The Medical Voice for Health Outcomes

A Submission from AMA Tasmania on behalf of doctors caring for their patients in Tasmania's Workers Compensation System

AMA Workers Compensation Reform Committee

September 2015

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Executive Summary

The 'Medical Voice' has not been adequately heard within our Workers Compensation System, particularly in recent years, to the detriment of patient health outcomes. As a result management of patients with work injuries has been dominated by an overly legalistic system that does not focus on achieving optimum health outcomes, particularly for patients who suffer significant injuries or are vulnerable for a variety of reasons.

The AMA believes these 'Complex' cases can be identified earlier by knowledgeable and skilled doctors and, with communication and teamwork with rehabilitation practitioners and claims managers, much better outcomes can be achieved.

Similarly, with input from the medical profession, patients whose recovery have plateaued or are being held back in their recovery within the workers system, can be identified and their exit from the system can be facilitated in an equitable manner without additional negative health consequences.

The most important aspect of this submission for consideration by the Board is that a mechanism be put in place for health professionals to have enhanced and ongoing input into the design and operation of Tasmania's workers compensation system to ensure adequate emphasis on health and recovery. Doctors already have key responsibilities to provide treatment and certification, but with greater engagement by the medical profession at a strategic level, significantly better outcomes can be achieved.

The key recommendations of the AMA Workers Compensation Reform Committee are:

1. Investigate options to facilitate ongoing strategic input by the medical profession into medical standards, procedures and dispute resolution

2. WorkCover Tasmania adopt and monitor health outcomes measures for workers whose injuries are managed within the Tasmanian Workers Compensation System

3. Consider the introduction of models with alternate management pathways for workers:
   - With 'complex' injuries
   - Where maximal recovery has occurred and further progress is unlikely within the workers compensation system

4. Consider appropriate measures to improve the standards of Independent Medical Assessments and review problematic medical assessment guidelines,

particularly the current WorkCover Guidelines relating to assessment of impairment following spinal surgery

5. Consider measures to reduce entry barriers to dispute resolution processes and extend provisional liability provisions to facilitate treatment and rehabilitation measures during the initial period of a claim

6. Consider improvements to the current workers compensation medical certificate

7. Support measures by TAVRP and other peak bodies to improve the independence and professionalism of providers of rehabilitation services

8. Develop agreed standards in relation to facilitation of medical treatment by insurers.

1.0 BACKGROUND

The Australian Medical Association (AMA) is the most influential membership organisation representing registered medical practitioners and medical students of Australia.

The AMA exists to promote and protect the professional interests of doctors and the health care needs of patients and communities.

The AMA advocates on behalf of its members at the Federal, and State and Territory levels by:

- working with governments to increase and maintain provision of world class medical care to all Australians
- tracking and reporting government performance on health policy, financing and services
- challenging governments on policy that potentially harms the interests of patients
- leading the health policy debate by developing and promoting alternative policies to those government policies
- providing informed, expert medical commentary on health issues
- responds to issues in the health debate through provision of a wide range of expert resources
- commissioning and conducting research on health issues

In early 2014 the AMA Tasmania Workers Compensation Reform Committee (AMAWCRC) was established in response to concerns by doctors about frequent poor outcomes, especially chronic pain and depression and associated disability, in patients managed within Tasmania's workers compensation system.

It has been widely recognised that patients managed within compensation systems have generally worse outcomes, but the factors involved had been poorly understood. The Australasian Faculty of Occupational Medicine within the Royal Australasian College of Physicians concluded in their 2001 report[1]:

'There is good evidence to suggest that people who are injured and claim compensation for that injury have poorer health outcomes than people who suffer similar injuries but are not involved in the compensation process'.

There is increasing research evidence about the significant effects of compensation systems on health outcomes. Recently, the Institute for Safety, Compensation and Recovery Research (ISCRR) in Victoria, in particular, has conducted research to identify the factors that lead to poorer outcomes. For example, a stressful claims

[1] **Compensable Injuries and Health Outcomes** – The Australasian Faculty of Occupational Medicine, RACP Health Policy Unit – 2001 https://www.racp.edu.au/docs/default-source/pdfs/compensable-injuries-and-health-outcomes.pdf?sfvrsn=2

experience is one such factor identified in recent research[2]. A recent ISCRR workshop (ISCRR Vulnerable Worker Forum 2015)[3] focused on 'vulnerable' workers in compensation systems.

While there is mounting evidence about the effects of compensation systems on health outcomes, there is limited evidence to suggest that blatant fraud is a problem.[4]

Participants in the AMAWRC process include Drs Albert Erasmus, Hilton Francis, Andrew Hunn, Guy Marquis, Rob Paton, Steve Reid, Don Rose, Peter Sharman, Mark Slatyer and Phil Thomson, along with AMA CEO, Tony Steven. Peter Sharman has convened the meetings of AMAWCRC.

AMAWCRC has recognised that managing complex work injuries in modern general practice is challenging and that some doctors were withdrawing their services for work-injured patients due to frustrations with the system and unnecessary bureaucracy. Some specialists have expressed similar concerns. There were particular concerns about legalistic approaches to claims management with associated delays for necessary treatment.

