

Claims Administration Manual and Guidelines review

DISCUSSION PAPER

General

████████████████████ are looking forward to the introduction of the CAM and review of the guidelines. We believe by providing an easy reference point to access SIRA guidelines, it will have a positive effect on claims management. Therefore, it would be important that all stakeholders (workers, employers and treating providers) perspectives be considered to ensure a broader understanding. To be an effective guide, the CAM should be clear and transparent in its explanation and provide examples to enhance its understanding.

While consolidation of the guidelines is welcomed, we appreciate that since the CAM is a legislated framework, it ought to be clear, concise, and take a principle based approach to claims handling to guide behaviour rather than be prescriptive in its application

Content

Focus Areas

Focus Areas	SIRA comment	████████████████████ ████████████████████
Timeframe for developing the initial injury management plan	The legislation requires that an injury management plan must be developed when it appears that an injury is significant. SIRA will provide clarification around the required timeframes.	Legislation is unclear as to when an IMP needs to be issued. We have specified in our injury management program that we will develop an IMP within 1 calendar month of us being notified of a significant injury. This ensures the IMP captures the true significant injuries and allows us to gather sufficient information to develop goals with the worker and have them on board. If an IMP is to be required within 7 days, it should be limited to Worker rights and obligations only. 7 days would be insufficient time to gain NTD & TP advice on an appropriate timeframe for recovery. The date used in the IMP is important in setting expectations as to when the Worker can RTW. We utilise a Wellness Plan that we develop in collaboration with all stakeholders that focuses on goals. We believe that an IMP is a supportive and holistic tool to a worker's recovery.
Injury management plans in disputed claims	There is currently discussion regarding the requirement for an injury management plan to be in place for	We are of opinion it is not required. Its intention does not fit within the context of a disputed

	disputed claims. SIRA will clarify its position on this requirement.	claim, and can lead to confusion for all parties.
Downgrades in capacity	SIRA will explain its expectation regarding the payment of weekly benefits in the event of a downgrade in capacity.	If SD downgrade, we currently apply payment within next pay cycle. If full capacity downgrade, we apply a 21 day timeframe to determine weekly payments.
Use of surveillance	SIRA will provide direction around the acquisition, use and management of surveillance.	We do not employ use of surveillance unless we have knowledge that a Worker is misrepresenting their capacity or involved in commission of fraud. Surveillance is used as a last resort. In circumstances where requests on capacity have been made but are unanswered, surveillance has proved crucial in confirming capacity for work, especially in WPI and WID claims. Theoretically, compliance ought to be in line with the <i>Surveillance Devices Act 2007 NSW</i> and <i>Privacy and Personal Information Protection Act 1998</i> .
Assistance for workers approaching their limit to medical and related benefits	SIRA's expectations for the appropriate management of workers approaching prescribed limits of medical and related entitlements ensuring an appropriate and consistent approach across all insurers.	We provide a notice to Workers and treating providers at least 3 months prior to cessation. The provides the opportunity for the Worker to self-direct treatment with support of their medical team.
The use of independent medical examiners	SIRA will detail its requirements for the use of independent medical assessors for increased transparency for workers.	Current guidelines and commission decisions are clear as to what the expectations are. We believe the current challenges that arise from the use of independent medical examiners is the quality of the examiner.
The use of a 'second opinion'	SIRA will clarify its position on obtaining second opinions for surgery and other treatment or medical management options.	We support Workers obtaining second opinions, especially in cases around surgery. We do not think there should be restrictions/rules introduced around this.
The role of injury the injury management consultant	The process will explore the function of an IMC to comment on treatment in relation to recovery at work and how insurers can be encouraged to refer earlier to an IMC.	Agree with comment on treatment. While it is good to use IMC early in claim, would be good to clarify the weight of an IMC opinion to an NTD. IMC should be able to have reporting process to SIRA on NTD that don't participate actively and answer letters etc.

