

CPSU SUBMISSION

Workplace Safety Reform Agent Review

September 2020

Background

The Community and Public Sector Union was founded in 1885 as the Victorian Public Service Association by public servants who sought an independent system for setting their pay and conditions for Victorian Public Service workers, and an end to the system of political patronage.

CPSU has coverage for 40,000 employees who are employed in the public service and associated areas of coverage. CPSU has coverage for the core public service and outer agencies and has members in over 40 departments and agencies

CPSU has over 50 enterprise agreements applying to the Victorian public sector. The union also has a number of private sector agreements particularly in the corrections industry. Public sector and other employers which are not part of the VPS have their own agreements.

CPSU has a dedicated WorkCover officer who assists members with their claim through the lodgement process, and where a claim is rejected or terminated, or a service is refused, CPSU provides representation at conciliation conferences convened by the Accident Compensation Conciliation Service.

Identifying and assessing complex claims

All mental injury claims are complex from day one. Physical injuries that result in a secondary mental injury are also complex. Other complex claims are where a workers' claim reaches the 130-week mark and the worker has a capacity for work, and no work has been provided by the employer, the Act requires that weekly payments cease.

It is the view of CPSU that the majority of claims that are/or become complex are due to the interaction or mismanagement of the claim by the agent and bad decision making that is often based on a selective assessment of information the agent has in their possession. A failure to approve treatment upon request from the workers treating medical practitioner and some agents not making or conveying a decision on the request at all to the worker, this also contributes to compensable injuries becoming worse and complex due to secondary mental conditions emerging. Based upon CPSU experience in the current compensation system, the chances are that if you weren't suffering a mental injury when you entered the system you were by the time you exited the system.

Mental injury claims make up 14% of all new claims. Less than 50% of workers suffering a mental injury return to work compared to 78% of workers with a physical injury.

60% of mental injury claims are initially rejected by agents utilising the management action preclusion provisions as contained in s40 of the Workplace Injury Rehabilitation and Compensation Act 2013.

CPSU Recommendation

[all primary & secondary Mental Injury claims be considered complex claims from day one along with all severe and catastrophic injury claims.](#)

Who should manage complex claims

The Victorian Ombudsman Reports of 2016 and 2019 both found that decisions made by agents on behalf of the Victorian WorkCover Authority (WorkSafe) were mishandled by agents. The 2019 report indicated that although WorkSafe had implemented all of the Ombudsman 2016 recommendations agent behaviour had not improved.

“I launched this second investigation in May 2018 on the back of continued influx of complaints and anecdotal evidence that not enough had changed. Sadly, that has proven to be true.”

Deborah Glass

CPSU is of the opinion that complex claims should not be handled by agents as the two Ombudsman’s report have demonstrated that the bad behaviour has continued unabated. CPSU acknowledges that WorkSafe has improved its oversight of agents, however agent behaviour has not improved to any discernible degree.

CPSU is of the opinion that there will not be a discernible improvement in claims management whilst agents are responsible for the management of complex claims. CPSU believes that agent behaviour will not change as basically they are involved to make money, their primary consideration is not the health nor the welfare of the injured worker.

CPSU is of the opinion that complex claims should be managed by the Transport Accident Commission who is a statutory authority that has demonstrated they can provide appropriate claims management of catastrophic injuries in a compassionate way. CPSU refers the reviewer to the TAC 2020 Strategy regarding the manner in which an organisation without profit as the primary goal can manage complex injury claims. In the year 2018-19 TAC assisted 58,000 Victorians with their accident claims.

As a contemporary disability support provider, the TAC goes to considerable lengths to help our clients through their life-back-on-track journey. Whether it be simple post-accident medical treatment and rehabilitation, income and return to work help or accommodation assistance, our supports are designed to be quick, empathetic and effective in meeting each patient’s individual needs.

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CPSU Recommendation

all primary & secondary Mental Injury claims along with all severe and catastrophic injury claims be managed by TAC.

Karen Batt
CPSU State Secretary