

6 March 2023

# Draft Guidelines for the Provision of Relevant Services (Health and Related Services)- icare submission

## Executive summary

1. Insurance and Care NSW (**icare**) thanks the State Insurance Regulatory Authority (**SIRA**) for the opportunity to provide feedback on the draft guidelines for the provision of relevant services (Health Related Services) (**draft guidelines**) which are part of the regulatory framework established under Part 3, Division 3 of *the State Insurance and Care Governance Act 2015 (SICG Act)* and the *State Insurance and Care Governance Regulation 2021 (SICG Regulation)* empowering SIRA to issue guidelines to relevant service providers (**RSP**).
2. icare acknowledges the draft guidelines are intended to provide consistent service and billing expectations for those RSPs operating in the workers compensation and CTP Care schemes.
3. The guidelines require icare collect the necessary information including payee details, ABN, AHPRA number, Medicare provider number, SIRA approval number, professional association accreditation number, service provider number (for exempt workers and interstate providers) to identify an RSP before medical treatment and services can be paid. icare understands that SIRA holds some of this information and suggests that a more efficient approach to obtain accurate RSP information is for a data sharing arrangement between our entities.
4. As per the [Terms of Reference](#) of the consultation, icare provides feedback on the specific provisions of the draft guidelines at **Appendix A**, and broader recommendations, including:
  - a. facilitate the exchange of RSP data between SIRA and icare;
  - b. enable the proper implementation of the regulatory framework; and
  - c. clarify the impact on how the draft guidelines will interact with other instruments.
5. As per Appendix A, icare recommends that certain provisions in the draft guidelines be reviewed to ensure RSPs and icare are provided with clarity, and the guidelines support the aim of the regulatory framework to provide appropriate, timely and cost-effective healthcare services which contribute directly to improving health outcomes of injured workers and people with long term injuries caused by motor accidents.
6. icare sets out its recommendations in more detail below.

## Facilitate the exchange of RSP data between SIRA and icare

7. In order to facilitate accurate data collection, identification of directed RSPs, and icare's adherence to the guidelines, icare recommends SIRA shares RSP data with icare through the implementation of a memorandum of understanding (MoU) between SIRA and icare. This would enable icare to efficiently identify and use data including AHPRA number, professional association accreditation and

membership number, SIRA approval number, Medicare number, ABN, professional association accreditation number and service provider number (for exempt workers and interstate providers).

8. The MoU would assist icare and SIRA to expedite the sharing of information between SIRA and icare; enable the proper identification of directed RSPs which can at times present challenges due to the nature of the business structures and multiple roles of some RSPs in the schemes; and drive improvement in the integrity of payments to RSPs, building stakeholder and community confidence and trust.

## **Enable the proper implementation of the regulatory framework**

9. icare notes SIRA intends to publish a policy and procedures guide for stakeholders after finalising the draft guidelines. icare welcomes the opportunity to provide feedback on these instruments and recommends SIRA includes more detail on:
  - a. how SIRA will facilitate the exchange of RSP information with icare.
  - b. icare's obligations and expectations to manage and respond to instances of non-compliance identified by icare.
  - c. SIRA's monitoring mechanism for ensuring RSPs are complying with the regulatory framework.
  - d. SIRA's process to update the register of directed service providers (the Register), including:
    - establishment of a process where SIRA expedites information sharing about directed RSPs to icare through a MOU.
    - ensuring the level of detail provided in the Register enables icare to identify directed RSPs such as AHPRA number, professional association accreditation and membership number; SIRA provider number and Medicare number and ABN; and
    - inclusion of commencement and cessation dates of directions, noting that those timeframes need to account for transition of injured persons to new RSPs and how SIRA will communicate to inform stakeholders of the direction and reasons.

