



2 March 2023

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State Insurance Regulatory Authority
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Via Email:

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Dear Petrina,

Draft Guidelines for the Provision of Relevant Services (Health and Related Services)

The Insurance Council of Australia (Insurance Council), on behalf of its licensed CTP insurer members (Insurers) welcomes the opportunity to provide feedback on the *Draft Guidelines for the provision of relevant services (health and related services)* (“the Guideline”).

The Guideline outlines SIRA’s expectation for the provision of services by relevant service providers (RSPs) in the workers compensation (WC) and compulsory third party (CTP) schemes and provides a framework for SIRA to manage RSPs who have a demonstrated pattern of poor practice. CTP Insurers broadly support the Guideline and welcome a regulatory framework that drives the delivery of optimal health outcomes and provision of timely and cost-effective healthcare to injured road users.

Particular areas of support

CTP Insurers note particular support for the following sections:

- Part 2 - the Code of Conduct for RSPs delivering relevant services, in particular 19 (c) relating to overservicing and overbilling.
- Point 26 - relating to the delivery of services, including reference to the Clinical Framework for the Delivery of Health Services.
- Point 28 - relating to RSPs cooperating with independent reviews arranged by insurers.
- Point 30 and in particular, 30(c), relating to concurrent services not being supported without appropriate clinical justification.
- Point 39 (b) - relating to RSPs not charging a cancellation or non-attendance fee.
- Point 39(c) – relating to payments only being paid to RSPs and not to third parties. This reduces costs by eliminating additional third party fees from the CTP Scheme.

While CTP Insurers acknowledge the potential benefits that the Guideline may provide in regulating and administering the CTP Scheme, feedback has been provided which includes suggested areas for clarification and additional areas of reform for SIRA's consideration.

Gazetted rates for healthcare services

We refer to our submission on the Draft State Insurance and Care Governance Amendment Regulation 2022 dated 21 October 2022 which is related to the Guideline and to earlier communication in response to SIRA's *'McDougal Review, COVID-19 and Future Opportunities for Personal Injury Schemes'* consultation dated 11 November 2021. As raised previously, we note that the CTP Scheme is not subject to a specific fee order and inconsistent charges apply for certain types of treatment. Currently, there is a requirement to negotiate on costs which takes time and could potentially delay a person's treatment.

The ICA reiterates its previous recommendation that SIRA consider the implementation of gazetted rates for healthcare services in the CTP Scheme to help speed up approval and reduce the delay of treatment and to provide greater certainty for RSPs, claimants and insurers in relation to appropriate treatment costs. Further, as WC and CTP Insurers operate in the market for similar services, we consider that consistent fee settings may assist in improving timely access to appropriate healthcare.

Should the status quo remain, CTP Insurers would like to understand the rationale for not gazetting fees in the CTP Scheme. Guidance would be appreciated on what CTP Insurers can do to progress the request for the harmonisation of fees.

Reimbursement where RSP is excluded

CTP Insurers suggest the Guideline could better achieve its intended purpose where a poorly performing RSP is excluded. For example, a doctor may be excluded but can still see a claimant who pays the doctor directly and the claimant is then entitled to seek reimbursement from their insurer. This situation does not achieve the objective of properly excluding poorly performing doctors and CTP Insurers recommend an amendment be made to the Guideline to address this situation.

'Arm's length' relationship between RSP and claimant

Similar to the situation in the ACT scheme, CTP Insurers would welcome the inclusion of a clause in the Guideline to require RSPs to be at 'arm's length' from the claimant. For example, service providers who are family members of the claimant (or owned by the claimant) would not be able to charge for services. SIRA is referred to point 6.4.4 of the Motor Accident Injuries (Treatment and Care) Guidelines 2021 which makes this a requirement in the ACT scheme.

Invoice Requirements

CTP Insurers suggest Part 9.40 be amended to apply to CTP invoices as well as to WC invoices. Most of the invoice requirements are standard so it is unclear why this part applies only to WC and not to CTP. There may need to be minimal exclusion of points 9.40(b)(xi) and 9.40(b)(xii).

Meaning of "Severe Injury"

CTP Insurers seek clarity from SIRA on what constitutes a "severe injury". Defining this term would assist CTP Insurers in applying the Guideline. CTP Insurers would also be assisted with an explanation as to the rationale for excluding this cohort of claims and making it optional to have an Allied Health Treatment Request. It is noted that this impacts the ability of CTP Insurers to meet their obligations to ensure that services are delivered in line with the Clinical Framework and, in addition, tasks such as Recovery Plans become difficult.

Personal Injury Commission

CTP Insurers support SIRA's intent in providing clarity regarding the expectations of RSPs. It would be useful to understand how the Guideline is considered in the context of reviewing whether treatment and care is reasonable and necessary, for example at the Personal Injury Commission.

Additional comments

We refer to the additional comments below for consideration.

We trust that our response is useful to SIRA. Please do not hesitate to contact me or Alice Nichol, Senior Policy Advisor, Consumer Outcomes [REDACTED] if you have any queries regarding our submission.

Yours sincerely,



Fiona Cameron
General Manager Policy, Consumer Outcomes

Guidance (Heading)	Insurer Comment
Part 2. Code of conduct for RSPs delivering relevant services	<p>To enhance collaboration, include in the document an obligation for RSPs to act in good faith with insurers when dealing with claims.</p> <p><i>Rationale: To address RSPs who do not participate in conferences, provide any notes, reports, or a response in any way.</i></p>
Part 3: Requirements for the provision of relevant services	<p>23. Any practitioner registration changes should be notified to the Insurer by SIRA within a defined time e.g., within 7 calendar days of becoming aware.</p>
Part 4: Requirements for the delivery of relevant services	<p>29. 'Relevant services must be delivered in communication with the support team, including...' - should also include insurers.</p> <p>31 (a) Should include:</p> <ul style="list-style-type: none"> - Initial consult must be in person, except in special circumstances e.g., severity of injury, age or disability. - In person consults must be held every three months for the first 12 months of an injury, or in cases where ongoing telehealth appointments occurs, reasons are provided by the RSP. <p>31(b) Should include whether the telehealth service is the suitable mode of service delivery to ensure it would be of therapeutic value.</p>
Part 5: Requirements for prescription of medication	<p>32. Include and clarify accountability. For example, identify who is being held accountable (the prescriber or pharmacist) and how. The prescriber should provide clinical justification in writing when issuing a script that has extenuating circumstances in relation to parts (b) and (c); We recommend similar wording to Part 5: 33 be used.</p>
Part 7: Requirements for RSPs providing allied health services	<p>36 (a) Suggest wording change to require RSPs to provide 'completed' AHTR forms.</p> <p>Suggest SIRA elaborate on the requirements for RSPs to provide clear rationales on the proposed treatment particularly how treatment will progress recovery / increase capacity for ADLs/work</p> <p>Rationale: Enables insurers to consider and approve treatment quicker for the injured person.</p>
Part 9: Requirements for billing for relevant services	<p>39 (l)(iv) Suggest removing (or adding clause for insurer approval) as removing travel costs discourages RSPs who travel to injured persons home or gym for the purpose of rehabilitation.</p>

Additional point

Interpreters: Consideration should be given to whether the use of an interpreter is necessary. For example, if a local RSP (may need to define 'local' – say within a 'X'km radius) can provide the same service to the injured person in their preferred language, the option to be treated by that RSP without the use of an interpreter should be offered to the injured person.

Rationale: More effective treatment for the injured person and cost efficient for the scheme.