












Submission to the State Insurance Regulatory Authority (SIRA)

Compliance and Performance Review of the NSW Workers Compensation Nominal Insurer

Coal Services

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1. Introduction

This paper is provided to the State Insurance Regulatory Authority (SIRA) in response to the release for public comment regarding the Compliance and Performance Review of the Workers Compensation Nominal Insurer. This paper seeks to provide relevant background of the Coal Services Specialised Health and Safety Scheme (inclusive of Coal Mines Insurance) and the various issues affecting that Scheme that have occurred or are emerging largely as a result of changes in the NSW General Scheme managed by iCare/the Nominal Insurer (General Scheme), or in some cases, SIRA or other related parties.

Coal Mines Insurance has been a specialised insurer for the NSW coal industry since 1922 and continues to play a significant part in our coal industry Specialised Health and Safety Scheme, delivering best in class service and outcomes to the workers and employers in this industry. Changes in recent years to the General Scheme have significantly contributed to financial headwinds and other challenges for this Scheme. It is our opinion that we have not been adequately consulted, or even in some cases, consulted at all, on these changes and that the implications of these changes had not been appropriately contemplated before their implementation.

Although these matters have been previously raised with SIRA through various meetings, forums and correspondence, we welcome this further opportunity to outline our issues and concerns to move forward to rectify these potentially unintended consequences that are affecting our Scheme and potentially other schemes that operate in the NSW workers compensation system.

The key issues raised in this paper are:

- Removal of anti-touting provisions for legal providers
- Changes to Industrial Deafness and worker legal and hearing provider behaviours
- Increasing medical costs

Coal Services is a staunch advocate for any improvements in health and safety, including the provision of a fair and sustainable workers compensation system in New South Wales and supports any such improvements that will help to ensure that a worker is protected throughout their working life and beyond.

2. Brief history of Coal Services

On 1 January 2002 the *Coal Industry Act 2001* was enacted, creating Coal Services Pty Limited and its subsidiary entities (Coal Services) to undertake the functions formerly performed by the Joint Coal Board (JCB) and the NSW Mines Rescue Board.

The new organisational arrangements were necessary following a decision of the Commonwealth Government to repeal the Commonwealth's *Coal Industry Act 1946* and withdraw from its involvement with the JCB. In recognition of the importance of the functions that had been carried out by the JCB and the significant improvements to health and safety that it had helped deliver to the NSW coal industry, the NSW Government decided to create an independent, industry owned organisation that provided essential health, safety and other services specific to that industry.

Coal Services is owned jointly by two shareholders – the NSW Minerals Council and the CFMMEU. Shareholders do not receive any dividends.

Coal Services has statutory functions, as directed by the NSW *Coal Industry Act 2001*. These functions include, but are not limited to, the provision of workers compensation, occupational health and rehabilitation services, the collection of statistics and the provision of mines rescue emergency services and training to the NSW coal industry.

2.1. Coal Mines Insurance (1922)

Coal Mines Insurance (then known as Mine Owners Insurance Ltd) was established in December 1921 to provide specialist workers compensation insurance to the NSW coal industry. In 1946 the then Government and Board made two improvements; one, to create a specialised insurer that was the sole insurer to the NSW coal industry for workers compensation, so that the industry risk could be fairly shared across the industry, and two, to create Health Bureaus and implement dust monitoring through the establishment of the JCB.

More recently (1 July 2018), the legislation was amended to take into account changing employment relationships, especially labour hire and contractors in the industry, and to go back to the original intent of the Scheme, which was to look after all coal mining industry workers.

2.2. The Joint Coal Board (JCB) (1947)

In 1946, dust-related lung disease was prevalent in the NSW coal mining workforce. The 1939 Royal Commission into Health and Safety recommended a minimum dust concentration standard. Once the JCB began operating, it started to address the dust problem through medical surveillance, promoting dust control and managing the associated compensation problem. The JCB established medical bureaus in each major NSW coal region and began medical examinations to identify and remove 'dusted' workers and protect those at risk.

The creation of the JCB in 1947 provided greater institutional and government commitment to enforcing compliance with this dust standard and the Board began to manage dust suppression techniques and practices that had been mandated by amendments to the *Coal Mines Regulation Act*. To maintain this focus and provide independent oversight, **The Standing Committee on Dust Research and Control (SDC)** was formed in 1954. This Committee remains in place today and has more recently been acknowledged in the findings

from the various Queensland Inquiries into dust disease, as a key and unique driver of the world-class performance of the NSW coal industry in terms of dust prevention standards and the resultant low level of reported coal workers pneumoconiosis and silicosis cases in recent times.

2.3. Mines Rescue (1926)

On 1 September 1923, 21 miners died in the Bellbird coal mine disaster. This followed several mining disasters between 1887 and 1921 which killed a total of 293 people in NSW. A coronial inquest and Royal Commission extensively debated the value of breathing apparatus and the establishment of a mines rescue service.

The *Mines Rescue Act 1925* governed the establishment of rescue stations and brigadesmen teams, and instigated equipment and maintenance standards. This remains the foundation for governing mines rescue operations in NSW to this day.

3. The New South Wales Experience

3.1. A Collaborative Model

As outlined in the introduction, in NSW the Coal Industry enjoys a Specialised Health and Safety Scheme, operated through Coal Services, Coal Mines Insurance and Mines Rescue (Coal Services). Workers compensation is only one component of this comprehensive scheme and cannot be reviewed in isolation without looking at the full model in place specifically designed to protect workers. We call this our “collaborative model” which includes all key stakeholders in the industry and is underpinned by strong legislation, regulation and compliance. This model has been a key factor in delivering a robust system of worker protection to the NSW coal industry and as previously mentioned has also been recognised in recent Government Inquiries as a unique and independent model that delivers superior outcomes in terms of worker and industry health and safety.

The key stakeholders in this model are:

- Workers,
- Employers and operators,
- The Resources Regulator,
- The CFMMEU Industry and Site Safety and Health Representatives, and
- Coal Services

The model allows all stakeholders to work in a collaborative way to provide four key deliverables:

Prevention

Detection

Enforcement

Education

Primary amongst these deliverables is prevention. Whilst the model is also geared towards early detection, and as a consequence risk mitigation and treatment; it is prevention that has the greatest emphasis.

3.2. Statutory Requirements

The *Coal Industry Act 2001* (the Act) outlines the various statutory obligations that are required to be performed by Coal Services through its various entities. Section 10 of the Act provides further details of those requirements and are reflected in the three companies' Notices of Approval.

10 General functions

(1) An approved company must exercise such of the following functions as are specified in its notice of approval:

(a) providing work health and rehabilitation services for workers engaged in the coal industry, including providing preventive medical services, monitoring workers' health and investigating related health matters,

(b) collecting, collating and disseminating accident and other statistics relating to the health and safety of workers engaged in the coal industry,

(c) collecting, collating and disseminating other statistics related to the coal industry,

(d) referring matters relating to the safety of workers engaged in the coal industry, as it thinks fit, to the regulator within the meaning of the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* for consideration,

(e) reporting to the Minister as it thinks fit, or when requested by the Minister, on matters related to the health or welfare of workers engaged in the coal industry, or on any other matter arising out of its functions,

(f) publishing reports and information of public interest concerning or arising out of its functions,

(g) promoting the welfare of workers and former workers in the coal industry in the State, their dependants and communities in coal mining areas,

(h) monitoring, promoting and specifying adequate training standards relating to health and safety for workers engaged in the coal industry,

(i) approving training schemes required for a safety management system under the *Work Health and Safety (Mines and Petroleum Sites) Act 2013*,

(j) monitoring dust in coal mines,

(k) providing mines rescue and other services in accordance with Division 3 of this Part and Part 4,

(l) establishing or administering (or establishing and administering), or providing administrative services in respect of, superannuation schemes for the benefit of either or both of the following:

(i) mine workers (within the meaning of the *Coal and Oil Shale Mine Workers (Superannuation) Act 1941*), former mine workers and their dependants,

(ii) employees of the approved company, former employees and their dependants,

(m) establishing or administering (or establishing and administering), or providing, workers compensation insurance schemes in relation to workers engaged in the coal industry.

4. Scheme Funding Model

The funding model that allows the Statutory obligations and services as outlined in Section 10 of the Act to be carried out, is predominantly made up of premium charged to coal industry employers covered by the workers compensation scheme, investment returns on insurance assets, and a levy charged to operators to specifically cover mines rescue emergency preparedness and response requirements.

4.1. Collected through workers compensation premium

Workers compensation premium is calculated and charged to employers to cover:

Workers compensation obligations

Including payment of workers compensation claims, all claim handling expenses, other direct costs such as reinsurance, actuarial, audit and District Court: Residual Jurisdiction costs, as well as to ensure a viable and sustainable workers compensation scheme with adequate capital.

This scheme also indemnifies certain Industrial Instrument Provisions such as Accident Pay. This is by way of agreement with policyholders.

Statutory Orders

Several statutory orders are required to be carried out by Coal Services. These include:

- Order 34: Training and Competence Management Systems
- Order 40: Abatement of Dust on Longwalls
- Order 42: Airborne Dust Monitoring
- Order 43 (previously Order 41): Industry Health Surveillance
  - Including pre-employment and periodic medicals and x-rays

Other statutory and welfare requirements

Statistics

Coal Services has a statutory obligation to collect and collate statistical data related to the NSW coal industry. As such Coal Services holds a unique data series detailing essential aspects of the NSW coal industry including coal production by method of mining and regional source, domestic coal sales by user group and exports by country of destination, end use coal type and value, plus information on the industry's workforce and productivity.

These statistics are regularly utilised by federal, state and local governments, coal industry groups and consultants, research groups, equipment manufacturers and media.

Miners Pension Fund

Providing ongoing funding to the Miners Pension Fund which was taken over by Coal Services on the dissolution of the JCB in 2001.

Welfare and Community Fund

The Welfare Fund provides contributions to the Funeral Fund to assist families with funeral costs when retired mine workers pass away. This fund also helps to support activities for retired mineworkers in their communities.

Health & Safety Trust

Established in 1991 the Coal Services Health and Safety Trust supports the Australian coal mining industry by funding projects and research that will have a positive effect on the health and safety of coal mine workers, operators and the wider mining community.

4.2. Collected through the Mines Rescue Levy

The Mines Rescue emergency preparedness and response requirements under the Act are specifically funded by the Mines Rescue Levy. This Levy funds the five Mines Rescue Stations and necessary emergency equipment located in the coal mining areas of NSW and ensures that there are around 500 response-ready trained brigadesmen that can be called from the State's coal mining operations to act as rescue volunteers in the case of a major mine emergency.

5. Coal Mines Insurance – A Specialised Insurer (CMI)

Coal Mines Insurance (CMI) is a specialised workers compensation insurer looking after the NSW coal mining industry since 1922. (Formerly known as Mine Owners Insurance).

