

**WORKERS COMPENSATION (MEDICAL PRACTITIONER FEES)
ORDER 2018**

under the

Workers Compensation Act 1987

I, Carmel Donnelly, Acting Chief Executive, State Insurance Regulatory Authority, make the following Order pursuant to section 61(2) of the *Workers Compensation Act 1987*.

Dated this 21st day of November 2017

Carmel Donnelly
Acting Chief Executive
State Insurance Regulatory Authority

Explanatory Note

Treatment by a Medical Practitioner is medical or related treatment covered under the *Workers Compensation Act 1987*.

Workers are not liable for the cost of any medical or related treatment. Employers are liable for the cost of treatment. This Order sets the maximum fees for which an employer is liable under the Act for treatment by a Medical Practitioner of a worker's work-related injury. The effect of this Order is to prevent a Medical Practitioner from recovering from the injured worker or employer any extra charge for treatments covered by the Order.

Under section 60(2A)(a) of the *Workers Compensation Act 1987*, medical or related treatment requires prior insurer approval unless exempt from pre-approval under the *Workers Compensation Act 1987* or the State Insurance Regulatory Authority's *Guidelines for Claiming Workers Compensation* in effect at the time.

Consulting Surgeons should refer to the *Workers Compensation (Orthopaedic Surgeon Fees) Order 2018* and the *Workers Compensation (Surgeon Fees) Order 2018*.

This Order adopts the *List of Medical Services and Fees* issued by the Australian Medical Association (AMA), except where specified in this Order. To bill an AMA item, a Medical Practitioner must be confident they have fulfilled the service requirements as specified in the item descriptor. Where a comprehensive item is used, separate items cannot be claimed for any of the individual items included in the comprehensive service.

The incorrect use of any item referred to in this Order can result in penalties, including the Medical Practitioner being required to repay monies that the Medical Practitioner has incorrectly received.

Workers Compensation (Medical Practitioner Fees) Order 2018

1. Name of Order

This Order is the *Workers Compensation (Medical Practitioner Fees) Order 2018*

2. Commencement

This Order commences on 1 January 2018.

3. Definitions

In this Order:

the Act means the *Workers Compensation Act 1987*.

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

AMA List means the document entitled *List of Medical Services and Fees* issued by the Australian Medical Association and dated 1 November 2017 and any subsequent amendments to this List published by the AMA in the period 1 November 2017 – 31 October 2018.

Assistant at Operation means a Medical Practitioner, but only where an assistant's fee is allowed for in the Commonwealth Medical Benefits Schedule, or where indicated in the Authority's Order. An assistant fee may only be applicable for surgical procedures EA010 to MY115.

In accordance with NSW Health policy (**Doc No:** PD2016_059), assistant fees cannot be charged for the Authority's workers compensation cases performed in a public hospital when the assistant is a Registrar. If the Registrar is on rotation to an approved private hospital, the relevant assistant fee may be charged. Payment of these fees is to be directed into a hospital or departmental trust fund account and the invoice should include details of this account. The Authority reserves the right to conduct an audit of assistant fee payments to ensure their proper distribution into the named trust fund.

Case conference means a face-to-face meeting, video conference or teleconference with any or all of the following parties – worker, employer, workplace rehabilitation provider, insurer or other treatment practitioner/s delivering services to the worker. Discussion must seek to clarify the worker's capacity for work, barriers to return to work and strategies to overcome these barriers via an open forum to ensure parties are aligned with respect to expectations and direction of the worker's recovery at work or return to suitable employment. If the discussion is with the worker, it must involve a third party to be considered a Case conference. Discussions between the worker's nominated treating doctor and other treating practitioners (e.g. allied health practitioners, medical specialists/surgeons) relating to treatment are considered a normal interaction between referring doctor and practitioner. This is not to be charged as a Case conference.

File notes of Case conferences are to be documented in the Medical Practitioner's records indicating the person/s spoken to, details of discussions, duration of the discussion and outcomes. This information may be required for invoicing purposes.

