

**Submission
No 9**

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Organisation: Reed Group Asia Pacific

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Submission to the Parliamentary Inquiry into the NSW Workers Compensation Scheme

Reed Group Asia Pacific

Executive Summary

Multiple factors contribute to escalating Workers Compensation costs. Among them are procedural matters, beneficiary entitlements, claims management, un-necessary workplace absence and un-necessary medical costs.

Of these, failure to return to work at the appropriate time and the accompanying medical and productivity costs I believe to be the most significant, and the most accessible, of un-necessary costs incurred by Workcover.

Importantly, I'm of the view that ALL stakeholders; the Injured Worker, Employers, Health Professionals, Workcover NSW and the Insurance Agents will all benefit from this proposal, thereby achieving broad stakeholder consensus.

Terms of Reference

I directly address the following papers released by the Government of NSW

1. Actuarial report of March 2012 in reference to Workcover's financial position as of Dec 31 2011.
2. Issues paper released by the Minister for Finance and Services, Greg Pearce, April 2012
3. Joint Select Committee on the NSW Workers Compensation Scheme Terms of reference

I specifically address the following matters raised in those publications.

Actuarial report of March 2012 in reference to Workcover's financial position as of Dec 31 2011

The deterioration in the scheme since 2008 including the following matters:

- *An increase in Medical spend*
- *An increase in the number of weekly benefit claims remaining on benefits*

Issues paper released by the Minister for Finance and Services Greg Pearce

- Number 7 of the "reform principles"
"strongly discourage payments, treatments and services that do not contribute to recovery and return to work"

- Section 14 under the heading of “Options for Change” on page 28.

Strengthen regulatory framework for health providers

“Increases in medical costs over the last five years have been significant and it may be desirable to strengthen the regulatory framework for health providers to ensure that scheme resources are directed to evidence-based treatment with proven health and return to work outcomes for injured workers rather than on treatments that maintain dependency”

Joint Select Committee on the NSW Workers Compensation Scheme Terms of reference

- the performance of the Scheme in the key objectives of promoting better health outcomes and return to work outcomes for injured workers,
- the financial sustainability of the Scheme

Discussion

I address directly the two major elements of the terms of reference above, i.e. worker health outcomes and financial sustainability. In my Proposal, these elements are inextricably linked.

1. I'm of the view that the most pressing problem is not the benefits paid to “deserving” claims, (even if more generous than in other States), but the un-necessary benefits paid to claimants who could be back at work; kept from returning to work by the in-exact and in-appropriate medical certification of disability.
2. The medical certification of disability by medical practitioners results in needless disability and cost escalation. This is clearly enunciated in the paper “Realising the Health Benefits of Work” released in 2010 by The Australasian Faculty of Occupational & Environmental Medicine(*). Doctors’ medical certificates are identified world- wide as a leading cause of delayed healing and escalating costs to authorities such as Workcover NSW.
3. Claimant advocacy is determining RTW outcomes for the most part, not evidence based medical best practice (*)(#)

For long term cost reductions as well as improving the health of injured workers and improving productivity, the elephant in the room must be addressed. This is the in-appropriate prolonging of disability by health professionals. This concern is clearly identified in the “Issues Paper”:

“strongly discourage payments, treatments and services that do not contribute to recovery and return to work”

Since those payments, treatments and services are primarily determined by medical practitioners and the vehicle for their determination is the medical certificate, one cannot address the principal reason for non-evidence based disability durations and un-necessary medical services without addressing the certification practices of medical practitioners. As previously indicated, this element of un-necessary costs has been identified in Australia and world-wide as perhaps the most significant of a Workers Compensation scheme costs.

4. The *NSW branch of the AMA – Workcover NSW Agreement* requires Workcover to provide doctors with the tools to assist injury management and return to work. Providing doctors with a tool which would enable them to issue evidence based medical certificates would satisfy that requirement and I believe be welcomed by the certifying doctors, who, as indicated by the surveys below, are very disenchanted with disability certification.
5. 50% of Doctors in some surveys want to stop issuing Workers Compensation Medical Certificates as this process is such a point of contention between the Doctor and his patient(+)
6. 40% of Doctors in some surveys believe that medical certificates issued by themselves and their peers are “dubious” and fail to reflect the claimant’s true capacity for work(^)
7. In another study 80% of physicians thought that completing disability forms could adversely affect physician-patient relationships and 62% thought that it constituted a conflict of interest(&)
8. Additional training of Medical Practitioners in Return to Work principles does NOT impact return to work practices because claimant advocacy far outweighs additional medical training.(#)

Workcover NSW has spent considerable time and money in training programs for doctors. Without the REQUIREMENT that doctors use an evidence base for their medical certification, the evidence is that doctors’ certification practices will not change.

9. In the UK, the Department of Work and Pensions are exploring forbidding doctors issuing medical certificates for a period greater than 4 weeks as the medical certification of disability is prolonging disability and creating un-necessary costs
10. I assess that Doctors would welcome being required by Government to issue evidence based medical certificates to Workers Compensation cases as this requirement would protect the Doctor against strident claimant advocacy. { In a similar way, the Doctor is

protected against patient demand for narcotics through prescribing requirements implemented under the Pharmaceutical Benefits Scheme.}

Proposal

This simple and elegant remedy addresses the two critical intentions of the current review of Workcover NSW

1. It improves the well-being of the injured worker by facilitating appropriate return to work
2. It saves the costs of un-necessary time off work and un-necessary medical intervention

Reed Group (www.reedgroup.com) a Denver, Colorado based Return to Work Data Company, has developed an electronic medical certificate, called the **e-med certificate**.

