



Submissions summary

Regulation of new return to work assistance

December 2015

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Introduction

In November 2015, the State Insurance Regulatory Authority (SIRA) called for stakeholder comment in response to its discussion paper titled *New Return to Work Assistance*.

Eighteen submissions, including one confidential submission, were received during the public consultation period. This paper provides a high-level summary of the key themes articulated in those submissions. All non-confidential submissions are now also available for review on our website.

New employment assistance

Classes of work assistance

The submissions generally supported broad and flexible application of the new employment assistance where it is designed to target the individual needs of workers in taking up and maintaining suitable employment, and appropriate checks and balances are put in place.

Some submissions noted concerns about the cost burden to employers of a potentially broad application.

A common theme expressed in submissions was the need for clear definitions to ensure effective and efficient application, operation and administration of the benefit.

Circumstances when return to work assistance might be claimed

Submissions generally noted that assistance needs to be flexible and targeted toward individual worker needs relative to realistic employment opportunities. Some submissions noted that volunteer work and/or self-employment should be excluded, while others indicated that volunteer and self-employment should be deemed suitable in some circumstances.

A number of submissions noted that the mandated general costs of employment, for example protective equipment or uniforms, should continue to be borne by new employers, with one submission noting that there could be sufficient flexibility for this to be considered where a job is specifically developed for an injured worker. Other submissions suggested specific exclusions.

Various options for assessing claims were proposed in the submissions, with mixed views on whether pre-approval should be required. One submission noted that the principles applied to payments for the existing vocational re-education and rehabilitation programs (administered under section 53 of the *Workplace Injury Management and Workers Compensation Act* (the 1998 Act)), should similarly be applied to this new benefit.

The submissions did not provide a clear preference on what time limit should be applied to claims, with responses ranging from three months to no time limit. However, there was a general consensus that any timeframes must be clear and consistently applied.

Education and training assistance

Classes of education and training

There was a wide range of views expressed regarding possible limits on the types of education and training that should be provided for under this benefit. Some submissions proposed that a broad range of education and training be available, while others indicated that a more restrictive range of education and training, such as only ASQA compliant vocational education and training, would be appropriate.

While some could see benefit in leisure and wellbeing options, others felt these should be excluded. The submissions generally expressed a desire for education and training to be assessed as appropriate, beneficial and directly related to increasing chances of employment.

Submissions also raised the issue of payments made under section 53 of the 1998 Act and noted that assistance offered should be genuinely complementary with existing vocational rehabilitation programs, and not an opportunity for 'double dipping'.

There was general agreement that training be provided by Registered Training Organisations and accredited vocational education and training providers. Some submissions also included higher education and specialist disability employment training providers. One submission suggested using the NSW Department of Industry, State Training Services' Vocational Education and Training accreditation system.

Other circumstances

There was general comment that assistance should be paid where there is a demonstrated and evidence-based need for training, assessed by an appropriately qualified person as having a reasonable likelihood of success and where previous return to work measures have been unsuccessful. It was further suggested that this should form part of an overall return to work plan, and that there be a greater focus on education about the benefits of return to work.

Interaction with vocational rehabilitation programs

Submissions noted that the design of the new programs must be complementary to the existing vocational rehabilitation programs, and that a worker's training and re-training history should be considered.

It was noted that administration should be streamlined and be similar to existing vocational rehabilitation programs to reduce confusion and administrative burden, particularly if new and existing programs run concurrently. One submission suggested that *Transition to Work Guidelines* should be re-drafted concurrently with new guidance material to ensure consistency across new and existing programs for case managers.

Operational and administrative considerations

The submissions raised issues concerning the provision of clear guidance on eligibility, assessment and quality assurance, as well as the importance of clear processes and communication, timely decision making, and measures to minimise claim and compensation disputes.

Innovation

It was noted that workers' abilities should be accurately and appropriately taken into account within the programs, with clear advice as to how to manage return to work opportunities and a clear appeals system for managing disagreements and disputes.

A number of submissions requested an evaluation of the effectiveness of existing and proposed vocational programs be undertaken, that information regarding effective return to work outcomes be shared, and that use and performance of new and existing programs be monitored, evaluated and reported upon publicly by SIRA.

It was also suggested that concurrent education programs be developed covering such areas as the health benefits of good work/return to work, suitable duties and disability awareness. It was noted that training should cater for all participants in the system, including GPs, psychologists and agents/claims managers.

It is noted that some submissions included innovative suggestions about the scheme that were beyond the scope of the new return to work benefits.

Next steps

The information provided through this public consultation will be used to develop detailed regulatory options for consideration by government, with the view to finalise and implement a new regulation by no later than June 2016.

SIRA will continue to consult and engage with stakeholders throughout the development and implementation phases.

Any questions or enquiries in relation to this *Submissions summary* or the proposed regulation of new return to work assistance should be emailed to 2015benefitsreform@sira.nsw.gov.au.

