

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

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Partially Confidential

15 May 2012

Ms Vanessa Viaggio
Joint Select Committee on the NSW Workers Compensation Scheme
Parliament House
Macquarie St
Sydney NSW 2000

Dear Ms Viaggio

NSW Workers Compensation Scheme Inquiry – Response to Issues Paper

Thank you for the opportunity to provide comments to the Joint Select Committee on the NSW Workers Compensation Scheme and particularly the Issues Paper prepared. The Issues Paper provides an excellent source of material and options to consider in relation to the performance and financial sustainability of the scheme.

is self-insured for workers compensation purposes and therefore any increase in the amount of premium required to be paid has a significant impact on the finances of

supports all the options for change put forward in the Issues Paper. There are a number of other issues that the Inquiry may wish to consider, which have been listed briefly below.

In strengthening the regulatory framework for health providers, it is suggested that the regulatory framework for medical professionals, such as Doctors, and their involvement in workers compensation claims should be included. Examples of difficulties that are faced include non-responsive to requests for information and case conferences, slow progress in upgrading of patients and the correct charging for visits in line with the Australian Medical Association guidelines relative to workers compensation cases.

With respect to the exclusion of certain illnesses unless work is a significant contributor, it is suggested that consideration be given to Section 11A *Workers Compensation Act 1987*, particularly the ability to determine if work is a significant contributor to a psychological injury. As indicated in the Issues Paper this is another injury that employers have limited control over. Difficulty has been experienced with obtaining sufficient information from treating practitioners to determine if employment is a significant contributor, especially if there is a disciplinary matter that is connected to the employee.

There are two matters that are not discussed in the Issues Paper that the Inquiry may also wish to consider, they relate to the acceptance of provisional liability for claims and workers negligence in contributing to an injury.

Section 280 *Provisional acceptance of liability*, of the *Workplace Injury Management and Workers Compensation Act 1998*, provides for acceptance of a workers compensation claim without admission of liability. The restrictions around provisional liability acceptance are time limiting and do not necessarily allow sufficient time to fully investigate matters. In addition provisional acceptance of a claim has been found to make it more difficult to return a worker to work in any capacity due to the implied acceptance of the injury.

Section 14, *Conduct of worker* subsections (2) and (3) of the *Workers Compensation Act 1987*, provides for no compensation to be paid when a workers injury is solely attributable to the serious and wilful misconduct of the worker or if the injury is intentionally self-inflicted. Consideration should be given to instances where a worker does not comply with work practices or wilfully refuses to takes breaks from repetitive duties.

supports attempts to review the Workers Compensation Scheme and looks forward to any legislative review that may result from this Inquiry.

If you require any further information please contact

Yours sincerely