In 1948, the then JCB purchased Mine Owners Insurance and changed the Scheme to better reflect the risk in the industry and compelled all employers in the coal mining industry in NSW to insure through CMI, thus providing consistent coverage and protection to all workers in the industry. A key catalyst for this change was the prevalence of pneumoconiosis with some employers of the day paying upwards of 40% in workers compensation premium rates. The full coverage of the industry allowed for a fairer spread of risk to all employers in the industry.

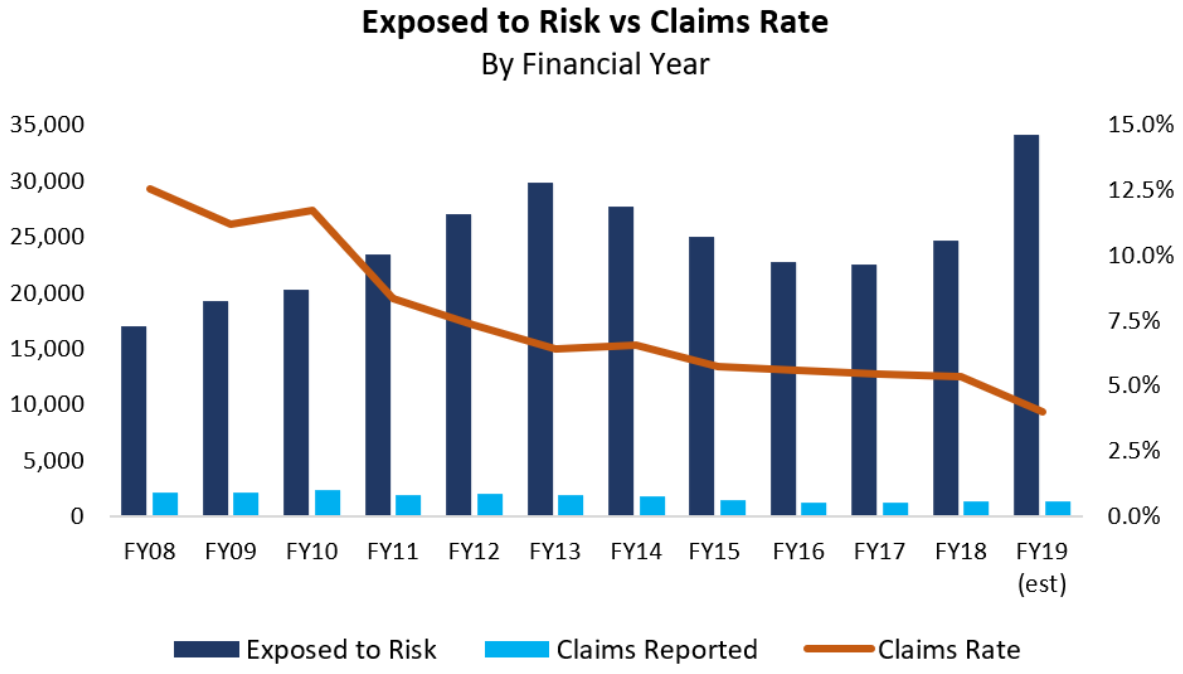
5.1. The performance of the CMI Scheme

The unique collaborative specialised health and safety model that supports the NSW coal industry, together with changes in mining methods and work, health and safety requirements, has seen injury rates in the NSW coal mining industry significantly reduce as well as similar reductions in workers compensation premium rates.

5.1.1. Reported Injuries, illness and disease

As the sole provider of workers compensation insurance to the NSW coal industry, the CMI Scheme receives all workers compensation claims resulting from an injury or illness to any worker in the industry and represents a comprehensive data set of injuries and illnesses experienced by workers in the industry, including late onset disease.

The graph below shows that the injury frequency rate (all claims reported) over the last ten years has reduced to 4.3% from 12.5% in 2007-08. When Coal Services was first incorporated in 2001 the injury rate was 25%, that is an 83% decrease since that time.

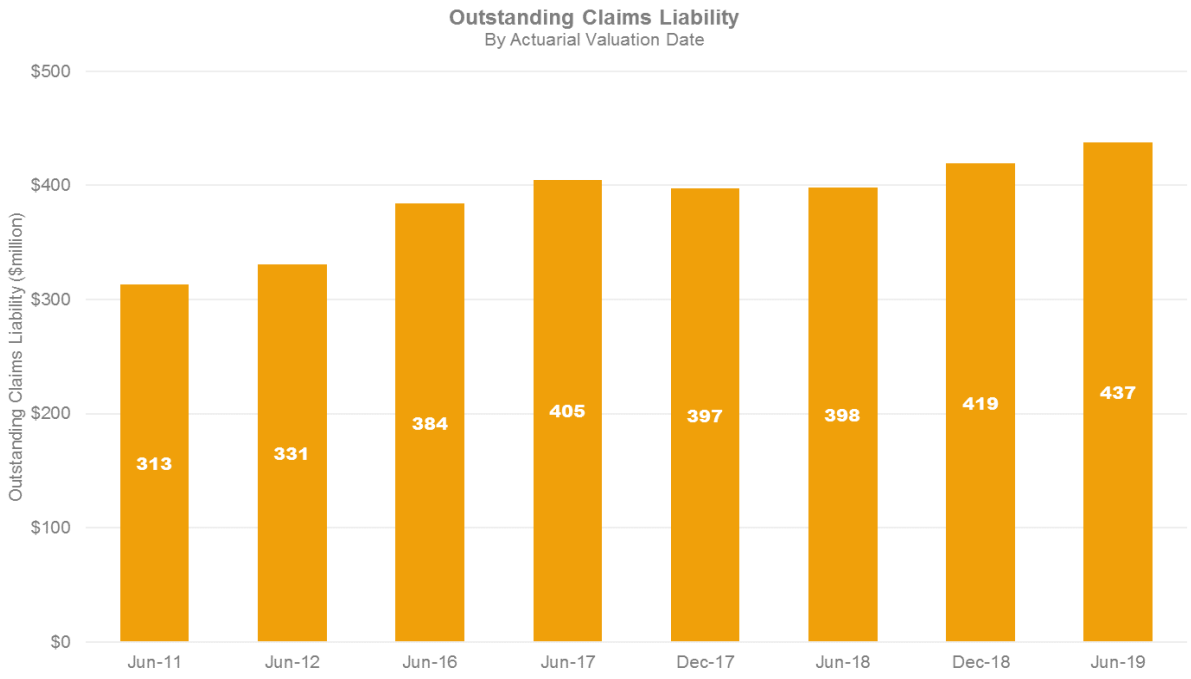


This provides some evidence that the NSW coal mining industry continues to provide its workers with one of the safest mining environments in the world, in what is deemed to be a hazardous industry, and continues to make improvements at every opportunity.

The result as noted above is one of the lowest injury frequency rates in the world for this type of industry.

5.1.2. Outstanding Claims Liability

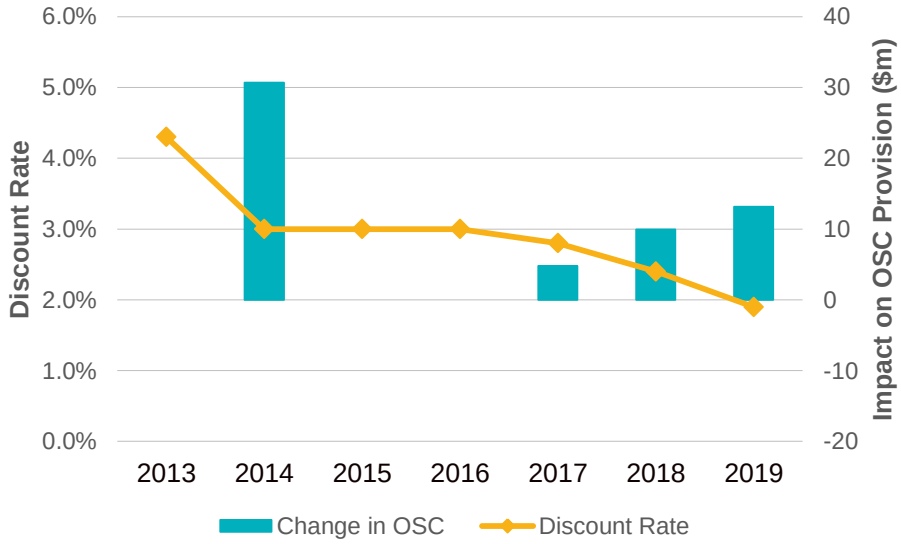
Although injury frequency rates are reducing, the Outstanding Claims Liability(OCL) of the CMI Scheme has been increasing. In more recent years we have experienced significant increases in claims costs as well as the impact of discount rates and increasing exposed to risk workers as the industry grows. Although some of the impacts to the yield curve have been offset by improved investment returns, and the increase in exposed to risk offset by increased premium revenue, the increase in the liability is significant and puts pressure on the level of capital adequacy able to be achieved without increasing premium rates substantially.



5.1.3. Effects of economic factors

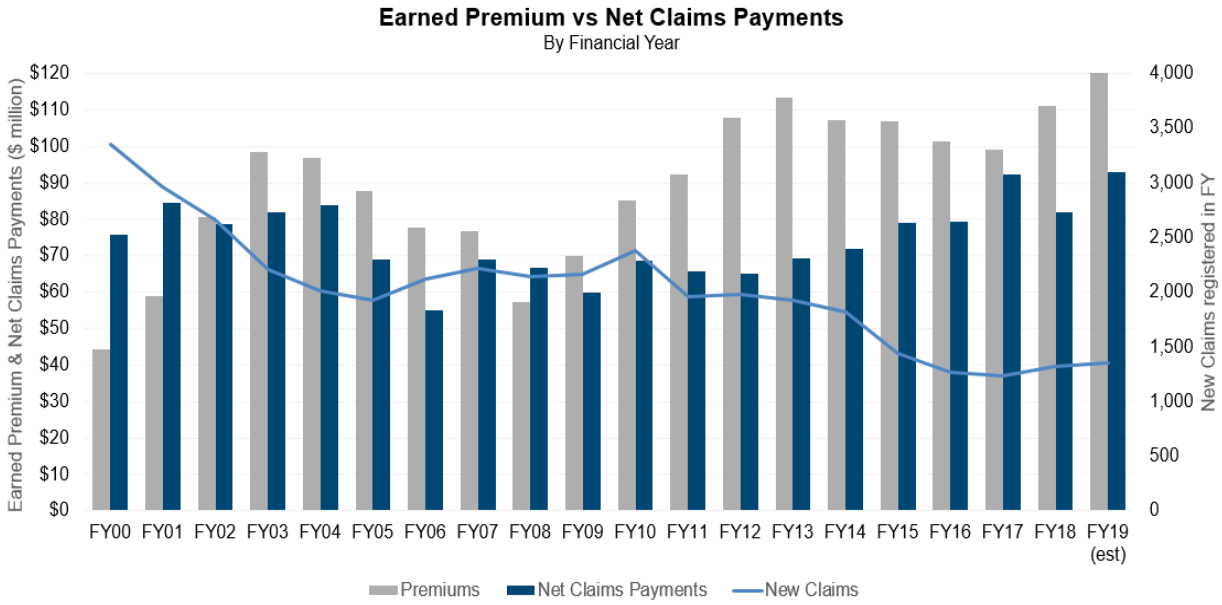
The graph below shows the effect of the changes in discount rates on the yield curve in more recent years.