Complaints management	SIRA will explore the need for an appropriate and transparent complaints management framework to be in place.	We have our own established procedure for direct complaints. Simplification of WIRO/SIRA complaints process and levels would be useful.
Stakeholder satisfaction/experience data	SIRA is looking at the provision of stakeholder satisfaction/experience data to be phased in across insurer types.	We conduct our own surveys, and we would be hesitant for there to be anymore as this could lead to survey fatigue. We caution that data submissions by insurers be compared, as we note that results are dependent on different variables and can be highly manipulated. Our suggestion is that CAM should ask insurers to have a policy/process in place which invites customers to provide feedback.
Claims handling principles	SIRA will be detailing its expectations regards to claims handling principles.	We believe the CAM ought to be setting a model approach to act as a guide and not to be prescriptive in its application. We require more information on this to provide further comment.

Please see below feedback on the proposed content and topics not covered:

Topic	Current situation	Information for SIRA to consider
Voluntary reduction in Worker's hours post injury	For example, a Worker was working 30 hours a week and voluntarily reduces their hours at any point after their injury to 15hrs per week. We know we required to complete a Work Capacity Decision to determine Worker weekly benefit entitlement. OR Issue non-compliance letter.	Completion of a WCD for this situation may cause an array of issues, especially as the Worker would be required to participate in Work Capacity Assessments. In doing so, this may create confusion around RTW goals, and the Employer may not appear supportive as a Worker feels that they are being pushed to alternative employment. For an Employer, the course of a WCD would appear unfair, as the decision for a change in weeklies benefits in some cases takes over 3 months to come into effect and it would potentially impact their premium when the change was voluntary on the side of the Worker.
Voluntary resignations	Complete a Work Capacity Decision to determine Worker weekly benefit entitlement.	If suitable duties are on offer at Employer and Worker resigns (non-injury related), can we clarify that this will mean nil entitlement. For an Employer, the course of a WCD would appear unfair, as the decision for a change in weeklies benefits in some cases takes over 3 months to come into effect and it would potentially impact their premium when the

		change was voluntary on the side of the Worker. Issuing a non-compliance letter is also an adverse way of managing the situation. This seems a reasonable expectation that a Worker who resigns due to non-injury related reasons (e.g. planned move to another state) would not expect to be paid weekly benefits given they would not have been paid in this same situation pre-injury. We would prefer there be a non-adverse outcome to what ought to be reasonable solution.
Casual worker on holidays, no holiday pay entitlement. Total incapacity, partial and full capacity	Complete a Work Capacity Decision to determine Worker weekly benefit entitlement.	If suitable duties are on offer at Employer and the worker takes unpaid annual leave, can we clarify that this will mean nil weekly benefit entitlement. Employers are potentially being impacted by decisions outside of their control. This seems a reasonable expectation that a casual Worker would not expect to be paid when taking a holiday given they would not have been paid in this same situation pre-injury. We would prefer a simple and reasonable approach by not needing to issue notices by way of compliance and Work Capacity Decision.
Worker chooses not to receive weekly benefits from Insurer as prefer to receive Centerlink.	Worker needs to show Centerlink that they are no longer entitled to weekly benefits. Insurer/Worker unable to provide this confirmation to Centrelink.	Clarification as to whether a Worker can sign out of their weekly benefit entitlement under the claim. We appreciate s234 of the <i>Workplace Injury Management and Workers Compensation Act 1998</i> that there is “no contracting out”, we ask that SIRA provide guidelines to what this means in respect of all stakeholders.
Attending treatment outside of work hours.	Worker and Employer need to negotiate working around appointments. At times this is not possible due to smaller business or Workers believe treatment should be done in work time as work place injury. Occasionally weekly benefit payment needing to be made to cover Worker time off work to attend treatment as Employer does not want to cover Workers time.	The current guidelines do not make comment on this topic. We note that ‘Guidelines for workplace return to work programs 2010’ outlined that “Treatment should be obtained by workers out of working hours taking into account the worker’s circumstances for example: <ul style="list-style-type: none"> • if a worker is fit for reduced hours, treatment appointments would be out of working hours; or • if a worker is fit for pre-injury hours but would normally have child care responsibilities out of work hours, it is reasonable some treatment appointments can be made during work hours.” We ask that SIRA comment on this situation in the CAM to clarify stakeholder expectations and prescribe responsibility to workers

