

**Submission
No 268**

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Organisation: Interact Injury Management Pty Ltd

Date received: 17/05/2012

Response to:
***NSW Workers
Compensation Scheme
Issues Paper***



INTERACT
INJURY
MANAGEMENT

May 2012

16 May 2012



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ABN 14 070 034 847

The Hon. Robert Borsak, MLC
Joint Select Committee on the
NSW Workers Compensation Scheme
Parliament House
Macquarie Street
Sydney NSW 2000

Dear Hon Robert Borsak MLC,

RE: Submission to the Parliamentary Inquiry into the NSW Compensation Scheme

Thank you for the opportunity to provide recommendations on improving the NSW Workers Compensation Scheme as part of the Parliamentary Inquiry into the NSW Workers Compensation Scheme.

Interact Injury Management has been an accredited workplace rehabilitation provider in NSW since 1993. During this time we have seen significant change and modification to the current practices affecting the Scheme. I do acknowledge the deteriorating performance of the Scheme and the need for urgent action. What is important to note that whilst the legislation does require some modification, the general intent of the current Act is fair and well balanced and was established to drive effective and sustained return to work outcomes.

The poor performance with the Scheme is multifactorial however what is clear is that contributing to the poor performance is the operational implementation of the Scheme. The aim of this paper is to outline some areas where Interact Injury Management believe significant improvements can be made, both within the context of your issues paper and outside of it.

Thank you once again for the opportunity to present Interact Injury Management's perspective and we look forward to continuing our dialogue in pursuit of a partnership approach in improving the NSW Workers Compensation Scheme. Please do not hesitate to contact me directly on [redacted] should you wish to discuss these matters further.

Yours sincerely

Nikki Brouwers
Managing Director

ABOUT THE AUTHOR

In her role as Managing Director of The Interact Group Pty Ltd trading as Interact Injury Management, Nikki has been actively involved in the NSW Workers Compensation Scheme for almost 20 years. Nikki is the current President of the Australian Rehabilitation Providers Association (ARPA) NSW, and was also recently appointed to the Workers Compensation and Work Health and Safety Council of NSW.

As an Occupational Therapist Nikki develops and implements strategies to promote independence of injured workers. Nikki's commitment to the ongoing improvement of the NSW Workers Compensation Scheme was shown by the completion of her thesis as part of her recently completed MBA titled "*Reframing Assumptions Regarding the Relationship Between Work and Injury in the NSW Workers Compensation System*"

I. ALIGNMENT WITH KEY REFORM PRINCIPLES

Interact Injury Management strongly supports the seven key reform principles outlined in the Issues Paper. The principles, which focus on developing a fair, affordable, efficient and financially sustainable scheme, are aligned with the ethos of Interact Injury Management and directly supported by our work. Examples of how Interact Injury Management are currently working within these reform principles will be outlined below.

(i) **Enhance NSW workplace safety by preventing and reducing incidents and fatalities**

Over the past 19 years Interact Injury Management has worked closely with employers to increase their capability in prevention strategies. We have done this following initial engagement with an employer to assist with Return to work. A key objective of Interact Injury Management is clear in our statement "helping people to work...safely". As a workplace rehabilitation provider we are strongly committed and work hard on preventing and reducing incidents and fatalities through building the skills and capabilities of employers

(ii) **Contribute to the economic and jobs growth, including for small businesses, by ensuring the premiums are comparable with other states and there are optimal insurance arrangements**

The strong value proposition that Interact Injury Management presents to any employer is our ability to significantly assist with their profitability through controlling and decreasing their premiums. We work closely with employers to promote return to work and stay at work strategies that will assist to decrease the claims estimate and ultimately their premium. Our intervention clearly contributes to reducing the ongoing payment of weekly benefits and therefore significantly reduces the cost of a claim, providing a benefit to the employer, agent and Scheme as a whole.

