Submission No 164

INQUIRY INTO NSW WORKERS COMPENSATION SCHEME

Organisation: Australian Psychological Society

Date received: 23/05/2012

NSW Workers Compensation Inquiry

Submission by

The Australian Psychological Society

Contacts:
Mr. David Stokes, Executive Manager, Professional Practice

Mr. Bo Li, Senior Policy Advisor, Professional Practice

24th May 2012

Level 11, 257 Collins Street
Melbourne VIC 3000
PO Box 38
Flinders Lane VIC 8009
T: (03) 8662 3300
F: (03) 9663 6177
www.psychology.org.au

The Australian Psychological Society (APS) thanks the Joint Select Committee for the opportunity to provide input to its Inquiry into the NSW Workers Compensation Scheme. In addressing the Inquiry's terms of reference, the APS recognises the complexities and demands of an accident compensation scheme but as a professional provider society feels best able to contribute to a discussion that focuses on promoting the benefits of active rehabilitation based upon evidence-based interventions and multidisciplinary collaboration between providers, agents and the Work Cover authority.

Scheme v System

The APS notes that the Inquiry terms of reference were specific to the Workers Compensation ***Scheme***, which covers some 75% of the NSW workforce. The remaining 25% are covered either by the Treasury Managed Fund scheme (TMF), which covers public sector employees, or through the self-insurance scheme, which covers large companies. Collectively, the three schemes make up the Workers Compensation ***System***. Due to their workforce profile, each of these three separate schemes has a very different risk profile. For example, the incidence of psychological injury is reported at a much higher rate in the TMF. In this submission, the APS will adhere to the Inquiry terms of reference and provide comments on the Workers Compensation Scheme (the Scheme). However, it should be highlighted that any changes to the Scheme will have impact on the entire Workers Compensation System.

Active rehabilitation v Passive claims management

The APS contends that in addressing the long term viability of the Scheme, there needs to be a fundamental shift away from passive claims management focusing primarily on administration and costs containment toward active rehabilitation focusing on health outcomes and return to work. In reading through the accompanying Issues Paper and e-brief from the NSW Parliamentary Research Service, the APS identified three milestones in relation to claims management from 1987 to present:

1. 1987 Act to repeal the 1926 Act focusing on dispute resolution, conciliation and arbitration. This shifted the focus away from the "big payout" and towards rehabilitation and return to work.
2. 2000 and 2001 amendments to implement new claims management procedures and establishing new restrictions in response to the projected deficit. This coincided with increased utilisation of injury management advisors or similar practices by insurance agents to better promote injury management and promote return to work.
3. The decline in claims management experience since 2008, which led to significant increases in claims in various areas.

The reasons behind the decline in claims management experience are not apparent to the APS, although, anecdotally, it was reported that insurance agents adopted a more "business like" approach without stringent oversight from NSW WorkCover. As a result, providers such as psychologists felt that injured workers were once again faced with a focus on claims management and cost containment at the expense of rehabilitation and return to work. These two aspects, when combined, contributed towards the loss of expertise in claims management experience in insurance agents, leading to cost blowouts through injured workers adopting adversarial approaches (i.e. litigation) as the Scheme became unresponsive to their needs.

Recent NSW WorkCover initiatives such as the introduction of the Regulatory Framework for Psychologists and Counsellors in 2010 have contributed toward improving efficiencies within the Scheme by focusing on timely referral, early intervention and evidence-based practice. However, these changes will not be sustainable in the long-term without a shift of focus to injury management, rehabilitation and return to work for injured workers.

Mental health is not just absence of mental illness

Psychologists, particularly Clinical Psychologists, are often described as experts in the treatment of people with mental illness. While this is true for a significant portion of the APS membership (over 20,000 Australian Psychologists), it should be noted that mental health is not just an absence of mental illness and that generalist psychologists and psychologists of other specialties (e.g., Health, Counselling and Organisational psychologists) can contribute toward the mental health and wellbeing of people within the Workers Compensation Scheme. This was argued in a previous submission from the APS to NSW WorkCover arguing for equal treatment for all psychologist providers in the Scheme and not adopting the Medicare mental health approach, which was aimed at a specific population.

A better way of describing mental health is to speak of a person's ability to manage mental demands and stressors and draw more effectively upon their existing resources to seek appropriate support as required. Fundamental to mental health is "mental health literacy" – a grasp of, and access to, information that can inform their awareness of stressors in life, as well as that pertinent to their general well-being. Increased mental health literacy normalises significant distress and mood changes and accepts the fact that many people will experience reduced mental health and wellbeing at some point in their lives, particularly in response to a major stressor such as a workplace injury or incident.

