

PERSONAL EXPERIENCES WITH PHYSIOTHERAPY TREATMENT

**Submissions to the
Physiotherapy Review**

For: Public Release

Submission to the Physiotherapy Inquiry

This is the further submission of:

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I wish to appear before the inquiry to give evidence and speak to this submission.

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This Submission is structured in the following manner:

- Introduction
- The Issues
- The impact on patients and their treatment
- Recommendations
- Appendicis

Privacy Issues

* Many of the names of patients, treatment providers and ACC staff have been changed to protect their privacy.

Patients have requested that their information, and that of their treatment providers, not be released publicly as it will allow ACC to identify them and they fear reprisal. For that reason, the details contained in this version of this submission have been altered to protect the privacy of the Patients.

This submission is made by Denise Powell on the 30th April 2007

Denise Powell

The Government provides a service for people with injuries, but instead of doing their job, they were acting like accountants (no offence to accountants).

(Patient L)

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INTRODUCTION

“In the beginning” there was a “social contract” between the public of New Zealand and the Government which promised that in return for giving up the right to sue the NZ public was assured of comprehensive no-fault 24 hour accident compensation. The Woodhouse Commission based its wide-ranging proposals on five principles: collective or community responsibility; comprehensive entitlement; complete rehabilitation; real compensation; and administrative efficiency. Changes to New Zealand's no-fault accident compensation scheme and the underlying change in ideology from a desire to provide real compensation in a comprehensive manner to a desire to control the expenditure associated with the scheme and to "balance the books" is all too evident in the stories relating to physiotherapy treatment found in this submission.

When a person has an accident and is injured the expectation of them, their communities and their treatment providers, is that they will receive appropriate, timely and cost-effective rehabilitation. Through this process they will be 'restored to their maximum practicable extent', thereby minimising the impact of the injury on the community - including economic, social and personal costs. This is clearly set out in the purpose of the current IPRC Act. Unfortunately, those who have complex or long lasting injuries often face barriers that result in treatment being stopped prior to their injury being fully resolved or are denied treatment that will assist with the long term management of such injuries.

The reason for this appears to be ACC's dependency on their own treatment profiles which have decreased the number of treatments available for most injuries and rely on rather narrow and simplistic classifications. There seems to be very little room for movement within these profiles that would allow for the severity of the injury or complicating factors which often haven't been identified at the time of initial diagnosis.

Working with people to minimise the impact of their injuries is not a 'tick the box' process and should not be approached in this manner. Individuals deserve to be treated as such and their needs assessed by those treating practitioners who are most knowledgeable about the person, their injury and the impacts of this injury.

This submission is made on behalf of the injured people of New Zealand who have been denied treatment for their injuries and/or had their treatment cut short and now live daily with the consequences of not being restored to the maximum practicable extent as is the intent of the Act.

THE ISSUES

Obtaining cover for an injury and accurate diagnosis

When a person has an accident their first point of contact with ACC is through a treatment provider. The ACC45 form allows for a brief explanation of how the injury occurred and an initial diagnosis. Due to a variety of factors sometimes the extent of the injury is not able to be ascertained at the time of the accident and therefore what is written on the form may not indicate the true severity of the injury. This can lead to treatment profile that is inadequate for the person's injury and effect the number and type of treatments approved. The process for updating the diagnosis does not seem to be clearly defined and this often leads to delays in obtaining appropriate and suitable treatment.

Following the injury in Feb 2003, Helen lodged a claim with ACC. It took ACC over three months to make a decision and then the claim was accepted.*

(Patient C)

AND

ACC continued to refuse treatment and rehabilitation, and ACC stated that Mary was fit to return to work. Throughout this, Mary's GP was kept fully informed by Mary* and was requesting therapy and treatment and this was being declined. The medical certificates from the GP certifying Mary as unable to work were being refused. (Patient F)*

The impact of an incorrect diagnosis is set out in the following correspondence from a specialist to a lawyer.

*Yet another of your cases comes with an incorrect diagnosis, leading to years of disability, and to add to her woes, because one orthopaedic surgeon reporting for A.C.C did not make the correct diagnosis, she has been denied ongoing ACC cover for an undoubted set of injuries and ongoing disability arising directly from the * accident on the ___ December 2000...
(Patient I)*

Delays in obtaining cover and/or treatment

It is well known that early intervention and treatment of injuries has the best chance of avoiding further injury complications. When people have to wait for inordinate periods of time before receiving confirmation of cover and/or treatment the window of opportunity to minimise stress and suffering is often lost. These delays compound the impact of injury and have the potential, in many cases, to increase the likelihood of people never fully rehabilitating to their maximum potential. This may then return as costs to the health system, as productivity costs in work days lost and in indirect costs to families trying to cope without assistance.

Due to John's injuries, his body is getting twisted to the side .His Dr requested to ACC in writing approximately 4 months ago to fund*

physiotherapy to see if Physiotherapy treatment would assist the symptoms and his lawyer sent the request to ACC and then faxed a copy of this request to ACC.

No response was received so several months after the initial request, approx 6 weeks ago, his GP wrote out a second request and John sent this to ACC.

Again, no response was received so approximately 2 weeks ago, the lawyer wrote a third communication, reminding ACC of what the Doctor had written. The lawyer suggested a meeting with ACC to move this forward. No response has been received to date. (Patient B)

AND

At this stage, Tony had been without ACC funded massage therapy treatment since October, with the exception of the six treatments funded following the meeting in December. When the letter of 27 Jan was written, ACC had been in receipt of the letter from Dr Sharples (written to ACC in December 2005) for nearly 2 months. (Patient J)*

Someone having to wait for a new case manager to be appointed before receiving treatment is appalling, inexcusable and we would venture to say, negligent.

Jane required post operative rehabilitation in the form of manipulation and intense physiotherapy. This was necessary to regain range or movement, strength and mobility. Jane and her treatment providers have repeatedly requested that ACC approve this, however because ACC has not allocated a case manager to Jane, ACC has not processed the physiotherapy.*

As a direct result of the failure to process and approve the request for post-operative support, Jane underwent manipulation under anaesthetic of the left knee on 17 April 2007. Since that time, Jane has been in extreme pain and the knee has remained swollen. Jane continues to undertake her own rehabilitation at the Gym, while awaiting ACC to get their act together to

approve her request for a suitable, properly supervised physiotherapy program. (Patient F)

AND

Case Manager left and no case manager was appointed for 3 months. Despite the fact that Joan faxed and phone called, ACC refused to respond. (Patient J)*

Decisions about further treatment

The decision whether or not the person has been rehabilitated to the maximum practicable extent should be a decision made between the treatment providers in consultation with their patient. However this seems to be influenced by *Provider Profiling Benchmark Reports* used by ACC to “change provider behaviour”. If a treatment provider gives more treatments than “average”, they are at risk of being rated as “poor or very poor” and this can be a trigger for pressure being applied in the form of audits and/or fraud investigations of the treating physiotherapist. There is concern that measures like this are impacting on physiotherapists and their willingness to apply for further treatment.

The focus should be on people's treatment and rehabilitation. The measure of success should be improvement in their condition and symptoms, rather than minimising the number of treatments they receive. Unfortunately patients' treatments are being stopped prematurely because treatment providers have decided not to apply for further treatments.

The acupuncture was providing significant relief of Mark's symptoms yet after several treatments, Mark was advised by the acupuncturist that ACC would not pay for any further treatments. Mark was told that he had used up the allocation and any more he had to pay for.*

Mark felt that this unfair and unjust and just another spanner in the works by ACC.

The treatment provider did not apply to ACC for additional treatments, Mark just stopped going because ACC stopped paying and Mark couldn't afford to keep paying. (Patient E)

AND

The physio was an EPN provider, it was obvious he was scared of ACC and he didn't want to go over the allocated number of treatment because he didn't want to have any hassles with ACC. (Patient H)

Requesting further treatment

If a decision is made to request further treatment, physiotherapists are required to fill in lengthy ACC32's once the prescribed number of treatments has been reached under the identified treatment profile.

ACC does not handle accidents individually. They don't take into account the unique circumstances of the person before, during and after the accident. We are not treated as individuals; we are fitted into a stereotype of ACC's making, which is inappropriate. (Patient K)

Whilst it is necessary to ensure treatment is monitored and treatment plans are continually evolving, the frequency of having to re-apply is often mind-boggling due to low levels on treatment profiles. Physiotherapists often receive only partial approval for a lesser number of treatments than requested and therefore find themselves spending an inordinate amount of time continuously making requests for further treatment.

Each time this happens, I am faced with going through the ACC paperwork all over again. My injury is of such a nature that it doesn't fit into the standard ACC profile of treatment time. This, my case managers have admitted. Surely it

is time for ACC to accept that my physiotherapist is better qualified to judge the level or the treatment I require, than somebody whose portfolio it is to fit my can into a pre-determined stereotype (Patient K)

AND

Following the operation, Tom let the foot settle for a few weeks before recommencing physiotherapy with Mark*, twice per week. Tom recalls that he was running out of physiotherapy treatments and that Mark was having to reapply to ACC for more treatments every 6 weeks or so. In mid March, Mark informed Tom that ACC had cut funding for his physiotherapy treatment. Tom has started skipping physiotherapy treatments because he finds that the financial impact of paying the full cost of treatment on him and his family is too great. (Patient G)*

Another issue relating to the ACC32's is the delay in response to the request for further treatment. During the delay, treatment either has to be suspended or the patient is liable for the cost themselves to ensure continuity of their treatment. As will be seen from the accounts in the appendices this can place undue stress and financial strain on the very people who are the most vulnerable emotionally, financially and physically. It would appear from the evidence given in the appendices that delays in processing ACC32s can be substantial.

The end state of this entire year long unnecessary battle was that Tony got what he, and all his treating healthcare professionals asked for in the first place. (Patient J)*

AND

ACC have spent more time and money stuffing me around than they did doing me good. I finally got what I needed, but it was a long drawn out battle. (Patient L)

AND

Prior to the IPRC Act 2001 I am led to believe that the processing time for requests for additional treatment was 1 week. Since then, the processing time has been extended to 3 weeks into line with the maximum possible delay prior to the claimants lodging a review application. This is not in the best interests of rehabilitation.

ACC had effectively cancelled rehabilitation by not responding to the ACC32, and when they did, they declined physiotherapy, whilst still purporting to supply "support" until 9/12/05. (Patient P)

These delays also place physiotherapists in an ethical and moral dilemma of continuing treatment to ensure continuity of treatment hoping that additional treatment will be approved, when they are aware that if the ACC32 request is denied that the person does not have the financial means to pay the cost of treatment received.

It would appear from the anecdotal evidence that all too frequently physiotherapists are not being adequately consulted prior to decisions being made to either decline or cease treatment. In many cases all that's received by both the physiotherapist and the patient is a standardised letter declining treatment for any number of reasons.

_ April 2007

Dear

Your physiotherapist has asked ACC to fund further treatment. ACC must decline this request.

ACC has considered all of the available information. We have established that your need for treatment is not primarily a result of your injury sustained on 23/12/06.

The Pre-existing gradual process condition brought to light by your injury is not covered under this claim.

ACC has advised your physiotherapist of this decision.

If you have any questions about this decision, please contact me. If you are still not satisfied, you can ask for an independent review of our decision. The review process is outlined in the enclosed working together fact sheet.

Yours sincerely,

Clinical Advisor

*TMT15CLM
(Patient D)*

AND

__ November 2006,

Dear Mr

Additional Treatment

Your Physiotherapist has asked ACC to fund additional treatment for your injury sustained on 07/01/02

ACC must decline this request.

We have considered all of the available information. This information suggests further physiotherapy is not the most appropriate treatment for your injury at this time.

We have advised your physiotherapist of this decision.

We may fund other types of treatment, as long as the treatment is appropriate for your injury.

If you have any questions about this decision, please contact me. If you are still not satisfied, you can ask for an independent review of our decision. The review process is outlined in the enclosed Working Together fact sheet.

Yours sincerely,

[Signed]

Clinical Advisor

AND

_ November 2005

Dear

Additional treatment for right lower back/spine

Your physiotherapist has asked ACC to fund further treatment.

ACC must decline this request.

ACC has considered all of the available information. It has not been established that your need for treatment is primarily a result of your injury sustained on 04/08/2005.

The Pre-existing gradual process condition brought to light by your injury is not covered under this claim.

ACC has advised your physiotherapist of this decision.

If you have any questions about this decision, please contact me. If you are still not satisfied, you can ask for an independent review of our decision. The review process is outlined in the enclosed working together fact sheet.

Yours sincerely,

Clinical Advisor

TMT16CLM

This often leaves the patient confused, angry and in an unenviable situation of either paying for the continued treatment themselves, or if they can't afford to do that, resolutely giving up and have their injury persist (or worsen) without adequate rehabilitation.

Because of her personal situation, Mary feels that she cannot fight any longer and she feels that she shouldn't need to. She says that neither fighting for what she should have, nor begging for what she desperately needs, works with ACC. She is focused on getting her leg to work and feels that fighting bureaucrats is a waste of time and energy; time and energy which she needs to use to regain her health. (Patient F)

AND

Tony has started skipping physiotherapy treatments because he finds that the financial impact of paying the full cost of treatment on him and his family is too great. Tony finds that in the weeks where he doesn't go, the foot becomes stiffer and tighter and Tony feels that the Goal of being able to do impact activities is slipping away from him.

