

WORKERS COMPENSATION (ACCREDITED EXERCISE PHYSIOLOGY FEES) ORDER 2020 No.2

under the

Workers Compensation Act 1987

I, Carmel Donnelly, Chief Executive, State Insurance Regulatory Authority, make the following Order pursuant to section 61(2) of the *Workers Compensation Act 1987*.

Dated this 17th day of March 2020

Carmel Donnelly
Chief Executive
State Insurance Regulatory Authority

Explanatory Note

Treatment by a remedial medical gymnast is medical or related treatment as defined in section 59 of the *Workers Compensation Act 1987*. For the purposes of this Order, the term “remedial medical gymnast” is interchangeable with “Accredited Exercise Physiologist”. This Order sets the maximum fees for which an employer is liable under the Act for any Accredited Exercise Physiology treatment related services provided to a NSW worker. It must not exceed the maximum fee for the treatment or service as specified in this Order. Workers are not liable for the cost of any medical or related treatment covered by this Order. The effect of this Order is to prevent an Accredited Exercise Physiologist from recovering from the injured worker or employer any extra charge for Accredited Exercise Physiology treatments covered by the Order.

This Order provides that pre-approval by workers compensation insurers must be sought for certain Accredited Exercise Physiology treatment.

The incorrect use of any item referred to in this Order can result in the Accredited Exercise Physiologist being required to repay monies that the Accredited Exercise Physiologist has incorrectly received.

The Authority has not set a maximum amount for any medical or related treatment provided in respect of a worker’s work related “Severe injury” as defined in this Order. Fees for this treatment are to be negotiated with the insurer prior to the delivery of the treatment. Use of the Allied Health Recovery Request is optional for the request of treatment for workers with Severe injury.

Workers Compensation (Accredited Exercise Physiology Fees) Order 2020 No.2

1. Name of Order

This Order is the *Workers Compensation (Accredited Exercise Physiology Fees) Order 2020 No.2*.

2. Commencement

This Order commences on 20 March 2020.

3. Definitions

In this Order:

the Act means the Workers Compensation Act 1987.

the Authority means the State Insurance Regulatory Authority as constituted under section 17 of the *State Insurance and Care Governance Act 2015*.

Accredited Exercise Physiology treatment related services refers to clinical exercise prescription, instruction and supervision, health education and exercise-based lifestyle and behaviour modification services. Each service is to be billed according to Schedule A.

Accredited Exercise Physiologist means an exercise physiologist accredited by Exercise and Sports Science Australia (ESSA) to provide Accredited Exercise Physiology services. As outlined in the SIRA Workers Compensation Regulation Guideline for approval of treating allied health practitioners, an Accredited Exercise Physiologist must be approved by the authority to deliver services in the NSW workers compensation system. The requirement to be approved does not apply to treatment provided interstate or to exempt workers.

For the purposes of this Order, the term “remedial medical gymnast” is interchangeable with “Accredited Exercise Physiologist”.

Allied Health Recovery Request means the form used to request prior approval for treatment and services and to communicate with the insurer about a worker’s treatment, timeframes and anticipated outcomes.

Case conference means a face-to-face meeting, video conference or teleconference with any or all of the following parties – worker, employer, workplace rehabilitation provider, insurer or other treatment practitioner/s delivering services to the worker, including the nominated treating doctor. Discussion must seek to clarify the worker’s capacity for work, barriers to return to work and strategies to overcome these barriers via an open forum to ensure parties are aligned with respect to expectations and direction of the worker’s recovery at work or return to suitable employment. If the discussion is with the worker, it must involve a third party to be considered a Case conference.

Discussions with Independent consultants are not classified as Case conferencing and are not to be charged. Discussions between treating doctors and practitioners relating to treatment are considered a normal interaction and are not to be charged.

File notes of Case conferences are to be documented in the Accredited Exercise Physiologist’s records indicating the person/s spoken to, details of discussions, duration of the discussion and outcomes. This information may be required for invoicing or auditing purposes.

Exempt worker refers to specific classes of workers set out in Part 19H of Schedule 6 of the 1987 Act for which most of the amendments made to the Workers Compensation Acts in 2012 and 2015 do not apply. These classes of workers include police officers, paramedics, fire fighters, coal miners and volunteers prescribed by the *Workers Compensation (Bush Fire, Emergency and Rescue Services) Act 1987*.

External facility means an external facility such as a gymnasium or pool, where the facility is not owned or operated by the treatment provider or where the provider does not contract their services to the facility.

Group/class intervention occurs where an Accredited Exercise Physiologist delivers the same service that is, the same exercise and instruction, to more than one person at the same time. Maximum class size is six (6) participants.

GST means the Goods and Services Tax payable under the GST Law.

GST Law has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

Incidental expenses means items the worker actually takes with them for independent use at home (e.g. strapping tape, theraband, exercise putty, disposable electrodes, walking stick). This does not apply to consumables used during a consultation or exercise handouts.

Independent consultant review means a review where barriers to recovery, progress, return to work or active participation are evident, and an independent opinion of allied health treatment will benefit the management of the worker’s injury. The review must be completed by an Independent consultant approved by the Authority.

