2nd July 2019

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State Insurance Regulatory Authority

Locked Bag 2906

LISAROW, NSW, 2252

Dear Sir/Madam;

RE: Compliance and Performance Review of the Workers Compensation Nominal Insurer Scheme

Thank you for the opportunity to provide the State Insurance Regulatory Authority with feedback regarding the current NSW Workers Compensation Scheme which is failing terribly due to the complete control that iCare have implemented and the complete lack of effective claims management being experienced from Employers Mutual Limited.

I have worked in the workers compensation insurance industry for over 33 years, working for an employer dealing with workers compensation claims for 3 years, working for an Insurance Company/Scheme Agent for 15 years and for over 17 years in my current role as a Specialist Workers Compensation Insurance Broker/Risk Manager for Oxley Insurance Brokers. This working experience has given me the opportunity to experience this Industry from all angles and therefore I believe that I am well placed to be able to provide good feedback and effective constructive criticism.

I must be completely honest and frank, and what we are experiencing now is the worst I have seen the Workers Insurance Industry. The last time I believe that it was in terrible shape was back in the early 1990's and the Scheme Agents & Workcover acknowledged this and over the next 10 years many changes were made to work practices, legislation and staffing changes were made to try and turn the Scheme around. I believe that significant improvements were achieved but this took a long time to turn the Scheme around.

What we have at the moment, is a situation that is far worse than the 90's because we have ONE 'clams agent' being completely controlled and manipulated by iCare who 'seem' to not have a grasp on reality and how poor systems and lack of claims & injury management impact on everyone involved in this industry – Employers, Workers, Employer representatives, EML staff.

I have never experienced so much 'anger and frustration' in the industry than I am dealing with now. As I mentioned, I have been employed as a Specialist Workers Compensation Insurance Broker/Risk Manager since 2002 and what I am experiencing with my clients and injured workers at over the past 18 months has been horrific and scary. In some cases, Police have had to become involved due to injured workers threatening the lives of business owners, their staff and their nominated Rehabilitation Providers who are trying to help them. This should not happen when people are trying to simply do their job.



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What do I believe has created this frustration and anger?

- LACK OF COMMUNICATION;
- LACK OF EXPERIENCE;
- LACK AND KNOWLEDGE & SKILL;
- LACK OF EFFECTTIVE CLAIMS MANAGEMENT STRATGIES;
- LACK OF ACKNOWLEDEMENT OF WHO THE CLIENT IS?

As soon as you create an environment that seems to treat an injured worker and employer (who is the client) like a claim number rather than a person, everything goes pear shaped. As soon as an injured worker is not communicated to, at a time when they need help, and an employer/client is treated with NO RESPECT at all you will end up with a dysfunction scheme - What do we have at the moment – A DYSFUNCTIONAL SCHEME. We are now dealing with a scheme that has reverted to 'processing of claims' rather than 'management of claims' and the main reason that I believe this has occurred is VOLUME and EML's inability to cope with the number of claims that they are now responsible for.

Claims matters:

The implementation of the "New Claims Model" from the 1st January 2018 must be the biggest joke of the century. What was implemented from the 1/1/18 was nothing more than a step back in time of about 20 years. While the system that we had in place prior to iCare's control, wasn't perfect, it was far better than what we are forced to deal with now and to be completely honest with you – the person or people who recommended and agreed to this archaic system to be implemented should no longer be involved in the business and industry. There grasp and understanding of the workers compensation environment is so far removed from reality it isn't funny!

We have NO DIRECT PHONE number or no direct EMAIL ADDRESSES where we can contact anyone at EML and this 'call centre' mentality will never work in an environment that deals with people that are in desperate need of assistance and help. There were many times that I raised this issue with EML and when they reviewed the relevant claims the notes indicated that some contact may have been attempted to be made with the employer and messages were left, and EML were blaming the employer, however, many if not all employers had attempted to call EML back but when you are calling a call centre with no direct contact details it was always impossible to ever make contact with the same EML Claims Officer and therefore the contact was never possible. The rotation of staff in this Customer Support Team meant that making contact was impossible and breeds an attitude of no accountability and responsibility for any claim's actions – NO ONE CARES ABOUT ANY ISSUES OR REQUESTS.