Request for additional treatment declined

If ACC declines to approve further treatment for a patient it would appear that there is no requirement for the decision maker to contact the physiotherapist to clarify the injury or treatment plan. It would also appear that there is no requirement for the decision maker to contact the person or their other treatment providers to clarify any questions they may have about the effect treatment is having on the injury.

I was upset, offended and felt let down to read in the paper that ACC's spokesperson, Laurie Edwards stated, "if a physiotherapist requests extra treatment, then who are we to argue". Clearly, this has happened to me – someone with no apparent medical qualifications, made a decision to decline further treatment when both my treating healthcare professionals, GP and Physio, agree that I need ongoing Physio treatment. This decision maker has never met me, they have never examined me, as far as I am aware they have never contacted my GP or physiotherapist to discuss it with them, which I think is important, and I have no idea what information they based this decision on.
(Patient A)

We question this as the people making the decisions are not independent of ACC, are rarely physiotherapists themselves and even if they are, they do not have an intimate knowledge of the person's particular injury. To not gain further information or clarification before ceasing treatment means that often people are not being fully rehabilitated and therefore not able to return to the workforce or contribute effectively to society. This is a travesty.

In early May 2005, a Case Co-ordination Conference was held in Christchurch, present at this conference were the Branch Manager, the Branch Medical Advisor, the Technical Claims Manager, the Team Manager, the Case Manager and Dr Robb, the Director of "Workwise" in Christchurch. Following this Case conference which was attended by all ACC staff involved in the management of

my claim, but none of my treating healthcare professionals or myself, the case manager wrote to Dr Bob Large in Auckland requesting an assessment.

(Patient M)

AND

Specialists, including a Neurosurgeon, have recommended ACC fund ongoing physiotherapy on an "as required basis" because this is critical to the patient's survival, similar to ongoing medication for some patients. Despite this, ACC constantly refuse to fund additional treatments and make it very difficult for this patient to access physiotherapy treatment, with the physiotherapist of his choice, funded by ACC. (Patient O)

Trust between patient and provider

An important part of a person's rehabilitation is the ability to have utmost faith and trust in their treatment providers. Currently many physiotherapists are contracted under the Endorsed Provider Network. For the patient this means that there is no surcharge. However, the downside of this is the perception is that the physiotherapist is not independent from ACC and that when push comes to shove these physiotherapists will err on the side that pays them; namely ACC's and not the patient's. Whether or not this accurate, the perception is what is important here.

Patients have also given us examples of being contacted by their case manager and advised that if they attend an EPN provider the treatment will be free.

We spoke about endorsed providers and that there is no additional cost but Diane explained that her provider is not in this scheme. (Patient M)*

Whether or not this has the intention of moving people away from non EPN providers and towards providers who are more 'in line' with ACC's treatment profiles is again not the issue. The issue is the perception that people have about the intention of such statements.

Some patients have been contacted by ACC's Fraud Unit and asked questions about their treating physiotherapists. It doesn't bode well for a patient to be told their practitioner is committing fraud and can undermine the trust built between the two. On the other hand some patients have staunchly defended their treatment provider and believe that this type of harassment is just another example of ACC bullying tactics.

Yvette's Acupuncturist has been subjected to harassment by ACC and examination by the ACC Fraud Unit. Yvette was called by Mr Thomas* from the fraud unit regarding an investigation of her Acupuncturist. When Yvette asked why they were investigating him, she was told "he is working too long hours and seeing too many patients". This made Yvette very angry, she informed Mr Thomas* that the practice was at his home and not all visitors were patients.
(Patient H)*

Activity Based Programmes and the Threat of Disentitlement

Activity Based programmes or Work Hardening programmes are often used with people who have long standing claims with ACC. These contracts seem to be run mainly by physiotherapists who are part of the EPN and are viewed with suspicion by patients who are sent on them without their own treatment providers being consulted.

In my experience these programmes are nothing more than glorified gym programmes put together by physiotherapists who in my experience, do not actively monitor progress, who tend to progress you through exercises too soon

due to the time limits placed on them by ACC. These programmes run for a maximum of 12 weeks and I have been advised that ACC pays approximately \$3,000 for them. At the end of the time limit given by ACC, claimants are taken off the programmes regardless of the outcome. I have been told that the physiotherapists claim you are rehabilitated even though you are not, because if they don't then ACC accuse the provider of not doing their job properly. (Personal communication 27.4.07)

In fact many patients are taken from their treatment plans and are forced to attend under the threat of removal of their entitlements if they do not participate.

April did not receive any treatment with the exception of GP and specialist reviews until July-August 2006 when ACC contacted April and demanded that she do an Activity Based Program. The Case Manager threatened to stop April's Weekly Compensation if she didn't attend the Activity Based Program. There was never consultation with April's other treatment providers regarding content of ABP. The Physio told the April that "you will do this program regardless of what any specialist says". The ABP as directed by Physio caused further injury. (Patient C)*

There is also some question in people's minds about the impartiality of the providers as some referrals seem to be made by ACC's preferred providers to Activity based programmes run by them.

In September 02, I requested ACC to approve physiotherapy, to help me keep going to work and to ease the pain and stiffness. I only wanted to access this on occasions and if required but ACC declined and sent me to their preferred physiotherapist Mr Ashcroft, for assessment and referral to an activity based work programme based at his practice rooms and a gym. This was the cause of even more pain. (Patient I)

There is also suspicion as to the real intention of such programmes

Several years ago, whilst Jim was receiving physiotherapy treatment from his Physio, his case manager sent him to another physiotherapist on a "work hardening program" in Wellington. It was clear to Jim after the first or second visit that this program was causing significant ongoing harm and injury to Jim. It was clear to him that the physiotherapist running the program had little to no interest, nor understanding of Jim's complex and significant injuries, telling Jim that he just had to "toughen up" as Jim feels that this was what she was directed to do by ACC.*

Jim recalls that during this "toughen up" program he was not receiving physiotherapy from his regular physiotherapist who Jim felt had a good understanding of, and professional and ethical interest in, his injuries.

Jim felt that the entire program was nothing more than a pre-determined exit strategy for him. (Patient N)

There is further concern that this type of programme can further exacerbate the injury and/or not provide appropriate treatment.

I attended an appointment with a private physiotherapist as my activity based programme finished and I feel I need further rehab...this is where it gets interesting...the physiotherapist was concerned that I have had no manual manipulation over the last 12 weeks, he told me that exercise alone is not going to help but I needed a combination of both to regain the 'maximum practicable extent' of movement in regard to the restrictions caused by the pins and plates in my ankle.(Personal communication 28.4.07)

Options for resolution

When ACC declines to provide cover or fund treatment there are legal redresses available to claimants. The first of these is to apply for a review of the decision. This review is undertaken by Disputes Resolution Services Limited (DRSL), a wholly owned subsidiary of ACC. The fact that DRSL is perceived not to be an independent review process at all,

is a major issue and will only be resolved when a completely independent procedure is put in place.

The reviewer ignored my review application and my submissions and decided that the issue he was addressing was not one of cover but one of a causal nexus between the accident of August and Anne's need for surgery....
(Patient P)

The review process can take several months and if the review is unsuccessful the decision can then be appealed to the District Court, in which case the patients can be waiting over 12 months to have the case heard.

You can understand people going to Fair Go or into the legal process over insurance or dodgy salesman or something like that, but there should be no reason for people to chase ACC through tribunals and courts and hearings, just get what they need. (Patient L)

AND

The Claimant and her husband are retired school teachers having worked for New Zealand their whole lives. The claimant is not receiving weekly compensation as she is retired. The operation will be paid for from the couple's retirement savings. The cost of this operation and continued physiotherapy rehabilitation is well over \$10, 000. The Claimant has never been involved in legal proceedings before but feels that things are so unjust that she needs to go ahead with the hearings. (Patient D)

There is also the issue of cost. Whilst it doesn't actually have to cost the claimant anything to lodge a review request the reality is that there is often a need to obtain legal advice and also further medical opinions to have any chance of overturning the ACC's decision.

At no stage was I informed that the corporation had instructed a very experienced defence barrister to prepare their case. At the same time as ACC was secretly instructing counsel they were telling me that I don't need a lawyer

and the review hearing was an informal opportunity to meet and discuss the issue. (Patient P)

AND

*I was forced to take legal action against ACC to try and get them to pay for additional treatment but I could not afford to do so and it would have been cheaper for me to pay for the treatment myself than fight ACC over it.
(Patient E)*

AND

He is forced to fund his own treatment and then has to take legal action against ACC through his lawyer to gain his lawful entitlements that ACC is meant to facilitate access to. These legal costs are never reimbursed and often costs, more than the refunds of entitlements (Patient O)

AND

I was forced to take legal action against ACC to try and get them to pay for additional treatment and this included review. (Patient I)

Even if a review hearing is held, this does not mean justice. After eight months of delaying Abby's* access to justice, in the weeks before the review hearing, ACC attempted to force her to withdraw her review application and start again by revoking their decision to decline further physiotherapy and issuing a new decision. ACC asked Abby to withdraw her review application. Abby* refused to withdraw it and wanted a hearing. The Reviewer admitted that the physiotherapy treatment was effective treating the symptoms, which were impacting on all facets of her life, but somehow decided that the physiotherapy should not be funded because the Act somehow didn't envisage this.

"Physiotherapy relieved the symptoms. This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and

therefore is not "restoring the claimant to health to the maximum extent possible".

I find that the purpose of treatment in the Act must envision more than relieving symptoms and maintenance. It appears to me that the Act envisions treatment to be directed at improving the condition the maximum practicable extent.

For the forgoing reasons, I find that ACC's decision in not accepting responsibility for physiotherapy costs to be correct and the review application is dismissed." (Patient I)

Impact of injury on people and the importance of appropriate treatment

The human face of injury is one not often examined too closely as to do so would reveal huge costs to the individual and society as a whole. The cost spoken of here is not a monetary one but the harsh reality of learning how to live with a completely different life than planned. How can one plan for the often cruel experiences of dealing with loss of function, intimate relationships, social life, confidence, employment, financial security and self esteem.

Add chronic pain to the hopelessness and social isolation and the risk of suicide doubles according to a study at a university's pain and rehabilitation centre (Astour, Fishbain, Goldberg, Steele-Romanoff, Rosomoff, 1990). The tragedy of suicide is transferred to others and is another immeasurable cost to family, friends and society as a whole.

I was by then, taking an increasing amounts of painkillers, anti-inflammatory pills, anti-depressants, sleeping pills so the situation was becoming very serious, with my family refusing to allow me to drive, or to remain alone at any time. I was totally unaware of their concerns, or the stress the whole situation was placing on my loved ones. I know for a fact that it was the intervention of, and treatment by Mike, that restored the use of my hand, preserving my*

sanity and most likely my life too as I had begun the trip down slippery path of, self pity, depression and increasing drug dependency. (Patient L)

AND

Some days, after four or five hours work, I would return home, collapse in the doorway and literally weep with the pain. The best that can be said is that I've fought with all of my strength to barely exist, as quality of life is concerned. Thirty three years of pain, surely isn't a success story. (Patient K)

AND

Because of the ongoing interference in his life by ACC, which compounds the effects of his injury, it is only the close family support and the support of some of the professionals involved in his case that have prevented him committing suicide. (Patient O)

Rehabilitation, including physiotherapy has a vital role to play in restoring people to the maximum practicable extent. When treatment is denied or ceased before the injury is fully resolved, the impact that has is like a pebble being dropped into a pond. The ripples spread in ever increasing circles causing a myriad of consequences.

What should be a small cost in the wider context of managing claims escalates to encompass extra treatment providers' time filling in forms, case managers' time responding to letters asking why treatment is being denied, patients' time, stress, review costs, GPs' and specialists' time justifying why treatment is required. The delay and/or denial of treatment, combined with the obvious cost shifting from the scheme designed to restore people to the maximum potential onto the injured person and society at large, is unacceptable.

ACC has been completely insensitive about the entire process; they couldn't give a shit about me and instead looked at finding fault so that they didn't have to pay. The emphasis was on proving I was wrong, that the treatment was wrong, that the condition as described by the treating physio was wrong. I was

at ACC once and there was a big poster up that said "ACC Cares"; it should have had said YEAH RIGHT under it in big red letters. (Patient L)

RECOMMENDATIONS

- Above all, the needs of the patient should be paramount. It is not right for ACC to make decisions about, and limit, Physiotherapy Treatment. People have a right to continue to be treated until either they are better, or the treatment is not helping.
- ACC has developed a system where there are too many approvals and paperwork requirements and it takes too long to make decisions. We believe that this is a deliberate tactic used by ACC policy makers to put barriers to treatment in place.
- The system needs to be a system that is transparent and actually provides treatment to restore people's health to maximum practicable extent in a timely and efficient way with the least amount of stress for the patient.
- Treatment providers should be free to make clinical judgements without undue outside influence from the Accident Compensation Corporation or any other

person or organization. They are after all the people best qualified to make such decisions.

- If ACC is the funder of treatment and doesn't understand why further treatment is requested, ACC should communicate with the treatment providers in an effective manner, which doesn't place a burden on them. If there is further clarification required then ACC should organise a case conference and actually get valid input from the treating healthcare professionals, rather than rely on advice from their own advisors. Again this should not place a burden on the participants of the case conference.
- If a decision to decline or cease treatment is made and that decision is later overturned at review or in court, reimbursement of reasonable costs including full legal costs and any costs of treatment paid for by the patient during the intervening period should be awarded as a matter of course.
- The ultimate result should be one that takes into account the person in context and the realisation that if a person is not fully restored to their maximum potential the costs to the community- including economic, social and personal costs are untenable and inexcusable.