The discount rate has reduced over the last six years from 4.3% p.a. to 1.9% p.a. (as at 31 March 2019). This has increased the OCL by around $58m in that time. More recent data is showing that the discount rates have moved further in the last few months which will further increase the projected 30 June 2019 OCL.



5.1.4. Rising claims costs since 2012

The Scheme has seen a steady increase in claims payments since 2012, with some increases being driven by the increasing number of workers in more recent years, but predominantly the increases have been driven by provider behaviours, medical costs, legal provider involvement and associated costs, and industrial deafness costs.



6. Issues affecting the CMI Scheme

As highlighted in the previous section, the CMI Scheme has experienced increasing claims costs in recent years and also increasing outstanding claims liability, with increasing claims costs being a substantial contributing factor. We are of the opinion, that a large proportion of these increasing claims costs is being driven by changes to the General Scheme as part of the 2012 and 2015 legislative reforms, the new iCare "low touch" claims model and resultant provider behaviours, amongst other changes.

These issues can be summarised as:

- Removal of anti-touting provisions for legal providers
- Industrial Deafness
  - Changes to impairment thresholds and access to hearing aids
  - Changes to worker legal and hearing aid provider behaviour
- Medical costs increasing due to increases in gazetted rates and medical provider behaviour

Each of these changes and the resultant effects are dealt with below.

6.1. Removal of anti-touting provisions

In early 2017 Coal Services raised an issue with SIRA regarding the removal in 2015 of the anti-touting provisions for legal providers from the Workers Compensation Regulation. This matter was raised as the CMI Scheme had been experiencing an increase in worker legal provider involvement in industrial deafness claims, including more aggressive tactics and direct campaigns to workers, both injured and uninjured. When investigated we found that these provisions had been removed.

At a SIRA Stakeholder meeting later in 2017 it was further noted that it appeared no consultation had been undertaken nor had the potential implications of this change been modelled. There also appeared to have been no communication to insurers that this change had been made. An email advice was received in June 2017 providing further information as to why the prohibition on lawyers advertising was removed from the Workers Compensation Regulation 2010. This email advice is provided below:

From [redacted]

Sent: 9/06/2017 12:46 PM

To: Lucy Flemming

Cc: [redacted]

Subject: FW: [redacted] and other legal matters

Security Classification:UNCLASSIFIED

Dear Lucy,

Please see below some context of why the prohibition on lawyers advertising was removed from the Workers Compensation Regulation 2010. In brief it was because of the implementation of the Legal Profession Uniform Law, Regulation and Rules. All lawyers and law practices conduct and discipline is now managed through that package of legislation. The removal of the prohibition was not a policy decision of (the then) WorkCover or our Minister but arose because of legislation introduced by the Attorney General. In summary:

- Workers Compensation Regulation 2010 was amended by the Legal Profession Uniform Law Application Legislation Act 2015 No 7 (NSW), Schedule 2, Clause 2.45
- Workplace Injury Management and Workers Compensation Act 1998 was amended by the Legal Profession Uniform Law Application Legislation Act 2015 No 7 (NSW), Schedule 2, Clause 2.45
- The date of commencement for the amendments was the date of assent 9 June 2015.
- The Legal Profession Uniform Law Application Legislation Act 2015 No 7 (NSW) was "An Act to amend the Legal Profession Uniform Law Application Act 2014 and other legislation relating to the legal profession; to provide further for the application and supplementation of the Legal Profession Uniform Law in New South Wales; and for other purposes."
- The Legal Profession Uniform Law (the Uniform Law) established a scheme to regulate the legal profession in New South Wales and Victoria. The Legal Profession Uniform Law Application Act 2014 (the application Act) applied the text of the Uniform Law as a law of NSW, enacted complementary provisions for NSW and repealed the Legal Profession Act 2004 (the repealed Act). The formal and ancillary provisions of the application Act and the Uniform Law commenced on 1 July 2014. The remaining provisions of the application Act and the Uniform Law commenced from 9 June 2015.
- The object of Legal Profession Uniform Law Application Legislation Act 2015 No 7 (NSW) was to amend the application Act to enable the commencement of the Uniform Law scheme.
- The Legal Profession Uniform Law Application Legislation Act 2015 No 7 (NSW) also made amendments to other legislation consequent on the commencement of the Uniform Law scheme and the repeal of the repealed Act.
- Complaints, conduct and discipline of lawyers and law practices are legislated through the Legal Profession Uniform Law (NSW) No 16a, Legal Profession Uniform Regulations 2015 or one of the (numerous) Legal Profession Uniform Rules, as applicable.

Hope this is of assistance.

Kind regards

[redacted]

[redacted]

Workers & Home Building Compensation Regulation

State Insurance Regulatory Authority

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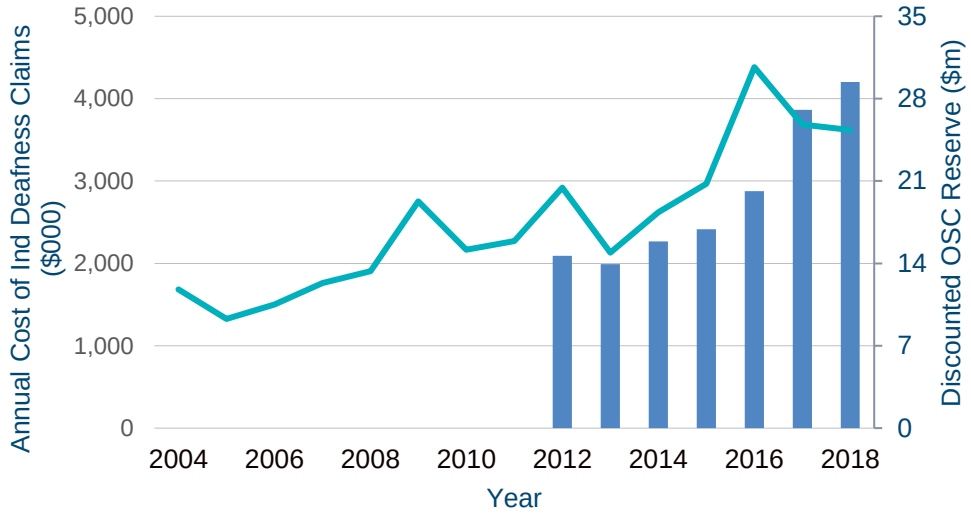
NSW GOVERNMENT State Insurance Regulatory Authority

As a result of the removal of these provisions, we have continued to see increased worker legal provider activity, targeted touting campaigns and associated increases in legal, specialist, investigation and other claims costs. Further detail around some of the targeted campaigns and legal provider behaviours is included in the Industrial Deafness section below.

6.2. Industrial Deafness

As a noisy industry, industrial deafness claims have always been a part of the landscape for the coal mining industry, despite being a 100% preventable disease and extensive education on appropriate hearing protection and ear-fit testing. However, even with increased education, general awareness and use of hearing protection, the CMI Scheme has experienced a significant increase in the claims costs and liability in relation to industrial deafness.

The graph below shows these increases, especially since 2012.



To try and understand the drivers of these increases we have performed considerable analysis in an attempt to arrest these increasing costs whilst still providing workers with necessary care and support.

As a result of this analysis we have concluded that these increased costs have largely resulted from worker legal and hearing aid provider behaviours consequent to the legislative reforms regarding industrial deafness in 2012 and 2015.

6.2.1. Industrial Deafness Workshop

These industrial deafness matters have been formally raised with SIRA since 2017, and, as a result of our concerns, together with other insurers, SIRA formed an Industrial Deafness Workshop, with its inaugural meeting on 8 February 2019. This workshop was attended by ourselves, SIRA, SafeWork NSW, iCare, WIRO and a selection of other specialised and self-insurers and discussed the following matters:

- Overview of industrial deafness claim data
- Impact of legislative changes, challenges for insurers and opportunities for improved outcomes
- Effect of changes to anti-touting provisions

The findings/outcomes of this workshop are summarised below:

6.2.1.1.Industrial Deafness Dataset

It was identified that the dataset provided by iCare was incomplete in so much as it did not include any worker legal or provider data that had been funded and paid through WIRO. Mr Kim Garling, the Independent Review Officer from WIRO was present on the day and confirmed that this was the case and that this data, although previously offered to iCare, was currently not shared with iCare and was also not available at claimant level.

The *State Insurance Regulatory Authority Annual Report 2017-18* provides further information regarding the funding of the Workers Compensation Independent Review Office (WIRO) and the Independent Legal Assistance and Review Service (ILARS) and their purpose. An extract from this report (page 70) is provided below for reference:

> Workers Compensation Independent Review Officer
>
> The Workers Compensation Independent Review Officer (WIRO) was established on 1 September 2012 pursuant to the *Workplace Injury Management and Workers Compensation Act 1998* and commenced operations on 1 October 2012. The functions of WIRO are:
>
> - To deal with complaints made to the Independent Review Officer under Division 2 of the *Workplace Injury Management and Workers Compensation Act 1998*.
> - To review work capacity decisions of insurers under Division 2 (Weekly compensation by way of income support) of Part 3 of the 1987 Act
> - To inquire into and report to the Minister on such matters arising in connection with the operation of the Workers Compensation Acts as the Independent Review Officer considers appropriate or as may be referred to the Independent Review Officer for inquiry and report by the Minister.
> - To encourage the establishment by insurers and employers of complaint resolution processes for complaints arising under the Workers Compensation Acts.
> - Such other functions as may be conferred on the Independent Review Officer by or under the Workers Compensation Acts or any other Act.
>
> The Authority is responsible for funding the remuneration of the Independent Review Officer and staff of the Independent Review Officer and costs incurred in connection with the exercise of the functions of the Independent Review Officer.
>
> Independent Legal Assistance and Review Service (ILARS)
>
> The Minister established the Independent Legal Assistance and Review Service (ILARS) to facilitate the provision of legal services at no cost to injured workers, in respect to their claims for compensation.
>
> ILARS considers the merits of any application for legal assistance in deciding to provide funding. If legal assistance is approved, ILARS will make a determination as to an appropriate level of funding that will be provided for the legal assistance.
>
> The legal service providers submit invoices for their costs and expenses at certain times during the course of a claim. The costs incurred by ILARS are recognised on an accrual basis.
>
> The Authority has delegated this function to WIRO to administer.