(iii) **Promote recovery and the health benefits of returning to work**

Interact Injury Management's messaging to all of the Scheme's stakeholders includes "work is a tonic that makes you well". We utilise and clearly implement International research² into our service delivery model that advocates the health benefits of work through timely access to our return to work services. Interact

² Waddell,G, Burton,K, Aylward,M; (2007). Work and Common Health Problems, Journal of Insurance Medicine, 39 (2), pp109-120.

Injury Management would welcome any opportunity to partner with Scheme reforms to further promote this message through effective and timely access to workplace rehabilitation.

(iv) Guarantee quality long term medical and financial support for seriously injured workers

Interact Injury Management fundamentally agrees that seriously injured workers should be guaranteed long term medical and financial support. In line with our message that “work is a tonic that makes you well” where appropriate and practical, we believe that return to work options should be explored with all injuries to give them a sense of purpose and to promote and support their recovery as they *return to life*.

(v) Support less seriously injured workers to recover and regain their financial independence

The objective of Interact Injury Management’s intervention with injured workers is to return to their pre-injury earning level as an indicator of them regaining independence in their life. All our interventions work towards ensuring that workplace rehabilitation delivers on the objective of injured workers upgrading their work capacity so as to reduce their weekly benefits paid under the Scheme. Therefore the reform principle outlined here is the core function of our involvement. Interact Injury Management operates across 11 sites across NSW and employs a range of health professionals, including occupational therapists, physiotherapists, psychologists, rehabilitation counsellors and social workers to develop individualised plans that address all of the barriers to return to work. Interact Injury Management utilise a bio-psycho-social model³ to effect change and achieve return to work. Our role is to work closely with the employer to assist them to build their capability to accommodate the injured worker and foster an environment that supports the injured worker in the workplace and provide evidence of this to the Nominated Treating Doctor to gain medical certificate upgrades.

It is important to note that recovery and return to work are not inter-dependent. Interact Injury Management utilise international research⁴ to promote return to work at the earliest possible time irrelevant of diagnosis. Utilisation of the therapeutic benefits of work as a mechanism for future recovery is critical and central to our return to work advocacy and is completed parallel to, not dependant on the recovery process. It is in this way that all injured workers regain their financial independence irrelevant of their “recovery”

(vi) Reduce the high regulatory burden and make it simple for injured workers, employers and services providers to navigate the system

Interact Injury Management support the concept of reduced regulatory burden. At the present time, there are numerous mutations of service delivery models required by the various agents, self-insurers and specialised insurers that as a workplace rehabilitation provider we are required to adhere to.

We would strongly support a single model and “manual” that would be utilised by all stakeholders to navigate the Scheme that has at its heart the early and appropriate referral to workplace rehabilitation.

³ Australasian Faculty of Occupational and Environmental Medicine (2011) Realising the Health Benefits of Work. A Position Statement.

⁴ OECD(2007) Sickness, Disability and Work: Breaking the Barriers, Vol 2: Australia, Luxembourg, Spain and the United Kingdom, OECD, Paris

(vii) Strongly discourage payments, treatments and services that do not contribute to recovery and return to work

Interact Injury Management strongly supports this principle. It is our view that the current model falls down in its application of “reasonable and necessary” access to medical services. Whilst in theory this sounds fair, the reality is that it is currently very difficult to discourage services that do not contribute to recovery and return to work without establishing an adversarial environment. It is this adversarial environment that creates another barrier to return to work. Once a worker's veracity has been challenged he works harder to prove his incapacity or need for ongoing treatment. It is critical that the Scheme reform reduces the conflict and adversarial context that services and access to treatment can create. This can be achieved through independent assessment and review that is legally binding. .