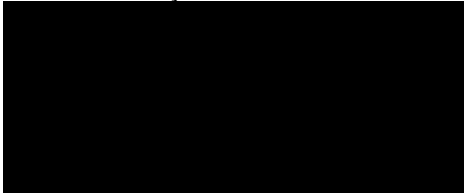
## **Clarify the impact on how the draft guidelines will interact with other instruments**

10. As the provisions in the draft guidelines will prevail to the extent of inconsistencies between guidelines made under the workers compensation and motor accidents legislation (paragraph 4), icare recommends SIRA provides clarification on how the draft guidelines will interact with the exempt worker provisions. icare notes exempt workers are not required to be treated by SIRA approved allied health providers and are not required to obtain pre-approval for their services. icare recommends the draft guidelines address this inconsistency and clarify the standards which will apply to allied health providers treating exempt workers.
11. To this end, icare recommends SIRA reviews the draft guidelines to consolidate similar compliance requirements and definitions from other SIRA instruments or healthcare related regulation. This will assist with the adherence of the regulatory framework by icare and RSPs.

## Next steps

12. icare welcomes the opportunity to discuss this submission further and to work collaboratively with SIRA in the implementation of the regulatory framework.
13. Please do not hesitate to contact me to discuss further.

Yours sincerely



**James Camilleri**  
Head of Regulatory Affairs

## icare's feedback on the Draft Guidelines for the Provision of Relevant Services (Health and Related Services)

Specific part and paragraph	icare's response
<p><b>Part 1 – Interpretation</b></p> <p>4. The Guidelines prevail to the extent of an inconsistency between the guidelines made under the workers compensation and motor accidents legislation (as per s26E(5) of the Act).</p>	<p>icare notes many RSPs are subject to regulation by other agencies.</p> <p><b>Suggestion: could SIRA please clarify how the draft guidelines will interact with other healthcare regulations, for example, the Australian Health Practitioner Regulation.</b></p>
<p><b>Part 1- Definitions</b></p> <p>13. Insurance, compensation or health authorities, government agencies or statutory bodies: includes, but is not limited, to bodies such as other Australian jurisdictions' workers compensation and/or motor accidents schemes/authorities; NSW Health, the Commonwealth Department of Health, and other Australian jurisdictions' health departments; the Health Care Complaints Commission; a national health practitioner registration board, or a registration board operating in an Australian jurisdiction; the Commonwealth Professional Services Review; the National Disability Insurance Authority; and the NDIS Quality and Safeguards Commission.</p>	<p>icare has identified private hospitals are defined in the SICG Regulation and the draft guidelines as an RSP, however are not listed as a health authority or agency for the purpose of the draft guidelines.</p> <p><b>Suggestion: could SIRA please clarify whether they consider private hospitals are captured under paragraphs 23(d) and 21(b)(ii).</b></p>
<p><b>Part 3 – Registration/accreditation requirements –</b></p> <p>21. Relevant services cannot be provided by a RSP who has:</p> <p>(a) had their registration or licence under any relevant law, their accreditation or registration by, or membership of, a self-regulating professional organisation, limited or subject to any condition as a result of a disciplinary process or been suspended or disqualified from practice.</p> <p>(b) had a complaint upheld about them or action taken by insurance, compensation or health authorities, government agencies or statutory bodies regarding their conduct</p> <p>(i) in any role in any insurance or compensation system in any Australian jurisdiction or</p> <p>(ii) in the provision of <u>health services</u>.</p> <p>(c) been convicted of any criminal offence or have any pending criminal charges, or any civil proceedings lodged against them or their practice.</p>	<p>icare notes there may be unintended consequences affecting access to health and related treatment for injured persons from paragraph 21(a) and (b). For example, an RSP may be restricted from practising as a surgeon but able to provide services as an Independent Medical Examiner.</p> <p><b>Suggestion: SIRA to consider whether restrictions be treated on a case by case basis and limiting the restriction to a particular aspect of practice and where the complaint has not been remediated.</b></p> <p>icare also notes that private hospitals may limit the scope of a surgeon in performing certain procedures, however AHPRA does not impose such restrictions on that surgeon.</p> <p><b>Suggestion: SIRA to clarify whether an RSP in these circumstances is required to report to SIRA this condition and whether SIRA will disallow the surgeon from providing relevant services.</b></p>