The financials contained in that same report (page 76) advise the funding costs for the 2018 and 2017 financial year:

Details of expenses incurred by the **Workers Compensation Independent Review Officer** are:

	2018	2017
	$'000	$'000
Personnel services		
Salaries and allowances (including annual leave)	3,733	4,011
Other	2,470	1,505
Total personnel service costs	6,203	5,516
Other operating expenses		
Operating lease and rental expenses	313	296
Consultants	4	-
Contractors	147	-
ILARS	50,465	49,864
Other miscellaneous expenses	676	770
Total other operating expenses	51,605	50,930
Total Workers Compensation Independent Review Officer	57,808	56,446

A review of the WIRO Annual Report 2017-18 (page 38) provides the following information in relation to how ILARS works and how this process "…will cover the cost of obtaining evidence such as medical reports and clinical notes, as well as providing funding, in appropriate cases, for the lawyer to obtain further material or reports…".

When an injured worker seeks assistance with the conduct of a claim the lawyer will take basic instructions from the worker and complete a WIRO application for a grant of funding which sets out essential facts and indicates what funding is sought.

That application, which is lodged by email, is then considered by one of the 19 ILARS Principal Lawyers, who are all highly experienced in workers compensation practice and procedure. The ILARS Principal Lawyer then considers whether, based on the information provided, funding is approved to conduct preliminary enquiries and evidence gathering to support the claim or the giving of advice.

ILARS undertakes to assess applications and advise lawyers of the outcome within five working days. Often the response time is much quicker. Urgent applications for funding are determined within 24 hours. Applications for funding of a specific type will be prescribed a specific timeframe for response.

The grant of ILARS assistance will cover the cost of obtaining evidence such as medical reports and clinical notes, as well as providing funding, in appropriate cases, for the lawyer to obtain further material or reports consistent with the proper conduct and preparation of the claim.

The report further identifies on page 39 that ILARS "...paid out over $34.1m in professional fees and approximately $20.5m in disbursements in the year ended 30 June 2018". A full breakdown of these costs is found on page 54 of the WIRO Annual Report 2017-18 is included below for reference:

Payment Type	Total amount	Number of payments	% of disbursements	Average amount
Professional fees	$34,144,425	10,452		$3,267
Medico-legal	$14,321,234	10,985	70%	$1,304
Barrister Fees	$2,500,349	1,612	12%	$1,551
Clinical Notes	$1,522,242	11,471	7%	$133
Travel	$331,163	1,457	2%	$227
Barrister Country Loading	$174,784	262	1%	$667
NTD Report	$397,083	984	2%	$404
Treating Specialist Report	$550,447	982	3%	$561
Interpreter	$109,922	558	1%	$197
Other	$46,250	211	0%	$219
Meal Allowance	$5,919	103	0%	$57
Solicitor Loading	$60,712	98	0%	$620
Non-attendance fee	$63,350	193	0%	$328
Grand Total	**$54,503,544**	**43,534**		
Total Disbursements	**$20,471,999**		**38%**	
Total Professional Fees	**$34,144,425**		**62%**	

At the Workshop, Mr Garling also advised that WIRO was using artificial intelligence to analyse ILARS data to aid in the identification of sub-optimal behaviours from an applicant law firm, respondent law firm and insurer perspective. *It may be useful to obtain the outcomes of that analysis to add further evidence to the industrial deafness issues noted in this paper as well as potentially other issues.*

NOTE: Currently this data is <u>not</u> included in the iCare data set and as such is potentially not directly included in the claims costs as reported by iCare nor the actuarial OCL valuations, and therefore the OCL valuation may not provide an accurate view of industrial deafness and other claims costs, together with the normal actuarial assumptions including risk margins or loading for claims handling expenses (CHE). The status of this is difficult to assess from publicly available information as iCare does not currently publish detail of the OCL valuation.

The Action Item in relation to this agenda item from the Workshop was for "WIRO to share data on industrial deafness claims with SIRA", so that a more complete and accurate data set on industrial deafness could be reviewed and understood.

6.2.1.2.Potential Duplication of Claims with the National Hearing Scheme

Participants in the Workshop identified issues relating to potential duplication of claims and the provision of hearing aids through the National Hearing Scheme.

Mr Garling from WIRO advised at that time that they had just ceased providing funding for industrial deafness matters where the worker is eligible for subsidised hearing services under the Australian Government of Health Hearing Services Program and that the worker must provide evidence that they are ineligible under that scheme before any funding will be provided.

It was also further noted that there is no current cross-checking in place to prevent a "double-dipping" of the National Scheme and the State workers compensation schemes.

6.2.1.3.Prevention and Research

The issue of what constitutes industrial deafness vs age onset or other lifestyle factors was also discussed. Many insurers around the table were concerned that all hearing loss was being treated as employment-related when so many other factors could be at play in the current environment that could cause deafness, such as, mobile phones, ear buds, load music delivered via headphones etc.

It was agreed that SafeWork NSW would look into what research had already been carried out on this emerging issue and to report back to the group. SafeWork NSW did note that there was an exemption from audiometric testing for workers in NSW until 31 December 2020.

Dependent on the outcome of their research, the way industrial deafness is currently treated in terms of workers compensation may require further review.

6.2.1.4.Hearing Service Providers and Worker Legal Firms

All insurers at the Workshop noted instances of hearing aid providers and law firms actively canvassing workers to lodge industrial deafness claims as well as other workers compensation claims. It is believed that the removal of the anti-touting provisions has clearly had an impact in this regard.

The Group remained concerned that legal providers played too big a part in the industrial deafness claim process and were obtaining too great a benefit, sometimes to the detriment of the injured worker, and we needed to minimise legal provider involvement in the process.

The Group also noted specific behaviours by a handful of legal firms that provided approximately 70-80% of the industrial deafness matters in NSW. It was further noted that these firms are included on the list of firms recommended by WIRO to use for claims. This list is available on the WIRO website.

The Group further questioned how SIRA regulated these providers and what actions they have or were taking.

Further detailed evidence, particular to Coal Mines Insurance, on provider behaviours will be covered later in this paper.

A further Workshop was scheduled for 3 May 2019; however, this was postponed to a date yet to be set. The agenda was to discuss all action items from inaugural Industrial Deafness Workshop.

6.2.2. Effect of 2012 and 2015 legislative reforms

The CMI Scheme has experienced substantial increases in claim costs and liabilities with respect to Industrial deafness following reforms to workers compensation legislation in 2012 and 2015.

Whilst coal miners were exempt from both reforms, amendments enacted for Section 66 and 67 entitlements, including the introduction of a whole person impairment assessment (WPI), revision of entitlement thresholds, combined with legal cost capping within the General Scheme, have collectively translated into unintended consequences for the CMI Scheme by way of increased claim activity by both worker legal and hearing providers.

The following outlines the financial impact and increased activity experienced by the CMI Scheme within the industrial deafness claim cohort.

6.2.2.1.Workers Compensation Amendment Act 2012 (2012 Amendments)

Specific to industrial deafness, Section 69A of the 1987 Act which previously set the threshold for lump sum compensation entitlements at 6% binaural loss of hearing was repealed. A new section 66 lump sum compensation entitlement threshold of 11% Whole Person Impairment (WPI) was introduced with no lump sum compensation payable if the assessed loss was less than 11% WPI.

In terms of industrial deafness, a worker would need to be assessed with a **20.5% binaural loss of hearing** to meet the 11% WPI threshold. In contrast the previous 6% binaural loss threshold equated to **3% WPI**.

Section 67 representing pain and suffering lump sum entitlement was also repealed.

In terms of medical expenses including hearing aids, the proposed introduction of Section 59A limited the payment of medical expenses to not more than 12 months after a claim was made in respect of an injury unless weekly payments are or have been paid.

A worker would not be entitled to the cost of hearing aids, replacement hearing aids and replacement batteries 12 months after a claim for compensation relating to hearing loss unless the claim resulted in weekly payments.

Amendments to Section 66 and the repealed Section 67 applied to claims made on or after 19 June 2012. None of these revised provisions applied to Coal Miners.

6.2.2.2.Workers Compensation Amendment Act 2015 (2015 Amendments)

Arising from stakeholder feedback, amendments were made in 2015 that included a relaxation of the above set time restrictions and the removal of certain limits imposed with respect to ***reasonably necessary*** medical expenses claimable under Section 60.

Regardless of the assessed WPI (%), the 2015 Amendments allowed for workers to claim artificial aids (which includes hearing aids and hearing aid batteries) until retirement age

where the assessed hearing loss and recommended treatment such as the provision of aids was considered reasonably necessary.

In terms of whether medical expenses are considered reasonably necessary, each treatment must be considered to:

- alleviate the consequences of injury, or
- maintain a worker's state of health, or
- slow or prevent its deterioration given the injury.

The 2015 Amendments also amended the timeframe to claim replacement hearing aids.

6.2.2.3.Legal and Hearing Provider Behaviour Post Amendments

For worker legal providers specialising in industrial deafness, the introduction to the General Scheme of a 11% WPI threshold to claim lump sum entitlements combined with established legal cost capping potentially had a profound impact on their revenue. As a result, we believe that several legal providers searched for an alternative source for clientele and revenue and identified the CMI Scheme as an attractive proposition.

A select number of legal providers appear to work directly with/are associated with hearing providers and use these relationships for client referrals.

From behaviours and actions observed by CMI, in addition to individual worker and policyholder feedback and evidence received, specific hearing providers actively seek out workers on behalf of associated legal providers offering free hearing tests whilst collecting employment information and encouraging the lodgement of a hearing loss claim amongst other workers compensation claims.

CMI has investigated the cost increases in industrial deafness legal matters and is continuing to liaise with SIRA as to how some of these issues might be mitigated including the behaviours of certain providers. These will be discussed in detail later in this paper.

6.2.2.4.Summary - Practical Effects of the Amendments on Behaviour

In the General Scheme, prior to the 2012 Amendments, to make a claim for ***hearing aids and hearing loss,*** a worker needed to meet a threshold of 6% binaural hearing loss. Under the 2012 Amendments, this provision was repealed and a new limit of 11% was introduced.

Under the 2015 Amendments, the timeframe to claim replacement hearing aids was removed.

Because Coal Miners are exempt from the 2012 and 2015 Amendments the threshold for claiming ***hearing loss*** and to make a claim for ***hearing aids*** remains at 6%.

