17 October 2016

Our ref: 161010-SIRA-TC

Ms Annette Keay
Senior Advisor, Injury Strategy
Motor Accidents Insurance Regulation
State Insurance Regulatory Authority (SIRA)

Via email: annette.keay@sira.nsw.gov.au

Dear Ms Keay

Re: Claims handling, business plans and medical (treatment, rehabilitation and care) Guidelines for motor accident claims

Thank you for the opportunity to comment on the draft *Claims handling, business plans and medical (treatment, rehabilitation and care) Guidelines for motor accident claims* ('the draft Guidelines').

The Australian Physiotherapy Association (APA) welcomes this opportunity to provide feedback on the draft Guidelines to support safe access to high quality physiotherapy for injured road users in New South Wales (NSW) and to optimise the health and wellbeing of individuals, families, communities and the state as a whole.

APA feedback to this draft consultation paper is ***attached***.

If you would like to discuss any part of this feedback, please contact Jenny Robertson, NSW/ACT Branch Coordinator, at jenny.robertson@physiotherapy.asn.au or **(02) 8748 1505**.

Yours faithfully,

Thy Cao
President NSW Branch
President NSW Compensable Bodies Committee

Attachment

1. **Fair and reasonable costs of physiotherapy treatment should be funded to facilitate optimum health outcomes**

A central objective of the motor accidents scheme in NSW is to provide fair compensation and to encourage the early resolution of claims. Early and appropriate treatment of injuries facilitates optimum recovery for the injured road user.

The APA believes that injured road users should have their choice of safe, high quality health providers.

CTP in NSW is privately underwritten. The respective insurance companies (AAMI, Allianz, CIC-Allianz, GIO, NRMA, QBE and Zurich) set their own industry fees for physiotherapists.

Physiotherapists are required to charge prices established by the respective insurer, which usually fall well below market rate. Physiotherapists report that they would charge $70 – $80 for a Standard Consultation for private patients but CTP insurers would set their fees at only $60 - $68.

As co-payments are not allowed, physiotherapists have little incentive to treat injured road users.

This drives many highly trained and senior physiotherapists away from the NSW CTP scheme. This compromises the achievement of good health outcomes, as injured road users do not have access to the most appropriate and qualified health professional.

Stinting on the costs of quality care is a false economy. Physiotherapy fees for services in the NSW *Green Slip* scheme need to reflect the full average cost of providing the care and be at least equivalent to the national average of subsidies in similar schemes operating in other states.

A fair and reasonable fee structure, which focuses on early intervention and access to the most appropriate and qualified health professional is likely to save costs to the NSW CTP scheme in the short and long term, by encouraging injured road users to return to work earlier and to maximise function.

Recommendation 1:
We recommend that the NSW CTP scheme meet the full average cost of providing safe, high quality services. Failing this, we advocate for legislative change to allow for co-payments to be charged by health professionals providing services within the NSW CTP scheme.

2. **Physiotherapists should be paid for their time in case conferencing and report writing**

Under the current NSW CTP scheme, physiotherapists are not paid for their time in case conferencing and report writing.

Queensland, Western Australia and South Australia have a separate fee for direct communication between the treating practitioner and the insurer. As there are no item numbers claimable for case conferencing or report writing in NSW, physiotherapists have to negotiate with individual insurers a fee for communication. Some insurers might agree to offer a small fee, such as $25 for report writing but other insurers will refuse to pay for the service altogether.

Physiotherapists can take up to an hour to write a report. Case conferencing and report writing attracts an hourly fee for worker's compensation patients in NSW. We would expect greater

consistency between the worker's compensation scheme and CTP scheme, especially since SIRA has taken over both functions.

We have received similar feedback from members about the NSW WorkCover Allied Health Recovery Request Form. This form used to be a 1 page form but now extends to 5 pages. The form may take up to 20 minutes to complete, which is equivalent to the length of a standard consultation. Despite the time taken, an insurer would pay a nominal fee of only $25 for the initial completion of the request form. This nominal fee does not reflect the actual cost of providing the service, or the time taken.

Inadequate service fees drive many physiotherapists, especially highly trained and senior physiotherapists, to cease treating CTP compensable patients. Compensable patients often present with chronic and co-morbid conditions and require a longer treatment time. Injured road users would benefit from being treated by highly skilled physiotherapists but instead they are allocated to junior physiotherapists with a lower level of expertise. Low service fees are a barrier for injured road users to access high quality physiotherapy that has the potential to achieve optimal health outcomes.

We advocate for patient-centred care. We believe that low service fees are short-sighted and compromise the health outcomes of the compensable patient. The injured road user loses out. We need a better fee model that supports access to quality healthcare to support early rehabilitation.

Recommendation 2:
We recommend that all individual insurers in NSW reimburse physiotherapists for their time in case conferencing and report writing to support fair and consistent processing of claims.