Consulting Surgeon means a Medical Practitioner who is recognised by the Medical Board of Australia or by Medicare Australia as a Specialist Surgeon or Specialist in orthopaedic surgery and who is registered with the Australian Health Practitioner Regulation Authority as a Specialist in surgery in their chosen field. It also includes a Surgeon or Orthopaedic Surgeon who is a staff member at a public hospital providing services at that public hospital. The medical practitioner must not be suspended or disqualified from practice under any relevant law and the medical practitioner's registration must not be limited or subject to any condition imposed as a result of a disciplinary process.

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)*.

Insurer means the employer's workers compensation insurer.

Medical Practitioner means a person registered in the medical profession under the *Health Practitioner Regulation National Law (NSW)* No.86a, or equivalent Health Practitioner Regulation National Law in their jurisdiction with the Australian Health Practitioner Regulation Agency. The medical practitioner must not be suspended or disqualified from practice under any relevant law and the medical practitioner's registration must not be limited or subject to any condition imposed as a result of a disciplinary process.

Medical Specialist means a Medical Practitioner recognised as a specialist in accordance with the *Health Insurance Regulations 1975 (Cth), Schedule 4, Part 1*, who is remunerated at specialist rates under Medicare. The medical practitioner must not be suspended or disqualified from practice under any relevant law and the medical practitioner's registration must not be limited or subject to any condition imposed as a result of a disciplinary process.

Out-of-hours services only apply in an emergency where the clinic is not normally open at that time, and urgent treatment is provided. This fee is not to be utilised in the situation where a consultation is conducted within the advertised hours of a clinic.

4. Application of Order

This Order applies to treatment 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 Medical Practitioners

- (1) This clause applies to medical and related treatment provided by a Medical Practitioner in respect of which a fee is specified in the AMA List, except:
 - Medical services identified in the AMA List by AMA numbers AC500, AC510, AC520, AC530, AC600 and AC610 (Professional Attendances by a Specialist), if these medical services are provided by a Specialist Surgeon;
 - Medical services identified in the AMA List by AMA Numbers EA010 to MZ705 (Surgical Operations) if these medical services are provided by a Specialist Surgeon;
 - Medical services identified in the AMA List by AMA Number MZ900 (Assistant at Operation fee);
 - Medical services identified in the AMA List by AMA numbers OP200, OP210 and OP220 (magnetic resonance imaging – MRI).
- (2) The maximum amount payable for magnetic resonance imaging (MRI) is:
 - \$700 for one region of the body or two contiguous regions of the body
 - \$1050 for three or more contiguous regions of the body, or two or more entirely **separate** regions of the body (e.g. wrist and ankle).
- (3) The maximum amount payable for a certificate of capacity is \$46.30. This fee is payable only once per claim for completion of the initial certificate of capacity.
- (4) The following maximum hourly rate payable to a General Practitioner, Medical Specialist and Consulting Surgeon must be billed under payment classification code WCO002 and reflect the time taken (to the nearest 5 minutes) to deliver the service:
 - General Practitioner: \$283.20 or \$23.60 per 5 minutes
 - Medical Specialist: \$393.60 or \$32.80 per 5 minutes

- Consulting Surgeon: \$520.80 or \$43.40 per 5 minutes.
- These fees are to remunerate for any time spent by the Medical Practitioner/Medical Specialist/Consulting Surgeon, in addition to the usual medical management, to assist the worker to recover at or return to work. These rates may cover, for example, discussions with employers, Case conferences, visits to work sites, time spent reviewing injury management or return to work plans and providing additional reports requested from treating doctors (where pre-approved by the insurer).
- Additional reports requested, that do not relate to the routine management of a worker's injury and are not required as part of a dispute or potential dispute should also be billed under WCO002 at the above hourly rate. The hourly rate is to be pro-rated into 5 minute blocks to reflect the time taken to prepare the report.

