Submission No 235

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Organisation: Eraring Energy

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Eraring energy

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INTRODUCTION

Eraring Energy is a State Owned Corporation that operates a number of electricity generating assets throughout New South Wales. The major asset is the Eraring Power Station, a coal fired power station on the western side of Lake Macquarie, on the NSW Central Coast.

Eraring Energy is a self insurer for workers' compensation in NSW. Not only does Eraring Energy manage its own workers' compensation claims, it also manages claims on behalf of the State of NSW for the former Government entities – The Electricity Commission of NSW and Pacific Power.

Eraring Energy is a member of the NSW Self Insurers Association.

SELF INSURERS ASSOCIATION SUBMISSION

Eraring Energy has had the opportunity to review the submission prepared on behalf of all workers' compensation self insurers in NSW by the NSW Self Insurers Association. Eraring Energy endorses the comments and recommendations contained in that submission.

ISSUES PAPER ITEMS

In addition to our endorsement of the submission of the NSW Self Insurers Association, we make the following submissions on our own behalf.

Removal of coverage for Journey Claims (Section 10 – 1987 Act)

Eraring Energy supports the removal of journey claim provisions. These types of claims, whilst having a direct financial impact on self insurers, are the result of circumstances which are outside the control of the employer.

Self Insurers are more directly affected by journey claims than other employers due to the fact that journey claims are not included in an employer's claims experience for the purposes of calculating premiums, but are paid directly out of the funds of the employer in the case of self insurers.

Another, similar type of provision which should be removed is the "Recess Claim" provision – Section 11 - 1987 Act, for injuries that occur whilst the worker is physically absent from the workplace. As with Journey Claims, these types of claims, whilst having

a direct financial impact on self insurers, are the result of circumstances which are outside the control of the employer.

Cap weekly payments duration (Section 40 – 1987 Act)

Except for the case of workers who have suffered a severe injury, workers should have a limit to the period of time that they are entitled to receive partial incapacity weekly benefits, or alternatively, a monetary limit should be imposed.

Such a limitation, in either time or dollar value, would encourage injured workers to maximise their attempts to return to full employment, or consider re-training to allow them to maximise their earning potential.

Cap medical coverage duration

With the exception of serious injuries, the need for ongoing medical treatment should not continue indefinitely. If treatment is still being provided 2 years after an injury, the treatment is not achieving its aim, which should be to heal and rehabilitate the injured worker.

Placing a cap on the time during which medical treatment costs will be met will provide both the injured worker and the medical provider with an incentive to reach maximum recovery, rather than letting treatment regimes meander along with no real benefit being achieved.

Targeted Commutation

Commutation provides an opportunity for injured workers who want to move on from their injury and the workers' compensation system. It does this by providing them with a lump sum payment and allowing them to make their own choices as to their future.

Many injured workers would prefer this method of finalising their compensation claim, rather than be in receipt of small weekly compensation payments, that continue to tie them to their (in many cases) former employer. Similarly, employers would rather see their former employees able to move on with their lives, and be able to close out the claim rather than having the ongoing administrative paperwork and cost that is associated with long term claims.

Issues associated with the appropriate use of commutations in specified circumstances are matters that should be entirely in the discretion of the Employer and its representative and they are matters specifically related to proper case management. It is open to the WorkCover Authority to put in place principles by which commutation should be considered so far as its scheme agents are concerned. However it is completely inappropriate for any such restrictions to be imposed on self insurers or specialised insurers, as the associated costs are borne directly by the self insurer, and are not paid for from the WorkCover Scheme fund.

OTHER MATTERS

- Industrial Deafness and Hearing Aids

  Hearing loss claims made by employees and former employees are one area of compensation that impose a significant cost on Eraring Energy. The claims are often recycled at the instigation of lawyers, rather than at the request or enquiry of the worker.

  This is the case for both claims for additional hearing loss, and the provision of new or replacement hearing aids.

  Eraring Energy believes that the frequency of hearing loss claims should be limited, to prevent the making of frequent claims for small increments of hearing loss, where the legal costs often exceed the compensation paid to the worker. Similarly, a limit should be placed on the number of hearing aids that an employer is liable for, and employers should not be required to replace hearing aids that have been lost, nor where they have been damaged due to the lack of care, or negligence, on the part of the worker.

- Redundancy and weekly compensation

  Where an employee accepts a voluntary redundancy from his employer, there should be no entitlement to weekly payments of compensation, either at the time of redundancy, or thereafter.

- WorkCover involvement in OHS and Injury Management Audits for Self Insurers

  A concern of Eraring Energy has been the ever increasing regulatory oversight by WorkCover NSW on Self and Specialised Insurers over the past ten years. WorkCover NSW has increased Self and Specialised Insurers' annual workload by requiring a number of compliance audits. Workplace Health & Safety Audits and Case Management Audits have been introduced into supplementary licensing conditions which have created added immeasurable layers of bureaucratic cost to our businesses. Diverting staff resources and time to non value adding activities has had the counter effect of reducing our ability to actively concentrate on value added safety and risk initiatives.

  WorkCover Inspectors have the right to enter workplaces to investigate incidents or alleged breaches of the legislation, so removal of the audit requirement would not remove WorkCover oversight from self insurers. In addition, most self insurers have their OHS systems audited and accredited by external agencies (eg AS4801)

In relation to the audit of injury management systems, once again, self insurers are subject to scrutiny from the Workers Compensation Commission should they fail to adhere to the requirements of the legislation in relation to injury management and workers compensation benefits. The audits conducted by WorkCover are an additional layer of scrutiny that provide no tangible benefit to either the employer or its employees.

The removal of these audits would also allow WorkCover employees more time and resources to allocate to improving the health and safety of all workplaces in NSW.