



NSW
NURSES &
MIDWIVES'
ASSOCIATION

NEW SOUTH WALES NURSES AND MIDWIVES' ASSOCIATION

In association with the Australian Nursing and Midwifery Federation

ABN 63 398 164 405

IN REPLY PLEASE QUOTE:

BH

Ref: 13/1508

23 April 2014

The Honourable D. Clarke, MLC

Chair

Standing Committee on Law and Justice

Inquiry into the Review of the exercise of the functions of the

The WorkCover Authority and the Workers' Compensation (Dust Diseases) Board

Parliament House

Macquarie Street

SYDNEY NSW 2000

Attention: Ms Teresa McMichael, Director Committees

Dear Mr Clark,

Re Response to Questions on Notice to the NSWNMA

In relation to the questions by you and the Honourable Mr Shoebridge, p 63 of the transcript:

Chair: Have any of your members come to you in circumstances such as those outlined by Mr Shoebridge?

Answer: The legislation does not require a work capacity assessment to identify a real or available job, but simply determines a capacity to do a certain type of work and applies the relevant Award payment for that job.

An example of this is that an Assistant in Nursing with a serious back injury working in rural NSW can be assessed as capable of undertaking call centre work even if there is no call centre in the region. Another example may be that an injured Assistant in Nursing is determined as being capable of doing medical receptionist work even if there is only one General Practitioner in the town and there are no jobs vacant. I am advised by our law firm, NEW Law Pty Ltd, has a number of examples of these cases.

Mr David Shoebridge: Could you take it on notice? It is unlawful for lawyers to act in those cases for payment under the new scheme? How that gets dealt with by nurses would be interesting to hear?

Answer: Mr Shoebridge is correct, under the new scheme lawyers are not able to receive payments for appeals against work capacity assessments and individuals are meant to be able represent themselves and prepare appeals to the Insurer who has skilled and experienced officers often with legal training or oversight, or appeals to WorkCover or to the WorkCover Authority or the WorkCover Independent Review Office (WIRO), all of whom have professional staff undertaking the reviews.



Address all correspondence to: General Secretary, 50 O'Dea Avenue Waterloo NSW 2017

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Yes, NEW Law has a number of cases where this has happened. In the case of injured members of the NSWNMA who receive a notice of review they are provided assistance in preparation for the review by the Association's law firm NEW Law as part of the services to the Association members. The lawyers must then work for free after an assessment is made should the member wish to appeal the assessment. In my opinion this is just one of the many cruel and unjust parts of the legislation designed to advantage the Insurance companies and crush injured workers.

Injured workers who are not members of a union, such as the NSWNMA, have little hope of being provided with any real assistance in the case of work capacity assessments and a number of other areas of this legislation. I am unaware of how supportive WorkCover Authority or WorkCover Independent Review Office are in helping an injured worker appeal decisions of the Insurer's are.

I have also included a copy of the corrected transcript and apologise for the lateness of the response.

Yours sincerely

Brett Holmes
General Secretary