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Many of our client's obtain no written communication or confirmation from EML regarding liability, PIAWE amounts regarding their workers compensation claims and they have no idea whether they should be paying their injured workers or what amount they should be paying their workers. This delay and lack of communication leads to claims blowing out and it a very simple claims management process that is not being completed by EML. An example would be a claim for employed by employed by employed by the claim # This claim was lodged with

This Workers Compensation Scheme will only work if you have experienced and qualified staff who are accountable and responsible for completing activities and are also given the correct levels of authority to effectively complete the relevant claims activities from start to finish – even if it from start to finish of certain lifespans of the life of a claim.

The "New Claims Model' which included a "Customer Support Team" removed all of the above points which are important and essential to a better system.

This model removed communication, it removed claims & injury management; it removed care & empathy; it removed empowerment of the legislation.

I can only speak from my experience and my teams portfolio of client's, but I can see an increasing trend in claim numbers and a massive increase in 'paid claims costs' from the 2017/18 policy year for all of my 'experienced rated client's and this will no doubt lead to increased workers insurance premiums from the 2019/20 policy year and beyond. I credit the majority of this fall out due to the way the "Customer Support Team" has operated (or should I say - NOT operated). With all claims being lodged with the Customer Support Team and sitting within this team for 6-8 weeks (and in some cases much longer) with no claims management activities, no communication, no claims investigation, no injury management, this all leads to frustration, anger and lack of assistance, all resulting in larger claims costs. There is no way in the world that it should take weeks to obtain an approval for a worker to see a Specialist when needed, or to have an X-ray, CT Scan or MRI scan when needed, or to have a referral to a Rehabilitation Provider approved if needed – this is basic claims management activities that any qualified Case Manager should be able to make a decision on, rather than the need for these basic decisions being 'funnelled' through to an 'Injury Management Specialist'.

An obvious observation to the current situation that we have with the NSW Workers Compensation Scheme is "VOLUME" and at the moment with only one 'Claims Agent' it is obvious to me that EML can not deal and cope with the volume of work that they have been and are trying to deal with and the decision back in 2017 to only have one 'Claims Agent' from the 1st January 2018 was a massive error in judgement by iCare. The sooner we can have 2 or 3 'claims agents' back in operation the quicker this system will turn around and help manage the volume and allow us to get back to a system that can offer 'claims management' rather than 'claims processing'.





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Turning this system around is going to take a fair bit of time now, because in a short space of time, iCare & EML have created a system that has become an 'easy' system which has created a workplace culture in every industry that it is now easy to lodge a workers compensation claim and to have time off work with everything being accepted and no regard for the legislation at all. This type of culture is difficult to change and will take a long time, as it did in the 1990's.

All the above comments have been around the claims activities and I have many case studies to provide examples of the lack of communication, lack of claims management; lack of customer focus and lack of adherence to the legislation. These case studies are for a variety of employers – some 'small employers' and some 'medium/large' employers but all have been impacted by this dysfunctional system in similar or in different ways.

Underwriting & Credit matters:

Our experience with the iCare Underwriting & Credit team has been mixed and while we have issues in dealing with these icare divisions, we have also had some great and positive experiences as well.

I must highlight that the Underwriting team, and help us enormously. The response time to emails is great and to actioning our client's requests is prompt as well. This also applies to the iCare Payment Services team and, have been fantastic and help us enormously with a credit related issues for our clients. The only downside that I could highlight for the Underwriting & Payment Services teams, is that we have no direct phone contact details which makes it impossible for us to contact our Underwriter or Payment Services contacts to discuss any issues or enquiries. We must rely on sending an email requesting that they call us back.

