer to highlight potential non-conformance and provide the insurer an opportunity to submit additional information. |

## 2.3. Results

The audit criteria is grouped to reflect the insurer's performance in three (3) domains:

- Treatment and care
- Internal review
- Customer Service Conduct Principles

### Industry overall result

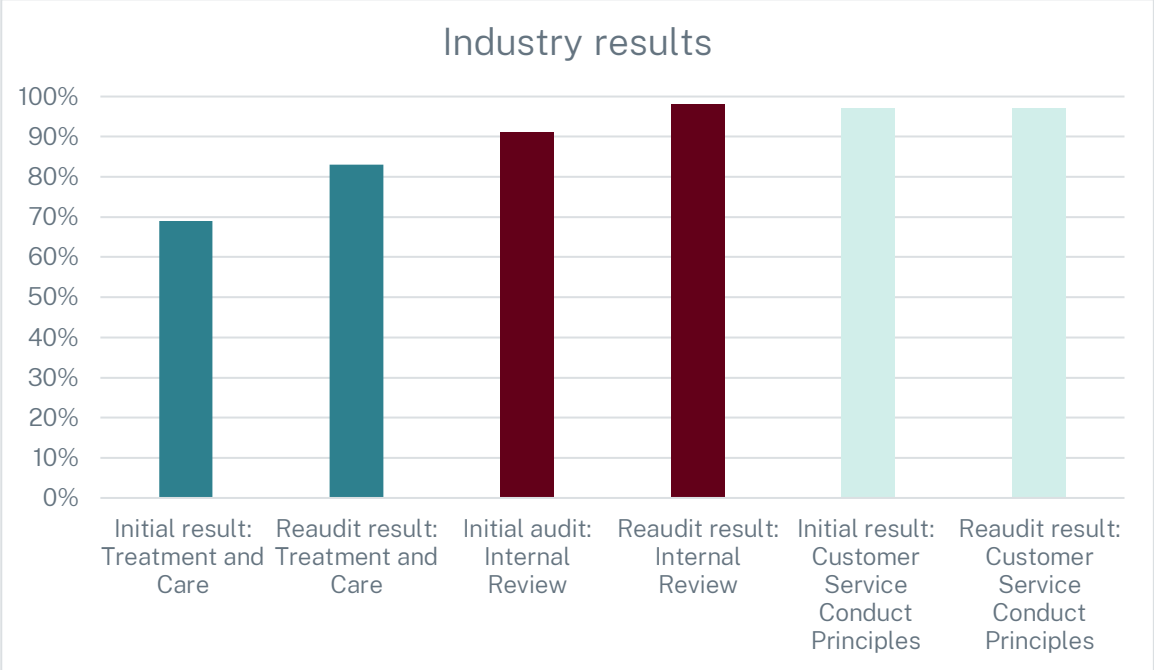


Figure 1: Industry results

Across the industry there was significant improvement observed with insurer's conformance with their treatment and care obligation. There was an uplift in industry average by 14 percentage points from 69% to 83%.

Similarly, improvement was observed with insurer's conformance with internal review obligations from an industry average of 91% to 98%.

Adherence with the Customer Service Conduct Principles remained steady at high levels of conformance across the industry at 97%.

