

Submission

By

Business|NZ

To

ACC

On

Cost of Treatment Regulations Consultation Document (Adjustment to Rates)

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**COST OF TREATMENT REGULATIONS – CONSULTATION DOCUMENT
(ADJUSTMENT TO RATES)
SUBMISSION BY BUSINESS NEW ZEALAND**

1.0 INTRODUCTION

- 1.1 Encompassing four regional business organisations (Employers' & Manufacturers' Association (Northern), Employers' & Manufacturers' Association (Central), Canterbury Employers' Chamber of Commerce, and the Otago-Southland Employers' Association), Business New Zealand is New Zealand's largest business advocacy body. Together with its 56-member Affiliated Industries Group (AIG), which comprises most of New Zealand's national industry associations, Business New Zealand is able to tap into the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.
- 1.2 In addition to advocacy on behalf of enterprise, Business New Zealand contributes to Governmental and tripartite working parties and international bodies including the ILO, the International Organisation of Employers and the Business and Industry Advisory Council to the OECD.
- 1.3 Business New Zealand's key goal is the implementation of policies that would see New Zealand retain a first world national income and regain a place in the top ten of the OECD (a high comparative OECD growth ranking is the most robust indicator of a country's ability to deliver quality health, education, superannuation and other social services). It is widely acknowledged that consistent, sustainable growth well in excess of 4% per capita per year would be required to achieve this goal in the medium term.
- 1.4 The health of the economy also determines the ability of a nation to deliver on the social and environmental outcomes desired by all. First class social services and a clean and healthy environment are possible only in prosperous, first world economies.
- 1.5 Business New Zealand therefore wishes to provide some brief comments on the ACC Consultation Document - "Cost of Treatment Regulations".

2.0 SUMMARY AND CONCLUSIONS

- 2.1 Business New Zealand is strongly of the view that the costs of the ACC scheme have to be controlled in a manner, which is transparent and reasonable for funders, providers and claimants. The scheme cannot be open-ended and unaccountable in, for example, meeting treatment costs.

- 2.2 While Business New Zealand would claim no special expertise in setting the levels of contributions for treatment costs, to require either ACC or indeed employers to meet the full cost of any amount the medical providers might choose to impose would be unacceptable. There would be little accountability in such a system which could in many cases, encourage medical providers to submit grossly inflated bills in the knowledge that ACC and ultimately employers would be obligated to pay them.
- 2.3 Business New Zealand continues to dispute whether the ACC scheme is in breach of ILO Convention 17. New Zealand legislation has always provided a qualification to the level of payment provided for medical treatment.¹

3.0 RECOMMENDATIONS

- 3.1 Business New Zealand **recommends** that while it is appropriate to review the level of fees reimbursed from time to time, treatment fees should continue to be subject to some form of capping.
- 3.2 Business New Zealand **recommends** that indexing fees to the Consumers Price Index (CPI) is inappropriate given changing costs (both up and down) over time and should not be considered.

4.0 GENERAL COMMENTS ON THE CONSULTATION PAPER

- 4.1 Business New Zealand welcomes the opportunity to comment on the Cost of Treatment Regulations Consultation Document.
- 4.2 Businesses are significant funders of the ACC scheme and have a vital interest in the performance and costs of the scheme.
- 4.3 Business New Zealand is strongly of the view that the costs of the scheme have to be controlled in a manner, which is transparent and reasonable for funders, providers and claimants. The scheme cannot be open-ended and unaccountable in, for example, meeting treatment costs.

¹ See for example, Submission by Business New Zealand to ACC on the Cost of Treatment Regulations Consultation Document (22 August 2003).

- 4.4 Business New Zealand notes that the Consultation Paper states that two of the reasons for reviewing the levels of regulated contributions towards identified treatment consultations prescribed in the cost of treatment regulations are: (1) to ensure that ACC's contributions towards treatment costs go some way towards keeping up with changes in the cost of healthcare over time; and (2) the proposed increase in levels enables the Government to continue its progress towards compliance with International Labour Organisation (ILO) Convention 17.²
- 4.5 Business New Zealand continues to dispute whether the ACC scheme is in breach of ILO Convention 17. New Zealand legislation has always provided a qualification to the level of payment provided for medical treatment. Business New Zealand's Submission on the Cost of Treatment Regulations Consultation Document (22 August 2003) raised this issue, with the relevant sections of that Submission quoted below:

"On the issue of co-payment, Business New Zealand notes with concern that....it is stated that the ILO Convention 17 Article 9 (ILO 17) "requires signatory countries to ensure that medical costs of workers' injuries are not borne by workers for work-related injuries" and that "currently much medical treatment carried out under the treatment cost regulations incurs a co-payment for claimants."

Business New Zealand takes issue with this interpretation of ILO 17. For example, Article 9 goes on to state that such aid "...as is recognised to be necessary" is to be provided, with the cost of such aid to be "defrayed" by the employer or insurance company.

New Zealand legislation has always provided a qualification to the level of payment provided for medical treatment. The Convention was ratified in 1938, at which time the 1922 Workers' Compensation Act provided for the payment of "reasonable" medical expenses to a capped monetary amount. This provision was continued in the Consolidated Workers' Compensation Act 1956.

