

**WORKERS COMPENSATION (PSYCHOLOGY AND COUNSELLING FEES) ORDER 2020
No.3**

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 day of 14 April 2020

Carmel Donnelly
Chief Executive
State Insurance Regulatory Authority

Explanatory Note

Treatment by a Psychologist or Counsellor is medical or related treatment as defined in section 59 of the *Workers Compensation Act 1987*. This Order sets the maximum fees for which an employer is liable under the Act for any Psychology or Counselling treatment related services provided to a NSW worker. It must not exceed the maximum fee for the treatment or services 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 a Psychologist or Counsellor from recovering from the injured worker or employer any extra charge for Psychologist or Counselling treatments covered by the Order.

This Order provides that pre approval by workers compensation insurers must be sought for certain Psychology/Counselling treatment.

The incorrect use of any item referred to in this Order can result in the Psychologist or Counsellor being required to repay monies that the Psychologist or Counsellor 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.

The Authority has not set a maximum amount for trauma focused psychological treatment provided to an Emergency service worker employed by a Treasury Managed Fund member agency who has been diagnosed with a work related post-traumatic stress disorder.

Fees for these services are to be negotiated with the insurer prior to the delivery of services. Use of the Allied Health Recovery Request is optional for the request of services for workers with Severe injury.

Workers Compensation (Psychology and Counselling Fees) Order 2020 No.3

1. Name of Order

This Order is the *Workers Compensation (Psychology and Counselling Fees) Order 2020 No.3*

2. Commencement

This Order commences on 17 April 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*.

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 (including a support person, if requested by the 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 you have is with the worker and their chosen support person, it must involve another 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 Psychologist's or Counsellor'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.

Counsellor means a Counsellor who is a full clinical member of the Psychotherapy and Counselling Federation of Australia (PACFA), or Accredited Mental Health Social Worker with the Australian Association of Social Workers (AASW) or an Australian Counsellors Association (ACA) member level 3-4. As outlined in the SIRA Workers Compensation Regulation Guideline for approval of treating allied health practitioners, a Counsellor 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.

Counselling services refer to all treatment related services delivered by a Counsellor. Each service is to be billed according to Schedule B.

Emergency service worker means a worker who is employed by a Treasury Managed Fund member agency as an ambulance officer, a police officer or a fire and rescue officer.

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*.

Expert guidelines means the *Expert guidelines: Diagnosis and treatment of post-traumatic stress disorder in emergency service workers* endorsed by the Black Dog Institute.

First subsequent Certificate of Capacity means the first of any subsequent Certificate of Capacity issued by the worker's treating psychologist approved by the Authority in accordance with any requirement under the *Workers Compensation Regulation 2016* (the Regulation) and submitted to the insurer for the claim..

Group/class intervention occurs where a Psychologist or Counsellor delivers a common service to more than one (1) person at the same time, for example: group therapy. 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. relaxation CDs and self-help books). 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 approval by the Psychologist or Counsellor for the claim.

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

- history taking
- assessment
- diagnostic formulation (Psychologists only)
- 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.

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 different practitioner.

Normal practice means premises in or from which a practitioner regularly operates a Psychology or Counselling practice and treats patients. It also includes facilities where services may be delivered on a regular or contract basis such as a private hospital or workplace.

Psychologist means a Psychologist registered to provide Psychology services with Australian Health Practitioner Regulation Agency (AHPRA). As outlined in the SIRA Workers Compensation Regulation Guideline for approval of treating allied health practitioners, a Psychologist 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.

Psychology services refers to all treatment related services delivered by a Psychologist. Each service is to be billed according to Schedule A.

Report writing occurs only when the insurer requests a Psychologist or Counsellor 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 sessions provided subsequent to the Initial consultation and treatment and includes:

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

The service is one-to-one for the entire session.

Subsequent Certificate of Capacity means the form approved by the Authority, issued by the worker's treating psychologist approved by the Authority as prescribed in the Regulation.

Trauma focused psychological treatment means cognitive behavioural therapy or eye movement desensitisation reprocessing provided by a Psychologist in accordance with the *Expert guidelines* as defined in this Order.

Telehealth consultations means delivery of consultations via video or telephone by a Psychologist or Counsellor approved by the Authority. Consultations would be inclusive of any electronic communication to support the delivery of the treatment service. Practitioners must consider the appropriateness of this mode of service delivery for each worker on a case-by-case basis and be satisfied client outcomes are not compromised. Telehealth consultations must be consented to by the worker. Practitioners are responsible for delivering telehealth consultations in accordance with the principles of professional conduct and the relevant professional and practice guidelines to ensure the safety, appropriateness and effectiveness of the service. As with the provision of all treatment, telehealth consultations require pre-approval from the insurer unless exempt from pre-approval by the Act or the Authority's *Workers Compensation Guidelines*. No additional fee (e.g. facility fees) can be charged in relation to the consultation.

Travel rates can be claimed when the most appropriate clinical management of the worker requires the Psychologist or Counsellor to travel away from their Normal practice.

Travel costs do not apply where the Psychologist or Counsellor provides services on a regular or contracted basis to facilities such as a private hospital or workplace. 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 17 April 2020, whether it relates to an injury received before, on or after that date.