There are also concerns about poor standards of independent medical assessment, lack of utilisation of medical panels and issues with provision of rehabilitation services.

Although WorkCover has recently initiated a mentoring service for general practitioners, there have been few other initiatives at a system level that might address the concerns of doctors about a problematic workers compensation system.

At the initiative of AMA Tasmania, the AMA – Insurer Forum (AIF) has been established to facilitate dialogue between the AMA in Tasmania, TASWC (representing the private workers compensation insurers) and the Self-Insurer Association of Tasmania (SIAT).

Drs Francis, Hunn, Rose, Sharman and Thomson have participated in AIF meetings on behalf of AMAWCRC. Mr Greg Mathews and Mr Phil Chisholm have represented TASWC, while Ms Julieann Buchanan has represented SIAT. Peter Sharman has convened the AIF meetings.

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[2] **Relationship between stressfulness of claiming for injury compensation and long-term recovery: a prospective cohort study.** Grant GM, O'Donnell ML, Spittal MJ, Creamer M, Studdert DM. - JAMA Psychiatry 71 (4), 446-53 (2014).
[3] **ISCRR Vulnerable Worker Forum 2015**
http://www.iscrr.com.au/news/events/vulnerable-worker-forum-2015.html
[4] **The Myth of Workers Compensation Fraud** – article posted on the American National Association of Injured and Disabled Workers Website - http://t.co/If0yVjvpcf

The Terms of Reference of the AIF are included at Appendix A.

A series of meetings have been held commencing in September 2014 to discuss issues of mutual concern relating to medical, rehabilitation and claims management within Tasmania's Workers Compensation System.

A Joint Submission by the AMA, TASWC and SIAT was presented to government in January 2015 (see Appendix B). This submission reinforces the fundamental importance of optimum medical management of injured workers to achieve the best possible outcomes.

1.1 Scope and relationship to Government Red Tape Reduction Initiatives

The Tasmanian Government has commissioned a 'Red-Tape Reduction' review with the recent release of a 'Consultation Overview Paper' that lists potential legislative amendments. The consultation phase related to this initiative ends on 30 September 2015.

This submission is not a response to the 'Red Tape Reduction' review, but sets out concerns of the medical profession about issues that face doctors and their patients when injuries and diseases are managed within Tasmania's workers compensation system.

While there is some overlap between the issues identified in the "Red-Tape Reduction' Review and this submission (such as accreditation of doctors and rehabilitation practitioners) this submission goes well beyond those matters.

The AMA does support initiatives to reduce unnecessary 'Red-Tape', and will respond separately within the consultation phase for that review to the specific proposed amendments, but does not believe that any measures proposed by this process can address the fundamental concerns of the medical profession about the operation of the workers compensation system.

2.0 ISSUES

The AMA WC Reform Committee (AMAWCRC) identified the following concerns by doctors who treat patients within the workers compensation system:

2.1 There are problems with delays to the provision of appropriate care due to assumptions by treating doctors that the injury is simple and will resolve, delays in access to consultant medical practitioners, and perceptions of control over selection of consultant level care exerted by insurers.

2.2 Often patients believe that they need the permission of the insurer or their employer before they can receive specialist care.

2.3 In some cases there is medical failure to identify the prognosis early in the course of an injury.

2.4 Treating doctors are increasingly asked to provide reports to justify investigation and treatment expenses.

2.5 Approval for recognised investigation and treatment procedures can be rejected or decisions delayed on the basis of clerical decisions or the opinions of independent medical assessors.

2.6 There can be significant delays waiting for an insurer to obtain an independent medical opinion to approve a relatively straightforward investigation or treatment procedure.

2.7 There is concern that delays or rejection of funding for recommended treatment can have significant implications for recovery with negative consequences for the patient's psychological health, compounding the risk of a poor outcome.

2.8 Independent medical assessors often provide opinions outside their area of expertise, are not up to date in their knowledge of current practice or consider only selected information provided by the insurer.

2.9 Independent medico-legal reports can be unnecessarily requested during the course of a claim. This often leads to confrontation changing the mind-set of the patient to proving their case with detrimental effects on recovery.

2.10 Treating doctors can be overwhelmed by requests for reports of a medico-legal nature. This contributes to delays in timely responses from the doctors and reduces their availability to provide treatment and care.

2.11 Treating doctors are asked to provide responses to detailed questions relevant to issues of the insurer's legal liability rather than medical issues, such as diagnosis, progress at the time of report, prognosis and planned management pathway.

2.12 There is reluctance by insurers to fund interventional pain procedures and surgical procedures. Issues about impairment ratings seem to impact on claims decisions about funding spinal surgery.

2.13 Doctors are often unaware of the level of expertise of the various people who accompany injured workers to medical appointments to discuss and facilitate rehabilitation. These Rehabilitation Function Providers [5] (RFP's) can have a wide range of qualifications and skills.

2.13 RFP's lack independence from the insurers who directly appoint them and fund their services. They sometimes provide advice to the patients, insurers and doctors about treatment, or where to seek treatment, outside of their field of expertise.

2.14 Unrealistic RTW goals are sometimes promulgated by RFP's in rehabilitation documentation, without discussion with the treating practitioners or a proper understanding of the injury prognosis. This creates unrealistic expectations for those involved.