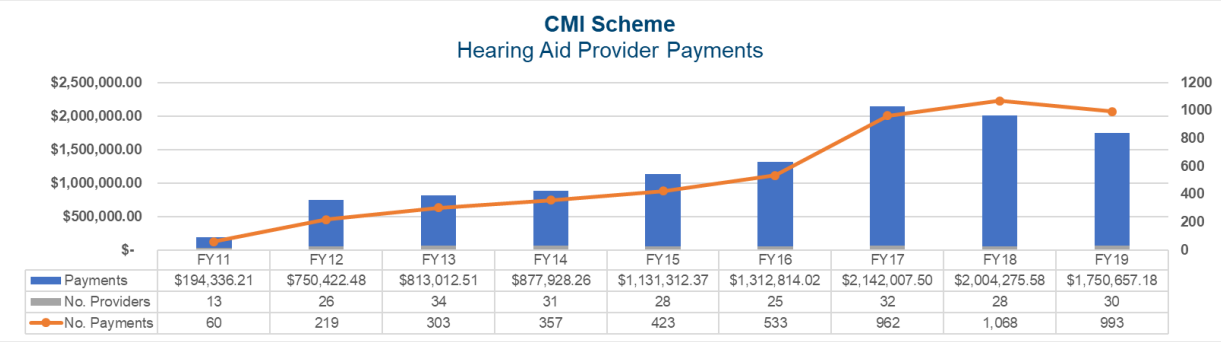
We believe that these amendments, together with the removal of anti-touting provisions are driving an increase in claims frequency and cost in the CMI Scheme for two reasons:

- Hearing aids and replacements are available without a threshold and a replacement timeframe, which may encourage workers to lodge a claim for both ***hearing loss and hearing aids***, noting that there is now no time limit on when a hearing aid can be replaced.
- The lower thresholds in the CMI Scheme are a more attractive option for legal providers to pursue because the thresholds are easier to meet than in the General Scheme.

6.2.2.5.Overview of Industrial Deafness Claim Payments in the CMI Scheme

To provide weight to this argument, the following graph provides an overview of hearing provider payments incurred by the CMI Scheme since 1 July 2011 to date (@ April 2019), noting the significant increase in the number and quantum of payments and providers since the 2012 Reforms.

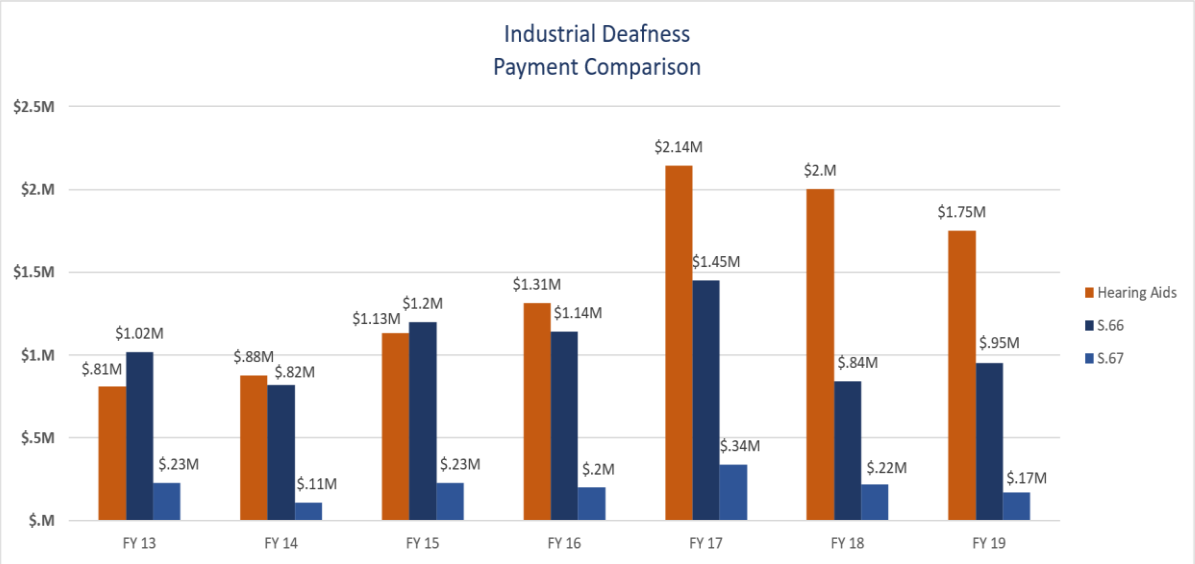
During FY12 total payments of $750,422 were incurred across 26 hearing providers contrasted against FY11 where payments totalled $194,336 across 13 providers. This trend remains current to date.



	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Payments	$194,336.21	$750,422.48	$813,012.51	$877,928.26	$1,131,312.37	$1,312,814.02	$2,142,007.50	$2,004,275.58	$1,750,657.18
No. Providers	13	26	34	31	28	25	32	28	30
No. Payments	60	219	303	357	423	533	962	1,068	993

To add context to the increase in hearing provider payments incurred by the CMI Scheme, the following graph provides a comparison of lump sum compensation entitlements paid under S.66 (% loss of hearing) and S.67 (pain and suffering) in contrast to total hearing provider payments incurred since FY13.

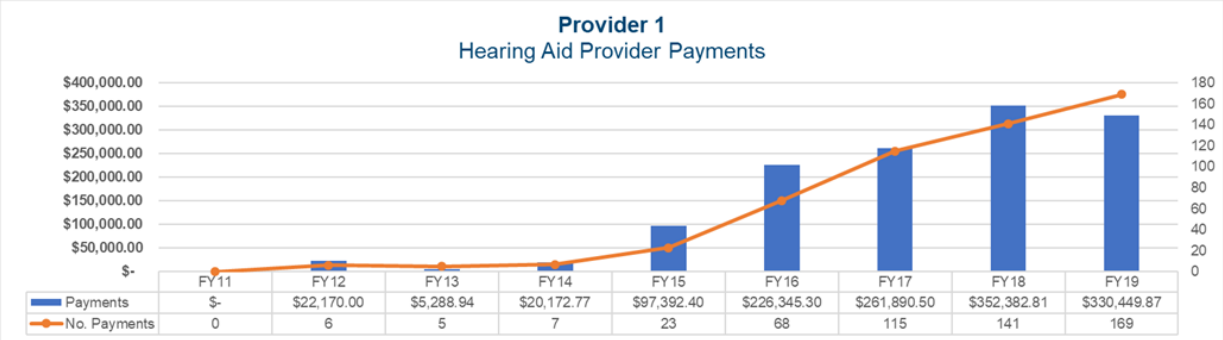
For the first time experienced by the CMI Scheme, total hearing provider payments incurred in FY17 were greater than the combined total of S.66 and S.67 lump sum compensation entitlements. This trend has continued into the current FY19 year (@ April YTD).



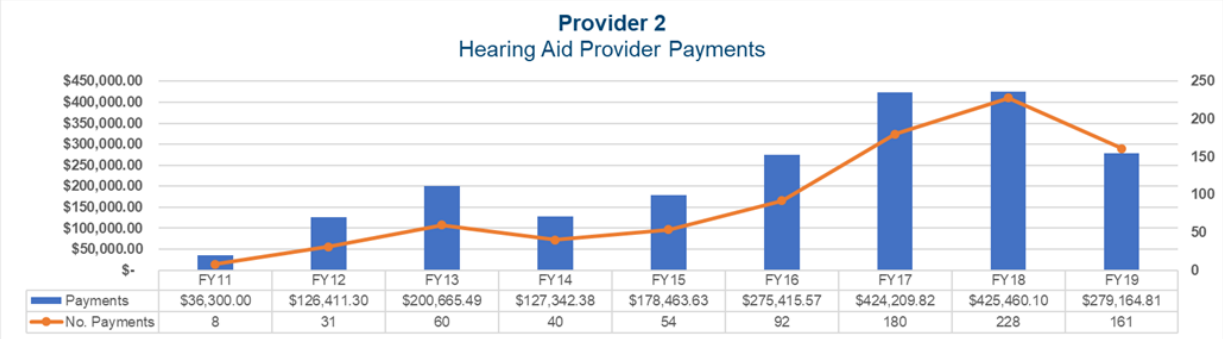
6.2.3. Specific Industrial Deafness Provider Behaviours

6.2.3.1.Hearing Aid Provider Payments

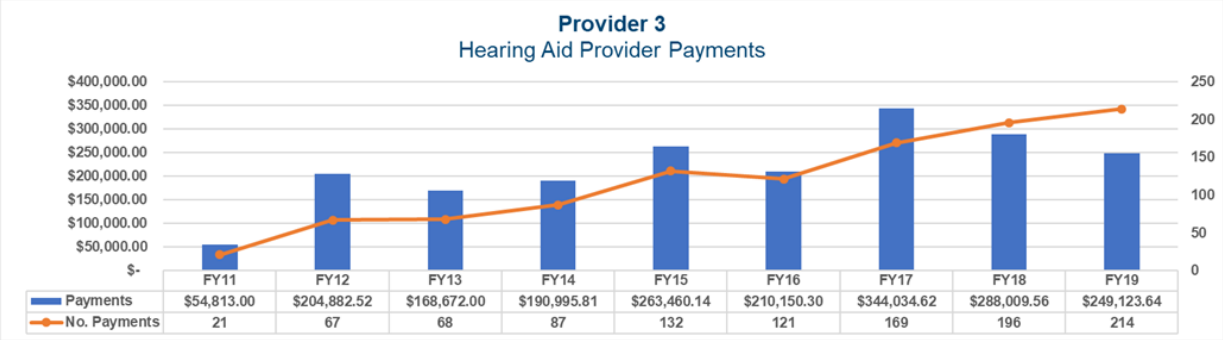
The graphs below show the data from FY2011 to current (as at YTD April) for the top five hearing aid providers. This analysis demonstrates an increase in coal miner worker claims over that period. These graphs have been de-identified for the purpose of this submission however details can be provided to SIRA as part of any analysis.