These reports may answer questions to assist the insurer to determine prognosis for recovery and timeframes for return to work. If the report is requested as part of a current or potential dispute (for example, when there is lack of agreement regarding liability, causation, capacity for work or treatment between key parties) and the treating Medical Practitioner is requested to provide their opinion, the *Workplace Injury Management and Workers Compensation (Medical Examination and Reports Fees) Order 2018* applies.

- No fee is payable for liaison with other health providers involved in the treatment of the worker (e.g. Medical Specialists, allied health practitioners) unless the communication is additional to that required for the management of patients with comparable injuries/conditions that are not work related.
- (5) The maximum fee for providing hard copies of medical records (including Medical Specialists' notes and reports) is \$38 (for 33 pages or less) and an additional \$1.40 per page if more than 33 pages. If the medical records are provided electronically, then this would incur a flat fee of \$38. This is to be billed under State Insurance Regulatory Authority payment classification code WCO005.
- Where a medical practitioner has been requested to provide clinical notes and the doctor needs to review the records prior to provision (for example to redact non work related injury information), the time taken to review the records is to be billed under WCO002. The hourly rate is to be pro-rated into 5 minute blocks to reflect the time taken.
- (6) Subject to subclauses (1), (2), (3), (4), (5), (7) and clause 7 (Nil fee for certain medical services), the maximum amount for which an employer is liable under the Act for any claim for medical or related treatment is the fee listed, in respect of the medical or related treatment concerned, in the AMA List.
- (7) Video consultations are permissible when approved in advance by the insurer. Insurers will consider if the video consultation is appropriate and likely to be effective when making a decision whether to approve these services. Video consultation treatment services are to be paid in accordance with the consultation items in this Order.

6. Specialist consultations

The initial Medical Specialist/Consulting Surgeon consultation fee includes the first consultation, the report to the referring General Practitioner and the copy of the report to the insurer.

The report will contain:

- The worker's diagnosis and present condition;

- An outline of the mechanism of injury;
- The worker's capacity for work;
- The need for treatment or additional rehabilitation; and
- Medical co-morbidities that are likely to impact on the management of the worker's condition (subject to relevant privacy considerations).

Consultations with Medical Specialists/Consultant Surgeons require prior approval by the insurer, unless exempt from pre-approval by the Act or the Authority's *Guidelines for Claiming Workers Compensation* in effect at the time.

Any reports from subsequent consultations should be sent to the referring General Practitioner and copied to the insurer. Copies of these reports do not attract a fee.

7. Nil fee for certain medical services

The AMA List includes items that are not relevant to medical services provided to workers. As such, the fee set for the following items is nil:

- General Practitioner - Urgent attendances after hours item (Medical services identified in the AMA List by AMA number AA007)
- All time based General Practitioner fees items (Medical services identified in the AMA List by AMA numbers AA190 – AA320)
- Enhanced primary care items (Medical services identified in the AMA List by AMA numbers AA501 – AA850)
- All shared health summary items (Medical services identified in the AMA List by AMA numbers AA340 – AA343)
- Telehealth items (Medical services identified in the AMA List by AMA numbers AA170 – AA210 and AP050 – AP105).

Note: Telephone consultations with workers are discouraged and do not attract a fee.

8. Nil payment for cancellation or non-attendance

No fee is payable for cancellation or non-attendance by a worker for treatment services with a Medical Practitioner/Medical Specialist/Consultant Surgeon.

9. No pre-payment of fees

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

10. Goods and Services Tax

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 a Medical Practitioner/Medical Specialist/Consultant Surgeon to charge or recover more than the amount of GST payable in respect of the service to which the cost relates.

11. Requirements for invoices

All invoices must be submitted within 30 calendar days of the service provided and must comply with the Authority's itemised invoicing requirements (see <http://www.sira.nsw.gov.au/workers-compensation/health-practitioners-workers-compensation/invoicing> for the invoice to be processed.