APPENDICES

Patient A - "ACC must decline this request?" my question to ACC is "Why must you and who said you must, because the guy in the paper says you don't"

Patient A

Name:

Address:

Phone Numbers:

Email Address:

Physiotherapist:

Consent: Story to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues:

I was denied further physio treatment by ACC. I've had 3 spinal operations and have my ups and downs. When I am down, physio really helps. My GP formally referred me for physio and following her initial assessment, my physio wrote "a bloody mess" in big words on my file.

Treatment started and we were making progress. ACC then wrote and stated that this treatment isn't suitable for my condition and they won't fund it, so physiotherapy stops and I go backwards. My GP was furious – he said that physio is ongoing treatment, just like the drugs I take and ACC have to accept that.

I added physiotherapy to my Individual Rehabilitation Plan, so then, instead of letting me have physio treatment, my case manager put me on an activity based program!

I was upset, offended and felt let down to read in the paper that ACC's spokesperson, Laurie Edwards stated, "If a physiotherapist requests extra treatment, then who are we to argue". Clearly, this has happened to me – someone with no apparent medical qualifications, made a decision to decline further treatment when both my treating healthcare professionals, GP and Physio, agree that I need ongoing Physio treatment. This decision maker has never met me, they have never examined me, as far as I am aware they have never contacted my GP or physiotherapist to discuss it with them, which I think is important, and I have no idea what information they based this decision on.

Their letter states "ACC must decline this request?" my question to ACC is "Why must you and who said you must, because the guy in the paper says you don't".

Patient A - "ACC must decline this request?" my question to ACC is "Why must you and who said you must, because the guy in the paper says you don't"

Explanation

The letter that the patient received from ACC is outlined below:

__ November 2006,

Dear Mr

Additional Treatment

Your Physiotherapist has asked ACC to fund additional treatment for your injury sustained on 07/01/02

ACC must decline this request.

We have considered all of the available information. This information suggests further physiotherapy is not the most appropriate treatment for your injury at this time.

We have advised your physiotherapist of this decision.

We may fund other types of treatment, as long as the treatment is appropriate for your injury.

If you have any questions about this decision, please contact me. If you are still not satisfied, you can ask for an independent review of our decision. The review process is outlined in the enclosed Working Together fact sheet.

Yours sincerely,

[Signed]

Clinical Advisor

Patient **B** - Following the fraud investigation, the claimant and his family were shunned by the Community

Patient B

Name:

Address:

Phone Numbers:

Email Address:

Physiotherapist:

Consent: Story and Personal Details to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues:

Ross* has been forced to take legal action against ACC to try and get them to pay for physiotherapy treatment.

Background:

Ross suffered a prolapsed disc in the mid 1980's and he had a laminectomy. From the beginning, his post operative rehabilitation was badly managed. He attempted to go back to work as a Carpenter and this was not sustainable and Ross was made redundant.

ACC decided that Ross would have to increase his farming activities on his hobby farm under threat that if he did not do so, he weekly entitlements would be cut off. He suffered further injuries, and the internal ACC memo following one of these accidents where he was kicked by one of the farm animals stated, "*Even his animals don't like him*". Another internal memo stated words to the effect of "*if the work capacity assessment doesn't get him, he could be on ACC for the rest of his life?!*" A third internal memo stated, "*We have tried everything administratively to get rid of him but he has always complied.*"

Much of this damning information was held on secret file, with pages headed "not for file" and "remove from file" written on them. These secret files were only disclosed after years of civil litigation during which ACC repeatedly denied the existence of the secret files. Reports from assessors, which were favourable to the Ross, were removed from files by ACC staff who later stated that the claimant failed to attend the assessments.

Patient **B** - Following the fraud investigation, the claimant and his family were shunned by the Community

Ross's attempts at rehabilitation were turned down by ACC because he could not get an employer to sign a form stating that there would be a job for him at the end of the rehabilitation.

ACC forced claimant to attend a Polytechnic course. During the twelve weeks of this course, sometimes there was no classroom, sometimes no tutor and every Friday, there was an organised "booze cruise" around the local pubs in a Van paid for by ACC. At the end of the twelve weeks, the attendees were told by ACC that they had been "retrained". ACC has since admitted that they would not have forced the claimant to attend if ACC had been aware of the content of the course.

ACC hired a Private Investigator who led claimant's neighbours and local police to believe that claimant was fraudulent by working on his hobby farm when it was, in fact, ACC forcing the claimant to work on hobby farm under threat of removing entitlements. During this period, the claimant continued to be certified as fully unfit for work.

When a private investigator was hired by ACC, everything was done on the phone, there was no paperwork and following pressure from Privacy Commissioner, ACC was forced to accept the condition that all future investigations must have a paper trail.

Following the fraud investigation, the claimant and his family were shunned by the Community and had to save enough money to move to Hamilton so that they could leave their old life behind them. The intervening years were very tough on Ross and his wife who had a very public job in the health service.

Explanation of Physiotherapy Issue

Due to Ross's injuries, his body is getting twisted to the side. His Dr requested to ACC in writing approximately 4 months ago to fund physiotherapy to see if Physiotherapy treatment would assist the symptoms and his lawyer sent the request to ACC and then faxed a copy of this request to ACC.

No response was received so several months after the initial request, approx 6 weeks ago, Ross's GP wrote out a second request and Ross sent this to ACC.

Again, no response was received so approximately 2 weeks ago, the Ross's lawyer wrote a third communication, reminding ACC of what the Doctor had written. The lawyer suggested a meeting with ACC to move this forward. No response has been received to date.

ACC's normal response when Ross rings them to ask about treatment and other entitlements is "do you want to go for an Initial Occupational Assessment and then an Initial Medical Assessment", effectively threatening that if the Ross keeps making requests, ACC will again attempt to exit him.

Patient **C** – “My impression is that her symptoms are actually worse after the first physical session and might worsen further if she carries on...”

Patient C

Name

Address

Phone Numbers

Email Address

Physiotherapist

Consent: Story and Personal Details to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues

Marie was forced by ACC to undergo physiotherapy rehabilitation in the form an activity based program. This was forced on her despite the protests of her treating healthcare professionals. She only undertook this program after her case manager threatened to cut off her weekly compensation. The physiotherapy rehabilitation in the form of ABP resulted in significant increase in her symptoms as well as an infection from unclean equipment.

Background:

Marie was injured through an un-ergonomic workstation when she was doing temping as a PA.

Marie suffered a gradual process, cervical neck injury, diagnosed initially as a “strain or sprain”. The current diagnosis is “substantial cervical dysfunction, muscle and bone wasting, secondary to sympathetic nervous system disorder and to muscle atrophy. Marie has a cervical disc lesion and there is a secondary chronic pain syndrome.

Explanation

Following the injury in Feb 2003, Marie lodged a claim with ACC. It took ACC over three months to make a decision and then the claim was accepted. Marie tried

Patient C – “My impression is that her symptoms are actually worse after the first physical session and might worsen further if she carries on...”

physiotherapy treatment after the claim was accepted and didn't receive relief, she felt that it made it worse so after a couple of treatments she stopped the physio treatment following consultation with her GP. At the time, Marie saw a specialist who recommended conservative treatment and agreed that manipulation would cause exacerbation of symptoms.

October/November 2003 saw Marie attend a 6 week Work Prep Program that was run by Career Services.

Marie did not receive any treatment with the exception of GP and specialist reviews until July-August 2006 when ACC contacted Marie and demanded that she do an Activity Based Program. The Case Manager threatened to stop Marie's Weekly Compensation if she didn't attend the Activity Based Program.

The GP said to ACC in writing that there needed to be a specialist assessment prior to the ABP commencing.

The first letter from the GP to ACC dated 14 August 2006 stated:

"ABP was mooted about 8 months ago and she was happy with this. However, her symptoms have deteriorated again and she consulted me 2 weeks ago. My impression was that she had a very complex symptomology and needed Dr B's assessment prior to undertaking a program which has the potential to worsen her symptoms.

Her new case manager refused to pay for this referral. I spoke to Dr B today and he agreed to assess her again. I am concerned that should she be forced into the ABP, and she sustains permanent incapacity or worsening symptoms, ACC might be liable in court.

Can you kindly let me know if ACC will fund the specialist assessment?"

ACC did not action the request to fund specialist referral. Marie was forced to attend the physiotherapist's Activity Based Program. The Case Manager refused to allow the specialist assessment so claimant had to continue with the ABP in order to continue to receive her statutory entitlement to weekly compensation.

There was never consultation with Marie's other treatment providers regarding content of ABP. The Physio told the Marie that “you will do this program regardless of what any specialist says”. The ABP as directed by Physio caused further injury. The Claimant caught an E. Coli infection, and had to return to her Doctor.

During the ABP when Marie became very ill and returned to her GP, the GP phoned the specialist for advice. The Specialist Recommended to her GP that the GP write to Branch Manager demanding for the Claimant to see the Specialist.

On 6 September her GP wrote again to the Manager of ACC Whangarei stating:

Patient C – “My impression is that her symptoms are actually worse after the first physical session and might worsen further if she carries on...”

Re: follow up to my previous letter regarding this patient.

She has started the activity based program. She now complains of worsening neck and shoulder pain. The headaches are also worse. She states that she cannot even do her housework at present. She really is in pain today and any neck movement is an effort.

I have two concerns. My impression is that her symptoms are actually worse after the first physical session and might worsen further if she carries on....

... She really did keep her part of the bargain and attend the ABP. My impression is that she is scared not to attend the program and thus lose her ACC benefit.

I still feel that assessment by an occupational health specialist is important. She certainly needs specialist input.

Could you kindly let me know what ACC's plans are for her?”

ACC stopped ABP immediately. Marie received an apology from the ACC Branch Manager, as instructed by the Complaints Investigator about forcing her to undergo treatment. The letter stated that

ACC should not have made a referral for an ABP until your doctors concerns had been addressed. My understanding was that ACC was to have further discussions with your doctor once the ABP program plan was to hand; however, it seems that the program got underway before further discussions were held...

The Case Manager booked Specialist appointment at too short a time frame for Marie to arrange for a support person and consult with the GP prior to attending. In November 2006, Marie received a letter of apology from the Branch Manager about this. Therefore the Appointment was postponed until Jan 2007. The specialist's report was received by ACC on 28 March 2007; The Claimant received a copy of the report on 13 April.

The Case Manager has either not properly read the report or not followed the recommendations as set out therein, and sent the claimant a new Individual Rehabilitation Plan (IRP) to sign, which recommends that Marie recommences the ABP. In the Specialist report received by ACC, the Specialist comments on the Activity Based Program, Dr B stated,

"At the time of the TARPS assessment, the problem list was...

The treatment goals were aimed at dealing with these issues. The Physiotherapist at the time notes that Ms M had a bad experience with Physiotherapy and recommended an ABP, without manipulation, focusing on gradually increasing the strength and functional use of her right arm. She did not recommend any treatment for her neck and emphasised the need to ensure that there was no aggravation of the pain problem by this treatment..."

"With regard to long term prognosis, I regret that this is not good, any attempt to rehabilitate her physically will have to primarily be designed to avoid

Patient C – “My impression is that her symptoms are actually worse after the first physical session and might worsen further if she carries on...”

exacerbating this condition. The Likelihood of a return to substantial work capacity in the foreseeable future is virtually nil.

In my opinion, the case has been well clarified and characterised by the reports from TARPS and I strongly recommend that ACC prefer these options to any other reports or assessments .The Activity Based Program could proceed providing that all of the arrangements for it have Ms M’s confidence. However it must be borne in mind that this has only been recommended in the context of treating the right arm. The cervical problem is another matter which has not yet been addressed by a recommendation from TARPS and should be considered again by that group in the future.”

The new Individual Rehabilitation Plan (IRP) refers only to the cervical injury and not the right arm injury and the IRP requires Marie to continue with the ABP however it does so, without reference to the right arm.

The IRP requires Marie to undertake a work ready program and work trail by 30 Sep 2006. The outcome of the IRP is “return to work or work readiness by 30 March 2008. This totally contradicts the specialist’s report of Dr B which states in his final summary

“In my opinion, Ms M is fully unfit for work or alternative work.

There is no specific treatment which would immediately benefit her.”

At this point in time, Marie has lodged another complaint to the ACC Office of the Complaints Investigator and is awaiting the outcome of this. After receiving the updated IRP, Marie is concerned that she may be forced to undertake more physiotherapy rehabilitation in the form of an Activity Based Program.

Fraud Investigation

Marie was subjected to Fraud Investigation starting in 2004. The Private Investigator, Mr C from Paradigm Risk, along with the ACC Investigating Officer, Mr W, reviewed Marie’s Inland Revenue Department (IRD) records and found that she was paying PAYE Tax. They stated to her in an interview that they had evidence from IRD that Marie was paying PAYE and they assumed that Marie was working. Following this statement, Marie contacted IRD who confirmed that no request had been made by ACC/Paragon risk about Marie’s tax records. The fraud investigation lasted 9-10 months, the harassed Marie’s family and friends as well as past employers.

Marie felt that Private Investigator had lied to her during the interview and put a complaint to the Private Investigators and Security Registrar at which point Paradigm Risk, in an attempt to abort any court hearing, stated to the Registrar that Marie was being frivolous and vexatious. The Private Investigator also called the registrar’s staff frivolous and vexatious. The registrar set a court hearing date.

Patient **C** – “My impression is that her symptoms are actually worse after the first physical session and might worsen further if she carries on...”

