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CTP Review
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To whom it may concern,

**RE Options for reforming Green Slip Insurance in NSW: Motor Accidents
Compulsory Third Party (CTP) scheme**

The Australian Psychological Society (APS) welcomes the opportunity to provide feedback to the State Insurance Regulatory Authority (SIRA) on the Options for reforming Green Slip Insurance in NSW in relation to the NSW Motor Accidents Compulsory Third Party (CTP) scheme. As the peak body for psychology, representing over 22,000 members, the APS has a long history of working with government and the non-government sector to support the delivery of effective and efficient health treatment and support services to meet the needs of special populations.

The APS would like to commend the SIRA for inviting stakeholders to provide comment on the future of NSW's Motor Accidents CTP scheme and options for reforming Green Slip insurance in NSW.

The APS acknowledges in particular, the basis of the objectives in the Options paper to:

- Increase the proportion of benefits provided to the most seriously injured road users
- Reduce the time it takes to resolve a claim
- Reduce opportunities for fraudulent claims and exaggeration
- Reduce the cost of Green Slip premiums.

This feedback will address issues from a psychological and mental health perspective with particular emphasis on areas of unmet need and recommendations to remedy current gaps in options for reforming Green Slip insurance. APS members in NSW have reliably

informed our submission, some of whom attended the SIRA Round Table on Thursday 24 March 2016.

The APS understands that some of the concerns under the current CTP scheme include the following:

- The injured party is frequently consumed by the (costly) legal and adversarial aspects of establishing fault before treatment can be undertaken with insurer approval
- Feigning and exaggeration of symptoms are currently rife with the goal to seek monetary gain by way of compensation for injury
- The protracted nature of claims and excessive delays in accepting claims under the 'fault' system are contributing to delays in early screening for psychological injury (e.g. post-traumatic stress disorder (PTSD), anxiety and depression) and delays in enabling early intervention and treatment
- High level of payouts can mean insurers and injured parties often place less emphasis on outcomes and too much focus on level of payments, leaving an injured party susceptible to later demands on the public health system and inadequate provision for their future needs, especially if financial proceeds are not directed to ensuring future medical (including psychological) treatment
- The need for improved communication for those with psychological injury with insurers and their case managers, including clarification of reporting requirements by allied health practitioners to insurers and multidisciplinary teams.

The APS understand from members who attended the SIRA Round Table consultations, that the four options for reform of the Green Slip insurance in NSW were discussed and that there was consensus on the benefits of a modified fault-based system (Option 3) based on (among other things) the following:

- Early intervention is made possible by eliminating delays and removing the protracted legal and adversarial aspects of establishing fault before treatment can commence
- Feigning and exaggeration of symptoms is reduced, as benefits are defined to create greater certainty and retention of common law benefits for only the most seriously injured. The APS note, however, that whilst this aims to reduce the number of claims, it would likely also reduce the costs of administration. Further, if

the assessment tools and other forensic mechanisms can identify and reduce the incidence of fraud then there are other ways savings can be made

- Damages at common law may continue to be available under Option 3 in a similar fashion to workers' compensation, such as an individual demonstrating a certain percentage of *Whole Person Impairment* to determine eligibility for damages or access to payments for pain and suffering
- It is noted that with the former Motor Accident Authority (MAA) of NSW and WorkCover now within SIRA there will be a common use of the Allied Health Recovery Request (AHR Request) for Allied Health Practitioners together with the setting of *SMART* goals (Specific, Measureable, Achievable, Relevant and Timed). The APS understand that the AHR Request Guidelines will be issued in July 2016 and that modifications are to be made where a return to work is not the primary goal as not all injured parties under CTP are 'workers'. The AHR Request is anticipated to improve communications between key parties and contain treatment costs with specified number of treatment sessions and the availability of reviews by Independent Consultants.

