Standing Committee on Law and Justice

2024 Review of the Dust Diseases Scheme

DRAFT

RESPONSES TO SUPPLEMENTARY QUESTIONS FROM HEARING ON 11 DECEMBER 2024

(DUE TO COMMITTEE ON 31 January 2025)

QUESTION (1)

Does icare receive any workplace and health monitoring data from private medical providers?.

ANSWER

At this stage, icare does not receive any workplace and health monitoring data from private medical providers.

QUESTION (2)

Are there any legislative impediments preventing the voluntary sharing of workplace and health monitoring data from private medical providers with icare?

a. If yes, what is the specific legislative barrier to this information sharing?

i. Could de-identified data be provided?

ANSWER

There are legislative impediments to the voluntary sharing of workplace and health monitoring data from medical providers with icare imposed by Australian privacy and health records legislation. There are likely to be legislative barriers against both disclosure of the information and its collection under Commonwealth and NSW privacy and health information legislation.

In accordance with this, the Safe Work Australia *Health monitoring for registered medical practitioners guide* specifically provides that:

- Health monitoring records must be kept confidential.
- The report and results must not be disclosed to another person without the worker's written consent unless the records are required to be given under the model WHS Regulations
- The report must not be used for any purpose other than providing the PCBU with information on the results of the health monitoring program.

In relation to a person conducting a business or undertaking, section 378(2) of the *Work Health and Safety Regulation 2017* provides that they must ensure that the health monitoring report and results of a worker are not disclosed to another person without the worker's written consent, and that it is an offence to do so.

Whether private medical providers can provide de-identified information would be an issue for them to determine in accordance with current guidance.

The NSW Information Commissioner has issued guidance to NSW agencies when disclosing de-identified information, and notes potential risks of the information not being truly de-identified; that is, all efforts need to be made to ensure it is extremely difficult, if not impossible, to re-identify the information.

Given that it is an offence to release confidential information, it is a significant risk for the private medical providers if the information can be re-identified or if the information is used for a purpose other than for what it was collected. It is likely that they would only release such information if they had a legal obligation to do so.

QUESTION (3)

3) You identified a preference by major tunnelling employers to use private medical providers due to “a larger service offering”. Does icare have any oversight of the specific “service offerings” being provided by private medical providers in these instances, and how they differ from the offerings provided by icare?

a. Is there a role for icare to ensure the appropriate screening technologies and methods are being used by private medical providers?

ANSWER

icare does not have oversight of specific service offerings being provided by private medical providers and does not believe it has a role in ensuring appropriate screening technologies and methods are being used.

However, icare supports the National Silicosis Prevention Strategy developed by the Lung Foundation, outlining the recommendation for all providers to undergo mandatory accreditation for health monitoring purposes. This would ensure consistency of health monitoring approach and screening technologies and methods being used by all providers in NSW.

QUESTION (4)

What is the average response time for correspondence relating to the Dust Diseases Care scheme?

ANSWER

icare does not have this data due to its aged client management system. Correspondence that requires an action icare (such as a complaint, request for service, application) will be able to be measured in a new system that will go live in July 2025. However, icare does currently have the capability to measure CSAT - Customer satisfaction score, for which of the current score is 91 per cent.

icare's current performance indicators stipulate acknowledgement of email or letter within two business days and resolution of requests within seven business days. Phone calls are usually returned within one business day

QUESTION (5)

In FY23/24, what was the longest response time for correspondence relating to the Dust Diseases Care scheme?

ANSWER

As per the answer to the previous question, icare does not have this data due to its aged client management system.

QUESTION (6)

The DDC Transformation Program speaks about delivering "improved automation" and "automated compensation payments". Are these Automated Decision Making tools constituted under the statute that provides the source of the power to determine and provide compensation payments? If so, where in the statute?

ANSWER

The DDC Transformation Program will not deliver automated decision making. All decisions will still be made by a staff member with the correct delegated authority.

Automated payments refers to already approved weekly compensation being paid automatically on the scheduled date. This is currently a manual process across three systems.

QUESTION (7)

Witnesses identified the difficulty for younger workers to understand the Scheme's benefits and eligibility criteria. What is icare doing to improve the accessibility and transparency of information about the Scheme to ensure workers are aware of their entitlements and can readily access support?

ANSWER

Unfortunately, the legislation that governs the Dust Diseases Scheme is very complicated and each assessment is based on the individual circumstances of the worker. This makes it difficult to provide general information about the Scheme's benefits and eligibility criteria, which takes into account all workers' circumstances, including younger workers.

However, icare is continuously seeking to improve the information available through its website, fact sheets and call centre, which are reviewed and updated regularly.

QUESTION (8)

How can the scheme be amended to provide more adequate and flexible financial assistance to workers, especially those who are younger and have long-term care needs?

ANSWER

The Dust Diseases Scheme is currently constrained by the legislation it operates under, which does not permit much flexibility. The needs of younger workers should be a key focus of any legislative review.

Specific examples are contained in icare's submission to the Committee.

QUESTION (9)

How does icare plan to address the concerns regarding the limited scope of compensable diseases under the Scheme, particularly the exclusion of silica-induced autoimmune diseases and other non-lung related conditions?

ANSWER

This requires legislative reform and should be considered under any legislative review.

QUESTION (10)

What measures is icare taking to improve the accessibility of mental health services for workers diagnosed with dust diseases, including reducing wait times for approval and providing more proactive support for workers and their families?

ANSWER

Mental health services are approved quickly when there is evidence that the need for the support arises from the worker's dust disease. icare's case managers are predominantly qualified allied health staff who are skilled at recognising when mental health services are required, and who regularly offer this type of support to workers. The only limitation on accessibility is the reluctance of the workers to engage with mental health services.

The Dust Diseases Scheme is currently unable to provide mental health services to family members, and to do so would require legislative change.