### Individual insurer result

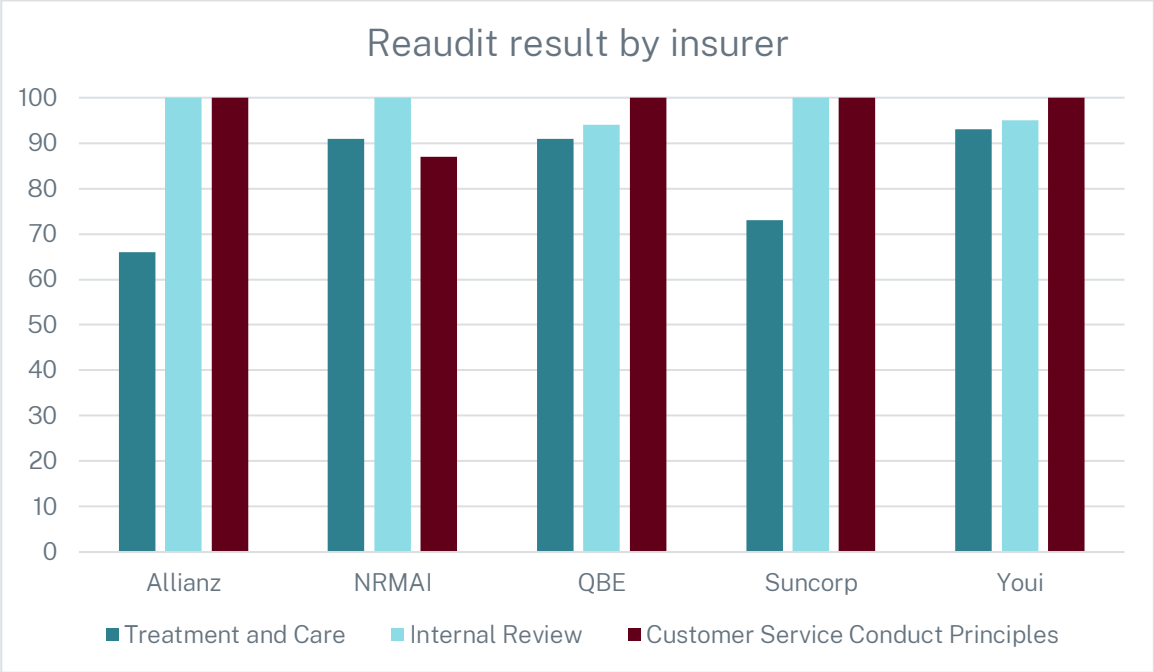


Figure 2: Insurer results

The criterion re-audited for each insurer was dependant on their results in the initial audit. SIRA only re-audited criteria where the insurers performance was below SIRA's expectations in the initial audit.

SIRA notes that each insurer adhered to the remediation plan and related reporting requirements instigated as a result of the July 2022 ICCAP activity. All insurers were able to demonstrate the effectiveness of their remediation plan and an improvement in compliance to the requirements.

The below table indicates details on the non-conformances identified. This should be considered in the context of the levels of conformance identified above.

| Insurer | Key findings |
|---|---|
| Allianz | The only non-conformance observed with Allianz was with respect to clause 4.98 (a) version 8.2 / 4.105 (a) version 9 of the MAGs.<br>This was due to a treatment approval letter designed to be sent to the treatment provider being provided to the claimant. This letter did not advise the claimant of the insurer's obligation to pay all reasonable and necessary costs and expenses.<br>There was 100% conformance observed with internal review requirements and the Customer Service Conduct Principles. |
| NRMAI | The main non-conformances observed with NRMAI involved meeting the requirements under clauses 4.98 version 8.2 / 4.105 version 9 of the MAGs:<br>• Service providers or claimants were not advised of the decision within 10 days of receipt of the treatment request.<br>There was 100% conformance observed with internal review requirements.<br>There were two (2) instances identified where NRMAI did not meet the standards set by SIRA's Customer Service Conduct Principles:<br>• Principle 1: Be easy to engage and efficient<br>• Principle 3: Resolve customer concerns quickly, respect customers' time and be proactive |
| QBE | The main non-conformances observed with QBE involved meeting the requirements under clauses 4.98 version 8.2 / 4.105 version 9 of the MAGs:<br>• Service providers or claimants were not advised of the decision within 10 days of receipt of the treatment request.<br>In addition to this, there was non-conformances identified in respect to clause 4.98 (b) version 8.2 / 4.105 (b) version 9 where treatment decline notices did not include:<br>• the reasons for the decision with reference to the information relied upon in making the decision.<br>• a list of all information relevant to the decision, regardless of whether the information supports the decision, including copies of all listed information.<br>There was a high level of conformance observed with internal review requirements, with a single non-conformance observed related to a letter not being attached to a cover email which outlined the internal review requirements under clause 7.12 version 8.2 & 9 of the MAGs.<br>There was 100% conformance observed with the Customer Service Conduct Principles. |