2.15 In some circumstances RFP's are seen to influence general practitioners into courses of action not in the best interests of the patient's recovery.

2.16 Some RFP's attend medical appointments routinely rather than just at important review points. This is a waste of the doctor's time and an unnecessary cost to the system.

2.17 There are problems with some employers providing suitable ongoing work duties within certified restrictions to enable rehabilitation to commence and progress and for patients with long-term injury to be accommodated.

2.18 There is resistance to funding retraining and redeployment even when it is clear that an injured patient cannot return to their pre-injury work.

2.19 There is an unnecessarily confrontational system in place to resolve claims where patients reach maximal medical improvement, but are unable to return to their pre-injury work. Insurers can only resolve matters by seeking negative reports from independent doctors to bring matters to settlement

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[5] Rehabilitation Function Providers (RFP's) – this is a generic term adopted for use in this document and includes any person who attends a doctor's practice accompanying a worker who has a role to facilitate return to work. This can include accredited Workplace Rehabilitation Providers (WRP's), Injury Management Co-ordinators (IMC's), Return to Work Co-ordinators (RTWC's). In some cases the worker's supervisor or manager takes on this role.

3.0 DISCUSSION

AMA Tasmania has identified improvement in 'health outcomes' for injured workers as a priority area for action, based on the concerns expressed by members that workers with 'complex' injuries, in particular, do not always achieve the optimal level of recovery. New research is helping to understand the reasons for poorer health outcomes and can potentially guide initiatives at a system level.

It is recognised that most straightforward 'simple' injuries that probably account for 80% or 90% of injuries are reasonably well managed in the current system. The focus of the attention of the AMAWCRC has been to consider measures to enhance the management of the more serious or 'complex' cases that the statistics indicate account for the majority of financial and human costs (probably about 90% of costs).

The AMA believes there is insufficient emphasis on the health outcomes in the current system where management and control is largely vested with the insurance industry and supported by legal processes. The AMA has identified the need to create better balance in the system with decision-making models that utilise medical input at both a case and strategic level to achieve better health outcomes for workers by:

1) Initiating alternative management pathways,
2) Determining end points in complex cases, and
3) Oversighting the quality of medical input into the system

For these changes to occur there will need to be enhanced recognition of the importance of the role of the medical profession.

Changes in the way injuries are managed in accordance with these principles have the potential to:

- Speed up recovery time
- Reduce the risk of secondary psychological conditions and chronic pain and associated incapacity
- Improve return to work rates

Improvements have the potential to not only substantially reduce the costs of work-related injury to injured workers themselves, but also the financial costs to the organisations that underwrite the costs of work-related injury i.e. the insurers that directly fund the costs of injury, employers who indirectly fund the system by way of premiums and Government and the Community as a whole that ultimately bear the costs of chronic ill-health and disability.

The challenge is to try and identify those cases early on after injury so that limited medical and financial resources can be used most effectively to improve the

outcomes in those cases. This can only be achieved by effective systems that consider this matter early on with co-operation and communication between doctors and claims managers.

Currently WorkCover Tasmania, WorkSafe Australia and the Workers Rehabilitation and Compensation Tribunal publishes some data about claims costs, RTW rates and measures of effectiveness of dispute resolution processes. There is however little or no data about health outcomes collected that relates specifically to the health status of patients managed within Tasmania's workers compensation system. Measures could include wait times for treatment, rates of recovery, complication rates etc.

To assess any initiatives relating to the improvement of health outcomes, it is essential that agreed performance measures be developed and utilised. This is an important role for WorkCover Tasmania.

There are also concerns that some doctors are reluctant to be involved in the treatment of workers compensation cases because of the complexity and additional paperwork required. Some doctors have withdrawn completely from the workers compensation system.

There are also concerns about poor standards of independent medical assessment. Currently there are no legislated standards for independent medical assessors, apart from the general standards that apply to any registered health professional. There is WorkCover accreditation for impairment assessors, but not for independent medical assessors generally.

The AMA has taken the initiative to address some issues of concern directly with the insurers. The AMA – Insurer Forum (AIF) met throughout the latter half of 2014 to develop a joint submission about recommended improvements to workers compensation processes. This process has led to an improved mutual understanding and agreement on some matters where legislative change is not required e.g. an agreement to the simplification of report requests to standard medical matters i.e. diagnosis, treatment plan and prognosis, rather than questions related to legal liability

The AMA has led discussion at AIF meetings about the potential benefits of a system whereby the doctor involved in the early stages of management of a work injury is empowered to consider prognostic factors and identify 'complex' cases at the earliest opportunity. The cases flagged as complex could be streamed into an alternative management pathway managed by a medical practitioner with enhanced skills in 'complex case management'.

Most of these 'enhanced skills' doctors would be general practitioners who already have experience and an interest in managing these types of cases. Caution is needed to avoid contributing to disintegration of care with any change in approach. The general practitioner in the workers community must remain as the mainstay of management, in all but the most complex of cases.

The insurer representatives expressed some reservations about a fundamental change in approach to management of claims, but indicated that the medical profession can put some elements of such a model in place and expressed interest in working with the medical profession to work out the detail about how a legislated system might work in practice.