Following the hearing it became apparent that Mr C and Mr W had made false assumptions that Marie’s PAYE was from employment, whereas in fact it was the PAYE she was paying on her ACC weekly compensation entitlements. He went on to state that he was amazed that Paradigm Risk and ACC did not have the knowledge that weekly compensation was subject to PAYE Tax.

Patient D

Name Withheld

Address Withheld

Phone Numbers withheld

Email Address Withheld

Physiotherapist Withheld

Consent: Story to be released to Inquiry, contact details to be deleted from Inquiry and Public Version.

Summary of Issues

The claimant’s treatment was terminated before the claimant was rehabilitated to the Maximum Practicable Extent

The claimant was told that she had reached her maximum entitlements to physiotherapy and that ACC would not pay for any more treatments.

She has been forced to take legal action against ACC to try and get them to pay for additional treatment including surgery and physiotherapy.

Explanation

The claimant had a fall several years ago and this came right following physiotherapy. The claimant fell again on 23 December 2006 when she fell upstairs onto concrete. She felt that something had broken in her arm. It was a strange feeling that she had never felt before and it was very painful.

As it was Christmas, the claimant left it for about a week before going to the Doctor who was a locum as her GP was away over Christmas. She was referred for physiotherapy, and the form about this was sent to ACC by the Locum.

The Claimant went to physiotherapy and within the first couple of visits, the physiotherapist thought it was important to seek specialist opinion. GP was informed and patient was referred to Orthopaedic Surgeon.

Patient D – “I would be grateful if this could be reviewed as I feel that this is a travesty of justice”

The patient continued with physiotherapy treatment whilst further investigations took place.

An ultrasound was taken before patient presented to Orthopaedic Surgeon. The Surgeon’s opinion was that claimant had rotator cuff injury to right shoulder and her that tendons were torn. The specialist requested further scans of shoulder. Following results of Scans, The patient returned to surgeon and it was clear that surgery was required.

The surgeon applied for ACC to fund the required surgery on 23 Jan 2007.

There was no communication from ACC until the claimant rang the 0800 number in early March. Then, almost immediately, a letter declining surgery was sent by ACC.

6 March 2007,

Dear

Elective Treatment Costs

We have received a request from your Specialist, Dr _____ to day for elective surgery to your right shoulder. We have considered all of the information available and unfortunately, I must inform you that ACC do not consider that the surgery is required as a result of the personal Injuries you sustained on the 23 December 2006. The evidence we have indicates that the clinical condition which currently requires surgery is the result of a gradual process condition that was aggravated, but not caused by this accident. This means ACC is not able to pay these treatment costs and therefore I have to decline your application...

*Claims Officer,
ACC Elective Surgery Unit.*

The Orthopaedic Surgeon then wrote back to ACC:

13 March 2007,

Dear M

I am writing on behalf of _____, for whom I put in a request for a Rotator cuff repair. I would be grateful if this could be reviewed as I feel that this is a travesty of justice. ____ sustained a significant episode of injury when she tripped up on stairs onto a concrete base on the 23/12/06. She felt as if she had broken her arm at that stage and was immediately aware of pain which has not settled. Ultrasounds demonstrated that she had a large full thickness tear of the supraspinatus and infraspinatus tendons with partial tearing of subscapularis and dislocation of her biceps tendon. Her range of movement and lack of power were consistent with the findings of the ultrasound.

Patient D – “I would be grateful if this could be reviewed as I feel that this is a travesty of justice”

_____ had sustained an injury two years ago which had been covered by ACC when she again had a fall and injured the shoulder. I suspect that she may well have had a small full thickness tear of the rotator cuff at that stage. It never recovered to 100%. The fact that this was not diagnosed or treated is not the fault of the patient as help was sought by possibly reflects some of the inexperience of the people dealing with the problem.

Although _____ X-Rays demonstrate that she has some moderate narrowing of the glenohumeral with some moderate arthrosis noted at the AC Joint, this is not the cause of her pain. Her pain is the rotator cuff and this has been torn in an accident. We will not be addressing any osteoarthritic change of the glenohumeral joint at the time of surgery and only would be addressing the pathology caused by this accident. I await your reply.

We acknowledge also that there is some spurring of the Acromion but this may have been partly the result of the injury two years ago. But it doesn't account for the subscapularis injury or the dislocation of the biceps which are trauma related.

I would be very grateful if this could be looked at urgently as she is almost 3 months from injury and with a large tear, surgery is going to be difficult enough anyway.

The Claimant applied for a review of ACC's decision stating;

What are the reasons for the application:

Prior to the injury sustained on 23 December 2006, my right arm was 100% functional in daily routine activities. I could operate with full strength the arm extended as all angles carrying the same weight with the efficiency of the left arm. Since then, that functional efficiency is at the best less than 50% with associated pain. To complicate matters, I am also naturally a right handed person. The suggestion or evidence that the "clinical condition is the result of gradual process" of the degenerative factors of aging after 70 years + cannot be denied; but the impact of the accident was/is clearly undeniably immediate and catastrophic, with continuing aches and pains and loss of movement. Lastly, current thinking of social development policy recognises the advantage of providing these interventions and support that encourages older people such as myself to maintain for as long as possible our full mobility and independence in order remain self sufficient in our own homes.

What would you like to happen as a result of this review:

1. As promoted in the ACC advertisement "to get treatment and support you need", NZ Herald Wednesday 14 March 2007.
2. To distinguish more clearly the difference between the aging process and accidents.
3. To participate in a discussion with your professional and the working class people I represent. To be assured of the appropriate recognition of the value myself and family have contributed in the thousands of dollars to ACC.

Patient **D** – “I would be grateful if this could be reviewed as I feel that this is a travesty of justice”

To date, ACC has not revised their decision. This will be the subject of review hearing in late May 2007.

During this period, the claimant was continuing to receive physiotherapy. On 10 April 2007, ACC sent a letter to the claimant.

10 April 2007,

Dear

Your physiotherapist has asked ACC to fund further treatment. ACC must decline this request.

ACC has considered all of the available information. We have established that your need for treatment is not primarily a result of your injury sustained on 23/12/06.

The Pre-existing gradual process condition brought to light by your injury is not covered under this claim.

ACC has advised your physiotherapist of this decision.

If you have any questions about this decision, please contact me. If you are still not satisfied, you can ask for an independent review of our decision. The review process is outlined in the enclosed working together fact sheet.

Yours sincerely,

Clinical Advisor

TMT15CLM

Since 10 April 2007, the claimant has been forced to pay for physiotherapy treatment herself. She is booked in for surgery on Thursday 3 May 2007, which it appears that she will have to pay for herself.

The Claimant and her husband are retired school teachers having worked for New Zealand their whole lives. The claimant is not receiving weekly compensation as she is retired. The operation will be paid for from the couple's retirement savings. The cost of this operation and continued physiotherapy rehabilitation is well over \$10,000.

The Claimant and her family have paid ACC fees their whole lives. This is the first time that she has ever needed an operation from ACC and when she asked for help and got turned down, she felt gutted.

Patient **D** – “I would be grateful if this could be reviewed as I feel that this is a travesty of justice”

She feels that ACC has turned this down because she is old and that if she was younger, it would be funded by ACC.

The Claimant has never been involved in legal proceedings before but feels that things are so unjust that she needs to go ahead with the hearings.

She asks why they are advertising on TV and in the Newspapers.

The Claimant feels that the paper war that they create seems to be designed to put you off.

Patient **E** –Ian asks himself, what was this all for? Tens of thousands of dollars of money that was meant to be used to pay for treatment has instead being used to deny treatment

Patient E

Name

Address

Phone Numbers

Email Address

Physiotherapist

Consent: Story and Personal Details to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues

I was told that I had reached my maximum entitlements to physiotherapy and that ACC would not pay for any more treatments.

I was forced to take legal action against ACC to try and get them to pay for additional treatment but I could not afford to do so and it would have been cheaper for me to pay for the treatment myself than fight ACC over it.

Explanation

Ian has an accepted claim for cover for chemical poisoning. In 1991, Dr G reported that balance was one of the symptoms that lead him to the diagnosis. Since 2003, ACC has stated that the only injury which they accepted “cover for” in 1991 was the neurological injury and that the balance problems were not part of an accepted claim.

In 2006, ACC “reaccepted” that the balance symptoms were part of the injury from chemical poisoning.

Since 1991, Ian has had many accidents in which his balance problems have caused/contributed to the accident. In 2007 alone, Ian has had three falls, ACC currently accepts cover for these falls without question and for the last 2 months, Ian has been receiving physiotherapy twice per week.

Patient E – Ian asks himself, what was this all for? Tens of thousands of dollars of money that was meant to be used to pay for treatment has instead being used to deny treatment

The incident in which Ian was denied treatment relates back to the period between 2003 and 2006.

Ian recalls one particular incident when he was denied treatment following an injury on 2 December 2003. At that time, Ian had a number of reviews against ACC and financially he was stretched to the limit.

Following a fall, Ian had received several physiotherapy treatments on his left arm/shoulder and it wasn't improving. The Physio had an Acupuncturist working in their clinic at the time so they transferred him from the care of the Physiotherapist to the care of the Acupuncturist.

The acupuncture was providing significant relief of Ian's symptoms yet after several treatments, Ian was advised by the acupuncturist that ACC would not pay for any further treatments. Ian was told that he had used up the allocation and any more he had to pay for.

Ian felt that this unfair and unjust and just another spanner in the works by ACC.

The treatment provider did not apply to ACC for additional treatments, Ian just stopped going because ACC stopped paying and Ian couldn't afford to keep paying.

Ian had just paid his lawyer \$790 for legal fees on other issues because ACC refused to accept his hearing loss. Ian was successful in this matter but ACC did not pay his legal fees. It had taken Ian and his wife 6 months to save the money to pay the legal fees, he could have used it for acupuncture treatment.

Just after they had declined the physiotherapy treatment, ACC spent over \$7, 000 getting a medical report on Ian's condition from an assessor named Dr A who was expressing medical opinions about issues which were beyond his area of expertise. This report, which was in ACC's favour was used by ACC to decline many of Ian's claims. This report was described by other professionals as a "tool to exit" Ian.

Ian has been forced to spend the last 3 1/2 years challenging the contents of that report and following 5 Assessments, and 7 reviews, Ian is essentially back where he was in 1991 following Dr G's assessment.

Ian asks himself what was this all for? Tens of thousands of dollars of money that was meant to be used to pay for treatment has instead being used to deny treatment. Ian asks why ACC can't just accept the Medical Opinions of one of New Zealand's top Professors?

Patient F – She says that neither fighting for what she should have, nor begging for what she desperately needs, works with ACC

Patient F

Name

Address

Phone Numbers

Email Address

Physiotherapist

Consent: Story to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues

Claire needs physiotherapy to regain movement and strength in her knee following a total knee replacement in December 2006. Although physiotherapy treatment has been requested from ACC, no approval has been given by ACC. Claire has not had a case manager since her last case manager left in January 2007.

Explanation

Claire had a left knee injury in March 2000 and had knee reconstruction to fix a torn ligament on her left knee in early 2001 followed by a short and inadequate post surgical physiotherapy rehabilitation (3-4 sessions).

The left knee did not stabilise and Claire had several injuries where her left knee gave way.

ACC started shutting their doors on Claire from 2002 onwards, it continued to get worse and Claire kept suffering from her injuries, which were accumulating following repeated falls and failure to treat a Traumatic Brain Injury, which was suffered in September 2002, along with other injuries. Following a fall in October 2003 when Claire's left leg collapsed, she suffered an injury to her right hip. ACC refused to accept that an injury to her hip occurred said in a letter to Claire that she had not suffered any new injuries in April 2004.

Patient **F** – She says that neither fighting for what she should have, nor begging for what she desperately needs, works with ACC

ACC continued to refuse treatment and rehabilitation, and ACC stated that Claire was fit to return to work. Throughout this Claire's GP was fully informed and was requesting therapy and treatment and this was being declined. The medical certificates from the GP certifying Claire as unable to work were being refused.

On one occasion in August 2004, Claire's left knee gave way, as the weight transferred to the right leg, the right knee gave way and this caused severe instability in Claire's right knee.

This resulted in "both legs being stuffed". ACC point blank refused to help Claire stating to her that they had closed all of her claims. They refused to permit an arthroscopy in August 2004 to determine the extent of injury to the left knee.

As ACC would not provide treatment or rehabilitation, Claire took out a gym membership and she tried to strengthen her legs and improve balance. This provided some improvement.

Claire went to Ms S, MP for Christchurch. She intervened on Claire's behalf and ACC allowed the Arthroscopy to proceed. This resulted in an Arthroscopy in late 2004. This resulted in the discovery that the repaired tendon was intact but functionally useless and the leg was inoperable i.e. another reconstruction was not possible. The only option was a total knee replacement of the left knee.

Following several years of conflict with ACC, a knee replacement was approved for the left knee and this was performed in December 2006. After the left knee replacement, Claire required post operative rehabilitation in the form of manipulation and intense physiotherapy. This was necessary to regain range of movement, strength and mobility. Claire and her treatment providers have repeatedly requested that ACC approve this, however because ACC has not allocated a case manager to Claire, ACC has not processed the physiotherapy.

As a direct result of the failure to process and approve the request for post-operative support, Claire underwent manipulation under anaesthetic of the left knee on 17 April 2007. Since that time, Claire has been in extreme pain and the knee has remained swollen. Claire continues to undertake her own rehabilitation at the Gym, while awaiting ACC to get their act together to approve her request for a suitable, properly supervised physiotherapy program.