While we have a dedicated Underwriter and payment services officer to assist our team with our larger clients, we also deal with the Underwriting Operations team call centre with all of our small employers and we tend to wait until we have a number of enquiries to make and then deal with this enquiries and change requests in the one phone call to save everyone's time. Unfortunately, though, there have been times when my team have been advised that the call has to be ended because "our time is up" and this astounds me and is pathetic customer service. It is ridiculous and completely unprofessional to think that there is a time limit to enquiries when we are trying to assist our client's and also help icare to correctly renew our client's policies all in the one phone call — which I would have thought would have been beneficial. We also receive varied advice from the Underwriting Customer Service team on matters relating to our Letters of Appointment and what changes we can and can't request for our clients, which is extremely frustrating and once again poor technical knowledge from the Customer Service team at iCare.



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Claims Report matters:

Probably one of the most frustrating issues that we also had to deal with leading up to the busiest renewal time of the 30th June 2019, was the fall out from EML transitioning across to a new & different computer system from the 4th February 2019 and Brokers and client's inability to obtain accurate cost of claims reports from EML/icare detailing our client's claims history to allow us to check the accuracy of Final CPR claims costs by ensuring that the accurate 'Return to work Incentive percentage discounts' were applied to our client's claims prior to the 30th June 2019. The lack of reporting also inhibited our ability to provide premium projections to our client's who require these for accurate business budgeting for the 2019/20 financial year. It is once again ridiculous to think that the access to this data was not even taken into consideration when considering the implementation of a new computer program. This was further compounded by a very late (June 2019) change on the process of obtaining CPR claims reports from GIO to allow us to obtain history. This change was not notified to anyone at all and it resulted in claims reports finally being received from GIO during the last week of June 2019 which is completely unacceptable. This allowed us no time at all to query any incorrect RTWI% on client's claims prior to the renewal date of the 30th June 2019

Case Studies:

As mentioned above in the 'claims matters', I have detailed below numerous Case Studies for you to review providing examples of poor claims management' and in some cases 'NO claims management' of our client's claims – not only 'experienced loaded sized client's' but also 'small employer's' claims which have all been impacted in many ways by the lack communication, advice, customer services and claims management.

The following case studies details many examples of 'no or poor claims management', lack of communication and complete lack of claims investigation and you require any further information regarding these case studies or more examples please do not hesitate to contact me:



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Pty Ltd – Policy

Case Notes for Workers Insurance Claim

Worker: Claim #: Date of Injury: Injury:
This above worker suffered a summer at work on the working for
While there was some concern about the legitimacy of this claim and injury initially, the scans completed have identified some injuries and the worker has been attempting to complete suitable duties in an at a suitable duties.
While this worker is completing suitable duties, the worker is failing to comply with the RTW plan, and it is our concern that EML are not able to compliance manage injured workers and ensure that the RTW which has been agreed to and signed off on by all parties is not being followed. Furthermore, this worker has now , which in normal circumstances would have led to the workers termination, we are also being advised by EML that if terminate this worker then EML would not be able to suspend benefits. The Workers Compensation legislation is pretty clear when talking about the obligation of the worker and if a worker fails to comply with a RTW plan, then EML should be doing everything that they can to ensure the worker complies and then suspend benefits if this doesn't happen.
This claim has now been escalated to a senior Case Manager and is allocated to this claim and to be honest, has communicated with us well so far, which is a pleasant change. has organised an IMC (already completed) and now we are awaiting on an IME opinion to determine
ongoing liability and capacity levels and it is EML's goal to work towards a 'work capacity decision with this worker.





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With this claim we have another example of time wasted with this claim sitting in the Customer Support Centre for more than 2 months with no 'pro-active' management at all and as soon as we have an experienced and senior case manager appointed to this claim we start to get some traction on the claim.