Initial Allied Health Recovery Request means the first Allied Health Recovery Request completed and submitted to the insurer for the claim.

Initial consultation and treatment means the first session, provided by the Accredited Exercise Physiologist in respect of an injury, or the first consultation in a new episode of care for the same injury and may include:

- history taking
- physical assessment
- goal setting and treatment planning
- treatment/service

- clinical recording
- communication with referrer, insurer and other relevant parties, and
- preparation of an Allied Health Recovery Request when indicated.

The service is provided on a one-to-one basis with the worker for the entire session. It is a maximum of one hour duration, or where less than one hour should be pro-rated into 5 minute blocks to reflect the time taken.

Insurer means the employer's workers compensation insurer.

New episode of care means when a worker has ceased treatment more than three (3) months previously and returns for additional treatment for the same injury with the same or a different practitioner.

Normal practice means premises in or from which an Accredited Exercise Physiologist regularly operates an exercise physiology practice and treats patients. It also includes facilities where services may be delivered on a regular basis or as a contracted service, such as a private hospital, hydrotherapy pool or gymnasium.

Reduced supervision treatment occurs where an Accredited Exercise Physiologist delivers a service, which may or may not be the exact same exercise and instruction, to more than one person at the same time. Maximum number of persons per session is three (3), with the Accredited Exercise Physiologist to worker ratio being one-to-one for at least 30% of the session time.

Report writing occurs only when the insurer requests an Accredited Exercise Physiologist compile a written report, other than an Allied Health Recovery Request, providing details of the worker's treatment, progress and work capacity. The insurer must provide pre-approval for such a service.

Severe injury means one or more of the following diagnoses:

- spinal cord injury — acute traumatic lesion of the neural elements in the spinal canal (spinal cord and cauda equina) resulting in permanent sensory deficit, motor deficit or bladder/bowel dysfunction as a result of the workplace injury
- traumatic brain injury — based on evidence of a significant brain injury which results in permanent impairments of cognitive, physical and/or psychosocial functions. A defined period of post traumatic amnesia plus a Functional Independence Measure (FIM) at five or less, or two points less than the age appropriate norm (or equivalent where other assessment tools are used) is required
- multiple amputations (or equivalent loss of function) of the upper and/or lower extremities or single amputations (or equivalent loss of function) involving forequarter amputation or shoulder disarticulation, hindquarter amputation, hip disarticulation or "short" trans femoral amputation involving the loss of 65% or more of the length of the femur
- burns — full thickness burns greater than 40 per cent of the total body surface area or full thickness burns to the hands, face or genital area, or inhalation burns causing long term respiratory impairment, plus a FIM score at five or less, or two points less than the age norm (or equivalent where other assessment tools are used)
- permanent traumatic blindness, based on the legal definition of blindness.

Standard consultation and treatment means treatment provided subsequent to the initial consultation and treatment and includes:

- re-assessment
- intervention/treatment
- clinical recording
- preparation of an Allied Health Recovery Request when indicated.

The services are provided on a one-to-one basis with the worker for the entire session. They are a maximum of one hour duration, or where less than one hour should be pro-rated into 5 minute blocks to reflect the time taken.

Telehealth services means delivery of consultations via video or telephone. Consultations would be inclusive of any electronic communication to support the delivery of the treatment service. Accredited Exercise Physiologists must consider the appropriateness of this mode of service delivery for each worker on a case-by-case basis. Telehealth services require pre-approval from the insurer and must be consented to by all parties – the worker, Accredited Exercise Physiologist and insurer. Service providers are responsible for delivering Telehealth services in accordance with the principles of professional conduct and the relevant professional and practice guidelines to ensure that all care is taken to ensure the safety, appropriateness and effectiveness of the service.

Travel rates can be claimed when the most appropriate clinical management of the worker requires the Accredited Exercise Physiologist to travel away from their Normal practice.

Travel costs do not apply where the Accredited Exercise Physiologist provides services on a regular or contracted basis to facilities such as a private hospital, hydrotherapy pool, or gymnasium. Where multiple workers are being treated in the same visit, the travel charge must be divided evenly between those workers.

4. Application of Order

This Order applies to treatment provided on or after 20 March 2020, whether it relates to an injury received before, on or after that date.

5. Maximum fees for Accredited Exercise Physiologists

- (1) The maximum fee amount for which an employer is liable under the Act for treatment of a worker by an Accredited Exercise Physiologist, being treatment of a type specified in Column 1 of Schedule A to this Order, is the corresponding amount specified in Column 2 of that Schedule.
- (2) If it is reasonably necessary for an Accredited Exercise Physiologist to provide a service of a type specified in any of items EPA001 to EPA004 in Schedule A at a place other than the Normal practice, the maximum fee amount for which an employer would otherwise be liable under the Act for that type of service is increased by;
 - a) an amount calculated at the rate per kilometre (for the number of kilometres of travel reasonably involved) specified for item EPA008 in Column 2 of Schedule A, where this service has been pre-approved by the insurer.
- (3) The maximum amount payable for an Initial Allied Health Recovery Request is \$38.00 (+ GST). This fee is payable only once (1) per claim for completion of the Initial Allied Health Recovery Request.
- (4) Telehealth services are to be billed according to the appropriate items EPA301 to EPA302 in Schedule A and require insurer pre-approval. No additional payment in relation to facility fees can be charged by the practitioner undertaking the consultation.