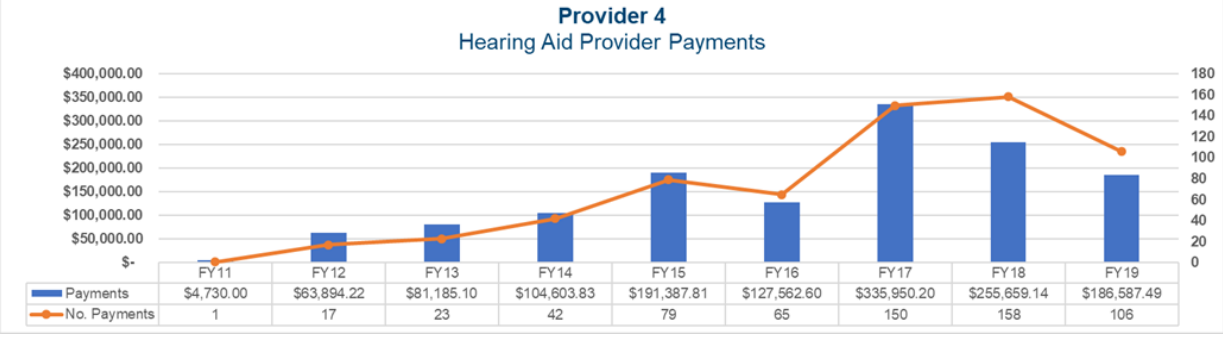
	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Payments	$-	$22,170.00	$5,288.94	$20,172.77	$97,392.40	$226,345.30	$261,890.50	$352,382.81	$330,449.87
No. Payments	0	6	5	7	23	68	115	141	169



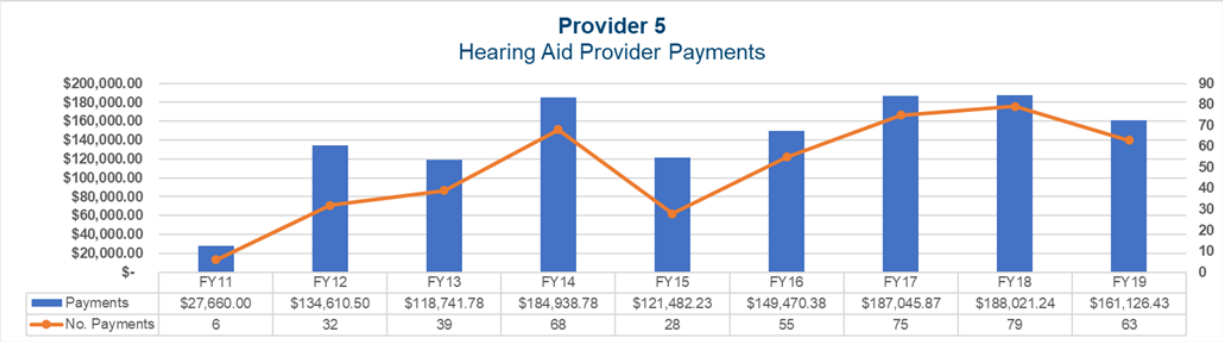
	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Payments	$36,300.00	$126,411.30	$200,665.49	$127,342.38	$178,463.63	$275,415.57	$424,209.82	$425,460.10	$279,164.81
No. Payments	8	31	60	40	54	92	180	228	161



	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Payments	$54,813.00	$204,882.52	$168,672.00	$190,995.81	$263,460.14	$210,150.30	$344,034.62	$288,009.56	$249,123.64
No. Payments	21	67	68	87	132	121	169	196	214

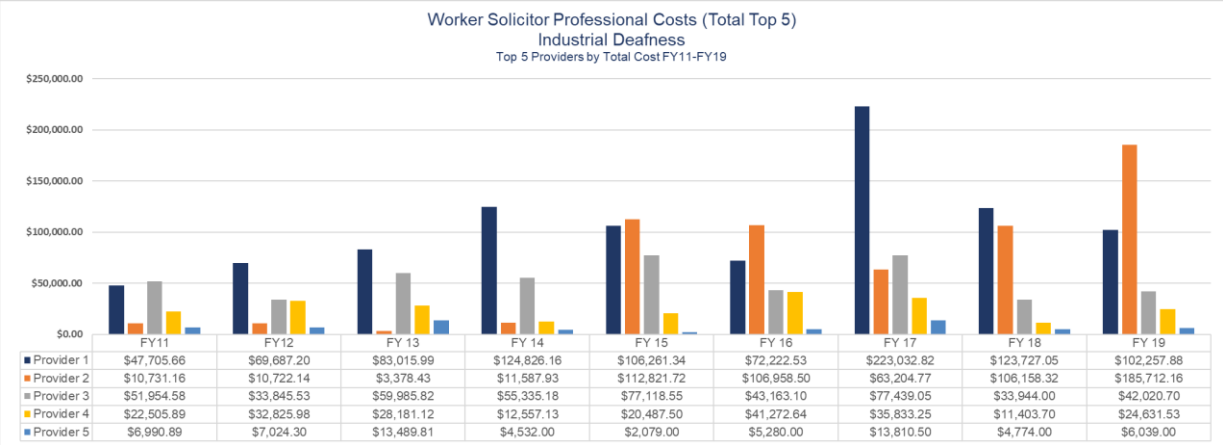


	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19
Payments	$4,730.00	$63,894.22	$81,185.10	$104,603.83	$191,387.81	$127,562.60	$335,950.20	$255,659.14	$186,587.49
No. Payments	1	17	23	42	79	65	150	158	106



6.2.3.2.Worker Legal Provider Payments

Alongside the increased payments for hearing aids and other associated industrial deafness costs are the increased worker legal costs. The data below is as at YTD April 2019. Several legal providers have been identified that appear to have direct associations with hearing aid providers. Analysis of worker legal provider costs again shows an increase after the 2012 reforms. Specifically, two providers (Provider 1 and 2 below) have increased activity substantially in the industrial deafness space in recent years.



Worker Legal Provider Behaviours

In 2016 we started to see worker legal providers commence targeted campaigns to workers in relation to industrial deafness claims. We have various forms of evidence supporting direct marketing campaigns by several providers and other methods employed by other legal providers to solicit injured workers for a hearing test and then further solicit them for potential other workers compensation claims that they may have at the same time.

We have provided a few examples of this below. These examples have been de-identified for this submission, however, detail can be provided on request.

Example 1

Extract from a letter from a Worker Legal Provider directly mailed to a worker who had a previous industrial deafness claim.

20 September 2016

Re: Industrial Deafness – Hearing Aid Claims

As you might recall this firm has previously conducted a claim on your behalf in respect of hearing loss suffered by you as a consequence of your previous employment, which claim was resolved some years ago.

There have been recent legislative changes made by the State Government including the *Workers Compensation Amendment Act 2015*, *the State Insurance and Care Governance Act 2015* and the *Workers Compensation Amendment (Lump Sum Compensation Claims) Regulation 2015*.

The consequence of those amendments has been that enhanced benefits have been reintroduced, particularly the opportunity to claim for vastly improved hearing aids (sometimes up to a value of $10,000.00), including for people who have had previous claims. There may also be the opportunity for a claim for monetary compensation in addition to hearing aids, if the hearing loss is substantial and the coal miner has not previously been compensated by a Medical Panel for hearing loss.

Our firm is now working with a company which provides specialised services in preparing and presenting claims for clients who are suffering from all levels of industrial deafness. **Such claims can be brought at no cost whatsoever to you** and might mean that you can claim for some of the most advanced hearing aids which are now available.

The specialist assistant working with us to prepare these claims is *name removed* and if you wish us to assist you in this regard please call *name removed* on *number removed* to make arrangements to meet. Please note that *name removed* of this office is the partner overseeing the preparation of such hearing aid claims.

Yours faithfully

Example 2

An email account from a CMI Case Manager regarding a conversation with an injured worker.

From: [redacted]

Sent: Tuesday, 7 May 2019 12:18 PM

To [redacted] <[redacted]@coalservices.com.au>

Cc: [redacted] <[redacted]@coalservices.com.au>

Subject: Industrial Deafness - Quick Summary – Worker X - Hearing Aids

Hi [redacted]

Please find below a quick summary of my phone conversation with Mr X regarding his experience in claiming initial hearing aids:

- Mr X visited a hearing aid provider recently with his wife (wouldn't disclose who, my guess is [redacted]). His wife was obtaining aids and while he was there he asked to be reviewed for hearing aids for himself.
- During the conversation with the provider, he was asked where he had worked, Mr X advised that he had worked in the mining industry for 30 plus years, the hearing aid provider advised that CMI would be liable to pay for his hearing aids.
- He was provided an authority to sign, which he was told would allow CMI to be billed for hearing aids. Mr X was fitted with hearing aids (with no approval sought from CMI to date) and continues to benefit from them but has not been billed as yet.
- Mr X has now received correspondence from Legal Provider Y which included 2 x further authorities to release for him to sign and return, one being for his superannuation fund and I'm unsure of the other. He was wondering why we need this.
- I explained our process and advised that we didn't need the information that Legal Provider Y was seeking to approve his hearing aids, we simply review the file and if he was over the threshold we could approve immediately.
- We discussed this process further and Mr X advised that he was happy to proceed with the supply of hearing aids through the provider only and it was not his intention to submit a claim through Legal Provider Y. He advised that he would pass this on to the provider as he has had no contact with Legal provider Y to date.

Hope this helps

Thanks

Kind Regards

[redacted]

Industrial Deafness Specialist

Coal Mines Insurance

1 Civic Avenue, Singleton NSW 2330

T: +61 (2) [redacted] F: +61 (2) [redacted]

E: [redacted]@coalservices.com.au www.coalservices.com.au

Example 3

An email account from the CMI Head of Operations Management regarding a conversation with an injured worker about an unsolicited approach by a worker legal provider in relation to industrial deafness. The attachment from the legal provider has been removed but is available if required.

From [redacted]
Sent: Thursday, 20 June 2019 10:22 AM
To: [redacted] <[redacted]@coalservices.com.au>
Subject: Industrial Deafness Australia

Good Morning Lucy,

As discussed, please see attached the letter sent to one of our workers, Mr Y.

Mr Y attended our office recently to provide a copy of the letter to our [redacted], Industrial Deafness Specialist, and to express his concerns over the letter.

He was not happy about receiving this and was happy for us to have a copy of the letter he was sent from Hearing Aid Provider Y and Legal Provider X. Mr Y expressed that he did not feel it was appropriate to be sending out this type of correspondence and was perplexed and didn't even know how they got his contact details. [redacted] indicated that she would pass this on internally to the appropriate people and subsequently raised it with me when I was down there on Tuesday.