Luckily enough, my client has been able to minimise the potential impact on this claim so far by being able to provide full hours suitable duties and not have any weekly benefit liability on this claim and we hope that we can continue down this path at least until renewal on the 30th June 2019.

My concern about what is NOT happening from Case Management & communication seems to be

flowing onto the parties who are caught up in this mess and it is obvious to me that the frustration is developing into anger and creating dangerous situation in this workers insurance industry and this will unfortunately end up in an ugly situation in the future if something is not done about this immediately.





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Pty Ltd — Policy #
Case Notes for Workers Insurance Claim
Worker: Claim #: Date of Injury: Injury:
This above worker suffered an while working for at on the when the worker stated he was The injury was not reported to the employer until the when he attended the Hospital for treatment.
The burning issue with this claim is the extent of the injury and the fact that the worker made no mention to anyone at the worksite about this injury and also on the trip home with other workers (the workers car pool to and from work) there was no mention to anyone about his injury, which is unusual for someone who has volume and drive past a hospital and there to be no mention of any injury until the next day was very unusual.
The worker attended the Hospital the next day, even though the worker lives in and required surgery to mend the injury.
While I appreciate and understand that it is difficult to dispute a claim without any factual evidence to the contrary, there was absolutely no investigation of the circumstances surrounding this injury by EML. The employer conducted their own factual investigation into the alleged circumstances of



this injury and this internal investigation also found that it was highly unlikely that this injury could

have occurred in the workplace doing the activities that the worker was completing.

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We had the usual delay in getting a referral to a Rehab Provider and I emailed at EML and the preferred Rehab Provider on the /8/18 to request their involvement and this took some time to be approved once again. I had to contact at EML again on the /9/18 due to the and request that EML take over direct payment of benefits to this worker
Please find below an email that I received from my client regarding this worker as support for what I am advising:
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I was able to contact the EML Case Manager that this claim was finally escalated to on the **■**/9/18 and We also agreed to ensure that EML had current and up to date Injury Management Plans on this claim if we had any compliance issues from this worker. Since this initial contact with EML, I have been trying to obtain updates on the status of this claim for a couple of months now with emails and phone messages and to date I can't seem to get a response from EML. We are looking at a injury which you would expect to resolve somewhere within the 12-week timeframe, however, here we are 9 months post injury date and as far as we are aware, we still have no successful outcome with this claim. I could be wrong though, as we have had no contact from EML and maybe this claim has resolved? I tried to make contact with the EML case manager again today and while I called the direct phone number I was once again put on to someone else and when I explained how long it has been since I have had any contact, miraculously the person on the phone said that she will try and put me though again and I was finally able to speak to , the EML Case Manager. This tells me that the calls are being screened and not being put through to the dedicated case managers until you complain, which should not be how this process works. I was surprising told by that this worker was still "totally unfit" some 9 months post injury which is ridiculous, when you consider that the worker should not be able to do anything however, we are dealing with a line injury. I also advised me that this worker is unable to find a doctor who will treat him now because of and said she didn't know what to do with this claim and she has a meeting organised with her Manager on Friday of this week and she will update me on Friday or Monday – let's see if that actually happens. I recommended to that a referral to the MSP to try and get an IME would be an obvious strategy for me and I am amazed that this hasn't happened many months before now. I would also be considering an IMC to look at the workers capacity. This is a classic example of the poor case management & inexperience and appalling levels of communication that all employers and Brokers are experiencing from EML. I must say there are rare cases when we come across a 'good' Case Manager who knows how to respond to an email or a phone call or how to manage a claim. This claim will have an obvious major impact on this client's 2019/20-year renewal premium as the as at the and this level of costs would a significant 'paid costs' on this claim are at \$ impact on any sized employer's premium under this conventional premium model. I am shocked to think that an employer can pay some around about \$500,000 for a product, to receive this level of

