

REVIEW OF THE WAY IN WHICH PHYSIOTHERAPY SERVICES ARE FUNDED AND ACCREDITED BY ACC

ACC's response to follow-up questions dated 15 June 2007

22 June 2007

Follow-up questions from letter dated 15 June 2007

A. Re: question 5 asked at the hearings: Please explain the reasons for the view expressed in your response that Section 3.2.4 of the IPRC Act does not permit regulations to be made which provide for indexation of ACC's regulated contributions towards treatment – so that the reviewer can assess these and form his own view.

ACC's view that the IPRC Act does not permit regulations to be made that provide for indexation of ACC's regulated contributions toward treatment is based on both the wording of section 324 and the lack of a specific power to allow for indexation of these regulated amounts.

Section 324 states that regulations can be made that prescribe "the costs" that ACC is liable to pay for the entitlement of rehabilitation. ACC's view is that the phrase "the costs" is not broad enough to include an indexation formula, particularly in light of the specific provisions for indexation in other parts of the IPRC Act. For example, sections 115 (dealing with weekly compensation) and 116 (dealing with lump sum compensation, funeral grant, survivor's grant and child care payment) provide for indexation. Section 327 also provides a regulation-making power relating to indexation that is specific as to the entitlements it relates to. It refers back to the entitlements listed in section 115 and 116 and also includes weekly earnings under clause 42 and independence allowance. Given such specific powers in regard to limited matters under the IPRC Act, ACC considers that a specific provision would need to be included in the Act to allow for indexation under section 324.

B. Re Question 7 asked at the hearings: Please provide a copy of the Cabinet paper which resulted in the Cabinet minute you provided in relation to the Review of Treatment Regulations in 2000.

The Minister for ACC has authorised the release of the Cabinet paper you have sought access to. This is included in these documents, but must be returned at the completion of your Review. This document is provided in hard copy only and shouldn't be made public.

C. Re Question 19 asked at the hearing: In the ACC response you have not sought to quantify the extent to which difficulties in cost/quality/value justify differences in payments under EPN contracts and regulations. Is this because no such differences can be reliably quantified?

ACC acknowledges that it is difficult to reliably quantify the differences in cost, quality, and value between EPN contracts and Regulations. However, ACC has built in to its EPN payment the cost of physiotherapy practices obtaining and maintaining certification against the NZS 8171:2005 Allied Health Services Sector Standard. In addition, the EPN objective of compliance with

International Labour Organisation Convention 17 by removing co-payments for treatment provided during working hours has also necessitated a differential.

ACC is not able to reliably quantify the benefit of EPN against two out of the three objectives of EPN; a reduction in the time it takes claimants to be rehabilitated back to work, and improved quality of treatment.

D. Re Question 25 asked at the hearings: What is the Blue Lotus report referred to in the ACC response? Please provide a copy of this report.

A copy of this report is included with this response.

E. Re Question 29 asked at the hearings: In the ACC response you advise that ACC monitors provider compliance with, among other things, the Physiotherapy Treatment Profiles 2000. What is the test for 'compliance' and what are the consequences of failing to meet it?

The Physiotherapy Treatment Profiles are a guide based upon simple uncomplicated clinical presentations of specified conditions. ACC monitors physiotherapists' compliance with these profiles by reviewing invoicing data compiled for a provider in conjunction with the proportion of ACC32R services to total number of claims treated by that provider. The ACC32R is the form a provider sends to ACC seeking funding of treatment beyond the Treatment Profile. ACC pays the provider for completing this form.

ACC follows up with those providers who have an ACC32R service item attached to more than 20 per cent of their total claims serviced in the period. ACC views 20 per cent of the total claims as a reasonable figure based upon the variance between the volume of claims ACC receives per year (circa 1.4M) and the proportion of claims that are categorised as significant or serious injury (requiring more than simply treatment only or minimal other entitlements).

During the follow-up, ACC seeks information from the provider as to what may lie behind their 20 per cent (or more) proportion of claims with an ACC32R. There may be valid reasons for a provider having a higher proportion of claims with an ACC32R. For example:

- The provider is a senior clinician, and receives referrals for all complex injuries to their practice. This will need to be substantiated elsewhere.
- There may be patterns to the claims that go beyond the Treatment Profiles, such as the claims tend to be for particular injury types.
- There may be clerical errors, of which the provider may not be aware, due to business processes at the provider's clinic.
- There may be poor comprehension of when and how the ACC32R process should be used.

- It may be a combination of factors.

There are no set consequences for failing to comply with the Treatment Profiles. The findings from the follow-up will determine how the situation is addressed. If a provider is recognised as treating complicated long-term injuries, and that this is necessary and appropriate, this information will be recorded for referring to if a similar profile arises for that provider again. If there is an education issue, the provider can be helped to resolve this via a variety of means.