Claire cannot function effectively because of the pain that she is in. This affects all facets of her life. She cannot get into her car, let alone drive it.

Because of her personal situation, Claire feels that she cannot fight any longer and she feels that she shouldn't need to.

She says that neither fighting for what she should have, nor begging for what she desperately needs, works with ACC. She is focused on getting her leg to work and feels

Patient **F** – She says that neither fighting for what she should have, nor begging for what she desperately needs, works with ACC

that fighting bureaucrats is a waste of time and energy; time and energy which she needs to use to regain her health.

To date, despite the fact that Claire's claims for her right knee, right ankle and right hip, left arm and Traumatic Brain Injury have been accepted by ACC, none of these injuries have received adequate treatment.

Patient G

Name

Address

Phone Numbers

Email Address

Physiotherapist

Consent: Story to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues

My treatment was terminated at the critical point where both I and my physiotherapist feel that we are still making good progress and that we are in sight of the finish line but ACC has decided not to help us get there.

Explanation

Tom has been a TV Producer for the last 4 years, had Lisfranc fracture of right foot (3 fractures and dislocation and major ligament damage).

On the 24 April 2006, Tom was at the Catlins surfing, he was in the barrel and someone dropped in on Tom, the wave flatten him and pushed the surfboard underwater and then tail of the board rose up through the foot fracturing the right foot.

Tom felt intense pain and somehow managed to swim to shore. It was late in the evening, Tom iced it up and took painkillers and slept. In the morning he checked with White Cross who told him that the radiographer would be there at 11am, Tom presented for the X-Ray and they couldn't immediately see the fracture. They bandaged the foot, gave him crutches and told him to come back in 3 days if he still had trouble walking.

Tom was still suffering and the symptoms were getting worse. He hadn't been able to drive since the accident. In the meantime, another radiographer had reviewed the X-Ray, they said that "something is not right, you need to go to see an orthopaedic surgeon at the Hospital". Tom took a taxi to the Hospital and Dr D admitted him and the following morning a CT scan was done. On review of the scan, Dr D confirmed his diagnosis and

Patient **G** – We are in sight of the finish line but ACC has decided not to help us get there

Tom stayed in hospital waiting for surgery which couldn't go ahead until the swelling had reduced sufficiently. On Tuesday the surgery was conducted which put four large screws (30-40mm) in the mid foot to hold the bones together.

Dr D explained to Tom the impact of the injury; Tom thought that he had broken some metatarsals and that 6 weeks later he would be fine. Dr explained that it was far more serious and Tom may never have full use of foot again. Tom was a bit shocked to hear this.

Post operatively, the foot was in large plaster for several weeks, Tom couldn't work during this time and spent the time on his back with his foot up in the air. The plaster was removed after 2 weeks, and the foot was put into a fibreglass cast, Tom was told that the foot could not bear any weight so he used crutches for 6-8 weeks. Tom said that ACC was really good during this period, he received weekly compensation, he had taxis everywhere he needed to go, and home help. During this period Tom went back to work and ACC provided workplace assessment and home assessment from Occupational Therapist.

The fibreglass cast was removed by the Hospital and after receiving no advice from the hospital regarding rehabilitation, Tom made his own inquiries which led him to Brian T, who was booked up for 6 weeks. Brian recommended Tom to seek treatment with Mr G immediately.

Tom gradually went from Crutches (non weight bearing) to a moon boot (weight bearing) (initially with crutches) and retained the moon boot for approx 10 weeks.

During this period, Tom was seeing Mr G, Physiotherapist, three times per week. Mr G explained the treatment plan to Tom who understood the prognosis and the work required to develop best possible range of movement and the strength.

Tom kept his appointment with Brian T who was very impressed with both the surgical care and the physiotherapy treatment.

Prior to the operation, Tom started to use Orthotics and ACC paid for these and helped modify a pair of his shoes.

Mr G worked extensively with Tom up until the operation to remove the screws in early October. The operation went well and the treating healthcare professionals were satisfied with the outcomes.

Following the operation, Tom let the foot settle for a few weeks before recommencing physiotherapy with Mr G, twice per week. Tom recalls that he was running out of physiotherapy treatments and that Mr G was having to reapply to ACC for more treatments every 6 weeks or so.

Patient **G** – We are in sight of the finish line but ACC has decided not to help us get there

Tom cannot imagine what would have happened to his foot if he didn't use his initiative and seek physiotherapy treatment, and if Mr G hadn't worked so hard with him in the months following the surgeries.

Tom continued working throughout this period except one week off following the operation to remove the screws.

Before Christmas, Mr G suggested that Tom develop a rehab program, Tom paid \$250 of his own money to work with one of Mr G's team to develop a strength and conditioning gym program to assist with Tom's Rehabilitation.

Tom was back surfing on 26 December! Following a Christmas break, Tom was back with Mr G once per week doing a combination of Gym and Physiotherapy. In mid March, Mr G informed Tom that ACC had cut funding for his physiotherapy treatment.

Tom's foot has improved dramatically since the accident, he can do most non-impact activities, however he cannot run or jump.

Tom has started skipping physiotherapy treatments because he finds that the financial impact of paying the full cost of treatment on him and his family is too great. Tom finds that in the weeks where he doesn't go, the foot becomes stiffer and tighter and Tom feels that the Goal of being able to do impact activities is slipping away from him.

Tom recalls the surgeons saying that it would be 12-18 months before the rehabilitation reached a plateau and Tom feels that wherever his foot is in 6 months is about the best it will get. Tom feels that he should be giving this last 6 months a big effort to really try and get on top of the impact type activities.

He feels that he is a young man still and he has a young family and wants to do things with his kids as they grow up, he wants to be able to run with his kids in the park and has his sights set on this.

Both Tom and his physiotherapist feel that there is opportunity to improve the foot over the next 6 months yet this rehabilitation effort is being hampered by ACC.

Tom was really impressed with ACC's help all the way through and can't understand why they have all of a sudden cut the physio?

Tom doesn't believe that he has been rehabilitated to the extent that he needs; 6 months ago they took the screws out and now is the time that he really needs the support to maximise what he can do with his foot.

Tom and his Physio have worked very hard together and developed a good relationship, both of them believe that Tom can continue to improve and both feel that ACC have deserted them at the critical moment.

Patient I - This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible"

Patient H

Name

Address

Phone Numbers

Email Address

Physiotherapist

Consent: Story to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues

The physio was an EPN provider, it was obvious he was scared of ACC and he didn't want to go over the allocated number of treatments because he didn't want to have any hassles with ACC.

Jane feels that the Physiotherapist was dead scared of ACC and didn't want to exceed the number of treatments.

Explanation

Jane has a serious neck injury, however this episode relating to physiotherapy treatment resulted from an additional accident and separate injury to her shoulder.

Jane injured her shoulder and was diagnosed by her GP as suffering from severe inflammation in her shoulder joint, later diagnosed as Bursitis. Jane asked the doctor if she could have some ultrasound treatment with a physio. The Doctor agreed and wrote out a referral.

Jane went to the physiotherapist and asked for ultrasound. The reason that Jane went back to the same physiotherapist and asked for ultrasound is that some years before, Jane had a similar injury and she went to the same physio and following a number of ultrasound treatments, Jane got better.

This time, the moment that she asked for ultrasound, the physio said "ACC don't approve of it anymore so we tend not to use it", Jane said "it cured me last time" and the physio said "I tend not to use ultrasound anymore so we will try some massage and exercises."

Patient I - This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible"

Jane had 3 treatments in a week and the physio gave Jane some exercises to do, which she couldn't do because they were too painful. On the fourth treatment, Jane went back and said "This isn't working". The physiotherapist said that "ACC are not going to pay for many treatments, you are going to have to fix it yourself". Jane said to him that "ACC will pay for as many treatments as I need". He said "No, you're going to have to work on this yourself."

On this fourth visit, the physiotherapist gave Jane more massage and said that she would have to start lifting weights.

Jane went home and tried the weights and exercises and it made it worse so Jane went and saw her acupuncturist and he was horrified with the weights and exercise. He advised Jane to seek ultrasound and to stop all weights, lifting and movement of the shoulder until the inflammation had gone down. He said that it had to be rested.

Jane returned to the physio for visit number 5 and told him that she was getting worse, that the acupuncturist did not agree with the strengthening exercise until the inflammation was reduced. Jane again requested ultrasound and he reluctantly said that he would give her an ultrasound treatment but if it didn't make her better in one treatment, she couldn't have any more.

So Jane got one ultrasound treatment and, as expected, the single treatment did not fix the bursitis, so Jane gave up on him and went back to her acupuncturist.

The acupuncturist treated Jane successfully.

Jane's Acupuncturist has been subjected to harassment by ACC and examination by the ACC Fraud Unit. Jane was called by Mr N from the fraud unit regarding an investigation of her Acupuncturist. When Jane asked why they were investigating him, she was told "he is working to long hours and seeing too many patients". This made Jane very angry, she informed Mr N that the practice was at his home and not all visitors were patients.

Jane feels that the acupuncturists are being harassed but they are not complaining publicly because most of them are Chinese and most are scared of trouble with ACC.

Patient I - This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible"

Patient I

Name

Address

Phone Numbers

Email Address

Physiotherapist

Consent: Story to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues

My name is Abby, I consider myself to be a victim of the total closed loop system of the Accident Compensation Corporation.

It is not a just and fair system and its decisions have effectively deprived me of a quality of life. This has been made more stressful by the fact that I was penalised for attempting to work and keep my job, hoping my injuries would improve. This has caused me to live in pain and depression, taking maximum doses of drugs to try and continue working and the ensuing emotional and physical breakdown was inevitable.

In hindsight it was totally irresponsible of the ACC to encourage me back to work, as I certainly shouldn't have been battling the Christchurch Motorways with those levels of strong prescription drugs.

During this process, I was receiving physiotherapy treatment to help keep me in the workforce but my treatment was terminated without me being fixed. I was forced to take legal action against ACC to try and get them to pay for additional treatment. I took this to review and represented myself and lost.

I was disgusted with the whole system. I am now forced to survive on an invalids benefit and still have the pain and depression. From time to time, I get bouts of being "stuck" and the area of my body that was squashed between the horse and the windowsill swells.

I am not allowed treatment from ACC unless I have a new "accident". The situation is at a point where there is not a lot of help that the medical field can give me, apart from physio which I am not allowed. The only thing left open to me is more drugs.

Patient **I** - This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible"

Explanation

In December 2000, Abby was on a horse that Bolted, it smashed through a fence and to avoid a house, the horse turned quickly and Abby got wrenched off and smashed against the house. Her head and arm went through the window, her lower back was smashed against the windowsill and her leg was wrenched violently during the fall. An Ambulance came and took her to Hospital, on the way, the Ambulance stopped to find a vein. At Christchurch hospital, she was X-Rayed, examined and kept in overnight. She got discharged the next day.

She went to her GP, and then went to see Mr M, Physiotherapist, who had to concentrate on getting swelling down and pain relief.

She suffered various injuries to her sacroiliac joint and also to her hip, foot and ankle.

Abby was off work for a few months until approx April 2001. She then returned to work for 4 hours/day. She got through her days using codeine as a pain relief, taken throughout the day in order to allow her to function at work. Abby was able to go to and from work outside of normal traffic hours, as being seated was causing problems. In May 2001, Abby felt pressure to spend more time at work and despite severe pain, was placed under duress to able to work her way up to 6 hours/day, which she did. Her medical certificates around this time notes depression, which was managed with Amitriptyline. Abby started on 2 x 25mg tablets per evening. As time went on, Abby got worse and the pain was unbearable.

During 2001, Abby went to see two Orthopaedic Specialists, Mr B for her back and Mr K for her ankle and foot, both reported that there was no structural conditions to operate on and were hopeful that the symptoms would gradually improve over a couple of years. Abby explains that just because the injuries are of the "soft tissue" type and therefore not visible on X-Rays or 2-D MRI scans, does not mean that there is nothing wrong with her and it is still ACC's responsibility to help her.

Abby had no social life and was flat out just trying to keep herself going, and she certainly was not able to ride a horse.

In November 2001, the firm who Abby was working for was sold. Under the new management, Abby was worried about losing her job as well as still hoping to get back to full time work. So as of Jan 2002, she went back to full time work, still with flexible hours, in severe pain, and unable to do her full duties – Abby's Medical Certificates included sitting and bending reaching stretching limitations.

March 2002, sent for bone-scan, Abby went to her case manager who sent her to see Mr S, Clinical Physiologist, for pain management. Discussed coping strategies and it became clear that Abby was having trouble coping with her injuries.

Patient I - This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible"

During 2002, Abby continued to be severely effected by her injury in December 2000. She was starting to have issues with not being able to do all of the tasks at her work and was beginning to feel threatened. She asked the new management for a contract that reflected her position and conditions as it was imperative to her that she keeps flexible working hours in order to travel too and from work outside peak hours as she could not cope with the level of pain of sitting in traffic. Management did not agree to provide a contract.

August 2002 saw Abby in a mess, both physically and emotionally. It had been over 18 months since her accident yet the impacts of it were still all too clear.

In September 2002, Abby requested that ACC approve additional physiotherapy with her Physiotherapist, to help her keep working and ease the pain and stiffness. She only needed this treatment on an "as required" basis.

ACC declined this request and instead sent her to their "preferred provider," Mr A, for assessment. His assessment stated, in part:

Recommend an 8 week exercise activity based program "Claimant will be expected to continue with this after the completion of the program".