Thanks

Regards
[redacted]
Head of Operations Management

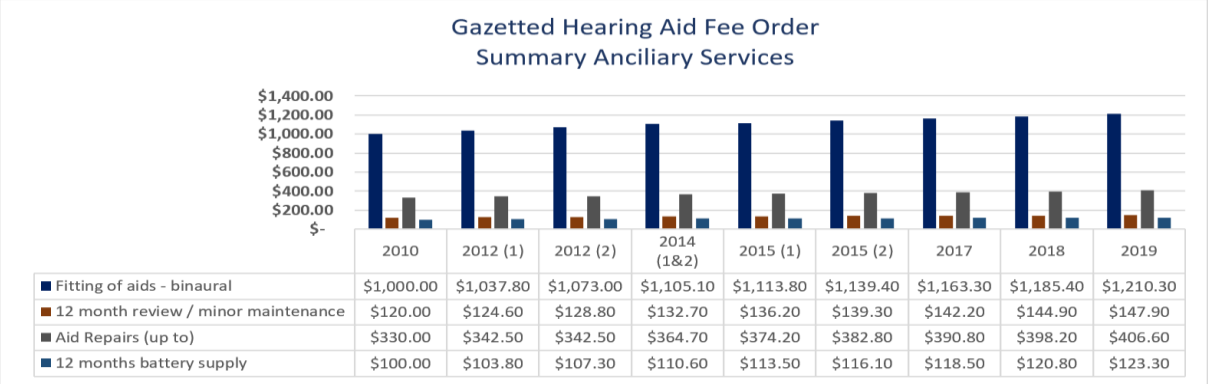
Coal Services
Level 21, 44 Market Street, Sydney NSW 2000
T: +61 (2[redacted]
M: [redacted]
E: [redacted]**@coalservices.com.au**

6.2.3.3.Other Contributing Factors to Increased Industrial Deafness Claim Costs

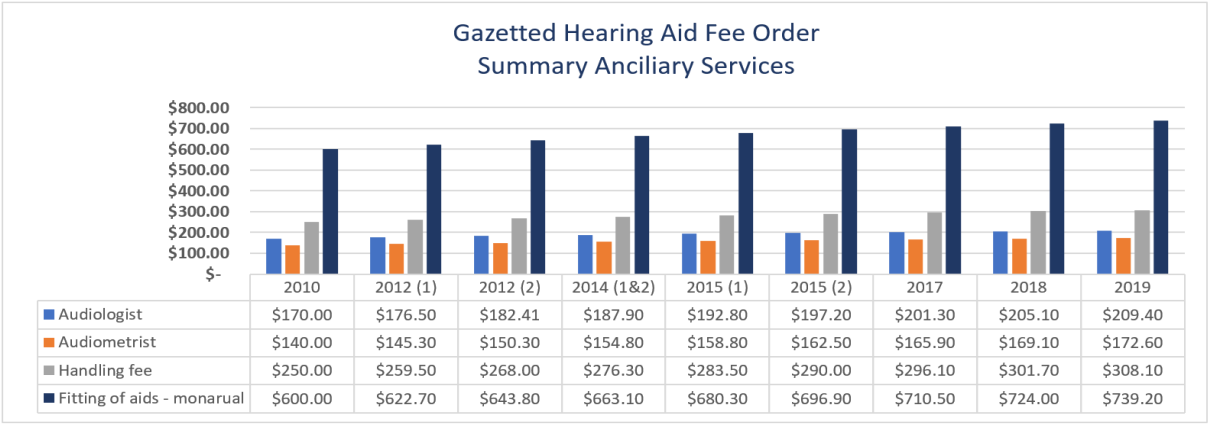
Gazetted Hearing Aid Fees Order(s)

Combined with the increased activity experienced by the CMI Scheme in both the worker legal and hearing aid provider space, the increase in gazetted fees for ancillary services associated with the provision of hearing aids has contributed to the overall increased cost position.

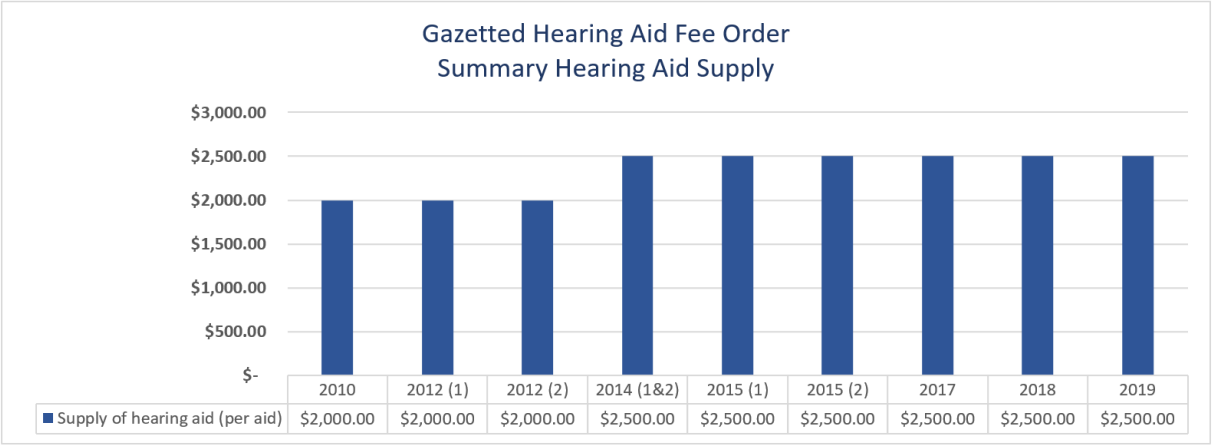
The graphs below show movement in gazetted fees with specific reference to ancillary fees (over two graphs) which have continued to increase in contrast to the static position of gazetted fees for the supply of hearing aids which has remained constant since 2014.



	2010	2012 (1)	2012 (2)	2014 (1&2)	2015 (1)	2015 (2)	2017	2018	2019
Fitting of aids - binaural	$1,000.00	$1,037.80	$1,073.00	$1,105.10	$1,113.80	$1,139.40	$1,163.30	$1,185.40	$1,210.30
12 month review / minor maintenance	$120.00	$124.60	$128.80	$132.70	$136.20	$139.30	$142.20	$144.90	$147.90
Aid Repairs (up to)	$330.00	$342.50	$342.50	$364.70	$374.20	$382.80	$390.80	$398.20	$406.60
12 months battery supply	$100.00	$103.80	$107.30	$110.60	$113.50	$116.10	$118.50	$120.80	$123.30



	2010	2012 (1)	2012 (2)	2014 (1&2)	2015 (1)	2015 (2)	2017	2018	2019
Audiologist	$170.00	$176.50	$182.41	$187.90	$192.80	$197.20	$201.30	$205.10	$209.40
Audiometrist	$140.00	$145.30	$150.30	$154.80	$158.80	$162.50	$165.90	$169.10	$172.60
Handling fee	$250.00	$259.50	$268.00	$276.30	$283.50	$290.00	$296.10	$301.70	$308.10
Fitting of aids - monarual	$600.00	$622.70	$643.80	$663.10	$680.30	$696.90	$710.50	$724.00	$739.20



	2010	2012 (1)	2012 (2)	2014 (1&2)	2015 (1)	2015 (2)	2017	2018	2019
Supply of hearing aid (per aid)	$2,000.00	$2,000.00	$2,000.00	$2,500.00	$2,500.00	$2,500.00	$2,500.00	$2,500.00	$2,500.00

6.2.4. Provider Behaviours

In January 2017 we became aware of a targeted campaign by an organisation (Provider X) purporting to be running a campaign offering free hearing tests.

We also received feedback from workers at that time who attended the free hearing test advising that when they had the test a solicitor was also present and asked them about other injuries they may have that they would like to claim.

Several discussions were had with SIRA at that time, discussing the behaviour of the worker legal provider and the hearing provider and Coal Services subsequently provided SIRA with detailed information regarding these behaviours for further review.

It was identified and noted at the SIRA Industrial Deafness Workshop that these particular providers and their behaviours remain a current concern.

6.3. Medical Costs

Although we do not have specific evidence that increased costs have resulted from the 2012 or 2015 reforms, or from the changes to the iCare case management model, we have experienced ongoing increases in medical costs over and above inflation and case managers have reported some increases in numbers of services for injured workers such as additional physiotherapy.

In trying to understand the drivers of these increases, we can confirm that the increases to the gazetted rates for medical services have had a reasonable impact, and potentially the increased worker legal provider activity as a result of the removal of the anti-touting provisions is also increasing the level of services being undertaken by workers, especially by specialist treatment providers.

Most workers whom sustain a work-related injury whilst working within the coal mining industry require minimal medical treatment and return to work with their employer whilst incurring minimal time lost from work.

Less than 20% of injured workers managed under the CMI scheme sustain injuries that are deemed significant, resulting in time off work and requiring medical treatment that incorporates diagnostic investigation and specialist referral.

Subject to the injury diagnosis and the success or otherwise of conservative treatment a proportion of workers based on specialist advice will undergo surgical intervention followed by a continuation of conservative treatment.

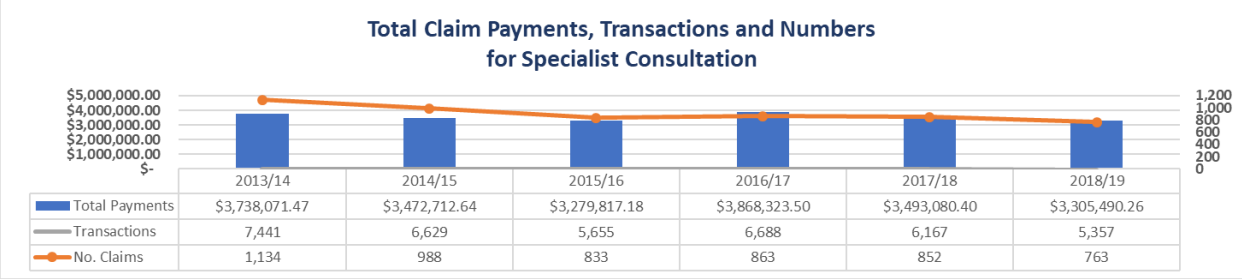
Despite injury frequency rates reducing year on year, medical costs incurred by the CMI Scheme over the past five years demonstrates an increasing spend within the following medical categories:

- Specialist Consultation
- Hospital Expenses (Private Hospital)
- Physiotherapy
- Diagnostic Investigation
- General Practitioner

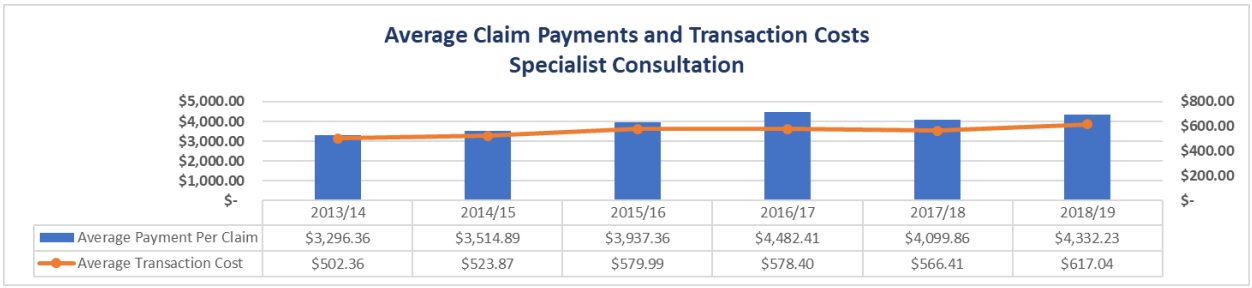
6.3.1. Specific Medical Categories

To better demonstrate the effect of the increased medical costs, we have analysed several categories to provide further detail, looking at total payments, number of claims, average claim and payment size. We have provided Specialist Consultation and Hospital as two examples, being the two highest medical costs to the CMI Scheme. The other medical categories are also experiencing similar increases in payment and average payment quantum's. (FY2019 data is at April).

