

**WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION
(INDEPENDENT CONSULTANTS FEES) ORDER 2023**

under the

Workplace Injury Management and Workers Compensation Act 1998

I, Dr. Petrina Casey, Acting Chief Executive, State Insurance Regulatory Authority, make the following Order pursuant to section 339 of the *Workplace Injury Management and Workers Compensation Act 1998*.

Dated this 10th day of January 2023



Dr. Petrina Casey
Acting Chief Executive
State Insurance Regulatory Authority

1. Name of Order

This Order is the *Workplace Injury Management and Workers Compensation (Independent Consultants Fees) Order 2023*.

2. Commencement

This Order commences on 1 February 2023.

3. Definitions

In this Order:

the Act means the *Workplace Injury Management and Workers Compensation Act 1998*.

the Authority means the State Insurance Regulatory Authority as constituted under section 17 of the *State Insurance and Care Governance Act 2015*.

GST means the Goods and Services Tax payable under the GST Law.

GST Law has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Independent Consultant means a chiropractor, osteopath, physiotherapist or psychologist approved by the Authority to provide an Independent Consultation in the NSW workers compensation system.

Independent Consultation includes a:

- i. review where the treating allied health practitioner requests specialised or expert assistance from an Independent Consultant.
- ii. Stage 1 review of the treatment/management provided by the allied health practitioner for the purpose of determining whether treatment/service provision is reasonably necessary. Consultation with the treating practitioner is not required for a Stage 1 review.
- iii. Stage 2 review of the treatment/management provided by the allied health practitioner for the purpose of determining whether treatment/service provision is reasonably necessary. Consultation with the treating allied health practitioner is required for a Stage 2 review.
- iv. Stage 3 review of the treatment/management provided by the allied health practitioner for the purpose of determining whether treatment/service provision is reasonably necessary. Examination of the worker and consultation with the treating allied health practitioner is required for a Stage 3 review.

Telehealth services means delivery of examinations video or telephone by an Independent Consultant. It is an extension of existing face-to-face services. The Independent Consultant must determine if telehealth is suitable on a case-by-case basis, taking into account clinical and person related factors and be satisfied that it will not compromise outcomes. The following factors should be considered:

- whether a physical assessment is required
- availability of support at the worker's location
- availability and access to a suitable device e.g. videoconferencing units/systems or a personal device capable of videoconferencing
- ability of the worker to participate, considering any physical, mental, social and cognitive barriers
- the worker's desire and consent to participate in a telehealth consultation
- ability to schedule telehealth session within the timeframes for a service
- the worker's access to fast internet connection and internet or mobile data quota/allowance
- the worker's capability/capacity to access care this way.

The worker retains the right to receive reasonably necessary medical and related treatment in the method of delivery that is most appropriate to them. This means the worker can nominate the best method of delivery of care for them at the time and vary this as their needs change.

Telehealth consultations would be inclusive of any electronic communication to support the delivery of the treatment service.

Unreasonably late attendance means that the worker or interpreter arrives for the scheduled appointment, or joins their scheduled telehealth appointment, **unreasonably** late to the degree that a full examination is prevented from being conducted.

Working days means Monday to Friday (excluding public holidays).

4. Application of Order

This Order applies to all Independent Consultant services provided on or after the commencement date of this Order, whether it relates to an injury received before, on or after that date.

5. Maximum Fees for Independent Consultants

- (1) For the purposes of section 339 of the Act, the maximum hourly fee for the provision of services by an Independent Consultant in connection with a claim for compensation or an appearance as a witness in proceedings before the Personal Injury Commission or a court in connection with a claim for compensation is as set out in Schedule A.
- (2) An Independent Consultant may charge a cancellation fee specified in item IIN112 where a worker provides 2 working days' notice or less of cancellation, fails to attend their scheduled appointment or telehealth consultation, or the worker (or interpreter) attends their scheduled appointment or telehealth consultation **unreasonably** late preventing a full examination being conducted.
- (3) The incorrect use of any item referred to in this Order can result in penalties, including the Independent Consultant being required to repay monies that the Independent Consultant has incorrectly received.
- (4) Telehealth services are to be billed according to the appropriate items IIN310 and IIN311.

6. Goods and Services Tax (GST)

- (1) Services provided by an Independent Consultant are subject to GST.
- (2) An amount fixed by this Order is exclusive of GST. An amount fixed by this Order may be increased by the amount of any GST payable in respect of the service to which the cost relates, and the cost so increased is taken to be the amount fixed by this Order. This clause does not permit an Independent Consultant to charge or recover more than the amount of GST payable in respect of the service to which the cost relates.

7. Requirements for invoices

All invoices should be submitted within 30 calendar days of the service provided and must be itemised in accordance with Schedule A and comply with the Authority's requirements for the invoice to be processed. Refer to the relevant provider page on the SIRA website - <https://www.sira.nsw.gov.au/for-service-providers/A-Z-of-service-providers>

8. No pre-payment of fees

Pre-payment of fees for reports and services is not permitted.

SCHEDULE A

Rates for Independent Consultants

Item	Service description	Maximum Amount (\$) (excl GST)
IIN110	Independent Consultation where referral initiated by a party other than the treating practitioner i.e. insurer, employer, Workplace Rehabilitation Provider, worker. May include file review, discussions, interview, examination and report.	\$243.80 per hour
IIN111	Independent Consultation where referral initiated by the treating practitioner. May include file review, discussions, interview, examination and report	\$243.80 per hour
IIN310	Independent Consultation where referral initiated by a party other than the treating practitioner i.e. insurer, employer, Workplace Rehabilitation Provider, worker. May include file review, discussions, interview, examination and report. Delivered by telehealth.	\$243.80 per hour
IIN311	Independent Consultation where referral initiated by the treating practitioner. May include file review, discussions, interview, examination and report. Delivered by telehealth.	\$243.80 per hour
IIN112	Cancellation with 2 working days or less notice, non-attendance at scheduled appointment or unreasonably late attendance by worker or interpreter that prevents full examination being conducted	\$243.80
IIN113	Travel for assessment / consultation outside of consulting rooms.	Reimbursed in accordance with the "Use of private motor vehicle" set out in Item 6 of Table 1 (Rates and Allowances) to Part B (Monetary Rates) of the <i>Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, at the rate effective 1 July 2020.</i> <i>Use of private motor vehicle:</i> - 72 cents per kilometre