Mr A referred Abby to himself for an Activity Based Program, at his practice rooms and a Gym. This caused her even more pain and she had to cope with this as well as work. Mr A told her that she had to work through the pain but Abby comments that she was the one in pain, not him. At the end of the program, Mr A advised that she should continue but that she would have to pay for the Gym herself, she comments that she was not going to pay for more pain.

On 7 October 2002. Mr A wrote a progress report to ACC stating, "at this stage I feel that ongoing physio is unlikely to change her pain, or improve her function in the long term."

Abby had no life, only work and pain.

She asked ACC for help to keep the outside of her home in order. ACC issued a decision that ACC did not help keep the outside of her house in order. Also, as Abby was doing an "activity based program," the refused to fund actual physiotherapy treatment. Abby wrote a review application that stated:

What is the reason for your application?

Due to the injury of 10/12/2000, I am unable to do the more physical chores which involved twisting, bending or jarring such as gardening, grubbing thistle/weeds, chopping wood, lifting or pulling heavy things. It is taking all of my energy/strength to cope with daily driving and work. Sitting is the worst thing, which is very hard not to do for any length of time.

What result do you seek as a consequence of lodging this application?

Patient I - This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible"

I seek either "manpower" help or financial help towards paying someone to do what I can no longer do. I also seek for ACC to acknowledge that it is still this accident's damage, that I will have ongoing relapses due to normal living requirements and need physiotherapy from time to time and all the new incidents are a direct result of this claim. I am trying to keep my Job but having to do the physical work at home in the weekends is causing pain and stress.

It appears that the damage caused by the 10/12/2000 accident is permanent. The following actions cause much pain: bending and twisting, lifting and pulling, stretching but far worst, sitting for any length of time, driving for more than 45-60 min. See attached email copies and reports I believe you have from Mr D.

This review was signed 21 October 2002. It was received by the ACC Review Unit on 7 November 2002. The ACC review unit did not take the physiotherapy element of the review application into consideration and instead, they asked Dispute Resolution Services Limited to hear a review about "aid and appliances".

After DRSL received this, Abby wrote to her case manager asking about the inclusion of Physiotherapy in the review. The email stated:

Re: this review;

It is most important that it is acknowledged that it is not just assistance with the physical chores of property maintenance I wish reviewed. I have been told that I cannot have any more physiotherapy on this claim as I have exceeded the allowable numbers of treatments, and this is a major part of the review.

It is by having physiotherapy with Mr D on the occasions that I "start to seize up" simply from sitting too long, moving the wrong way or aggravate the damaged area by unwittingly doing too much, that keeps me reasonably mobile. This it appears will be necessary on occasions for the rest of my life.

Regards,

ACC and DRSL refused to include physiotherapy in the review so Abby then lodged another review application relating to ACC's decision of 2/12/2002. Her application for review, lodged on 19/12/02 stated

What are the reasons for your review?

Dr referred me for more physio as I was getting stiff and more pain. This is still from the accident 10/12/2000. This has been declined as a "trainee" Ms W, doesn't think this is from the accident 10/12/00. If that is the case, why do I still have to take Amitriptylene and Codeine and why did ACC send me to the Pain Clinic and now sending me for an 8 week exercise program.

What result do you seek as a consequence of lodging this review application?

ACC to acknowledge that there is permanent damage from 10/12/00 accident and NOT decline further physiotherapy as needed from time to time due to

Patient I - This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible"

sitting for any length of time, standing/walking on concrete or trying to do too much physical effort!! And Scans as requested.

Again, on 16 Jan 2003, Mr A wrote to Abby's case manager stating: I feel that ongoing physiotherapy is unlikely to help Abby in the long term. It may provide short term pain relief only, but will probably make no change to the overall outcome.

After ACC forced Abby for the assessment with Mr A who recommended his Activity Based Program, she had to fund her own physiotherapy treatment with her physiotherapist, Mr D, on an as required basis.

On 28 Feb 2003, ACC's Mr K, Clinical Advisor wrote to Abby stating in part,

ACC has received your application for review. The application is about ACC's decision 02/12/2003 [sic] to decline further physiotherapy.

ACC has looked carefully at the reason for this decision and has decided not to change its decision . Your application will now be considered by an independent reviewer...

On 27 May 2003, Mr K, ACC Clinical Advisor, wrote again to Abby, stating,

Dear Mrs B,

*Additional Treatment
RE: Contusion of Lower Back*

*I have had the opportunity to review the decision dated 02/12/2002, declining further physiotherapy treatment. I am pleased to inform you this decision has been revoked and ACC will fund physiotherapy treatment to **27/05/2003**. Please ask your treatment provider to submit an appropriate medical fees schedule to ACC or, alternatively, you may forward invoices to enable ACC to reimburse you directly. I have enclosed an ACC34 Request to withdraw a review application for you to complete and return.*

However, you have now received in excess of 60 treatments for this injury. This is more than the recommended number of treatments appropriate for your injury, and medical evidence does not support ongoing Physiotherapy as providing an appropriate rehabilitation outcome. ACC must therefore decline to fund further treatment beyond 27/05/2003.

This decision has been made under Schedule 1, part 1 (2) of the Injury Prevention, Rehabilitation and Compensation Act 2001.

You have the right to ask for this decision to be reconsidered. The enclosed sheet called "resolving issues" details how to do this.

If you have any more questions, please telephone 099159440.

Yours sincerely,

ACC Clinical Advisor

Patient I - This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible"

Abby felt that although it was positive that ACC would refund treatments, the letter was an attempt to cause more delay. This letter meant that if she wanted ACC to fund ongoing physiotherapy, which was what she was trying to achieve, she would have to lodge yet another review application and then keep waiting for another hearing. At this stage, 5 months had past since her second review application about physiotherapy was lodged and more than 7 months since the first review application about physiotherapy was lodged.

Abby did not withdraw the review application so the matter went to a hearing. ACC's submissions were scathing on Abby and her treating physiotherapist. At the hearing, Mr K submitted that

"due to an administrative error, [ACC] revoked its decision of 2 December 2002, and re-issued correctly a decision of 27 May 2003."

The reviewer considered that the review really was about ongoing entitlement and then took an investigative approach. The reviewer found:

"In the present case, ACC has declined Mrs B's request for payment of additional physiotherapy treatment on the basis that:

- The number requested, in addition to the number of treatments already received, was more than the recommended number of treatments appropriate for her injury and;*
- Medical evidence did not support ongoing physiotherapy as providing an appropriate rehabilitation outcome.*

I find that I am in agreement with ACC that it is no longer able to fund further physiotherapy costs. My reasoning is that I find that the treatment that Mrs B has been receiving to date appears no more than palliative and is not given with the purpose of restoring her to health. Mrs B told me that she finds she needs physiotherapy as she has had relapses from time to time. Physiotherapy relieved the symptoms. This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible".

I find that the purpose of treatment in the Act must envision more than relieving symptoms and maintenance. It appears to me that the Act envisions treatment to be directed at improving the condition the maximum practicable extent.

For the forgoing reasons, I find that ACC's decision in not accepting responsibility for physiotherapy costs to be correct and the review application is dismissed.

Tragically, this is not the end of it for Abby. Following the new management's refusal to give her a contract that included flexible hours etc, Abby took this to the Employment Tribunal and won in November 2002. Her employer then made her position redundant in Feb 2003 with effect from May 2003.

Patient I - This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible"

Abby applied for weekly compensation because, due to her injuries and pain, she couldn't look for or obtain an administrative or clerical position in the field in which she was trained.

What then happened and only be described as a travesty of justice. Abby was put through endless assessments resulting finally in a review hearing. She had a lawyer who arranged an assessment with Dr O whose opening paragraph of his report says it all:

Yet another of your cases comes with an incorrect diagnosis, leading to years of disability, and to add to her woes, because one orthopaedic surgeon reporting for A.C.C did not make the correct diagnosis, she has been denied ongoing ACC cover for an undoubted set of injuries and ongoing disability arising directly from the horse riding accident on the 10 December 2000...

She had a major sacroiliac injury, a problem that shows nothing in any form of imaging, so its very existence is denied by the majority of orthopaedic surgeons...

... these are painful soft tissue injuries that do not show up in X-Rays, MRI, or Scintigrams, and my experience is that when all imaging is negative, Surgeons start guessing at a cause of the pain, or attribute it to some painless appearance in the imaging that they have. It is not fair to the Surgeon or to the patient to ask Orthopaedic surgeons to diagnose soft tissue lesions. This is really outside their field of expertise.

Dr O then went onto explain the injuries in details and their effects on Abby's condition.

At review, Ms C, Reviewer disregarded Dr O's findings, preferring those of Doctors employed by ACC. She stated, in part:

The question at issue is whether Mrs B's incapacity for work relates to the covered injury, or non-injury factors. Mr O has provided no compelling medical evidence of any incapacity relating to the covered injury of 2000.

At District Court, Abby represented herself. His Honour, Judge C stated, in part,

[51] I preface my decision by stating that I have considerable sympathy for the appellant. The appellant has been a good worker and after her injury made every effort to get back to full time employment. This she did and she returned to her pre-injury employment for a period of 17 months...

[55] It is clear from the orthopaedic surgeons that the appellant did not suffer any structural pathology as a result of her accident. However, there is evidence of a deep tissue injury or injuries that might not appear on any scan or X-Ray. According to the orthopaedic surgeons, it was predicted that the soft tissue injuries should over a period of time, dissolve. In deed, Mr O was of the opinion that the symptoms from the soft tissue injury should in fact have resolved by the time he saw her. I accept that there is contrary medical

Patient **I** - This, to me, does not appear to be treatment for her actual condition but is rather treating the symptoms and therefore is not "restoring the claimant to health to the maximum extent possible"

evidence from Dr H, Dr O and Dr J. However, this is essentially an orthopaedic issue and weight must be given to the specialists in this field.

...

So Abby lost the case, and she was denied treatment and weekly compensation. She has been unable to work since being made redundant and now survives on invalids benefit.

Everyone agrees that she is disabled by the injuries she suffered in her accident, the chronic pain she suffers secondary to those injuries and the associated depression and prescription drugs.

The only problem was that the injuries were not identifiable on X-Rays, MRI or other Scans. Thus, the limitations of modern medicine have left Abby in a terribly unjust situation.

Patient J – The end state of this entire year long unnecessary battle was that Brian got what he, and all his treating healthcare professionals, asked for in the first place.

Patient J

Name:

Address:

Phone Numbers:

Email Address:

Physiotherapist:

Consent: Story to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues

Mr C's condition had been affected by

- unacceptable delays
- lack of timely, open and effective and honest communication
- Change of case manager
- Decisions did include review rights
- Decisions with conflicting advice and comments that reflect internal ACC policies rather than the legislation.

Mr C's treatment was terminated without consideration that the treatment was needed to maintain and support optimum function in everyday living as part of his appropriate quality of life.

Mrs C was forced to take legal action against ACC to try and get them to pay for additional treatment. This unnecessary legal battle took months.

Explanation

Brian was referred by ACC for an ABP at A Hospital in 2005 and part of that was massage at Hospital Spa Department and passes to the Aquatic centre for Hot Pool stuff.

Having had 12 treatments, the report for the Rehab department at A Hospital asked for this long term as it was helping Brian manage his pain suffered as a result of his injuries and it increased his mobility. This recommendation for long-term massage therapy was

Patient J – The end state of this entire year long unnecessary battle was that Brian got what he, and all his treating healthcare professionals, asked for in the first place.

supported by Brian's GP, Orthopaedic Surgeon and Psychologist (who was treating him as part of the management of the brain injury).

Case Manager left and no case manager was appointed for 3 months. Despite the fact that Edith faxed and phone called, ACC refused to respond. Edith demanded a meeting because due diligence and process was not being followed. They finally responded in December 2005 and a meeting was held. At this meeting ACC refused massage and physiotherapy, stating that it was not available under the legislation because it was not part of his appropriate treatment.

In the meantime, Brian paid for his own treatment.

In Jan 2006, ACC agreed to fund a further six massage treatments whilst waiting for additional pain management assessment, commissioned by ACC.

Edith was outraged because ACC said that there was no allowance under the Act for massage treatment because the treatment providers were not recognised under the Act.

Edith pointed out to ACC that they had already approved 18 treatments by a registered provider (A Hospital), but the people who did the treatments were not registered physiotherapists, instead they were NZQA, or other overseas accredited, massage therapists.

The case manager who new and inexperienced wrote two decision letters declining treatment. Neither of those decision letters included review rights. The letter of 16 Jan 2006 from ACC to Edith stated, in part,

Unfortunately, ACC will not fund a 52 week program of massage therapy. The reasons and rationale for which will be followed up in a subsequent letter as requested.

Any further massage treatment undertaken from the 4 Jan 2006 will not be funded by ACC. To clarify, ACC has only funded a set amount of massage treatment within an Activity Based Program...

The second letter dated 16 Jan 2006 from ACC to Brian stated, in part,

I am writing to you to confirm that ACC does not fund massage therapy as a long term treatment, the reasons are as follows:

Massage is a treatment that can only be delivered by a provider nominated under the IPRC Act 2001 and that is delivered within that provider's scope of practice. Massage therapists are not recognised under the IPRC Act because they do not have a registration authority or a recognised professional body. Until they do so, they are unable to be recognised by ACC.