		and employers to negotiate hours of work around treatment.
SIRA RTW Assistance programs	Not inclusive of all current programs.	We ask that all current RTW programs be made available in the CAM.
Aggravation/Recurrence		We ask that SIRA please provide clarification as to the definitions of aggravation and recurrence. We also ask that SIRA stipulate minimum information for Workers to provide the Insurer for recurrence given Insurer's have 21 days to determine liability. It is important Insures have enough information to determine liability fairly and effectively for the Worker.
Definition of "arising out of or in the course of employment"?		We ask that SIRA please provide a definition to "arising out of" or "in the course of employment".
Clarification to "reasonable action" for 11A.		We ask that SIRA please provide clarification as to "reasonable action" for Section 11A to ensure consistent approach across all stakeholders.
Clarification to "bullying and harassment".		We ask that SIRA please provide clarification as to the definition of "bullying and harassment".
"Reasonably necessary" treatment		We ask that SIRA please provide clarification in relation to "reasonably necessary" treatment by providing specific examples of its application considering medical evidence and how medical evidence weighted.
Worker obligations		It is noted that the topics include Insurer obligations and Employer obligations. We ask that SIRA also consider Worker obligations to ensure all stakeholders are on the same page.
Compliance and suspension Management		Can the process be explained in the CAM in a clear and simple way.
NTD obligations		<p>It is noted that the topics include Insurer obligations and Employer obligations. We ask that SIRA also consider NTD obligations to ensure all stakeholders are on the same page.</p> <p>The Guidelines for Claiming Compensation Benefits 2012, subsection 2.9.3 had outlined what to do in a situation when there is non-participation by the nominated treating doctor.</p> <p>We ask that SIRA please provide guidance as to what stakeholders should do in this situation and encourage a fair process to ask a Worker to change their nomination treating doctor if they fail to participate with their obligations.</p>

		We consider that non-compliance with NTD obligations to not be 'reasonably necessary' treatment and request SIRA's consideration to this proposal.
Deemed Worker		We ask SIRA to include Contractor versus Worker test.
Clarification as to Section 53 and what is considered reside.		We ask SIRA to please clarify what Section 53 - Worker ceases to reside in Australia. Specifically, what stipulates a Worker "residing"?
Claims Technical Manual		Requires updated to align with CAM changes.
Can WCD notices be provided by email and what is considered receipt time?	E.g. Internal Review of WCD notice requested to be received via email on Internal review application form.	Clarification required on whether email only can be used to send notice.
WCD Internal Review application received by Insurer after claim has been declined.		Internal Review of WCD not completed as claim declined. The intention of a WCD does not fit within the context of a disputed claim. Worker to request an internal review for liability in this situation.
59A(3) - no mention in current guidelines.		We ask that this be mentioned in the CAM.
59A(6) - Artificial aids		We request that SIRA please clarify the definition of artificial aids. We had previously believed that these are aids external to the body and not ancillary to hospital treatment.
1.27/1.28 of NSW Workers Compensation Guidelines for the Evaluation of Permanent Impairment Fourth ed.		Clarification of the definition of 'deduction for pre-existing' and its application, as some assessors are not deducting when they acknowledge a pre-existing condition on the basis that the body part was not symptomatic prior to the injury.
Concurrent claims		Clarify process in which Insurers are to communicate and information to be shared between Insurers.
Working Directors		We request clarification as to what PIAWE evidence Working Directors need to provide. Are statutory declarations sufficient?
Good work		Clarification as to the definition. We suggest that if suitable duties are on offer and are meaningful then this is considered 'good work'.
PIAWE calculation		We ask that SIRA please include the clear explanation as to calculation of PIAWE, including indexation, and calculation of the last week of weekly

		benefits when a PID certificate is obtained mid-week.
Signed CoC/Claim Form		Is the signed COC/Claim Form sufficient to obtain past clinical notes in relation to that body part from NTD? There is not a consistent practice across medical practices.
Claim Form		Doesn't allow for historic details for treating providers. We believe this is necessary for open disclosure from workers. Claim form needs to provide more information to insurers to ensure claims can be properly determined within a 21 day timeframe. Disclose past claims, include authority to obtain clinical notes from these providers. There ought to be ramification for non-disclosure. Allow faster claim determination.
Statutory Declaration		We ask for SIRA to clarify what a 'not signed Statutory declaration mean and an Insurer can do in these circumstances. We not the significance of Statutory Declaration to calculation of earnings.