<p><b>Part 3 – Registration/accreditation requirements</b></p> <p>22. Students being supervised by a RSP must not provide relevant services.</p>	<p>icare’s submission details concerns about injured persons accessing RSPs.</p> <p><b>Submission: icare recommends SIRA confirm whether medical registrars and/or advanced medical trainees in a relevant speciality are considered “students”, or whether this relates solely to those who have yet to obtain a healthcare qualification relevant to the service (i.e., university student).</b></p>
<p><b>Part 4- Requirements for the delivery of relevant services</b></p> <p>26. Relevant services must be delivered in accordance with:</p> <p>(c) value-based healthcare and the quadruple aim, which strives to deliver care that improves:</p> <p>(i) health outcomes that matter to people</p> <p>(ii) experiences of receiving care</p> <p>(iii) experiences of providing care</p> <p>(iv) effectiveness and efficiency of care.</p>	<p><b>Suggestion: icare requests SIRA provide guidance about how RSPs meet the requirements.</b></p>
<p><b>Part 4 Requirements for communication with the support team</b></p> <p>29. Relevant services must be delivered in communication with the support team, including:</p>	<p>icare considers this paragraph references the acute injury phase. We acknowledge both the workers compensation and CTP Care schemes include injured persons with ongoing treatment and care needs.</p> <p><b>Suggestion: icare suggests SIRA review the inclusion of a subsection which addresses goals for an injured person with chronic and ongoing treatment and care needs.</b></p>
<p><b>Part 5- Requirements for prescription of medication</b></p> <p>32. Medications must be prescribed through the Pharmaceutical Benefits Scheme (PBS) unless there are <u>extenuating</u> circumstances, such as</p>	<p>As identified in our submission, there are currently multiple definitions circulating in different instruments.</p> <p><b>Suggestion:</b></p> <ul style="list-style-type: none"> <li>• <b>SIRA to review replacing the word “extenuating” with a reference to the <i>Clinical Framework for the Delivery of Health Services</i> and SIRA Medication Management Better Practice Guide.</b></li> </ul>
<p><b>Part 6 – Requirements for provision of relevant medico-legal services –</b></p> <p>34. In the provision of relevant services that are medico-legal services, RSPs who are medico-legal providers must:</p>	<p>icare notes Independent Medical Examinations are included in the Workers Compensation Guidelines and the Motor Accident Guidelines for CTP claims.</p> <p><b>Suggestion: SIRA consider consolidating the requirements in one instrument only. Should the</b></p>

	<p><b>guidelines prevail, icare suggests inclusion of requirements for the assessment of permanent impairment.</b></p>
<p><b>Part 7 – Requirements for RSPs providing allied health services-</b></p> <p>35. In the provision of allied health services RSPs must:</p> <p>(a) inform the nominated treating doctor (WC)/treating doctor (CTP) (if the referral was not received from that doctor) that they are treating the injured person</p>	<p>icare notes in some circumstances an injured person may engage an RSP where a referral is not required or may receive a certificate of capacity from an Allied Health Professional.</p> <p><b>Suggestion: icare recommends SIRA consider resolving the duplication of communication requirements with paragraph 29. icare further suggest communication should be with all RSPs providing treatment. This could be achieved by requesting Allied Health Professionals who provide certificates of capacity to inform any other treating doctor.</b></p>
<p><b>Part 7 - Requirements for RSPs providing allied health services-</b></p> <p>35. In the provision of allied health services RSPs must:</p> <p>(b) when an injured person is being transitioned from one allied health practitioner to another for management of the same injury area:</p> <p>(i) provide concurrently no more than two sessions per practitioner to facilitate transition of management (except in cases of <u>severe injury</u>)</p>	<p><b>Suggestion:</b></p> <ul style="list-style-type: none"> <li>• icare recommends SIRA consider alignment of ‘severe injury’ with the definition under <a href="#">the Physiotherapy, Chiropractic and Osteopathy Fees and Practice Requirements.</a></li> <li>• icare requests SIRA review of paragraph 35(b)(i) to harmonise with 30(c).</li> </ul>
<p><b>Part 7 - Requirements for use of Allied Health Treatment Request Form</b></p> <p>36. In the provision of relevant services, RSPs who are allied health practitioners must:</p> <p>(a) submit an Allied Health Treatment Request (AHTR) form (using the form approved by SIRA – available on SIRA’s website) for approval of treatment proposed, except where treatment is ...</p> <p>(d) make evidence-based treatment requests and specify how outcomes that empower injured persons to manage their injury and maximise their independence will be measured and demonstrated in the AHTR.</p>	<p>icare notes the purpose of the Guidelines is to provide consistent service.</p> <p><b>Suggestion: SIRA consider whether RSPs should adhere to the <i>Clinical Framework for the Delivery of Health Services</i> and advise the industry and stakeholders.</b></p>
<p><b>Part 8 – Requirements for use of prostheses</b></p> <p>37. Surgical prostheses must be selected from the Department of Health Prostheses List and billed at the minimum benefit rate (in accordance with the Private</p>	<p>icare notes that the Department of Health Prostheses List may not list new items or technologies in a timely manner.</p>