Physiotherapists, Osteopaths, and Chiropractors can deliver massage as part of a treatment plan if it is clinically warranted to restore function. The above stated professionals are recognised under the Act. They are governed by

Patient J – The end state of this entire year long unnecessary battle was that Brian got what he, and all his treating healthcare professionals, asked for in the first place.

prescribed treatment profiles for their discipline which is to say they are expected to treat specific injuries within a specified timeframe. If more than 12 months have elapsed since the date of injury, the provider must provide an ACC 32 which is a request for additional treatment.

ACC is not declining treatment, but applying the normal rules around what ACC will fund and treatment is therefore properly monitored. ACC acknowledges that your injuries are long standing. In recommending a referral to a Pain Specialist, ACC are seeking to identify your appropriate injury related needs as recommended by a specialist. This also aims to compliment the treatment received and recommended by Ms A. ACC will fund a further training for independence program recommended by Ms A to achieve goal 3, to provide strategies to assist the pain management.

Please do not hesitate to contact me if you have queries.

On Jan 27 2006, ACC sent another letter stating that they wouldn't fund any more treatments.

In your email of 26 Jan you raised the question of further interim physical treatments to be funded by ACC until the Comprehensive Pain Management Assessment is completed. Unfortunately, ACC will not fund any ongoing nor interim massage therapy as there is no clinical, evidence based, rationale.

I acknowledge the letter sent by Dr S in which he thanks ACC for providing massage therapy and the benefits gained from the interventions, however Dr S provides no clinical rationale, which is a requirement for the consideration of further funding.

To clarify points previously discussed, massage is a treatment that can only be delivered by a provider nominated under the IPRC Act 2001 and that it is delivered within the provider's scope of practice. Massage therapists are not recognised under the IPRC Act because they do not have a registration authority or a recognised professional body. Until they do, they are unable to be recognised by ACC.

Physiotherapists, Osteopaths, and Chiropractors can deliver massage as part of a treatment plan if it is clinically warranted to restore function. The above stated professionals are recognised under the Act. They are governed by prescribed treatment profiles for their discipline which is to say they are expected to treat specific injuries within a specified timeframe. If more than 12 months have elapsed since the date of injury, the provider must provide an ACC 32 which is a request for additional treatment.

At this stage, Brian had been without ACC funded massage therapy treatment since October, with the exception of the six treatments funded following the meeting in December. When the letter of 27 Jan was written, ACC has been in receipt of the letter from Dr S (written to ACC in December 2005) for nearly 2 months. He requested further funding for continued massage therapy stating,

Patient J – The end state of this entire year long unnecessary battle was that Brian got what he, and all his treating healthcare professionals, asked for in the first place.

12/12/2005

To ACC,

Many thanks for arranging ongoing massage therapy twice weekly at A. I was pleased to hear that the massage therapy he has had to date has not only increased his mobility, but has also provided more comfortable sleep and improved mood.

You will appreciate that the cause of Brian's pain is well documented and not under contention and that symptomatic benefit is the most that we can hope for.

Many thanks for your attention and efforts to continue the twice weekly massage intervention.

None of the letters dated 16 Jan or the letter dated 27 Jan carried review rights. Edith was forced to seek legal advice in order to allow Brian to be treated in accordance with what he needs. Prior to seeking legal advice, they sought additional medical opinion,

Dr S, Brian's GP and Mr C, Brian's Orthopaedic Surgeon and Dr S, Pain Management Assessor all recommended continuing massage therapy.

Edith took these recommendations from both treating and non-treating medical professionals to her lawyer who suggested that Edith ask ACC to conduct an internal administrative review. Edith wrote to ACC on 16 March 2006 asking them to consider the 6 medical reports that supported massage therapy as part of an internal administrative review of their decisions of 16 and 27 Jan 2006 not to fund the therapy.

On 29 March, Edith received a letter back from ACC stating that ACC failed to give review rights on both decision letters and accepts that it should have done so. ACC treated Edith's letter of 16 March as an application for review. The file was sent by ACC to DRSL.

The documents sent to DRSL by ACC were incomplete and did not contain all 6 medical opinions recommending continued treatment. Edith felt that ACC was attempting to force the review to go ahead without all of the information.

Edith rang ACC and spoke to the team leader about the actions of her staff and a meeting was held. The meeting occurred and then in a letter of 5 April, Edith wrote asking if they had considered all of the medical reports when conducting their internal administrative review. On 6 April 2006, Brian's case manager resigned.

On 20 April 2006, ACC wrote asking Edith to discuss the current situation on 26 April and also on 20 April, ACC wrote to Edith stating that all reports were considered and

Patient J – The end state of this entire year long unnecessary battle was that Brian got what he, and all his treating healthcare professionals, asked for in the first place.

they were asking an ACC clinical advisor to review the medical reports and ACC's decisions.

On 26 April, the meeting was held and many things were discussed and the team manager agreed to investigate the reimbursement of self funded massage from 24 Jan – 27 April.

At that meeting, the team manager suggested that Edith ask Dr S, (GP) for a referral for physiotherapy review. On 9 May 2006, Brian attended the physiotherapy review at A Physiotherapy Department. On 16 May, ACC drew up another draft IRP however it was not signed because further discussion was needed.

On 23 May, the Office of the Complaints investigator found that 2 breaches of Code of Claimants rights regarding open, honest and affective communication and review and appeal rights not given.

On 30 May, the Physiotherapy assessment report was received from A Hospital and it stated that Physiotherapy will not repair function or cure and recommends that ACC refers Mr C back to Massage Therapy for treatment.

On 31 May, Mrs T (Physiotherapist, A Health) filled in ACC32 to get 12 Physiotherapy treatments from ACC which were to be provided by her to Mr C in the form of Physiotherapy massage treatments, as requested by Dr S.

Although ACC had not made a formal decision regarding the ACC32, they verbally advised Mr C to start the physiotherapy treatments with Mrs T, Physiotherapy dept, A Hospital.

In the meantime, the person in charge of the Physiotherapy Dept at the hospital (Probably an administrator) phoned Edith to inform her that if ACC do not approve the ACC32, then Edith will have to pay for the treatments.

Edith emailed ACC asking them what is going on so on 6 June 2006, Edith received written approval for the 12 physiotherapy treatments.

On 7 June 2006, Edith and Brian went to mediation with the new case manager and Mr D from DRSL. The meeting was amicable although no resolution was reached. Edith felt that it was used by ACC to find out how strong the case was.

Edith explained that ACC has already created the precedent to fund further massage treatment because they had already provided 12 treatments by massage therapists under the guise of an Activity Based Program and then an additional 6 following on from this.

ACC then reimbursed that self funded treatments between Jan 2006 and April 2006.

A review was held on 27 June 2006. ACC did not attend in person and instead the ACC Case Manager, Reviews, dialled into the hearing by teleconference from Christchurch. At

Patient J – The end state of this entire year long unnecessary battle was that Brian got what he, and all his treating healthcare professionals, asked for in the first place.

the review, the reviewer stated she was a lawyer in what Edith felt was an attempt to intimidate and subdue her. Edith felt that the reviewer treated her brain injured husband with insensitivity. Edith stated that there was precedent and that there was medical evidence that had not been considered by ACC.

Edith stated that the McKay-Kroon District Court Judgement was precedent because the treatment did not require improvement or cure, merely “holding the line” and enabling that person to lead as normal a life as possible was in accordance with the Act.

When Edith said that ACC had not considered some of the medical evidence, Ms C asked whether ACC would consider going back to Dr S and asking for a clinical rationale for funding massage therapy. ACC agreed and the hearing was then adjourned part heard.

On 31 July, ACC wrote to Edith, stating that they had revoked their decision of 16 and 27 Jan 2006 and “has agreed to fund massage therapy because of the information on file and the latest report provided by Dr S of 5 July 2006. ACC has agreed to fund massage therapy for one massage therapy per week for the period 14 August 2006 to 10 August 2008.

Without reconvening or concluding the hearing, on 7 August 2006 Ms C issued a decision that the matter is settled and ACC has revoked its decision of 27 Jan 2006 in Mr C’s favour therefore the reviewer declines jurisdiction.

“I therefore record that as ACC has revoked its decision in Mr C favour, I no longer have jurisdiction to consider the matter further. The matter is settled and will be withdrawn on receipt of Mr C’s completed application to withdraw. The Application is dismissed...”

The end state of this entire year long unnecessary battle was that Brian C got what he, and all his treating healthcare professionals asked for in the first place.

The impact of this on Mr C and his wife is completely unacceptable.

Patient **K** – Surely it is time for ACC to accept that my physiotherapist is better qualified to judge the level of the treatment I require...

Patient K

Name:

Address:

Phone Numbers:

Email Address:

Physiotherapist:

Consent: Story to be released to Inquiry, contact details to be removed from in the Public Version.

Summary of Issues

ACC does not handle accidents individually. They don't take into account the unique circumstances of the person before, during and after the accident.

We are not treated as individuals; we are fitted into a stereotype of ACC's making, which is inappropriate for self employed people.

Explanation

In 1974, Alan has a freak accident and he was incinerated. Alan felt that if he had the support and rehabilitation, following his original accident in 1974, to return to his pre-injury career, then the long term impacts of his injury, on himself, on his family and on society, would have been much less.

There was no rehabilitation plan following Alan's original injury when he was burned. The enormous strain of having to work when he could barely walk affected Alan mentally, emotionally and physically. He needed to recuperate away from the noise of four very young children. Alan had ten years of pain and depression and there was no help from ACC or plan to help Alan including no medical assistance. Instead, five months after the injury, Alan was told that he would not receive any more support from ACC and that he had to go out and find himself a job. Three years later when Mr L called to check up on past ACC claimants, he was so disgusted and upset that he stated that Alan must file a report explaining his life and highlighting his hardship at that time. Alan did so instead of ACC reviewing Alan's case, he got a terse letter back stating, "Sorry, file closed". Mr L was very upset and said that the situation was absolutely wrong.

Patient **K** – Surely it is time for ACC to accept that my physiotherapist is better qualified to judge the level of the treatment I require...

Alan didn't know what to do and just tried to get on with his life as best he could.

Alan had another bad accident in 2001, and he was led to believe by his Case Manager that his pain would be self managed and the need for physiotherapy treatment to manage that pain would be at Alan's discretion. He was led to believe that ACC would facilitate physiotherapy treatment on an ongoing basis as required so that he could keep working. There would be times when he would go 2-3 months without needing physio, but at other times, when for whatever reason the symptoms were aggravated, and he required more physiotherapy, he would be able to access this.

What Alan found is that it didn't work out this way. If Alan didn't need treatment for 2-3 months and then he needed treatment, and the amount of treatment was above ACC's pre-determined level, Alan and/or his physiotherapist had to apply for further pre-approved treatment or alternatively, nominate the incident that re-aggravated the injury and then apply for cover for this additional injury on another ACC45 form.

Attachments

See Attached letter from Alan

___ April 2007,

To whom it may concern,

Dear Sir/Madam,

On the 4th April 1974, I was incinerated in a freak accident and 40% of my body was deeply burned. After 5 months recuperation, ACC forced me to go and find work, as their medical advisors could not offer me any more help, palliative care, or any cure for the severe pain in my scar tissue. At this time, I was unable to sit at a desk, wear shoes, or even stand still, as I had to walk on the spot constantly, while standing.

ACC could neither offer me, nor find me a job so I could support my wife and four pre-school children. They told me to go and find a life for myself; as from their medical advice, it would be at least three years before they could have any idea as to what impairment would remain. Having lost our livelihood in the fire, I was destitute and desperate. I begged ACC to assist me with a premature disability payment so I could get reliable and appropriate vehicle. They gave me \$3,000 on the condition that my file would be closed. It was this, or literally starvation. Thus began a ten year horror journey. At the end of this period, every part of me was scarred.

Three years after the accident, one of the ACC officers, Mr L, revisited me. He was so shocked and stunned that he insisted that I prepare a submission for ACC to reconsider my position. I did so and was flatly turned down – file closed.

Patient **K** – Surely it is time for ACC to accept that my physiotherapist is better qualified to judge the level of the treatment I require...

In the years that followed I worked with every erg of energy to support my family. Some days, after four or five hours work, I would return home, collapse in the doorway and literally weep with the pain. However I did succeed in establishing a viable greenhouse horticultural business, but the cost health wise was very high. Whilst I believed that I had been poorly treated, I was too destitute to contest the ACC ruling. I endeavoured to get on with my life, with an attitude as positive as possible. On numerous occasions, I am sure God impressed people to help feed our children.

Twenty-six years later, on 13 October 2001, at the Mt Hutt Ski Field on No 3 Slope, whilst stationary on the left hand side of the ski run, I was hit and knocked unconscious by an "out of control" snow boarder. For three days I literally saw white stars – all day long! The Diagnosis of my injury was as follows:

EZAZ Post Concussion Syndrome S570 Spine Sprain.

I received extensive physio and myofacial physio treatment. A neurosurgeon did a complete examination due to constant severe headaches. After 2 months off work, the pain subsided and ACC directed me back to light work. However, this was a retrograde step as within a couple of days, I was again in pain.

I was referred then to Dr S for assessment. He Concluded I need to get out of my present employment, or face continued health deterioration. An occupational therapist from Ms M concurred with Dr S.

I was then told by ACC, "Unless you quit your business, we can do nothing for you. Until you get out, you must manage your own pain, but we will give discretionary physio treatment." For this, I was thankful, however over a three year period, I have had months of work with no remuneration from ACC at all. This has seriously eroded my business viability.

Since October 2001, apart from one week, I have not had a pain free day.