For a fully operational system, as proposed by AMA Tasmania, there would need to be legislative support, by defining the role of a 'Complex Case Medical Practitioner' and developing relevant procedures, standards and accreditation to recognise the role.

Details of the AMA's proposed model are attached at Appendix C:

1) Complex Case Management Flowchart

2) Proposed 'Complex Case' screening test

AMA Tasmania has concerns that the medical profession has not had adequate opportunity for input into the design of the Workers Compensation System or input into medical standards, development of impairment assessment procedures and medical dispute resolution at a system level. This is a factor in the withdrawal by some doctors from workers compensation involvement. Senior medical clinicians recognise that it is their duty to have involvement in oversight of medical standards.

The current accreditation process for doctors to issue workers compensation certificates, in its current form, is seen to be administratively onerous without achieving any improvement in medical care standards. The requirement for accreditation is probably a disincentive to some doctors to be involved in engaging with the workers compensation system.

AMA Tasmania has recognised the need for a Medical Standards Committee (MSC). An MSC would comprise a small strategic group of senior Tasmanian clinicians, chaired by a general practitioner, to develop medical standards and assessment guidelines, oversight standards of medical care and decision-making, consider complaints and have input into disputed medical matters by recommending to the Workers Rehabilitation and Compensation Commissioner the make up of medical panels or alternative means of resolving disputes over medical matters.

AMA Tasmania has recognised that Medical Panels are currently under utilised as a mechanism for fair and efficient medical dispute resolution, despite existing provisions in the legislation. There is a need to facilitate the use of case specific panels of experienced independent doctors who can review individual injured workers and provide definitive medical advice. Medical Panels should also be accessible to medical practitioners working within the system.

Insurers can only resolve ongoing claims by seeking negative reports from independent doctors to bring matters to settlement. Settlements within 2 years of the date of injury need to be agreed by the Tribunal. Doctors do not have access to any mechanism to flag maximal medical improvement or medical benefit from exiting the compensation system. To address concerns about the current unnecessarily confrontational system in place to resolve claims where patients are unable to return to employment durably, there is a need for legislative change to facilitate early settlement of claims, particularly where medical advice indicates recovery has plateaued or that health benefits will accrue from exit from the WC system. Doctors need access to a system where they can initiate this process in consultation with their patient.

There has been widespread concern about the impact of relatively high WPI ratings assigned for patients who have had fusion or disc replacement procedures for spinal disorders under the recent versions of the WorkCover Tasmania Guidelines that modify AMA4. High impairment ratings for such spinal surgery (particularly ratings over 20% WPI) are a significant disincentive for insurers to authorise necessary surgery and a potential source of disputation and delay. There is not only the cost of the surgery, but the prospect that the surgery itself will increase the insurers liability for compensation under the Section 71 provisions, irrespective of the outcome of surgery. A more realistic impairment assessment methodology is required that is based on objective criteria and takes into account the outcome of surgery.

To address concerns about the quality of independent medical assessments there would be value in extension of accreditation to all independent medical practitioners who undertake medico-legal reviews (not only WPI assessors)

To prevent negative consequences from delays in implementing necessary treatment and rehabilitation there would be value in strengthening the provisions for provisional liability that currently exist. The AMA supports the idea of an indexed amount equivalent to the current $5,000 amount available for treatment until disputes are determined and consideration of $10,000 to $15,000 limit on treatment spending in simple cases before specific approvals are required from the insurer.

There is a perception within the medical profession that in some circumstances insurers and RFP's have undue influence on the choice of medical treatment provider. It would be useful to develop protocols about the respective roles of doctors and other health professionals, the various types of RFP and insurers about facilitation of medical treatment and rehabilitation to eliminate these concerns.

Most doctors are unaware of the background of the RFP's who attend consultations in a rehabilitation role. Accredited WRP's will have tertiary level health qualifications with an understanding of injury management principles and psychosocial factors, whereas IMC's who undertake this role are likely to have much more limited knowledge and expertise. In some cases where employer-based return to work co-ordinators or line managers take on the role, they might have had little or no training or experience to effectively fulfil this role.

Co-ordination of return to work activities is a very important function that has a significant impact on the outcome of work-related injuries. A lack of knowledge and skills by the RFP can result is missed opportunities for rehabilitation and recovery and, in some situations, cause additional stress to the worker contributing to a poorer outcome than otherwise might have been achieved.

It would make sense if all practitioners involved in a rehabilitation role were individually accredited to achieve and maintain an adequate professional standard. The requirement for accreditation should be extended to practitioners who provide case management services, not just the specialised rehabilitation services where accreditation is currently required. If a representative from the workplace attends a consultation, that person should make it clear to the doctor that they are not attending as a rehabilitation provider, but only to facilitate communication between the doctor and workplace.

The AMA understands that the role of Injury Management Co-ordinator (IMC) was developed to ensure integrated planning of injury management activities between the insurer, employer and doctors, rather than function as a workplace rehabilitation provider. The reality is that some practitioners trained in this role principally operate in the same way as a WRP without the level of training and qualifications required to adequately fulfil this role. Many doctors are unaware of the difference between an IMC and accredited WRP and might place undue reliance on the expertise of the IMC to facilitate rehabilitation.

