

Guidance Note

Threshold Injury



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This guidance note relates to the *Motor Accident Injuries Act 2017* (the Act) and the Motor Accident Guidelines made under that Act published by the State Insurance Regulatory Authority (SIRA). It provides general information and guidance on threshold injury for insurers. This information is guidance only and cannot be used for legal advice.

Threshold injury

A 'threshold injury' is a legislative term (s 1.6 of the Act) which includes a soft tissue injury and/or a threshold psychological or psychiatric injury. Most people who are assessed as having a threshold injury will return to their pre-accident life and activities within 52 weeks after the motor accident. The definition is set out in [s 1.6](#) of the Act and cl 4 of the Motor Accident Injuries Regulation 2017 and further information about the assessment of threshold injuries is set out in [Part 5](#) of the [Motor Accident Guidelines](#).

Making a threshold injury decision

Based on all the clinical evidence available, an insurer must make a 'threshold injury decision' to determine a person's entitlement to statutory benefits.

The insurer must make this liability decision within nine months after the date the claim is made on the insurer. The insurer must consider its decision if new evidence is subsequently received. Should the threshold injury assessment change, a new decision must be re-issued in writing.

A threshold injury decision is important

Statutory benefits claim

If a person is assessed as having a threshold injury, their entitlements for statutory benefits (weekly compensation and/or treatment and care) will cease 52 weeks after the accident.

Damages claim

If a person's only injury is a threshold injury, the person is not entitled to damages.

Making a threshold injury decision

An insurer must undertake an evidence-based approach to assess and decide whether the insurer is of the view that the only injury suffered by a person is a threshold injury by considering all relevant evidence including:

- Available medical evidence and whether any additional medical evidence is required;
- The treating health practitioner's diagnosis and description of injury;
- The treating health practitioner's clinical assessment findings;
- Any reports or records of radiculopathy (see cl 5.8 of the Motor Accident Guidelines);
- An assessment of the psychological/psychiatric diagnosis against the DSM-5 (except for acute stress disorder and adjustment disorder); and
- other relevant evidence (including pre-accident history).

Decision outcome

Insurers are encouraged to communicate the threshold injury decision via telephone in order to answer any immediate questions.

Insurers must inform a person in writing of the decision.

The letter to the person must be:

- in plain English,
- include copies of all relevant evidence,
- explain the reasons why the insurer has decided that the only injury suffered by the person is a threshold injury,
- explain what this decision means for the person in respect of the claim for statutory benefits and any future claim seeking damages,
- inform the person what the options are to seek a review of the insurer's decision and the relevant timeframes, and
- include SIRA CTP Assist contact details.

Disagreeing with a threshold injury decision made by the insurer

A person may seek internal review of an insurer's decision by making an application for internal review within 28 days of receiving the decision (Divisions 7.3 of the Act and Part 7 of the Motor Accident Guidelines).

If a person does not agree with the outcome of the insurer's internal review, they may be able to have the decision reviewed by the Personal Injury Commission. Disagreement about a threshold injury (previously referred to as a 'minor injury', until 1 April 2023) decision is usually considered a medical dispute, which will be referred for assessment by a medical assessor at the Personal Injury Commission. Applications for a review by the Personal Injury Commission should be lodged as soon as practicable after receiving the insurer's internal review decision.

Information on how a claimant may apply to the Personal Injury Commission to dispute the insurer's decision must be included by the insurer with the internal review decision.

Contact may also be made with CTP Assist on 1300 656 919 for assistance in relation to any aspect of a claim.

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