In the Workers Compensation Scheme context, increased understanding of mental health and promotion of mental health literacy will better inform both agents and other providers on the importance of timely referrals and early intervention for workplace injuries. There will then be an improved

understanding of the ways to delay the onset or prevent psychological conditions associated with their original injuries and with protracted claims management. Prevention of mental health issues should be as high a priority as returning to work. It is widely accepted that returning to some form of work (if possible) is a highly protective factor for reducing the onset of mental health disorders and has broader benefits to health (Royal Australian College of Physicians [RACP], 2010). This is elaborated below.

Finally, the APS would like to stress the notion that physical and mental health are inseparable and seriously integrated aspects of overall health. For any physical injury that occurs, there are inevitable and important-to-acknowledge psychological consequences or associated features. Likewise, any psychological injury is undoubtedly associated with physical health impacts and consequences. The recognition of the unavoidable interrelationship of physical and psychological aspects of health underlies much of the APS's membership work in the community, with its work with government policy development and particularly with injury compensation schemes.

Features of a new Scheme

The NSW WorkCover Scheme is very complex with many interdependent factors. The Issues Paper and e-brief have highlighted the challenges facing the Scheme and suggested a number of options to consider. Rather than evaluating each option and its consequence, this submission will outline what the APS sees as a future state for the Scheme - its key features and contributory elements consistent with the guiding principles as described in the Issues Paper (page 5).

There are three key stakeholders central to injured workers in working with their recovery and rehabilitation process: insurers, providers and Work Cover. The APS believes that a renewed Scheme should have the following features:

1. *A client-centred approach* encouraging injured workers to rehabilitate and return to work where possible, improve lifestyle and independence when not possible and not unnecessarily disadvantage any who do not return to work.
2. *Early intervention* for injured workers through timely assessment, referral and interventions.
3. Workers with catastrophic injuries receive *professional support* aimed at increasing self care and decreasing reliance and dependency on services.
4. *A learning system* that actively consults and works with professional peak bodies to collate, update and distribute evidence to insurers and providers to promote best practice in injury management.

It is acknowledged that the Scheme currently has many elements that already contribute to features outlined above. However, sustainable change can only occur through systematic changes to the work practices of all three key stakeholder groups. Ironically, changes required for the Scheme to be more effective and efficient is analogous to the way in which an injured worker might be identified, assessed, referred, treated and returned back to the active workforce. These are discussed below.

A client-centred approach

Providers such as psychologists are part of a team of multidisciplinary experts offering their professional services to injured workers. The aim of provider input is to develop a whole person intervention approach aimed at increasing functional outcomes and minimising or compensating for losses experienced. This is often called the biopsychosocial approach. This is in contrast to the traditional medical view of health and illness (often only 'bio'), where symptoms are treated in relatively isolated manner. A multidisciplinary client-centred approach is an explicit acknowledgment that injured workers are also members of families, communities and the workforce in general, and that their injuries have impacts at all levels beyond their personal level.

In taking a client-centred approach, the Scheme needs to work in collaboration with insurance agents and providers to offer timely and appropriate assessment, intervention and follow-up. This requires the agents to have the right staff to handle the initial claims made and refer in a timely manner. Many agents employ Injury Management Advisors (IMA) with qualifications in health or related disciplines. This is similar to practices in other jurisdictions such as Victoria.

The APS believes that both the number of IMAs and their roles must be expanded in the renewed Scheme. Allied health professionals are ideally suited to the role of an IMA, due to their biopsychosocial training. They can act as effective interface and "gatekeepers" between providers and injured workers, provided they are supported and have sufficient powers to authorise timely treatments and interventions.

Early intervention as the key to successful outcomes and reduced costs

Early intervention has been consistently been identified in the literature as a key determinant in reducing chronicity, effectiveness, earlier return to work and cost associated with NSW WorkCover claims (see Submission No. 126 to this inquiry by the Australian Rehabilitation Providers Association [ARPA]). This can only occur when IMAs with clinical training and experience can work with providers to identify suitable treatment options and rehabilitation goals

early in the claims process (within 3 months). This will require IMAs with the following features:

- Experienced clinicians in rehabilitation settings, particularly in third party compensation systems;
- Competence to approve and oversee the overall treatment plan for injured workers;
- Authorisation to approve certain treatments with strong evidence base;
- Supported by access to professional supervision and professional development to minimise burnout and retain expertise and corporate knowledge; and
- Capacity to refer or direct providers to current evidence in relation to treatment plans.