The AMA believes there is a need to review the role of IMC in accordance with the original objectives for that role to ensure that only fully accredited and trained WRP's can take on the responsibility for rehabilitation management.

The Australian Society of Rehabilitation Counsellors (ASORC) is the peak professional body representing rehabilitation counsellors throughout Australasia. ASORC has developed appropriate professional standards for rehabilitation providers to ensure individuals working within the system are appropriately trained to provide the best service to all stakeholders.

The Australia / New Zealand - Heads of Workers Compensation Authories (HWCA) supports adoption of the biopsychosocial model of injury management and suggests that individuals undertaking workplace rehabilitation roles have a comprehensive understanding of this model.

The AMA understands that the Tasmanian Association of Vocational Rehabilitation Providers (TAVRP), as the peak professional body for occupational rehabilitation professionals in Tasmania, has developed proposals relating to professional standards in accordance with ASORC and HWCA, accreditation, provision of case management and injury management services and the need to clarify the roles of IMC and WRP's.

The AMA fully supports TAVRP's proposals and the important role of that organisation in making recommendations about these issues.

There are concerns by doctors that many workers who seek compensation and have a 'reasonably arguable case' finding by the Tribunal do not have the resources to have their case properly considered. The data from the tribunal suggests that the majority of claimants where a 'reasonably arguable case' is found do not contest that decision. It is the impression of doctors that many of their patients do not contest these decisions because of the financial risks associated with pursuing their claim, rather than reasons relating to the validity of their claims. There would be value if a systematic analysis of the reasons for this situation were conducted to determine if there are unreasonable barriers to individuals seeking compensation under the current dispute resolution system.

4. RECOMMENDATIONS

AMA Tasmania makes the following recommendations for consideration and action by the WorkCover Tasmania Board:

4.1 Develop measures of health outcomes for workers whose injuries are managed within the Tasmanian Workers Compensation System. A recognised research institute could be asked to develop appropriate measures.

4.2 In conjunction with AMA Tasmania and representatives of the insurers that administer and/or underwrite workers compensation insurance, investigate the feasibility of introducing a model whereby workers with 'Complex' claims are streamed into a management pathway under the care of doctors with enhanced skills in injury management. Most of these doctors would be general practitioners with an interest in this area of practice. General practitioners involved in the early stage of a claim would have an important role in assessing prognosis. As a part of that process any legislative change necessary to support this approach could be considered.

4.3 Consider necessary legislative change to facilitate settlement of workers compensation claims in circumstances where the treating doctors identify that maximal recovery has occurred and further progress is unlikely while the worker receives care within the workers compensation system.

4.4 Investigate options to facilitate input by the medical profession into medical standards, development of impairment assessment procedures and medical dispute resolution at a system level. A Medical Advisory Committee reporting to the WorkCover Board could be considered. There should be mechanisms in place so that the medical profession can have input into the choice of doctors for Medical Panels.

4.5 Continue initiatives designed to improve the standards of Independent Medical Assessments by developing appropriate standards of practice for Independent Medical Examiners (IME's) and consider the need to extend the current system of accreditation for WPI assessors to a system where all doctors that provide formal independent assessments are accredited.

4.6 Remove the requirement for medical practitioners to be accredited to issue workers compensation certificates

4.7 Conduct a review of the current Workers Compensation Medical Certificate to focus on diagnosis, medical treatment plan, capacity to work and prognosis rather than detailed questions of a legal nature about whether the injury or disease is a new injury, recurrence or aggravation.

4.8 Consider measures to extend the current provisional liability provisions to allow reasonable treatment and rehabilitation to proceed while disputes about liability are resolved.

4.9 Investigate options to understand and reduce the barriers for workers to have their claims properly considered in circumstances where there is an initial finding of a 'reasonably arguable case' finding by the Workers Rehabilitation and Compensation Tribunal.

4.10 Provide support for initiatives by TAVRP to improve professional standards of providers of all rehabilitation and related services, including measures to ensure independence of providers from the organisations that provide funding.

4.11 Develop definitions and standards in relation to the roles of treating and independent health practitioners and their interaction with other stakeholders, particularly in relation to facilitation of treatment by insurers.

4.12 Facilitate a review of the current WorkCover Guides relating to the assessment of permanent impairment, particularly the guides to assessing impairment following spinal surgery procedures and the methodology for assessing impairment for Complex Regional Pain Syndromes.

Appendix – A

Terms of Reference AMA/Insurer Forum

Terms of Reference

AMA / Insurer Forum

Representation

TASWC – Mr Greg Mathews, Mr Phil Chisholm (or nominee)

Self-Insurers Association – Julieann Buchanan (or nominee)

AMA – Dr Peter Sharman, Mr Andrew Hunn, Dr Hilton Francis, Dr Don Rose (or nominee)

Terms of Reference

The main purpose of this forum is to discuss issues of mutual concern to the medical profession and organisations underwriting and/or administering workers compensation claims in the Tasmanian State Workers Compensation jurisdiction.