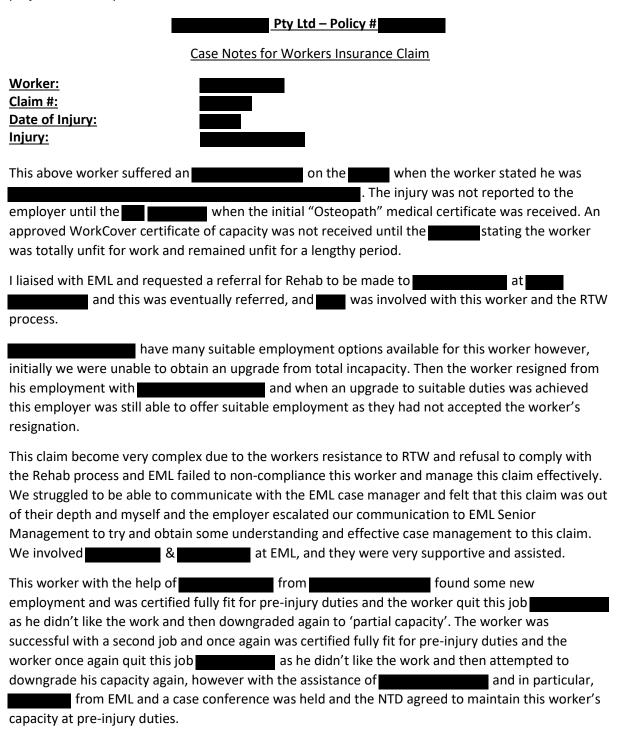


service and communication.

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I am unable to complete premium & claim impact projections for this client at this stage as we currently have most claims for this policy on the incorrect 'grouped' policy and EML have been advised and need to transfer these claims to the correct policy so that I can complete some premium projections for my client.



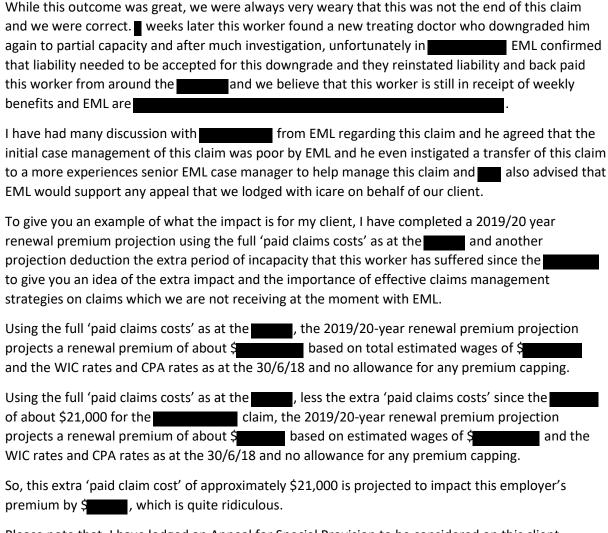


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While this was a great outcome and it is very interesting to see what can happen when claims are managed rather than processed.



Please note that, I have lodged an Appeal for Special Provision to be considered on this client 2018/19-year policy and we are currently awaiting the outcome of this review. Due to the increased costs of this claim this year and the potential greater impact next policy period, we will also be lodging another request for Special provisions to hopefully apply as well.

Please bear in mind that the above premium calculations are projections only based on unconfirmed wages figures, paid claims costs & iCare rates and capping levels.

Oxley Insurance Brokers have lodged a request to Icare for Special Provisions to be applied to this client's 2018/19 & future 2019/20 & 2020/21 renewal premiums due to the massive impact that this poorly managed claim will have on their premiums. While icare have knocked back our request for the 2018/19 year, they have agreed to apply a concession/reduction of this claim cost to the client's 2019/20 & 2020/21 renewal premiums due to the problems experienced with the management of this claim.