Timely professional support for injured workers

Workers with catastrophic injuries are often unable to resume their normal duties. Their needs, and therefore intervention goals, are different and must be addressed with sensitivity. The move away from lump sum payments towards a rehabilitation model had the undesired effect of ongoing treatment by some providers without apparent clinical justification or goal. As a result, many injured workers have developed a dependent relationship with their providers. Such relationships are not conducive to positive outcomes, long-term viability for the Scheme and need to be addressed via appropriate yet sensitive mechanisms.

The APS encourages the new Scheme to continue with goal-oriented treatment planning and interventions as set out under the Regulatory Framework for Psychologists and Counsellors. This Regulatory Framework is consistent with best practice in early intervention and focuses on addressing the immediate concerns of injured workers. Under the Regulatory Framework treatment plans are only required for treatments exceeding 6 sessions and insurers are required to respond to approve or reject treatment plans submitted by providers within 10 days.

Even for workers with catastrophic injuries, input from a range of provider groups can assist to identify and implement various strategies to overcome and compensate for losses experienced. These can include adaptive technologies, self-management of chronic pain and psychological issues. Acute exacerbations of chronic issues need to be identified early and time-limited interventions should be offered. This will both reduce dependence on providers by injured workers, but also empowers them to retain personal control of their condition and seek help as required. This is consistent with the biopsychosocial approach advocated above, focusing on overall personal health and not just the absence of illness.

An active learning system

The APS supports any initiatives that encourage providers to adopt an evidence- based approach in their treatment goals and interventions. The vast majority of providers of the Scheme are ethical and professional in their conduct. Recent changes, such as the Regulatory Framework for psychologists and counselors have also increased professional accountability of providers.

The APS acknowledges the panel of Independent Consultants currently operating under the Scheme. This panel performs important functions in promoting and monitoring best practice guidelines. Senior members of the profession are highly valued by their peers and provide much expertise in reviewing treatment plans and goals based on current evidence and counsel both providers and IMAs on the best course of action if doubt arises. The APS urges a greater role for the panel to actively engage and consult with professional bodies and collaborate on research to gather data and disseminate findings in order to promote best practice.

All treatment plans and interventions should have a strong evidence-base. Ongoing interventions without clinical justification create dependency on workers, over-servicing by providers and ongoing costs for the Scheme. The APS has recently completed an update on Evidence-Based Psychological Interventions in the Treatment of Mental Disorders. This resource is publicly available on the APS website http://www.psychology.org.au/Assets/Files/Evidence-Based-Psychological-Interventions.pdf

Conclusion

While there are many elements in the Scheme that work well, the current Scheme is not functioning well for injured workers. The APS contents that sustained changes to the Scheme can only occur if the above suggested improvements are undertaken simultaneously. Change needs to be systematic and reforms undertaken as a package, involving all key stakeholders. Selectively picking winners (e.g., implementing some suggestions at the expense of others) will not achieve their desired effectiveness. Improvement to the Scheme will require investment in the short term, but will save money in the long term.

About the APS

The Australian Psychological Society (APS) is the peak national body for the profession of psychology, with over 20,000 members (including over 6500 members in NSW), representing over 60% of registered psychologists, and including nine specialist colleges. As the representative body for psychologists, the APS has access to a vast pool of psychological expertise

from both academic and professional service delivery perspectives. The APS has responsibility for setting professional practice standards, providing ongoing professional development and collaborating over the accreditation of university psychology training programs across Australia. It is represented on a number of advisory groups involved in the planning, implementation and ongoing monitoring of Government policy initiatives. Constant communication with its members, plus access to high level psychological expertise and detailed involvement in Government initiatives, enables the APS to significantly influence the psychology workforce to ensure best practice in health service delivery.

The APS has a proud history of working in collaboration with Australian Government departments and other organisations in the successful delivery of policies and programs aimed at improving the health outcomes of Australians.

References

ARPA (2012) Submission No. 128 into the Inquiry of NSW Workers Compensation Schemed. Retrieved May 22, 2012. http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/V3ListSubmissions?open&ParentUNID=0B8EBC0D61BE16E9CA2579F2002C2F74

RACP (2010). Realising the Health Benefits of Work, Australasian Faculty of Occupational & Environmental Medicine Position Statement, Sydney. Retrieved May 22, 2012. http://www.racp.edu.au/page/afoem-health-benefits-of-work