The focus is on initiatives and strategies to improve outcomes, rather than a forum to resolve concerns about individual cases or the conduct of individual doctors or insurers

A prime objective is to identify areas of common ground so that proposals can be put to Government where legislative or regulatory change is seen as necessary

A further objective is to identify what action the insurers and professional associations representing doctors can take themselves to improve outcomes.

It is accepted that there will be some areas where agreement cannot be reached, but benefit may result from improved mutual understanding

Meetings

The aim is to hold meetings approximately monthly at AMA House and complete the dialogue process by the end of 2014.

Peter Sharman has agreed to prepare agendas and meeting minutes with support as necessary from the AMA CEO's office.

Prepared by Peter Sharman – Convenor 05-09-14

Appendix – B

Joint Submission to Legislative Review by AMA, TASWC and SIAT

AMA INSURERS FORUM (AIF)

JOINT SUBMISSION TO LEGISLATIVE REVIEW – TASMANIAN WORKERS REHABILITATION & COMPENSATION ACT

AMA – Tasmania
Tasmanian Workers Compensation Insurers
Self-Insurer Association of Tasmania

Background

In September 2014 AMA Tasmania initiated a joint forum to facilitate dialogue with the Tasmanian Workers Compensation Insurers (TASWC) and the Self Insurance Association Tasmanian (SIAT).

AIF's focus is on mutual opportunities to enhance the health outcomes in the Tasmania workers compensation system, through optimum medical, rehabilitation and claims management of injured workers. Our particular focus has been on the early identification and effective management of "complex" injuries and of long-term incapacity in workers.

This submission is the outcome of the dialogue at the AIF and is aimed at seeking Ministerial support to drive such changes.

Preamble

AIF's key initiative is the need to achieve better health outcomes for workers in the Tasmanian Workers Compensation system through mechanisms such as balanced decision-making models incorporating medical and injury management input at a case and strategic level. This can be achieved by:

* initiating alternative injury management pathways,
* early identification of complex/long term injury cases, and
* establishing mechanisms to monitor the quality of medical input

AIF also identified that communication between doctors and the insurance industry will need to be further enhanced to ensure more collaborative working relationships are established to achieve our key initiatives.

Enhancements in the way injuries are managed in accordance with these principles has potential to expedite recovery time, lower the risk of secondary conditions and improve return to work outcomes. These measures will ultimately reduce the direct and indirect cost of work related injuries, including employer premiums. The community as a whole will also benefit from a reduction in the impact of chronic ill health and disability.

AMA INSURERS FORUM (AIF)

AIF agree that 'simple' injuries that account for up to 90% of all work related injuries are well catered for in the current system. The focus of attention of the AIF has been to consider measures to enhance the management of the more serious or 'complex' cases that the statistics indicate account for the majority of financial and human costs.

The challenge is to identify these cases as early as possible after injury/ disease onset so that medical and rehabilitation resources can be used more effectively to improve outcomes.

Identified Immediate Red Tape Priorities

The following areas have been identified by AIF as having potential benefit to the scheme through the quick reduction of red tape processes.

- Medical practitioner accreditation to issue certificates should be abolished - This adds no benefit to the scheme and concerns include:
    - doctors are reluctant to be involved in the treatment of workers compensation cases because of the complexity and additional paperwork required; and
    - in some circumstances this contributes to the withdrawal of doctors from treating injured workers.

- Review the Workers Compensation (WC) Medical Certificate – to focus the certificate on capacity (as opposed to incapacity) and include details such as prognosis and future Return to Work (RTW) prospects, to provide for early identification of potential complex/long term claims, a narrative box that allows doctors to include issues that may impact RTW and ongoing treatment. In addition, consider strategies to improve the format and content of the current certificate including the design and implementation of an electronic certificate.
- Establish accreditation for all Independent Medical Examiner (IME) assessors - To develop a quality control system that ensures practitioners understand Tasmanian Workers Compensation legislation and supporting guidelines and tools. The Victorian scheme accreditation is provided as a possible example.

- Remove process driven "Act" timeframes – The RTW Plan requirement is one such example - it is not outcome/ quality driven i.e.: Must have a RTW Plan in place within 5 days of the 5th day of incapacity. This is administratively onerous and unnecessary in most cases. Extension to a 28-day period would aid communication between insurers and medical practitioners ensuring more measured decisions are made on RTW instead of the current "rush through" process.

- Medical and Other Costs S75 (1) (a) –The "Act" test of what is a "Reasonable" expense is subjective and difficult for medical practitioners

and insurers alike. It is recommended that consideration of the use of the current AMA List of Medical Services & Fees as the driver of identifying the reasonable costs for treatment of workers compensation injuries, where there are suitable item numbers, while recognising that doctors should set their own fees in accordance with Australian Competition and Consumer Commission (ACCC) principles.

- Review of Spinal whole person impairment (WPI) ratings – It is proposed that there is a review of the 20-25% WPI rating attainable on single level fusion or disc replacement and consideration of a process to address the current retrospective component for injuries that occurred prior to 1/4/2011 which impacts the cost of the scheme.

In addition to the immediate "red tape" reduction recommendations above, AIF also forward for consideration medium to long-term enhancements proposed in order to attain further scheme improvement.