6. Treatment provided interstate or to exempt workers

Accredited Exercise Physiologists approved by the authority must submit their SIRA approval number when invoicing for treatment delivered under the NSW workers compensation system in a State/Territory other than NSW, or to exempt workers.

When an Accredited Exercise Physiologist is not approved by the Authority and delivering treatment under the NSW workers compensation system in a State/Territory other than NSW or to exempt workers, the service provider number for that service provided:

- interstate is INT0000
- to an exempt worker is EXT0000

and the payment classification code is the one that is relevant to the Accredited Exercise Physiologist as defined in Schedule A item column of this Order.

7. External facility fees

In the exceptional circumstance where approval is given for treatment to be provided at an external facility, the facility (and not the service provider) is to invoice the insurer directly under code OTT007. Where this is not possible, the service provider must clearly state the name, location and charge the cost price of the facility on their invoice and attach a copy of the facilities invoice to their account.

External facility fees only apply to the cost for the worker's entry. Fees payable for the entry of the Accredited Exercise Physiologist are a business cost and cannot be charged to the insurer.

An entry fee will not be paid where the facility is owned or operated by the treatment provider or the provider contracts their services to the facility.

8. Nil fees for cancellation or non-attendance

No fee is payable for cancellation or non-attendance by a worker for treatment services with an Accredited Exercise Physiologist.

9. Goods and Services Tax

- (1) Accredited Exercise Physiology services are subject to GST.
- (2) Case conferences, Report writing, Travel services and the Initial Allied Health Recovery Request (AHRR) provided by an Accredited Exercise Physiologist in relation to treatment of a worker are subject to GST.
- (3) An amount fixed by this Order is exclusive of GST. An amount fixed by this Order may be increased by the amount of any GST payable in respect of the service to which the cost relates, and the cost so increased is taken to be the amount fixed by this Order. This clause does not permit an Accredited Exercise Physiologist to charge or recover more than the amount of GST payable in respect of the service to which the cost relates.

10. Requirements for invoices

All invoices should be submitted within 30 calendar days of the service provided and must be itemised in accordance with Schedule A of this Order and comply with the Authority's itemised invoicing requirements for the invoice to be processed. Refer to the relevant provider page on the SIRA website - <https://www.sira.nsw.gov.au/for-service-providers/A-Z-of-service-providers>

11. No pre-payment of fees

Pre-payment of fees for reports and services is not permitted.

Schedule A

Maximum fees for Accredited Exercise Physiologists services

Item	Column 1 Type of Treatment	Column 2 Maximum Amount (\$) (excl GST)
EPA001	Initial consultation and treatment	\$13.10/ 5 minutes \$157.20/ hour (maximum 1 hour)
EPA002	Standard consultation and treatment	\$13.10/ 5 minutes \$157.20/ hour (maximum 1 hour)
EPA301	Initial consultation and treatment via telehealth (requires pre-approval by the insurer)	\$13.10/ 5 minutes \$157.20/ hour (maximum 1 hour)
EPA302	Standard consultation and treatment via telehealth (requires pre-approval by the insurer)	\$13.10/ 5 minutes \$157.20/ hour (maximum 1 hour)
EPA003	Reduced supervision treatment	\$68.50
EPA004	Group/class intervention	\$49.90/participant
EPA005	Incidental expenses e.g. strapping tape, theraband, exercise putty, etc. Note: This code does not apply to external facility fees	Cost price
EPA006	Case conference	\$13.10/ 5 minutes \$157.20/ hour
EPA007	Report writing (only when requested by the insurer)	\$13.10/ 5 minutes \$157.20/ hour (maximum 1 hour)
EPA008	Travel (requires pre-approval by the insurer)	Reimbursed in accordance with the "Use of private motor vehicle" set out in Item 6 of Table 1 (Rates and Allowances) to Part B (Monetary Rates) of the <i>Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, at the rate effective 1 July 2019.</i> <i>Use of private motor vehicle:</i> - 68 cents per kilometre
WCO005	Fees for providing copies of clinical notes and records.	Where clinical records are maintained electronically by an allied health practitioner /practice, a flat fee of \$60 (is payable for provision of all requested clinical records held by the practice). Inclusive of postage and handling. An allied health practitioner/practice should not provide or bill for hard copy clinical records if they are maintained electronically. Where clinical records are not maintained electronically, the maximum fee for providing hard copies of clinical records is \$38 (for 33 pages or less) and an additional \$1.40 per page if more than 33 pages. This fee includes postage and handling.

OAS003	Submission of an Initial Allied Health Recovery Request (AHRR) only.	<p>\$38.00 (Initial AHRR per claim only)</p> <p>All other Allied Health Recovery Requests submitted are not subject to a fee.</p>
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