| Insurer | Key findings |
|---|---|
| Suncorp | The main non-conformances observed with Suncorp included meeting the requirements under clauses 4.98 version 8.2 / 4.105 version 9 of the MAGs:<br>• Service providers or claimants were not advised of the decision within 10 days of receipt of the treatment request.<br>Non-conformances were observed where the costs the insurer had agreed to meet were not stated in the approval letter. Whilst this was contained in the insurer's template it was not consistently populated by the case manager which was also a finding in the initial audit.<br>There was 100% conformance observed with internal review requirements and the Customer Service Conduct Principles. |
| Youi | The main non-conformances observed with Youi included meeting the requirements under clauses 4.98 version 8.2 / 4.105 version 9 of the MAGs:<br>• Service providers or claimants were not advised of the decision within 10 days of receipt of the treatment request.<br>There was a high level of conformance observed with internal review requirements, with a single non-conformance observed related to an internal review being acknowledged outside the two (2) business day timeframe required by clause 7.9 & 7.10 version 8.2 & 9 of the MAGs.<br>There was 100% conformance observed with the Customer Service Conduct Principles. |

## 3. Regulatory response

All insurers were provided with an individual report from the reaudit outlining their results, details of non-conformances and required actions.

Based on the findings of the reaudit, SIRA will take a tailored regulatory approach with each insurer to ensure substantial and sustained compliance is achieved across all requirements.

**Action 1**

All insurers are required to update their current remediation plan to ensure timely, systematic compliance with areas identified as requiring further remediation.

**Action 2**

SIRA will monitor the implementation of the remediation plans monthly. Insurer remediation plan reporting requirements will be maintained and monitored until SIRA is satisfied that substantial and sustained compliance is being achieved in all areas.

**Action 3**

Special licence conditions will remain for NRMAI and QBE. Further regulatory action will be considered for ongoing non-compliance with treatment and care obligations.

**Action 4**

SIRA will publish the results of the ICCAP activity in line with its Regulatory Publishing Policy.

## Appendix 1

The full criterion list is outlined below.

Insurers were only audited against criteria where their performance was below expectations in the initial audit, and this therefore varied between insurers.

| Criterion number | Clause reference (Motor Accident Guidelines Version 8.2 & 9) | Criteria type | Clause description |
|---|---|---|---|
| 1 | Motor Accident Guidelines: 4.95 & 4.101 | Compliance | An insurer who has identified a claimant requiring treatment, rehabilitation and attendant care services must facilitate referral to an appropriate treatment provider (including vocational provider, if appropriate) within 10 days, with the claimant's agreement. |
| 2 | Motor Accident Guidelines: 4.98 & 4.105 | Compliance | Version 8.2<br>Where the insurer receives a request for treatment, rehabilitation, vocational support and attendant care services, it must advise the claimant and service provider in writing of its decision in writing as soon as possible but within 10 days of receipt of the request.<br><br>Version 9<br>If the insurer receives the claimant's request for the payment of treatment or care expenses, it must make a decision and advise the claimant and relevant service provider in writing of its decision as soon as possible but no later than 10 days from receipt of the request. |
| 3 | Motor Accident Guidelines: 4.98 (a) & (b) & 4.105 (a) & (b) | Compliance | (a) if approved:<br>- state the costs the insurer has agreed to meet<br>- advise the claimant of the insurer's obligation to pay all reasonable and necessary costs and expenses – including travel expenses to attend approved treatment, rehabilitation services or assessments, including all services or assessments conducted by a medical assessor of the Personal Injury Commission – as soon as possible (no later than 20 days after receiving the account or request for reimbursement).<br><br>(b) if declined, in whole or in part, provide:<br>- the reasons for the decision with reference to the information relied upon in making the decision.<br>- a list of all information relevant to the decision, regardless of whether the information supports the decision, including copies of all listed information<br>- an explanation of the insurer's internal review process, including the timeframe in which an application for internal review must be made and/or right to make an application to the Personal Injury Commission<br>- information on how a claimant may make a complaint with the Independent Review Office (IRO), including the IRO's contact details. |
| 4 | Motor Accident Guidelines – 4.98 (a) version 8.2 & 4.105 (a) version 9 | Compliance | Where the insurer receives the claimant's request for treatment, rehabilitation, vocational support and attendant care services, it must advise the claimant and service provider in writing of its decision as soon as possible but within 10 days of receipt of the request, and<br>(a) if approved:<br>- pay the account as soon as possible but within 20 days of receipt of an invoice or expense |
| 5 | Motor Accident Guidelines: | Compliance | The insurer must acknowledge receipt of the application for internal review by notifying the claimant within 2 business days of receiving the application. |

