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Motor Accidents Insurance Regulation
NSW State Insurance Regulatory Authority

Submitted via SIRA submission portal

Proposed advice for CTP insurers and health professionals on the role and expectations for health professionals who are supporting insurer decisions about earning capacity

Insurance Australia Group (IAG) thank you for the opportunity to provide feedback on the *proposed advice for CTP insurers and health professionals on the role and expectations for health professionals who are supporting insurer decisions about earning capacity*. IAG supports the development of guidance material for CTP insurers and health professionals on earning capacity decisions (ECDs) and recognises that these decisions are an important component of the Motor Accident Injuries Act (2017) scheme.

In reviewing the proposed guidance material, we make three recommendations which we believe will enhance the clarity and useability of the document. These are listed in dot points below. We have also identified one concern with regards to impact that this guidance may have on the rehabilitation health provider market. This is described in the final paragraph of our submission.

Recommendations

1. The guidance material needs to provide clarity that there are three different types of ECDs that an insurer may be required to make. These three include:
 - Pre-accident earning capacity (often required for graduating students or apprentices);
 - Post-accident earning capacity up to 78 weeks post-accident;
 - Post-accident earning capacity 78 weeks or more after the motor accident.

For pre-accident earning capacity decisions and post-accident decisions after 78 weeks insurers and health professionals are required to consider earning capacity as related to reasonably available employment. Consideration of reasonably available employment is not a requirement for post-accident earning capacity decisions up to 78 weeks post-accident. Calling out the different considerations will assist in insurers and health professionals understanding the different needs surrounding each type of ECD.

2. In the section *Information that an insurer may use to determine earning capacity* there are only 4 criteria indicated for *Employment reasonably available*. The Motor Accident Guidelines (MAGs, Version 4, January 2019) list 8 criteria. IAG believes that all the criteria from the MAGs should be listed in this proposed guidance for thoroughness and to reduce the need to health professionals to have to click through to further documents when trying to understand/assess and support insurers to decide whether employment is reasonably available.
3. Recent Allied Health Recovery Request/s (AHRR) should be listed as one of the *Sources of Evidence* considered when making an ECD.

Impact on the Provider Market

The proposed recommendations around a health professional's experience, ensuring they have demonstrated success in placing people in sustainable employment with injuries or disabilities, similar to the person being assessed, provides a proactive approach to optimising an injured person's return to work post-accident. This approach however may lead to a narrowing of the provider market particularly in the initial stages, possibly leading to adverse outcomes for the first cohort of claims that have ECDs made on them. IAG believes that SIRA should engage with rehabilitation providers to assess possible strategies to mitigate the risk of reduced competition in the market. Areas where this may be particularly apparent include rural and regional locations or areas of specialty e.g. demonstrated success in placing people with PTSD in sustainable employment.

IAG welcomes the opportunity to discuss any issues raised in this submission further. Please contact [REDACTED], Road Safety & Regulatory Policy on [REDACTED]

Sincerely,

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IAG

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