If after unsuccessfully working with the provider to resolve matters and ACC remains concerned that there may be a clinical competency issue, ACC will consider a referral to the relevant Board or Council. If that Board or Council determine that the provider requires further professional development and the s35 HPCA Act applies, they will notify ACC under that process. There is one instance where ACC has decided to take steps to remove bulk billing privileges from two providers. This decision was taken after much consideration and due to a number of factors, one of which was a greater than 20 per cent proportion of ACC32Rs to total claims. The ACC32R factor alone would be very highly unlikely to cause ACC to consider removal of bulk billing privileges.

F. Re Question 32 asked at the hearings: In the ACC response you advise that the first hour of travel is paid at half the normal hourly rate. Please comment on whether ACC considers this appropriate, and if so why.

ACC considers it to be appropriate to pay the first hour of travel at half the normal hourly rate.

At the end of 2005, ACC started to standardise travel arrangements across all contracts. This standardisation is now largely complete.

For contracts where travel is not already included in pricing, providers are paid for travelling time at half the hourly rate for the first hour and at the full hourly rate for each hour thereafter.¹ This is because the service item prices recompense in part for a small amount of travel, but we did not wish to disadvantage providers who travelled long distances to deliver services to claimants in more remote locations.

G. Re Question 36 asked at the hearings: Please explain the reasons for ACC's view expressed in your response that the ACC45 provides sufficient authority for ACC to access medical records to confirm cover, entitlements and payment for treatment. Also your response

¹ Note: some contracts are not based on hourly rates. Where contracts are output based, an hourly rate is calculated for the purposes of travel time and included in the contract.

says you are collating any legal advice received on this matter and will send it as soon as possible. We look forward to receiving this.

ACC's view that the ACC45 provides sufficient authority for ACC to access medical records to confirm cover, entitlements and payment for treatment is based on the wording of the authorisation on the ACC45.

In particular the 1st bullet point next to "I authorise" provides:

"I authorise:

- the collection and disclosure of any information about me to the extent necessary to determine cover and/or assess my entitlement to compensation, rehabilitation assistance, including medical treatment and/or the appropriate level of care and personal attention that I should receive, and/or to assist the evaluation of services and the performance of the ACC Scheme and/or to support the administration of the Health and Safety in Employment Act 1992".

In addition the 1st bullet point next to "I understand" provides that the authority is in relation to all aspects of the claim including medical practitioners and treatment providers:

"I understand:

- that this authority relates to all aspects of my claim and authorises ACC to contact anyone who holds relevant information, including any external agencies or service providers (such as medical practitioners, specialists, New Zealand Police, Occupational Safety and Health, treatment providers, IRD, Work and Income, assessment agencies, employers and witnesses to the accident)".

In Part C of the ACC45, "Patient Declaration and Consent" the patient declares that "I have read and understood the Important Information; Patient Declaration and Consent on the reverse of the patient copy of this form."

The treatment provider then certifies at Part F that "the patient (or their representative) has signed the Patient Declaration and has authorised me to lodge the claim on their behalf."

H. Re Question 48 asked at the hearings: Please provide details of the requirements of the ACC master agreement for the Activity-based Programme. Please also explain why the proposal to deliver an ABP from the provider in Cambridge, Mr La Pine, was not accepted

The evaluation templates setting out the requirements for the master agreement and the Activity-based Programme are included with this response.

ACC maintains a New Entrants register, where details of all applications are recorded until a decision is made on whether to offer a contract. We also maintain a register that records both successful and unsuccessful applicants. We have no record of any application or proposal to deliver Activity-based Programmes from Mr La Pine.

- I. Re Question 50 asked at the hearings: We note that the Terms of Reference for the review of ACC's Fraud Unit says the review will be completed by 30 June 2007. Please provide a copy of the results of the review as soon as this is available. If there is any change to the deadline for this review, please let us know.**

The timeframe for the review of ACC's Fraud Unit has been extended by two weeks to allow the reviewer sufficient time to complete his work. A copy of the Fraud Unit review results will be provided as soon as this is available.

- J. Re Question 8 in the letter dated 11 May 2007: Please provide ACC's current/preliminary view on how the hourly rate outcome of the Deloitte project should be converted into consultation fees and which time estimates it is intended be used for that purpose.**

ACC will utilise the hourly rate outcome of the Deloitte project as one input into determining appropriate rates of consultation fees. It is likely that ACC will look at the hourly rate and then consider the time estimates for specific consult types detailed in the Deloitte project as the starting point for such a conversion. As the consultation times were input into the Deloitte project based on recommendations by NZSP, we would need to verify that such time estimates are appropriate.

- K. Re Question 9 in the letter dated 11 May 2007. In your response you mention that Deloitte has been asked to undertake some sensibility tests to ensure that when actual/practice data is fed into the model, the net profit looks sensible based on the rate per hour. Please provide any analysis of the issues that has been carried out, even if it is only preliminary.**

No preliminary analysis of the net profit coming from the Deloitte model has been undertaken. ACC are waiting on the Deloitte/KPMG report before undertaking any further analysis in this area.