| | | | |
|---|---|---|---|
| | 7.9 & 7.10 version 8.2 & 9 | | The notification must be in writing and must be delivered either by post, email, online electronic delivery, or a combination of these methods, depending on the claimant's preference. |
| 6 | Motor Accident Guidelines – 7.11 version 8.2 & 9 | Compliance | The notification from the insurer must advise the claimant whether the insurer accepts that it can conduct an internal review of the decision, or alternatively whether the insurer does not accept it can conduct an internal review. The notification must include the date that the application was received and the date the internal review decision is due to be issued. |
| 7 | Motor Accident Guidelines – 7.12 version 8.2 & 9 | Compliance | If the insurer accepts that it can conduct an internal review of the decision, the insurer must advise the claimant as soon as practicable, and in any event within seven days of receiving the application, of:<br>(a) issues under review – the elements of the original decision that the insurer understands are under review<br>(b) internal reviewer – the person allocated as the internal reviewer to conduct the internal review<br>(c) additional information – any additional relevant documents or information required from the claimant for the internal review, and any additional information or documentation that the insurer has that is relevant to the internal review and has not previously been provided to the claimant<br>(d) how to make contact – how the claimant can contact the insurer about the internal review, and how the claimant can contact the advisory service about the internal review. |
| 8 | Motor Accident Guidelines – 7.13 version 8.2 & 9 | Compliance | If the insurer does not accept it can conduct an internal review, the insurer must notify the claimant in writing as soon as practicable and in any event within seven days of receiving the application, of:<br>(a) reasons for decision – brief reasons for the decision to decline to conduct the review<br>(b) the internal reviewer – the person who decided to decline to conduct the review<br>(c) how to make contact – how the claimant can contact the insurer about the decision to decline to conduct the review, and how the claimant can contact the advisory service about the decision<br>(d) next steps for the claimant – the options available to the claimant if they disagree with the decision, including that they can seek legal advice as to the options available<br>(e) that the claimant may apply to the Personal Injury Commission to dispute a reviewable decision of the insurer because the insurer has declined to conduct an internal review. |
| 9 | Motor Accident Guidelines – 7.24, 7.25 & 7.26 version 8.2 & 9 | Compliance | The insurer must notify the claimant of the results of the internal review within 14 days as required by section 7.9(4) of the Act, unless the Guidelines provide for particular circumstances in which an insurer has a longer period.<br><br>In any case, the maximum period including any longer periods above, must be no more than 28 days after the claimant's request for the insurer to complete and give notice of the result of the internal review. |
| 10 | Motor Accident Guidelines – 7.28 version 8.2 & 9 | Compliance | In notifying the claimant of the result of the internal review, the insurer must provide the claimant with:<br>(a) the internal reviewer's certificate including brief reasons for the decision and supporting documents<br>(b) details of how and when the insurer will give effect to the internal reviewer's decision<br>(c) details of the result of the internal reviewer's decision on the claimant's entitlement to statutory benefits<br>(d) the claimant's right to seek independent legal advice<br>(e) information on how a claimant may apply to the Personal Injury Commission to dispute the insurer's decision, including the Commission's contact details<br>(f) information on how a claimant may make a complaint with the Independent Review Office (IRO), including the IRO's contact details. |
| 11 | Customer Service Conduct Principles | Licence condition | In the management of the claim, did the insurer conduct itself in line with the Customer Service Conduct Principles? |

## 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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