II. OPTIONS FOR CHANGE

Interact Injury Management support the NSW Workers Compensation Scheme Issues papers' options for change. Specifically we support the options covering severely injured workers, removal of coverage for journey claims, prevention of nervous shock claims from relatives or dependents of deceased or injured workers, simplification of the definition of pre-injury earning and adjustment of pre-injury earnings, incapacity payments-total incapacity, incapacity payments-partial incapacity. Also we support as outlined in the issues paper work capacity testing, cap weekly payment duration, removal of “pain and suffering” as a separate category of compensation, one assessment of impairment for statutory lump sum. Further we note commutation and work injury damages and strengthen work injury damages, cap medical coverage duration, strengthen regulatory framework for health providers, targeted commutation, and exclusion of strokes/heart attacks unless work is a significant contributing factor, as appropriate options for change. There are a number of caveats around this support and these have been well represented in the ARPA NSW response and Interact Injury Management would fully support ARPA NSW response with respect to these proposals.

There are a number of proposed reforms that Interact Injury Management feel requires specific attention. These are outlined below.

(i) Early referral to workplace rehabilitation services

There is limited application of an evidence based practice approach to identify those injured workers that would benefit from workplace rehabilitation intervention. The exception to this is Xchanging's utilisation of the OMPQ⁵. The various research in this area points to the significant cost saving and improved return to work outcomes if injured workers were to be referred to workplace rehabilitation early in the claim life cycle.⁶ Interact Injury Management supports reform that clearly identifies those injured workers that are triaged at the beginning of the claim into workplace rehabilitation. The Casey (2011) study found that the average time from injury to referral to a workplace rehabilitation provider was 31 months, and the greatest proportion of claims were referred to workplace rehabilitation provider more than 2 years after the initial

⁵ Nicholas, M et al (2011) Early identification and management of psychological risk factors in patients with low back pain: A Reappraisal. American Physical Therapy Assoc, Vol 91, No 5.

⁶ Casey, P (2011). Effectiveness of Rehabilitation: RTW Outcomes. Report 4 of 4 prepared for Australian Rehabilitation Providers Association, April 2010.

injury. Automatically, the probability of a successful return to work outcome after 31 months is less than optimal.

Early referral for those injured workers who would benefit from it is not occurring as the Scheme's case management model is rooted in the medical model. This is flawed. If diagnosis is not a predictor of return to work, why is a medical diagnosis and medical recovery guidelines used as an indicator for referral. Interact Injury Management acknowledges that this is not occurring within all agents case management models. Interact Injury Management proposes that a Work Capacity Assessment completed by an appropriately qualified health professional, matched to the diagnosis, would assist with this early triage and also break the nexus that exists with the Nominating Treating Doctor writing medical certificates that outline work capacity. However, the review by Casey (2011) indicates that it is prevalent enough to be a significant concern and requiring of overhaul.

(ii) Work Capacity Assessments

Interact Injury Management supports a work capacity assessment that has two key principles. These include:

- a) Delineation of work capacity from the medical model. Medical diagnosis is not a predictor of work capacity, nor does it predict employment durations (OECD,2007). The literature around this is clear and prolific. The Nominated Treating Doctor should be integral in evaluating, diagnosing and treating, but they are not specialists in return to work, and in the case of the family doctor, may have a conflict of interest.
- b) Early intervention with rapid connection. Research shows that the longer an injured worker is off work, the less likely the chance of them being able to ever return to work

Interact Injury Management recommends the Scheme adopt the Australian Federal Government's successful "Job Capacity Assessment" format as a mechanism for assessing work capacity and triaging injured workers into the appropriate workplace rehabilitation services. That is, the Nominated Treating Doctor continues to diagnose and refer for appropriate treatment, but the Work Capacity Assessment determines work capacity and streams workers into the necessary workplace rehabilitation service. We recommend that this face-to-face assessment occurs for all injuries that have not returned to pre-injury duties in seven days from date of injury. The initial seven days could be certified by the Nominating Treating Doctor when they present for the initial treatment.

It is with these two clear reform principles, that are strongly supported with International research, that Interact Injury Management feels could significantly assist (in tandem with other reforms outlined) to address the poor performance of the current NSW Workers Compensation Scheme and drive positive outcomes for all stakeholders.