A - Explore the potential benefits of a 'Complex Case Management Model'

AIF have had extensive discussions on the potential benefits of a system whereby the doctor involved in the "early" stages of management of a work injury is empowered to consider prognostic factors and identify "complex" cases. The AMA has recommended that cases flagged as "complex" could be streamed into an alternative management pathway managed by a medical practitioner with enhanced skilled in "complex case management". For the best desired outcomes in this area early notification is critical. (See outcomes of red tape reduction on certificates)

Many complex cases claims are managed appropriately, however, AIF agree that a primary cause for concern is that most "complex" claims are not identified early enough. This inherently creates injury management concerns between the treating medical practitioner(s) and insurers.

Insurers have suggested that the AMA recommend a model on how they believe that model may work. AIF can then consider if new legislation can be developed to help further drive improvements in complex/long term claims management.

B - Enhance the input of doctors into the overall management of the WC System at both a Strategic and Case Level

AMA Tasmania has expressed the view to AIF that there are concerns that the medical profession has not had adequate opportunity for high-level input into the design of the Workers Compensation System. The AMA believes they should have input into medical standards, development of impairment assessment procedures and medical dispute resolution at a system level. This may also be a factor in the withdrawal of some doctors from workers compensation system.

Senior medical clinicians recognise that it is their duty to drive and/or oversee involvement in medical standards.

Insurers have identified that there is a need for greater medical engagement and that providing mechanisms for high-level input by the medical profession is one means of achieving that objective.

The AIF therefore puts forward the following proposals:

1) Options for the appointment of a Medical Standards Committee (MSC) are considered. An MSC would comprise a small strategic group of senior Tasmanian clinicians, chaired by a general practitioner. They would develop medical standards and assessment guidelines, oversight standards of medical care and decision-making, consider complaints and have input into disputed medical matters by recommending to the Workers Rehabilitation and Compensation Commissioner the makeup of medical panels and/or alternative means of resolving disputes over medical matters.

2) Consider practical measures to facilitate the use of Medical Panels and whether this is a realistic option in Tasmania i.e. case specific panels of experienced independent doctors who can review individual injured workers and provide definitive medical advice. Medical panels should be accessible to both the legal and medical practitioners working within the system

C - Legislative Measures

It is anticipated that legislative change might be required to support the strategies identified above, but there are also some specific issues that require legislative review or changes to associated regulations or guidelines.

Changes to legislation to facilitate early settlement of claims would be of benefit, particularly where treating doctors identify that recovery has plateaued or that health benefits will accrue with exit from the WC system.

D – WorkCover Board

AIF support the need to review the functions of the WorkCover Board with consideration given to the makeup of the Board, voting rights and the inclusion of Subject Matter Experts either on the Board and or as a support mechanism to the Board's decision making process.

AMA INSURERS FORUM (AIF)

Summary

The AMA-Insurer dialogue process has identified priority areas of action with the objective of improving health outcomes for those injured at work.

Some initiatives can be achieved by discussion and mutual agreement between the medical profession and insurers.

The red tape priorities are seen as areas that can gain immediate impact to the scheme to improve efficiencies in the management of injured workers.

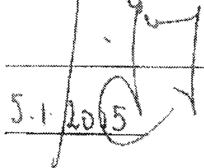
Other priorities need to be further explored and trialled before legislative change can be detailed and implemented. These latter areas include the proposed "Complex Case Management Model".

In addition an overarching priority agreed at our meetings was the need to introduce mechanisms to improve communication and mutual understanding between doctors and insurers. AIF has been the catalyst to identifying the key areas of improvement to ensure a strong relationship can be built between the AMA, insurers and self insurers. Implementation of these recommendations will occur over a period of time.

This submission includes only those issues where AIF believe we have mutual agreement. The AMA and its members, TASWC and/or individual insurers and SIAT and /or individual self insurers may make independent submissions which may also include the issues raised above.

AIF would welcome the opportunity to further discuss the matters raised at a mutually convenient time.