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Case Notes for Workers Insurance Claim





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at EML again and then received a phone call from the Team Leader, who provided me with a further update confirming that a referral had now been made to Rehab (3 months after I initially requested) and that would review this matter and keep me informed.
The latest Rehab progress report that we received from rehab which stated:



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As we expected, this worker is not complying with his job seeking requirements and while he is in receipt of very generous weekly benefits from EML, there is absolutely no incentive for this worker to be upgraded any further or to RTW on PID.

Now, we have paid weekly benefits costs of \$ as at the and this total continues to grow. I am unable to provide a current 'paid cost' as we can't access any information past the , which is another issue all together!

Our problem is, that there seems to be very little if no 'pro-active case management happening on workers' insurance claims at the moment and this claim is a classic example of how the claims are dragging out as a result of this and we need to be more pro-active in our strategies and act so much quicker to achieve positive outcomes.

To give you an example of what the impact is for my client, I have completed a 2019/20 year renewal premium projection using the full 'paid claims costs' as at the and another projection deduction the extra period of incapacity that this worker has suffered since the 21/11/18 to give you an idea of the extra impact and the importance of effective claims management strategies on claims which we are not receiving at the moment with EML.

Using the full 'paid claims costs' as at the projection, the 2019/20-year renewal premium projection projects a renewal premium of about \$ based on estimated wages of \$ and the WIC rates and CPA rates as at the 30/6/18.

Using the full 'paid claims costs' as at the the stra 'paid claims costs' since the 30/9/18 of about for the claim, the 2019/20-year renewal premium projection projects a renewal premium of about based on estimated wages of and the WIC rates and CPA rates as at the 30/6/18.

So, this extra 'paid claim cost' of approximately \$ is projected to impact this employer's premium by \$ is absurd.

Please bear in mind that the above premium calculations are projections only based on unconfirmed wages figures, paid claims costs & iCare rates and capping levels.



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Case Notes for Workers Insurance Claim

Worker:
Claim #:
Date of Injury:
Injury:

Employer has disputed the claim from the beginning.

The employee was being performance managed in relation to his poor behaviour.

There has been very little investigation into this claim, in particular, medical investigations. No IME although we had requested it.

Employer has had no contact from EML since Jan 2019! This is concerning as the claim had only just been accepted at that time. Client was never contacted when liability was determined. Claim was accepted outside of timeframes. EML have not kept Employer in the loop at all.

OIB have had very little contact, despite leaving numerous messages and emails. OIB contact has been through account manager, not claim manager. Claim manager doesn't return calls or emails to Employer or OIB.

Worker had a in place with employer from the court, EML did not wages. EML have paid worker from the start as the Employer did not want to pay Workers Compensation benefits directly to the worker.

EML paid for Worker to

Worker supposedly had a job lined up and a contract of employment however he was made 'redundant' prior to commencing the job. EML have continued to pay wages despite the fact he was supposed to be working.

Worker is still employed despite him relocating, he has not resigned, and the employer has not terminated him

OIB have requested on numerous occasions that a Work Capacity Decision be made if liability can't be declined, this has not happened. The worker has capacity if he can sign a contract of employment, he can work!

Worker had some retraining. A Vocational & functional have both been completed. Worker can obviously job seek independently as he obtained employment before, he was 'made redundant'. Again, why has a WCD not been made?

The only restriction on the certificate is not to work with and and the GP has maintained this. Employer was able to provide duties in line with no contact with the provided to go back to work. As EML have paid to the provided to go when the provided to go back to work. As EML have paid to the provided to go when the



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OIB had requested rehab be referred off very early to was the consultant involved, who did not liaise with the employer despite the RTW goal being PIDs. When OIB contacted , speaking with requesting an update, the consultant said 'I don't know where this claim is up to' which was quite interesting because she was the one who was allocated to the claim and was supposed to be the rehab provider managing it. I asked for a return phone call which has been happened.

It is now the end of June, a WCD has not been applied despite OIB requesting this in Feb, by now the 13-week notice period would have expired and wages potentially reduced to 0.