<p>Health Insurance (Prostheses) Rules (Cth) rate current at the time of service.</p>	<p><b>Suggestion: icare requests SIRA consider providing exceptions for severe injuries/circumstances where there is not a similar item on the Department of Health Prostheses List, where emerging treatments can be determined in accordance with clinical rationale and the <i>Clinical Framework for the Delivery of Health Services</i>.</b></p>
<p><b>Part 9 – Requirements for billing for relevant services</b></p> <p>39. In billing for the provision of relevant services, the RSP must:</p> <p>(a) bill a fee similar to the amount <u>customarily paid within the community</u> for the type of service provided, where maximum fees for the service provided by the RSP is not established in a SIRA fees order made under ss61 – 63A of the Workers Compensation Act 1987 [9] (workers compensation scheme only)</p> <p>I not charge a fee for a relevant service unless it is <u>directly payable to the RSP</u> that has provided the treatment or related service or diagnostic procedure to an injured person, i.e. payment for services will not be provided to a third party or a referral service.</p> <p>j) bill for a case conference only where (workers compensation scheme only):</p> <p>(i) the purpose of the case conference is to clarify the person’s capacity for work, barriers to return to work, and strategies to overcome these barriers (ie. <u>not to discuss treatment</u>) to ensure parties share the same expectations about the person’s recovery at work or return to suitable employment</p> <p>(m) not bill to amend a report provided by an RSP to correct an <u>obvious error</u> when the correction has been requested in writing by the referrer.</p>	<p>icare notes there are currently fees orders for many RSPs.</p> <p>Please refer to icare’s submission for further detail of icare’s concerns.</p> <p><b>Suggestion: SIRA to:</b></p> <ul style="list-style-type: none"> <li>• <b>Clarify what ‘customarily paid within the community’ is with regard to fees orders currently available;</b></li> <li>• <b>Advise if the fees orders are applicable.</b></li> <li>• <b>Provide clarity on the possible conflict between paragraph 39(i), 39 (j) and paragraph 29(a).</b></li> <li>• <b>Consider including at 39(m) where the report does not meet service requirements and advise the industry and stakeholders of this requirement.</b></li> </ul>
<p><b>Part 9- Requirements for billing for relevant services</b></p> <p>40. Invoices for <u>relevant services</u> rendered must:</p> <p>(b) include:</p> <p>(ii) <u>payee details</u></p> <p>(v) in the case of <u>medical services</u>, the providers:</p> <ul style="list-style-type: none"> <li>• Australian Health Practitioner Regulation Agency (AHPRA) number, and</li> <li>• Medicare provider number (unless not registered with Medicare)</li> </ul>	<p>Please refer to icare’s submission regarding billing requirements and the consolidation of requirements in one instrument.</p> <p><b>Suggestion: SIRA to clarify what RSPs are considered ‘medical services’ and include professional association accreditation or membership number.</b></p>