Recommendations

Given the concerns about the current CTP scheme the APS recommends that the following matters be considered as part of the reform process:

- 1) **That early psychological screening, assessment and intervention is made available to individuals as part of the CTP scheme:** There should be a move to greater use of psychologists to conduct initial assessments and early screening as well as early psychological intervention. Emphasis should be placed on developing a CTP insurance scheme that enables and offers early assessment and intervention for psychological trauma (e.g., PTSD) and psychological issues associated with soft tissue injuries. With regard to the latter, where an individual has sustained soft tissue injury, screening for psychological risk factors and identification of barriers to recovery can be made at initial assessment and targeted intervention promptly commenced.

There are multiple examples in the literature of the effectiveness of early psychological interventions for people experiencing trauma. For example, the

*Guidelines for the management of acute whiplash associated disorders for health professionals 2014*¹ (3rd edition) developed by the former MAA states recommended pathways for assessment in adults within first 12 weeks of injury that includes psychological assessment. The Guidelines identify the high prevalence (46 per cent) of all claimants in NSW reporting a whiplash-associated disorder (WAD). The Guidelines demonstrate the use of referrals to psychologists, other health professionals and specialists to assess for concerns associated with the physical injuries. For example, the Guidelines indicate the following:

- Initial assessment indicates that individuals with a *Neck Disability Index* (NDI) score greater than 15/50 and those with a *Visual Analogue Scale* (VAS) greater than 5/10 were at risk of poor recovery and it is recommended that they be considered for further psychological assessment
- It is recommended that individuals 7 days post injury whose VAS and NDI scores remained unchanged, be reviewed for treatment type and intensity and consider other recommended treatments
- 3, 6 and 12 weeks post injury identifies those at risk of poor recovery at 3 or 6-week review (IES). An individual with an IES score of more than 25/75 (i.e. with moderate symptoms) it is recommended to be referred to a psychologist with experience in adjustment difficulties, management of pain and/or posttraumatic stress symptoms. In the 12 week review, if VAS or NDI scores are high or unchanged, then there should be follow up from a recommended specialist and referral for multidisciplinary care.

2) **That at risk individuals should receive psycho-education:** For those screened at risk, psychological sessions conducted in the first weeks following injury including psycho-education have been demonstrated to be effective and should be incorporated into the CTP insurance scheme.

¹ Motor Accidents Authority (2014). *Guidelines for the management of acute whiplash associated disorders for health professionals* (third edition). http://www.maa.nsw.gov.au/__data/assets/pdf_file/0011/18956/Final-Guidelines-for-the-management-of-a~d-WAD-disorders-for-health-professionals-3rd-edition-2014-MAA32-0914-28-11-14a.pdf

- 3) **That psychologists with appropriate clinical or forensic experience be better utilised to make assessments about feigning and/or exaggeration of symptoms:** Psychologists with appropriate clinical or forensic experience are well equipped to assess feigning and/or exaggeration of psychological overlay of symptoms using evidence-based assessment tools. This is of particular value given the reported high incidence of fraudulent claims.
- 4) **That appropriately qualified psychologists in NSW be authorised to do Psychiatric Impairment Rating Scale (PIRS) testing and reporting:** Currently in NSW only psychiatrists are able to provide reports and expert evidence using the PIRS. This scale is used in cases where assessments of *Whole Person Impairment* is over 10 per cent and can have significant impact on recovery and on awards for damages. Experienced psychologists are skilled and competent to conduct behavioural analyses such as capacity for return to work. As such, suitably qualified and experienced psychologists should also be able to administer and interpret the PIRS.

To practice in Australia, psychologists must be registered with the Australian Health Practitioners Regulation Agency. Registered psychologists have the professional training and skills to administer and interpret a number of tests and assessments that can help analyse behavior or diagnose a condition within their area of expertise. During the professional training of psychologists, they are required to have knowledge of behavioral analysis and the diagnostic features, prevalence, development, course, risk, prognosis, functional consequences and differential diagnosis of conditions within their scope of practice. Registered psychologists are also required to be competent in the evidence-based treatment of these conditions within their area of expertise. It is well established that a number of health professionals despite not being medical practitioners, are suitably qualified to conduct behavioral analysis and to diagnose mental health conditions. Further, APS also notes that psychologists in Queensland currently administer the PIRS.

The APS would welcome the opportunity to discuss these matters with should you require it, or for further information please contact me directly on [REDACTED].

Kind regards



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