The Accident Compensation Act 1972 expressed the limitations to the amount to be paid by the Commission as being "reasonable by New Zealand standards" – a definition continued in the consolidating 1982 Accident Compensation Act. Regulations were permitted pursuant to the Accident Compensation Acts of 1972 and 1982, which could (and did) provide for payment limits. So too, the Accident Rehabilitation and Compensation Insurance Act 1992 merely continued to determine, by way of regulations made pursuant to it, maximum amounts in certain circumstances that were determined to be reasonable in the context of New Zealand's overall health provision services."

² Foreword to the Cost of Treatment Regulations Consultation Paper by the Chair of the ACC Board (p.1)

- 4.6 While Business New Zealand would claim no special expertise in setting the levels of contributions of treatment costs, to require either ACC or indeed employers to meet the full cost of any amount the medical providers might choose to impose would be unacceptable. There would be little accountability in such a system which could in many cases, encourage medical providers to submit grossly inflated bills in the knowledge to ACC and ultimately employers would be obligated to pay them.
- 4.7 Earlier material provided by ACC in its levy consultation documents for 2003/04 suggested that removing co-payments for new and existing claims would be very costly (\$200 million additional medical costs for new claims and \$130 million for existing claims) and would require increases in both the employers' and residual claims levies.
- 4.8 These figures by ACC are likely to be very conservative and do not take into consideration the incentives on treatment providers to increase their treatment charges, particularly in areas where there is an absence of effective competition in the treatment provider market.
- 4.9 Given the above, Business New Zealand is strongly of the view that the current system of co-payments for treatment costs should be maintained.³
- 4.10 In specific respect to co-payments, a mechanism to reduce most, if not all, costs to patients is through the provision of contracts with "preferred providers" so that claimants and providers are provided with timely and cost-effective treatment. In this respect, Business New Zealand supports initiatives by ACC to seek the cooperation of medical providers through contracts to ensure that treatment costs are kept at reasonable and affordable levels therefore minimising any co-payments to claimants.

5.0 PROPOSAL TO INCREASE RATES FOR IDENTIFIED TREATMENT CONSULTATIONS

- 5.1 Business New Zealand notes that p.9 of the Consultation Document outlines the potential costs (levy) across accounts for the proposal to increase the contributions of ACC to treatment providers by 2.5% for treatment that is not provided for through a contracting arrangement between ACC and treatment providers.

³ Co-payments (and caps) are part and parcel of most private insurance contracts. Insurance contracts which provide cover for the full cost of treatment normally cost the patient significantly more in ongoing premiums given significantly less ability to control costs, although health insurers do use a range of mechanisms to try and minimise costs while ensuring patients receive timely and quality treatment.

ACC Account	Levy Impact
Employers' Account	0.002 cents per \$100 liable earnings
Self-Employed Work Account	0.003 cents per \$100 liable earnings
Earners' Account	0.004 cents per \$100 liable earnings
Motor Vehicle Account	0.18 cents per motor vehicle license
Medical Misadventure Account	Included in the Non-Earners' and earners' Accounts
Residual Claims Account	Nil

- 5.2 While the amounts proposed above could be considered relatively small (e.g. an increase of around \$10 per annum for a small business with liable earnings of \$500,000), the danger is that without rigorous mechanisms to ensure any increases are justified, there may be a tendency for costs to blowout over time. This would particularly be the case if ACC decided to move towards full reimbursement for treatment costs, which could be seen to be its aim given the statement in the Consultation Document that the proposed *increased* “....will also enable the government to continue its progress toward compliance with International Labour Organisation (ILO) Convention 17.” (p.1).

6.0 POTENTIAL ADJUSTMENT MECHANISMS

- 6.1 Business New Zealand notes that the proposed initiative (a 2.5% adjustment effective from 1 April 2006) is a “one-off” adjustment although the Consultation Document states that similar future changes “...may be applied as part of the on-going commitment towards ensuring reasonable treatment costs. The Government has asked the Department of Labour for advice on possible ways to ensure that in the future, ACC’s contributions continue to keep up with changes in the cost of healthcare over time.”
- 6.2 Business New Zealand considers it is important that any proposed mechanisms to take account of changes in health care costs do not simply add to a “cost-plus” mentality on the part of treatment providers.
- 6.3 There is almost an assumption in the Consultation Document that adjustments will always be of an upward nature. This does not take into account that technology changes within the health sector can result in significant new procedures being undertaken which can be more or less costly to perform. In this respect any proposed adjustments to contributions need to reflect the nature of medical technology at the time of review.

- 6.4 While Business New Zealand would support the regular review of contributions to ensure that they remain reasonable, indexation to the Consumers Price Index (CPI) or another similar index is likely to be highly inappropriate given the significant changes to the provision and types of treatment provided in the market. Indexation to the CPI for example, is unlikely to reflect changing costs over time. It would likely overcompensate some treatment providers and potentially under compensate others. In this respect, Business New Zealand considers that any review mechanism should clearly examine the particular market for treatment providers – what are the cost drivers and reasons for them, to ensure that a cost-plus mentality is not developed in respect to contributions (adjustments) towards the cost of treatment.
- 6.5 Furthermore, Business New Zealand wishes to stress the importance of having a highly competitive health sector to constrain cost increases while maintaining quality healthcare and rapid treatment of injured parties. It is important that unnecessary regulatory constraints are not placed on the ability of treatment providers to service their client base in innovative ways.