3. Decisions about reasonable and necessary treatment should be made within 5 days

It is our view that 5 days is optimal to support proactive handling of claims. We think that 10 days is excessive because it delays the onset of treatment and we know that early intervention is critical. We take issue with the following points under 'Medical guidelines for treatment, rehabilitation and attendant care services and payments':

- Point 12.1 on page 26 gives the insurer 10 days from the date the claim is received to conduct an initial treatment, rehabilitation and attendant care needs assessment.
- Point 12.2 on page 26 states that the injured person must be referred to an appropriate treatment provider within 10 days.
- Point 12.3 on page 26 provides that where the insurer approves payment of the injured person's treatment, the insurer must advise the injured person within 10 days.
- Points 12.6.1 and 12.6.2, on pages 26 and 27, specify that the insurer has 10 days within which to advise the injured person, their legal representative or treatment provider of their reasons for declining or partially declining to pay for the injured person's treatment, rehabilitation and attendant care expenses.

Recommendation 3:
We believe that 10 days is excessive for conducting an initial assessment and that 5 days is an optimal timeframe to facilitate early and appropriate rehabilitation.

4. Treating medical information should be provided to third parties within 10 days

We believe that medical information should be provided to third parties within 10 days. Injured road users would benefit if physiotherapists received information promptly from other health professionals, such as orthopaedic surgeons, within 10 days.

Point 12.10.1 on page 28 specifies that insurers should provide treating medical information to third parties within 20 days.

We believe that 20 days is excessive and causes undue delay in the progress of the injured person's treatment. A timeframe of 20 days is a barrier to coordinated care. Prompt exchange of information between health professionals promotes coordinated care and best treatment outcomes for the injured road user.

In particular, coordinated care between health providers has been linked to the capacity to build more effective self-management techniques and accountability in people with chronic conditions, which are common in compensable patients.

Recommendation 4:
There are major patient benefits and cost-savings for SIRA to be achieved by facilitating prompt exchange of medical information between health providers, as this enables health professionals to better coordinate the patient's care and facilitate the early resolution of claims.

As a final point, we commend the State Insurance Regulatory Authority (SIRA) on point 12.8, on page 27, of the draft Guidelines which supports that an insurer will first discuss termination of treatment or rehabilitation with the treatment provider, where sudden cessation of treatment places the injured person at significant risk.

5. To support a prompt determination of liability insurers should approve a claim within 5 days

We support a prompt determination of liability. We suggest a timeframe of 5 days is optimal. A timeframe of 5 days applies to worker's compensation claims, with automatic approval if no response is received from the insurer within that timeframe.

The current system of waiting for up to three months (liability notice 9.1) to receive acceptance of a claim is unreasonable and delays early intervention. This is contrary to Principles 1 and 2 of the draft Guidelines which state that insurers should resolve a claim justly and expeditiously and handle a claim proactively to support the injured person to optimise their recovery.

Delaying access to treatment for up to three months results in uncertainty for the injured person and hampers effective recovery and health outcomes in the long run.

We support the system of accident notification and believe that it is an efficient way of managing claims and paying for treatment. We appreciate that legislation permits the injured road user to submit a claim up to six months post-accident. We accept that if an ANF (accident notification form) is in place, then there is a provisional acceptance of liability up to $5000 for treatment. As a result, there is an onus on physiotherapists to check and make sure that the patient has not already exceeded their provisional liability. We believe that the sum of $5,000 for provisional liability is insufficient. We support that the ANF amount should be increased to $10,000 to facilitate ongoing access to treatment.

The longer a worker remains absent from work, the more likely they are to remain off work on a long-term or permanent basis.[i] This highlights the need for early intervention in the provision of health care services, to ensure that injuries are treated early and to prevent acute conditions progressing to chronic conditions that prevent return to work. Early intervention for injured people improves health, social, financial, interpersonal and intrapersonal outcomes by promoting recovery and preventing long term disability and work loss.[ii,iii]

Without fulfilling work, people may not achieve their potential at the expense of themselves, their families and their communities, and work is of great importance to an individual's health and wellbeing.[iv,v]

Earlier this year, we responded to the NSW Government's Consultation Paper: *On the road to a better CTP scheme Options for reforming Green Slip insurance in NSW*. We support a transition to a hybrid no-fault, defined benefits scheme (Option 3) and believe this transition would remove the unnecessary time delays involved in determining liability.

Recommendation 5:
We support a prompt determination of liability and suggest a timeframe of 5 days (as with worker's compensation claims), with automatic approval if no response is received from the insurer within that time.

We support that the ANF amount should be increased to $10,000 to facilitate ongoing access to treatment.

References

[i] Charlton E. J. (2005). Chapter 23 - Work Rehabilitation. Core Curriculum for Professional Education in Pain (3rd ed). The International Association for the Study of Pain Press, Seattle, p1

[ii] Ellis, N. (2001). Work and Health Management in Australia and New Zealand. Oxford University Press, page 3

[iii] WorkCover NSW (2008). Improving outcomes: Integrated, active management of workers with soft tissue injury

[iv] Black D. C. (2008). Working for a healthier tomorrow: Dame Carol Black's review of the health of Britain's working age population. Norwich: The Stationery Office.

[v] Aylward, M. 2010. "Realising the Health Benefits of Work - Australasian Faculty of Occupational & Environmental Medicine Position Statement." Retrieved from: http://www.racp.edu.au/page/policy-and-advocacy/occupational-and-environmental-medicine