The **e-med certificate** provides two vital components of medical certificates. In all but a handful of the thousands of medical certificates issued by treating doctors in Workers Compensation cases in NSW, two vital elements are missing from the medical certificates. They are:

1. An accurate diagnosis to International Classification of Disease (ICD) level specificity
2. An evidenced based duration of disability

To emphasise this point. A medical certificate only contains two elements. A diagnosis. A duration. Both these elements are currently unsatisfactory.

The absence of an ICD diagnosis and the absence of an evidence based duration results in medical certificates which are little more than a rubber stamping of the claimant's wishes.(#)

The **e-med certificate** enables doctors to issue medical certificates which return the claimant to work in the time frame most appropriate for his/her healing, thereby promoting worker wellbeing.

By focusing upon the return to work of the injured worker in a time frame most conducive to his healing, un-necessary costs are avoided. The cost of extended, un-necessary time off work, and the accompanying medical investigations, treatments and other medical services, has resulted in a blow out in costs.

How does the e-med certificate work?

1. The Doctor (or his assistant under his instruction) enters an approximate diagnosis into the e-med certificate

2. An algorithm provides the doctor with a drop down list of ICD level diagnoses. The Doctor chooses the diagnosis most appropriate to the case from the drop down list
3. The Reed Group database (containing millions of cases), automatically calculates the time off work for that diagnosis. The doctor can modify this if he chooses, but needs to justify the modification.

The use of Reed Group medical decision support material and return to work data-sets is used extensively by many thousands of doctors in the United States. The product from which the data-sets are derived is called MDGuidelines and can be viewed at www.mdguidelines.com

In Australia, Claims Personnel at all Workers Compensation Agents / Insurers, Workcover NSW, Workcover QLD, Workcover Tasmania and Comcare all use MDGuidelines. In addition, MDGuidelines is used by the top 10 Australian Life Insurers and the top 5 Re-Insurers. It is the world's most used return to work database, used by 25,000 users in 38 countries.

The use of return to work data bases by doctors in Australia is less wide spread.

The **e-med certificate** is an application based upon the data contained within MDGuidelines

Stakeholders

The provision of an accurate medical certificate assists ALL the stakeholders

1. The injured worker is assisted to heal by returning him to work in an evidence based time frame
2. The Treating Doctor avoids the contentious medical certification of disability much disliked by many doctors. Consultations with injured workers become far more clinically appropriate and more financially rewarding for doctors who no longer have to spend unnecessary time arguing with their patients.
3. Workcover NSW fulfils its part of the existing Agreement between Workcover NSW and the NSW branch of the Australian Medical Association to provide Doctors with tools which assist them to return injured workers to work.
4. Costs are contained for Workcover NSW and the Government of NSW

Deploying the e-med certificate

- The **e-med certificate** can be deployed as a stand alone application accessible via the Internet using a computer or smart phone. The actual certificate containing the patient's and doctor's details can be printed from the application
- The doctor or his assistant can use the **e-med certificate** to ascertain the relevant ICD diagnosis and from it, the evidence based disability duration, and transcribe the duration into an existing medical certificate format.
- Reed Group can incorporate the **e-med certificate** into the existing Workcover NSW medical certificate

Role of Workcover NSW

- Workcover NSW provides the **e-med certificate** to Nominated Treating Doctors, IME doctors and IME providers
- Workcover NSW **requires** the nominated treating doctor to use the **e-med certificate** to determine the most appropriate time off work for the injured worker

Cost options for the e-med certificate

1. Workcover NSW is levied an annual subscription fee for providing the **e-med certificate** to all nominated treating doctors and IME providers.
2. A per use charge is levied upon Workcover NSW each time a health professional accesses the **e-med certificate**.
3. Workcover NSW can return a % of savings on disability costs attributed to the **e-med certificate** to Reed Group.
4. A combination of the above.

Estimated Savings

Should Workcover NSW require Nominated Treating Doctors to issue evidence based medical certificates, the cost savings are estimated in the hundreds of millions of dollars annually

Should Workcover NSW require all medical practitioners and all health professionals who determine claimant entitlements to use the **e-med certificate**, the cost savings would be considerably more.

The health professionals include:

- Nominated Treating Doctors
- Independent Medical Examiners (IMEs)
- Return to Work co-ordinators
- Rehabilitation Providers
- Allied Health Professionals

Insurance Agents

At the moment, all Workcover NSW Insurance Agents deploy MDGuidelines, but without the requirement of Workcover to utilise an evidence base to set return to work expectations, the Insurance Agents will not utilise MDGuidelines or the e-med certificate to the level required to significantly impact Workcover NSW's bottom line.

Workcover NSW can require Insurance Agent Claims Personnel to utilise MDGuidelines or its application, the e-med certificate.

Previously, Workcover NSW has allowed the Agents a free hand to use whichever claims methodologies they choose, whilst monitoring KPIs. The current financial position of Workcover NSW may dictate new arrangements with the agents.

Summary

Providing all health professionals with access to the e-med certificate and requiring them to provide medical certificates containing specific diagnoses and evidence based durations, would result in:

1. Less work days lost and a reduction in wage replacement costs
2. Better worker health
3. An increase in productivity
4. A decrease in medical costs

Bibliography

(*) *REALISING THE HEALTH BENEFITS OF WORK A POSITION STATEMENT*
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(#) *The Physician as Disability Advisor for Patients with Musculoskeletal Complaints.*

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(^) *Metropolitan Police blues: protracted sickness absence, ill health retirement, and the occupational psychiatrist*

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(+) *Hussey S, Hoddinott P, Wilson P, Dowell J, Barbour R. Sickness certification system in the United Kingdom: qualitative study of views of general practitioners in Scotland.*

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(&) *Zinn W, Furutani N. Physician perspective on the ethical aspects of disability determination. J Gen Intern Med 1996;11:525-32.*