Specialist Consultation

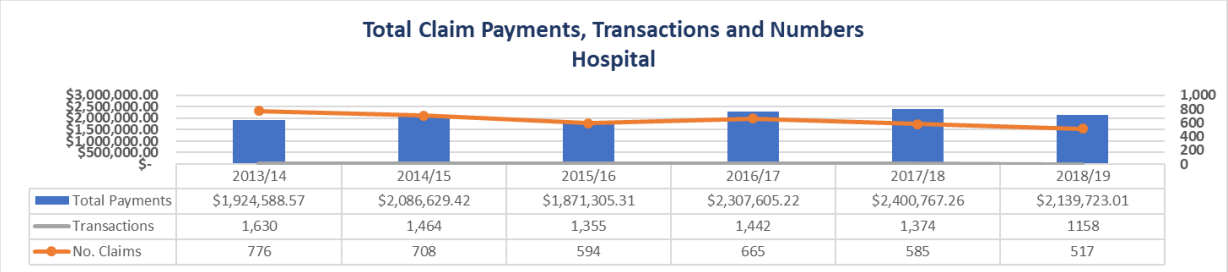


	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Total Payments	$3,738,071.47	$3,472,712.64	$3,279,817.18	$3,868,323.50	$3,493,080.40	$3,305,490.26
Transactions	7,441	6,629	5,655	6,688	6,167	5,357
No. Claims	1,134	988	833	863	852	763

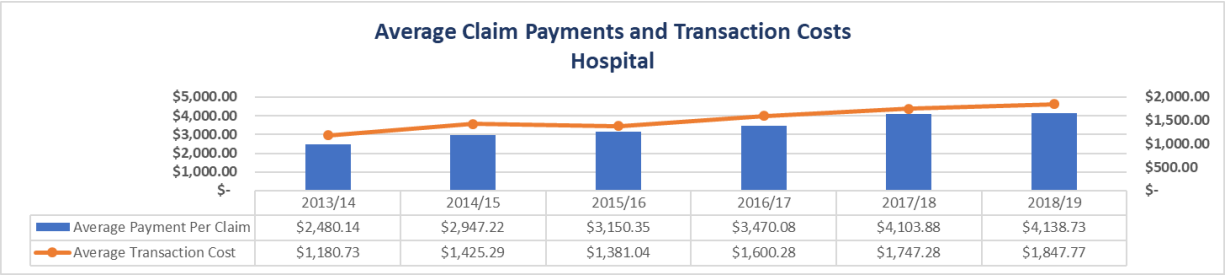


	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Average Payment Per Claim	$3,296.36	$3,514.89	$3,937.36	$4,482.41	$4,099.86	$4,332.23
Average Transaction Cost	$502.36	$523.87	$579.99	$578.40	$566.41	$617.04

Hospital



	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Total Payments	$1,924,588.57	$2,086,629.42	$1,871,305.31	$2,307,605.22	$2,400,767.26	$2,139,723.01
Transactions	1,630	1,464	1,355	1,442	1,374	1158
No. Claims	776	708	594	665	585	517



	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Average Payment Per Claim	$2,480.14	$2,947.22	$3,150.35	$3,470.08	$4,103.88	$4,138.73
Average Transaction Cost	$1,180.73	$1,425.29	$1,381.04	$1,600.28	$1,747.28	$1,847.77

6.3.2. Gazetted Fees

Rates and gazetted fees relating to medical payments have increased over the reviewed period in excess of inflation. The table below illustrates the private hospital fee increases from 2016 to-date as gazetted by SIRA.

For the first time in a number of years private hospital rates have remained unchanged based on the latest January 2019 revision. Further increases in line with historical rate movements are anticipated moving forward. Rate increases relating to general practitioner and physiotherapy categories have also increased on average by 3% annually.

Four (4) Year Private Hospitals Fee Summary

Code	Private Hospitals Fee Schedule	Jun-16	Jun-17	Jun-18	Jan-19	3 Year Fee Increase (%)
	Under section 62 (1A) of the Workers Compensation Act 1987					
	OVERNIGHT FACILITY FEES (Daily)					
PTH001	**Advanced surgical** 1 to 14 days	$ 786.40	$ 813.10	$ 838.30	$ 838.30	**6.49%**
	>14 days	$ 532.80	$ 550.90	$ 568.00	$ 568.00	**6.50%**
PTH002	**Surgical** 1 to 14 days	$ 740.20	$ 765.40	$ 789.10	$ 789.10	**6.50%**
	>14 days	$ 532.80	$ 550.90	$ 568.00	$ 568.00	**6.50%**
PTH003	**Psychiatric** 1 to 21 days	$ 703.50	$ 727.40	$ 749.90	$ 749.90	**6.49%**
	22 to 65 days	$ 543.90	$ 562.40	$ 579.80	$ 579.80	**6.50%**
	Over 65 days	$ 499.30	$ 516.30	$ 532.30	$ 532.30	**6.50%**
PTH004	**Rehabilitation** 1 to 49 days	$ 764.10	$ 790.10	$ 814.60	$ 814.60	**6.50%**
	>49 days	$ 561.50	$ 580.60	$ 598.60	$ 598.60	**6.50%**
PTH005	**Other (Medical)** 1 to 14 days	$ 657.20	$ 679.50	$ 700.60	$ 700.60	**6.50%**
	>14 days	$ 532.80	$ 550.90	$ 568.00	$ 568.00	**6.50%**
PTH007	**Intensive Care <5 days, level 2**	$3,057.90	$ 3,161.90	$ 3,259.90	$ 3,259.90	**6.50%**
	<5 days, level 1	$2,116.80	$ 2,188.80	$ 2,256.70	$ 2,256.70	**6.50%**
PTH006	**DAY FACILITY FEES (Including Accident and Emergency attendance) (Daily)**					
	Psychiatric					
	Full-Day Program - treatments with minimum of 4.5 hours' duration	$ 338.20	$ 349.70	$ 360.50	$ 360.50	**6.49%**
	Half-Day Program - treatments with a minimum of 2.5 hours duration	$ 264.20	$ 273.20	$ 281.70	$ 281.70	**6.52%**
	Rehabilitation					
	Full-Day Program - treatments with minimum of 3 hours' duration	$ 338.20	$ 349.70	$ 360.50	$ 360.50	**6.49%**
	Half-Day Program - treatments between 1.5 and 2.5 hours duration	$ 264.20	$ 273.20	$ 281.70	$ 281.70	**6.52%**
	Band 1 - absence of anaesthetic or theatre times	$ 338.20	$ 349.70	$ 360.50	$ 360.50	**6.49%**
	Band 2 - local anaesthetic, no sedation	$ 397.20	$ 410.70	$ 423.40	$ 423.40	**6.49%**
	Band 3 - general or regional anaesthetic or intravenous sedation, less than 1 hour theatre time	$ 448.20	$ 463.40	$ 477.80	$ 477.80	**6.50%**
	Band 4 - general or regional anaesthetic or intravenous sedation 1 hour or more theatre time	$ 500.90	$ 517.90	$ 534.00	$ 534.00	**6.50%**
PTH008	**THEATRE FEES - as per national procedure banding schedule** Multiple procedure rule: 100% of fee for first procedure 50% for second procedure undertaken at the same time as the first 20% for the third and subsequent procedures undertaken at the same time as the first					
	Band 1A	$ 189.80	$ 196.30	$ 202.40	$ 202.40	**6.53%**
	Band 1	$ 338.20	$ 349.70	$ 360.50	$ 360.50	**6.49%**
	Band 2	$ 579.00	$ 598.70	$ 617.30	$ 617.30	**6.51%**
	Band 3	$ 708.30	$ 732.40	$ 755.10	$ 755.10	**6.50%**
	Band 4	$ 958.70	$ 991.30	$ 1,022.00	$ 1,022.00	**6.50%**
	Band 5	$1,408.50	$ 1,456.40	$ 1,501.50	$ 1,501.50	**6.50%**
	Band 6	$1,615.90	$ 1,670.80	$ 1,722.60	$ 1,722.60	**6.50%**
	Band 7	$2,159.80	$ 2,233.20	$ 2,302.40	$ 2,302.40	**6.50%**
	Band 8	$3,006.90	$ 3,109.10	$ 3,205.50	$ 3,205.50	**6.50%**
	Band 9A	$3,109.00	$ 3,214.70	$ 3,314.40	$ 3,314.40	**6.50%**
	Band 9A	$3,972.80	$ 4,107.90	$ 4,235.20	$ 4,235.20	**6.50%**
	Band 10	$4,699.30	$ 4,859.10	$ 5,009.70	$ 5,009.70	**6.50%**
	Band 11	$5,563.90	$ 5,753.10	$ 5,931.40	$ 5,931.40	**6.50%**
	Band 12	$6,012.20	$ 6,216.60	$ 6,409.30	$ 6,409.30	**6.50%**
	Band 13	$7,291.50	$ 7,539.40	$ 7,773.10	$ 7,773.10	**6.50%**
PTH008	**SURGICAL PROSTHESES FEES**					
	Prostheses	As per Dept Health listed minimum rate	As per Dept Health listed minimum rate	As per Dept Health listed minimum rate	As per Dept Health listed minimum rate	
	Handling fee	5% of prosthesis fee capped at $158.50	5% of prosthesis fee capped at $163.90	5% of prosthesis fee capped at $169.00	5% of prosthesis fee capped at $169.00	**6.52%**
WCO005	**PROVISION OF HEALTH RECORDS**					
	Fee for the electronic provision of health records			Flat fee of $38	Flat fee of $38	

7. Conclusion

The evidence provided in this submission highlights several areas of concern for the CMI Scheme and potentially the General Scheme and other insurers who operate in the NSW workers compensation system.

The implementation of various legislative reforms in 2012 and 2015, removal of anti-touting provisions for legal providers in 2015, and resultant changes in provider behaviour, together with increasing medical costs and hearing aid and ancillary costs above inflation levels, have contributed to significant financial impacts to the CMI Scheme as well as impacts to workers.

It is important that this Review appropriately investigates these matters together with those raised through the public comment process and makes suitable recommendations to adequately address relevant findings in a timely manner.

As an organisation that has been trusted with the health and safety and support of workers in the NSW coal mining industry for almost 100 years, it is important to us that we are able to continue to look after the industry into the future and ensure that the workers compensation scheme remains just that, a scheme that looks after workers.

We welcome further discussion with the Reviewer as part of this process and confirm that we are able to provide identified information on request.

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