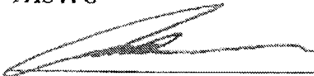
AMA Tasmania



______________________ (Dr Tim Greenaway, President)

5.1.2015 Date

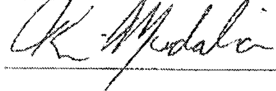
TASWC



______________________(Mr Greg Mathews, Representative)

5/1/2015 Date

SIAT

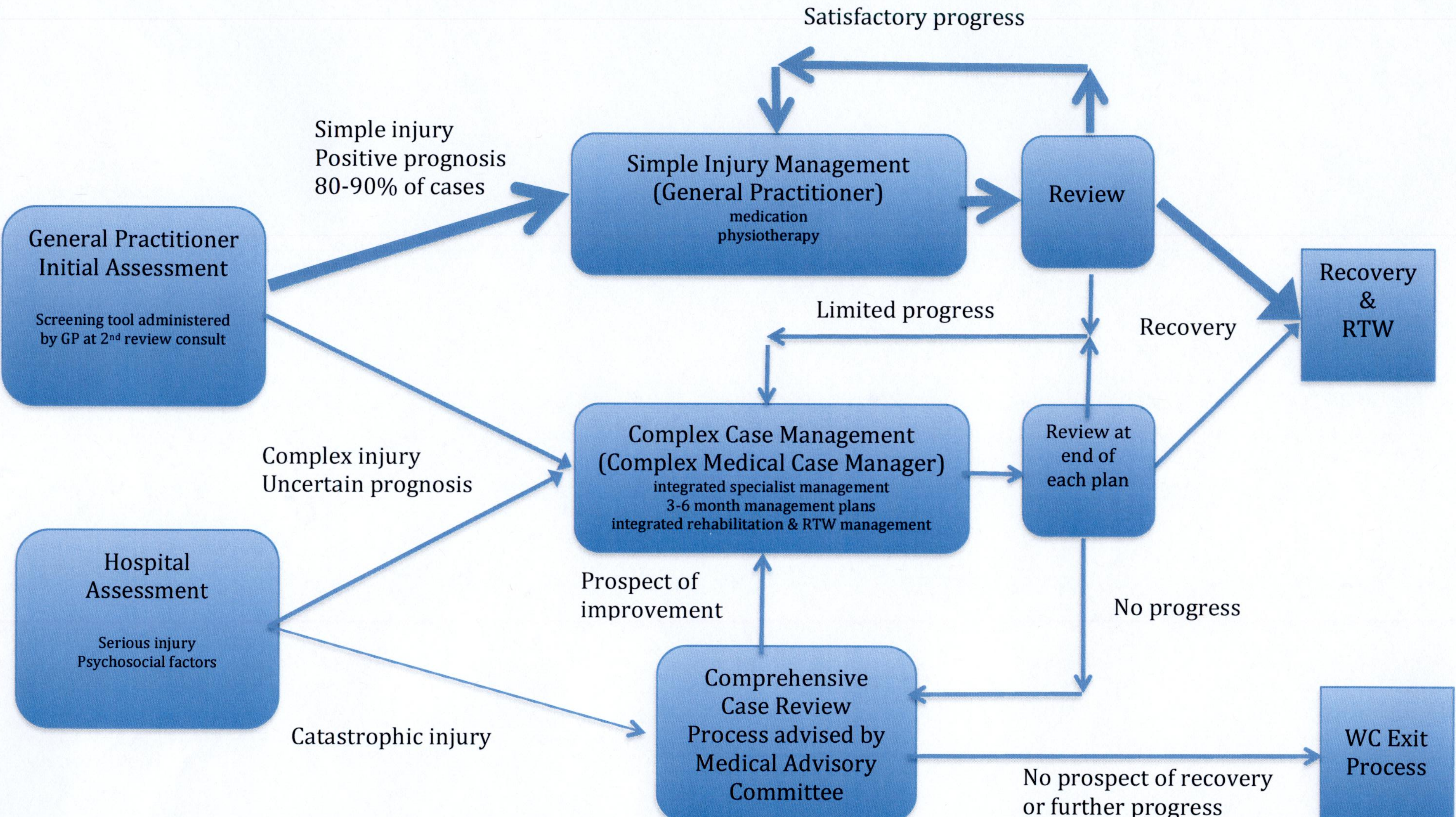


______________________(Ms Kiran Mudaliar, Chairperson)

06/01/2015 Date

Appendix C

Complex Case Management Flow Chart and Screening Test



Management Flowchart for Work-related Injury

Complex Case Screening

'CCS TEST'

(Guide for general practitioners to decide whether a work-injured patient requires enhanced care)

Methodology:
The general practitioner considers the following issues to decide if a work-related injury is likely to require only simple straightforward management or a higher level of input as a 'complex' case managed by a doctor with an interest in a role as a Complex Case Medical Practitioner. Gauging the likely prognosis is the key. Prognosis is usually considered at the second review consultation. The first consultation deals with urgent investigation, treatment and certification priorities

A case is considered to be 'complex' if the worker has suffered an injury or developed a disease and is **likely to be off work or require work restrictions for 3 months or more**.

Medical issues to be considered:

1) Is specialist or hospital medical care including operative management likely?
2) Are there 2 or more 'yellow flags'* (see below)?

Non-medical issues:

1) Is there significant risk of dispute over liability?
2) Is there any evidence of significant breakdown in the relationship with the employer or significant work performance issues?

Note:
The issues above are a guide only and the doctor should exercise their clinical judgment and experience in deciding prognosis.

Some specific diagnoses constitute a high risk of chronicity such as work-related stress and 'unseen' injuries including low back pain and 'overuse' disorders.

Other risk factors can also be considered that might be relevant such as a history of previous complex injury or prolonged work incapacity, evidence of a psychological reaction or depression in response to injury out of proportion to what might be expected, co existing health problems likely to complicate recovery or RTW or interpersonal or family relationship issues that might jeopardise support.

* Yellow Flags
1) Belief that all pain is always harmful/potentially severely disabling
2) Fear-avoidance behaviour (avoiding movement or activity due to misplaced anticipation of harm from any increase in pain) and reduced activity levels
3) Tendency to low mood and withdrawal from social interaction
4) An expectation that passive treatment rather than active participation in therapy would help

Draft 2 - 02 November 2014