5. Maximum fees for Psychology or Counselling treatment

- (1) The maximum fee amount for which an employer is liable under the Act for treatment of a worker by a Psychologist or Counsellor, being treatment of a type specified in Column 1 of Schedule A for Psychologists, and Schedule B for Counsellors to this Order, is the corresponding amount specified in Column 2 of those Schedules.
- (2) If it is reasonably necessary for a practitioner to provide treatment of a type specified in any of items PSY001, PSY002, PSY004 or PSY006 (for Psychologists) in Schedule A or COU002, COU003, COU005 or COU007 (for Counsellors) in Schedule B 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 treatment is increased by;
 - a) an amount calculated at the rate per kilometre (for the number of kilometres of travel reasonably involved) specified for item PSY005 (for Psychologists) in Column 2 Schedule A and COU006 (for Counsellors) in Column 2 of Schedule B, 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 per claim for completion of the Initial Allied Health Recovery Request.

- (4) The maximum amount payable for the First subsequent Certificate of Capacity is \$38.00 (+GST). This fee is payable only once (1) per claim for completion of the First subsequent Certificate of Capacity.
- (5) Telehealth consultations are to be billed according to the appropriate items PSY301 to PSY302 (for Psychologists) in Schedule A and items COU302 to COU303 (for Counsellors) in Schedule B 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

Psychologists or Counsellors 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 a Psychologist or Counsellor is delivering treatment under the NSW workers compensation system in a State/Territory other than NSW and is not approved by the Authority, the service provider number for that service provided interstate is INT0000

When a Psychologist or Counsellor is delivering treatment under the NSW workers compensation system to an exempt worker, and the provider is not approved by the Authority, the service provider number for that treatment provided to an exempt worker is EXT0000.

For the above, the payment classification code is the one that is relevant to the Psychologist or Counsellor as defined in Schedule A and B item column of this Order.

7. Nil fee for cancellation or non-attendance

No fee is payable for cancellation or non-attendance by a worker for treatment services with a Psychologist or Counsellor.

8. Goods and Services Tax

- (1) Psychology treatment services provided by a Psychologist directly to the worker are GST free.
- (2) Counselling services provided by a Counsellor directly to the worker are subject to GST.
- (3) Case conference, Report writing, Travel services and the Initial Allied Health Recovery Request (AHRR) provided by a Psychologist or Counsellor in relation to treatment of a worker are subject to GST.
- (4) 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 a Psychologist or Counsellor to charge or recover more than the amount of GST payable in respect of the service to which the cost relates.

9. 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 or B of this Order and comply with the Authority's itemised 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>

10. No pre-payment of fees

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

Schedule A

Maximum fees for Psychologists services

Psychologists Item	Column 1 Type of Treatment	Column 2 Maximum Amount (\$) (excl GST)
PSY001	Initial consultation and treatment	\$234.30
PSY002	Standard consultation and treatment	\$195.60
PSY301	Initial consultation and treatment via telehealth (requires pre-approval by the insurer)	\$234.30
PSY302	Standard consultation and treatment via telehealth (requires pre-approval by the insurer)	\$195.60
PSY003	Report writing (only when requested by the insurer)	\$16.30/ 5 minutes \$195.60/hour (maximum 1 hour)
PSY004	Case conference	\$16.30/ 5 minutes \$195.60/ hour
PSY005	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
PSY006	Group/class intervention	\$58.50/ participant
PSY007	Trauma focused psychological treatment (for a worker who has been diagnosed with a work-related post traumatic stress disorder).	Must be pre-approved by the insurer. Rates to be negotiated between the practitioner and insurer. Only to be used where treatment is provided to an emergency service worker employed by a Treasury Managed Fund member agency.
OAD001	Incidental expenses e.g. relaxation CD's, books, etc.	Cost price
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.	\$38.00 (Initial AHRR per claim only) All other Allied Health Recovery Requests submitted are not subject to a fee.
OAS004	Submission of a first subsequent Certificate of Capacity only. Note: Must be a SIRA approved psychologist to issue a Certificate of Capacity	\$38.00 (First subsequent Certificate of Capacity only) All other Certificate of Capacity submissions are not subject to a fee

Schedule B

Maximum fees for Counsellors services

Counsellors Item	Column 1 Type of Treatment	Column 2 Maximum Amount (\$) (excl GST)
COU002	Initial consultation and treatment	\$174.50
COU003	Standard consultation and treatment	\$156.00
COU302	Initial consultation and treatment via telehealth (requires pre-approval from the insurer)	\$174.50
COU303	Standard consultation and treatment via telehealth (requires pre-approval from the insurer)	\$156.00
COU004	Report writing (only when requested by the insurer)	\$13.00/ 5 minutes \$156.00/ hour (maximum 1 hour)
COU005	Case conference	\$13.00/ 5 minutes \$156.00/ hour
COU006	Travel (requires pre-approval from 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
COU007	Group/class intervention	\$49.50/ participant
OAD001	Incidental expenses e.g. relaxation CD's, books, etc	Cost price
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 applies for provision of all requested clinical records held by the practice. 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.	\$38.00 (Initial AHRR per claim only) All other Allied Health Recovery Requests submitted are not subject to a fee.