- Policy #

Case Notes for Workers Insurance Claim

Worker:
Claim #:
Date of Injury:
Injury:

The is a claim for a small employee and while their premium is not directly impacted by the costs associated with this claim, the business was certainly impacted by the loss of the business's and loss of income while this worker was unable to work.

The worker suffered a resulting in a resulting in a on the an and the claim was lodged and reported to EML on the .

There is no dispute over this accident and injury at all and the worker was certified totally unfit.

This business received no communication from EML at all regarding this claim and received no wage reimbursement from EML for a long period of time regardless of our constant phone calls to EML.

As mentioned, this business is a small business and the injured worker is their main employee of the business and the business struggled to meet wage requirements in the absence of what their policy should have provided – reimbursement of weekly benefits.

We emailed the completed PIAWE form and payslips to EML on the still no contact and still no payments.

The employer had to replace the to keep the business open and continue to pay the injured worker sick pay and unfortunately this double up on running expenses took its toll and couldn't be maintained by the business. EML had all of the relevant certificates of capacity certifying the worker totally unfit for a few months and still nothing from EML.

The employer was obviou8sly very angry and frustrated and He continued to highlight that he always paid his premiums on time and for that he has received nothing in return when mostly needed.





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While this is a small business, no one at EML showed any care or concern for this business and this particular case is an example of how EML's lack of effective claims management and payment of entitlements could have sent this business broke.

I think a quick review of this claim will highlight the lack of communication and delay in reimbursement to the employer to highlight what we are highlighting in our feedback to SIRA about the poor state of the NSW Workers Compensation Scheme.

Policy # Case Notes for Workers Insurance Claim Worker: Claim #: **Date of Injury: Injury:** allegedly suffered by the above employee due to the The is a claim for a worker feeling that they were unfairly treated The worker was advised that this was not the correct forum to discuss this and they were given an to have a chat which happened. opportunity When this claim was lodged with EML on the we requested initially that EML request a Factual Investigation to help obtain the facts and assess and determine liability. This claim was allocated to an EML Case Manager and numerous emails and telephone conversation were held to discuss the circumstances of this claim and what the best strategies would be to manage this claim, including a referral to MSP to obtain an IME opinion.

While provisional liability commenced while the investigations were being completed by EML, I made some follow up enquiries with EML to see what the results of the factual & IME were, only to find out that no referral to the MSP had been made to try and obtain an IME opinion which was extremely disappointing considering this was discussed and agreed to this action early on in this

I followed up with EML on the to obtain the PIAWE as this has never been communicated to the employer (3 months on) and to check with the Provisional Liability would expire as this timeframe was up on us as well. I then had a new EML Case Manager contact me and confirm the PIAWE and confirm that EML were forced to accept liability due to no evidence on file to decline liability and the Case Manager apologised for the lack of action and completion of agreed strategies.

A referral has now been made to the MSP to try and obtain an IME opinion, but this delay has resulted in 3 months of paid weekly benefits that will impact on this employer claims history and future renewal premium from the onwards.

This is another example of a lack of claims management to investigate liability on a claim and lack of effective action to reduce claim costs for the client.



claim.

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I hope that this feedback regarding my teams and client's experience with iCare & EML over the past 18 months is valuable to you and I am happy to provide further information if required or to speak to anyone about our experience if needed.

I believe that this feedback confirms the poor state of the NSW Workers Compensation Schemer at the moment and I would be completely surprised if the review and valuation of the Scheme at the moment did not reflect the same thoughts.

When need to quickly get back to a Scheme that provides a 'personalised, caring and understanding scheme that definitely provides support and help to injured workers but also listens to the needs and expectation of the client's – the employers! We cannot afford to treat injured workers like numbers, and we need to show respect and understanding to help people recover from injuries quickly.

Please do not hesitate to contact me if you have any questions or require anything further

Regards,

Oxley Workers Compensation Solutions
Oxley Insurance Brokers Group

