Submission No 12

INQUIRY INTO PERSONAL INJURY COMPENSATION LEGISLATION

Organisation:

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Subject:

Summary

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8 March 2005

The Director
General Purpose Standing Committee No. 1
Legislative Council
Parliament House
Macquarie St.
Sydney. NSW 2001

Dear Sir, RE: INQUIRY into PERSONAL INJURY Compensn. LEGISLN.

It has been brought to my attention that submissions are being accepted by the Legislative Council with respect to the operation and outcomes of personal injury legislation.
I wish to relate some experiences of my medical practice with respect to the workings of the WorkCover scheme and the CTP Motor accident scheme.

With both schemes I have found that the supervising bodies, WorkCover of NSW, especially the IPEA Branch, and the MAA of NSW have not been helpful in ensuring fair outcomes or even proper compliance by insurance companies.
I am confronted on a daily basis with the inadequate workings of these schemes and have now decided to take no new cases & gradually eliminate all current cases.

1. PAYMENTS AND FEES

Certain patients have become victims of routinely delayed payments and reimbursements, especially by CGU, in some cases by months. This situation can be compounded by incorrect issue of cheques and bad book-keeping, causing further delays.

Fees for medical information and opinion become inadequate when insurance companies, especially NRMA, can request 19 questions, including subquestions and then include a caveat, in bold type, that "maximum amounts payable". The result is that reports are no longer undertaken by this practice or inadequate information is given in keeping with the unrealistically low fees. This allows the insurance company to claim acquiescence by the NTD.

2. INVOICES

Valid tax invoices can be misplaced or rejected on arbitrary grounds, eg GIO. This device is often used to further delay payments, intimidate the payee and is possibly in contravention of federal Privacy legislation. Reports or documents are often lost.

3. BILLABLE HOURS

There are numerous instances of excessive and trivial communications or visits to treating doctor, the workplace or to the client. There appear to be designed to ensure that an account is generated. Often the initiator is the insurance company or their agent, rehab provider and in most cases the information requested is readily available on the statutory WorkCover Medical Certificate. I was told as much by several rehab providers.

4. SPECIALISTS

The use of insurance-nominated specialists is, with few exceptions, scandalous. In most cases the patient is intimidated, not questioned fairly and given a cursory examination aimed more at finding numerous, often irrelevant, negative signs rather than relevant signs. It would be informative for the Committee to profile the findings of insurance-nominated medical examinations to see what proportion found in favour of the patient. It is common knowledge that the majority of this "industry" has a starting assumption that the patient is a malingerer.
The choice of specialist is often inappropriate eg Psychiatrist, orthopaedic, physiotherapist.

5. INADEQUATE REHABILITATION

There needs to be a serious audit of this area. The apparent norm is for the insurance care officer to be concerned, overwhelmingly, with cost-saving rather than fulfilling their legislative role to rehabilitate the injured person. Basic investigations are delayed more relevant but expensive investigations are ignored. Selective information is used and major decisions are made by non-medical functionaries.

6. INTIMIDATION

Arbitrary decisions are made by insurance staff on selective or limited information. This appears to be a device used to test the patients resolve to "remain in the game" and fight for their rights. The patient may be harassed by 'phone at night', or sent to an insurance specialist at short notice and to some distant location.
When questioned, insurance staff will often resort to lying.

7. COMPLIANCE

The supervising bodies are reluctant to investigate infringements and in most cases will accept the assurance of insurance companies despite facts presented to the contrary. Correspondence to these bodies, especially WorkCover, can take some time to be answered and often points raised are not addressed appropriately. I have accumulated a large dossier of WorkCover letters with no resolution of issues.

In one case, WorkCover officer Derek claimed that "standards" were not being breached but on further questioning admitted that no standards existed, in this particular case!!

Communications with insurance companies, including letters, go unanswered, especially with CGU (Mr Ian Risby, Mr Mario Pirone).

8. CONFIDENTIAL DOCUMENTS

The losing or misplacing of private and confidential information has become common place and may be merely a device for the insurance companies to delay payment or decision making. This must be a contravention of Privacy Legislation but is not taken seriously by both the insurance companies and the supervising government bodies.

9. PRIVACY

The intrusive accumulation of personal data by insurance company call-centres when one makes contact with them eg to obtain quotes or information. If personal details is not provided they shut you down ie hide behind the Privacy legislation to avoid work

10. PREMIUMS

There is enormous disparity in insurance premiums, often being twice what others charge eg NRMA is twice what Allianz charge for comprehensive vehicle cover for the same vehicle. Coupled to this are the ever shrinking benefits to which such insurance cover provides. The confusing language used is further compounded by vague interpretation of benefits.

I am confronted with these issues daily and they have far-reaching consequences. I have tried to go through proper channels at great expense and time and been continually frustrated.

The result of not addressing the above matters is that already fewer medical practitioners are prepared to become involved in insurance matters. There is a general lack of confidence in the workings of these insurance schemes by both the community and the medical profession. The result is that a core of people have seen the establishment of an "industry" to exploit this poorly regulated area. These people are aware that appropriately written opinions will generate more referrals from insurance companies. Some of these opinions are of dubious scientific value and create much injustice for the suffering patient. Further, the majority of these "compo specialists" restrict themselves to excessive report writing rather than rehabilitation and productive outcomes. Almost all refrain from actual patient treatment.

I beseech you to respectfully consider my submission and act accordingly to sort out the mess that has been allowed to develop. These problems won't go away and need to be addressed.

Yours faithfully,

John Simone

Dr J. Simone (Workcover Authorised)