Then, on 22 August 2005, (While in low-moderate pain) I walked into a clean plate glass door with no vision rail. As a result, two extensor tendons on my right hand index finger were severed, as was the radial nerve. I resumed work on the 7 November with difficulty.

I find constant, low to medium pain a distraction to my concentration, and it is so easy to make a judgement error that results in further exacerbating my injury.

Since Dr S's assessment, I have been seriously trying to sell our business, recuperate, and retrain for appropriate employment. However, due to our property being subject to a District Council initiated land zoning dispute, the above plans have been temporarily frustrated.

Subsequent to my accident of 13th October 2001, my case manager gave me to understand that ACC would accommodate what physiotherapy was necessary to assists in my pain management, so I could keep working at an appropriate level. However, this arrangement has definitely not worked out as I was given

Patient **K** – Surely it is time for ACC to accept that my physiotherapist is better qualified to judge the level of the treatment I require...

to understand it would. Since 13 October 2001, I have not had one week in which I have been able to function in the manner I was able prior to that date. Since 13-10-2001, cumulatively I have had months off work due to pain, with no ACC compensation.

The basic dynamic I face is this; to be pain free; I need 7 to 8 weeks of total rest. Any physical work of the nature that my business demands will result in the pain returning again. It is in this painful condition that I have had to function since 13-10-2001. If the pain level goes above 4, and I have to work on, the ability of my back muscles to hold my spine in place is severely degraded, and results in my spine periodically slipping out of alignment. The resultant pain can be quite sudden and severe (7-9). When this happens, I need immediate physiotherapy just to be able to function. Whilst immediate physiotherapy reduces the pain level, it takes time and further physiotherapy to restore me to a lower pain level. Each recovery time can vary greatly.

Each time this happens, I am faced with going through the ACC paperwork all over again. My injury is of such a nature that it doesn't fit into the standard ACC profile of treatment time. This, my case managers have admitted. Surely it is time for ACC to accept that my physiotherapist is better qualified to judge the level of the treatment I require, than somebody whose portfolio it is to fit my can into a pre-determined stereotype, and tick the appropriate boxes.

In conclusion, as a self-employed person, ACC has not facilitated my recovery in my two major accidents (4-4-74 and 13-10-2001). The best that can be said is that I've fought with all of my strength to barely exist, as quality of life is concerned. Thirty three years of pain, surely isn't a success story. If ACC had facilitated my recovery in the 4th April 1974 accident, by giving me a two of three year recovery time, then the subsequent thirty years would have been quality years, and infinitely more productive, instead of much of it being living hell.

As two of my case managers have said, quote, "ACC is not designed for the self employed."

Mr T, my physiotherapist, is intimately acquainted with my case history, and can see the "modus operandi" of the ACC is seriously flawed. Surely it is time that the "modus operandi" of the ACC was overhauled and that a fair and quality service was given to the self-employed.

Yours faithfully,

[Signed]

Patient L – There seems to be no control over ACC, there seems to be no-one there to say “Hey, what the Hell are you doing?”

Patient L

Name:

Address:

Phone Numbers:

Email Address:

Physiotherapist:

Consent: Story to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues:

ACC has been completely insensitive about the entire process; they couldn't give a shit about me and instead looked at finding fault so that they didn't have to pay. The emphasis was on proving I was wrong, that the treatment was wrong, that the condition as described by the treating physio was wrong.

There was endless cycle of treatment being stopped, me being sent to specialists who would tell ACC that the condition had been improving and continue with physio. I went back to physio and after a while the same thing would happen again. ACC would take me away from Tim and send me to someone else and even they would say go back to see Tim.

All of the treatment providers praised Tim for the work that he was doing yet ACC kept on looking for reasons to stop Tim's care and I know that this interference in the treatment had negative effects on me.

ACC have spent more time and money stuffing me around than they did doing me good.

I finally got what I needed, but it was a long drawn out battle.

The Government provides a service for people with injuries but instead of doing their job, they were acting like accountants (no offence to accountants). These people are case workers but they are also social workers and I think their job is to make sure we are fixed up and get back to work or if we can't do that, some sort of decent life.

I was at ACC once and there was a big poster up that said “ACC Cares”; it should have had said YEAH RIGHT under it in big red letters.

Patient L – There seems to be no control over ACC, there seems to be no-one there to say “Hey, what the Hell are you doing?”

You can understand people going to Fair Go or into the legal process over insurance or dodgy salesman or something like that, but there should be no reason for people to chase ACC through tribunals and courts and hearings, just get what they need.

ACC is funded by workers, employers, motor vehicle users and the Government. They have a service to provide and they have failed, they have miserably failed.

I have private insurance, and I could not imagine a private insurer treating a client like that; could you?

I cannot imagine an insurance company spending so much money to shoot themselves in the foot, Could you?

If you were running a private company and accountable to shareholders, how could you justify doing things like that?

There seems to be no control over ACC, there seems to be no-one there to say “Hey, what the Hell are you doing”. They have no control over their staff and no-one listens when you try to explain that the system isn’t working.

It is too bad to be a breakdown in communication or a mistake, it is not an oops, it is too bad to be this, it is a deliberate acts.

ACC, show some compassion. Show us that you care.

Explanation

Please see below, the letter outlining his experience:

Tim has asked me to describe the treatment I received for my hand injury while under ACC care as well as my impressions of all of the provider’s treatment I had received. He asked me also to send it on to the people asking for submissions on ACC’s treatment of its clients and their performance. I have done that too, and here it is.

I duly authorize him to pass these details onto whoever he feels it is appropriate to, and also to use any notes, reports and correspondence he has pertaining to the treatment he provided me.

During May 1998 I suffered a serious workshop accident where I cut off my left hand (my dominant hand).

My Wife and a family friend rushed me to Hospital A where a Mr P and his team replaced my hand in a 21 hour operation.

Patient L – There seems to be no control over ACC, there seems to be no-one there to say “Hey, what the Hell are you doing?”

Subsequently I was assessed by several specialists there and warned that I may lose my hand in spite of all the work the surgical team had done. The very BEST I could look forwards to, was having 20% - 25% of the original strength and use of my hand but most likely only 10% of the original dexterity. This possibility I totally rejected, claiming I would regain, most, if not all use of my hand.

I was visited by several of the Hospital Psychiatrists, as they considered me to be in denial, and tried their best to convince my family and myself to accept specialists opinions, (totally without any success I must add).

During the following year I underwent 5 further operations on my hand, to remove pins, clips and wires as well as to have ligaments attached to my thumb to help movement. While still in Hospital I began a gruelling Physiotherapy and Rehabilitation Program, but because of the staff shortages and the increasing workload in the Hospital Physiotherapy Staff, I soon began receiving less and less treatment and support.

The treatment and service I received while under hospital care was in my opinion first rate and all the health professionals and staff showed integrity, care and great interest in their jobs.

The problem was that they seemed to be totally and woefully under staffed and resourced. There always seemed to be three times as many patients that the Physiotherapists had time to attend to, and I know I was not the only patient to suffer this sort of unintended neglect which resulting in so much increasingly, excessive and unnecessary pain and suffering.

A.C.C were in no way helpful at all as they seemed to only concentrate on finding fault with everything and everyone involved with my treatment.

There were no offers of victim support, home support or in fact, support in any form what so ever, nor did they offer information on where I could go to get help, they made no attempt to find how I was adjusting or coping with my disability either. This all took a serious toll on the well being my whole Family as well as the terrible effect the injury had on me.

I was travelling to A Hospital for Therapy daily now and as I had suffered a Pulmonary Embolism after my first operation, I had to be monitored 3 times a week with blood tests for the anti-clotting agent “Warfarin” in my system so the dosage could be adjusted accordingly. I also had a huge open wound on my right foot that was caused by a chemical burn from an IV line that had been put there during my re-attachment operation that I had to have treatment on and the dressings had to be changed daily.

Initially a District health nurse had been doing this but Mr P the Surgeon who was caring for me was not satisfied with the way she was treating the wound and stopped that, he then arranged for me to have the wound “Debrided” and dressed by my GP in Palmerston.

I did my very best to make sure all of my appointments with my GP, the “Med-Lab” who done my “Warfarin” testing and eventually my Physiotherapy, appointments all fell close together. This saved my family the trouble of driving me different places on different days and saved ACC travel allowance money. After about six months it was obvious to everyone that the condition of my hand was becoming serious, the circulation seemed to be failing, the pain had become constant and was steadily getting worse. My range of movement was continually decreasing in spite of my attending clinic, now down from daily attendance to only 3 then finally 2 times a week in A Hospital, and doing all the exercises and tasks assigned by the Physiotherapists.

Patient L – There seems to be no control over ACC, there seems to be no-one there to say “Hey, what the Hell are you doing?”

These Clinics were “Self Help Clinics” where you went in, used their Equipment and then went home. The actual appointments with the Physiotherapist were only every 4 – 6 weeks, and they could and were often cancelled by a patient coming down from one of the wards, needing urgent therapy.

I was by then, taking an increasing amounts of painkillers, anti-inflammatory pills, anti-depressants, sleeping pills so the situation was becoming very serious, with my family refusing to allow me to drive, or to remain alone at any time. I was totally unaware of their concerns, or the stress the whole situation was placing on my loved ones.

During June 1999 the Law was changed allowing patients to seek private Physiotherapy treatment instead of crowding into Hospital departments. My G.P. Dr J, recommended Tim, of T’s Physiotherapy in Pamerston, (with the warning that he is one of NZ’s best Sport Physios and is a “No Sympathy, No Nonsense Physio”, but, if I could be helped, then he was the one to do it).

Tim preformed the initial assessment, contacted ACC for verification and then agreed to treat me.

His only conditions were, that I cooperate fully and take an active part in the treatment, I wholeheartedly agreed to this, and we started the program that eventually restored my hand to approx 90% of its original use.

Tim’s initial assessment was that my hand was in the last stages of “Severe Under-use Syndrome.” Circulation was almost halted and any physical contact with my hand and wrist resulted in acute agony and bruising. I was suffering Severe Pain at all times, had no practical use of my hand at all, and I was in fact, in his expert opinion, under imminent threat of loosing my hand altogether.

We started a new regime of physiotherapy, exercises including my cutting down on my medication, with the intention of ceasing the use all together as soon as possible.

Within a month the pain had decreased to a manageable level, and my hand’s, range of movement had increased markedly. Strength exercises were also part of the program, and involved strengthening the whole body. I was not at all sure of the merits of this thinking at first, but went along with it, as everything else he had done seemed to be working out just as he said it would.

BUT:

1/ A.C.C continually Re-Assessed me and I was interviewed and Re-Assessed by a different specialist almost every two or three months.

2/ My treatment by Tim was stopped several times without warning by ACC, and I was sent several times to other Physiotherapists and to a couple of Hand therapists.

3/ Each time after about a month when the condition of my hand and its use progressively deteriorated, they all recommended that I be returned to the care and treatment of Tim.

This was particularly frustrating and distressing, as we basically had to start all over again.

4/ Eventually my hand got to a stage where the improvement slowed and eventually stopped.

Patient L – There seems to be no control over ACC, there seems to be no-one there to say “Hey, what the Hell are you doing?”

5/ The final assessment by Tim was that I had regained 85% to 90% of the original strength and use of my left hand, although my dexterity was somewhat less.

6/ I was also then assessed by two other Specialists hired by the A.C.C, why I do not know, perhaps they mistrusted Tim’s recommendation that he could do no more for me?

While I will never regain the dexterity, sensitivity and suppleness my left hand had originally enjoyed, I am now a reasonably clumsy right hander, and about the same with my left hand.

Looking back now, I am able to assess the treatment I received by Tim and compare his treatment with all the other Therapy Providers I had experienced, both in the Public and Private sector.

Tim, with his wide experience in Sports Medicine and Injuries, and his wealth of knowledge in this field, is quicker to realize where a certain method of therapy is not working to its optimum ability. He is able to alter and vary the treatment to suit the conditions much earlier.

His friendly, open, honest and uncompromising attitude is contagious, and he strengthens patients resolve to heal.

I know for a fact that it was the intervention of, and treatment by Tim, that restore the use of my hand, preserving my sanity and most likely my life too as I had begun the trip down slippery path of, self pity, depression and increasing drug dependency.

I am only one of many Patients who have had the fortune to be treated by this man.

The treatment I received from Tim covered a period of more than a year which I know far exceeds the standard time limit imposed by ACC to repair a broken body.

They seemed to me to have either, no idea or no intention of using the process of consultation with medical providers.

The number of “Specialist Consultants” involved in my case seemed to me to be excessive to the point of ridiculous. The cost of these services must have exceeded the cost of my Physiotherapy by many times, if my understanding of the fees charges by Specialists is any where correct.

ACC’s arbitrarily ceasing support for my treatment and insisting on Specialist reports before continuing, interrupted it at critical points several times during the process and put the final date of cessation back quite a bit, as well as causing more unnecessary pain and suffering to me.

Eventually I was told by ACC that I would be moved from being an ACC beneficiary to the care of WINZ where I would go on the “Unemployment Benefit”.

This seemed to be a good idea at the time but I know now that it was not a good option for me and was most likely just used to get me to accept transfer from ACC to WINZ care without any fuss or argument.

Patient L – There seems to be no control over ACC, there seems to be no-one there to say “Hey, what the Hell are you doing?”

1/ I was never told that I had the option of asking for a review of this process or asking for any other help and assistance at all.

2/ I was not aware that there were both government sponsored as well as private organizations that helped beneficiaries sort out and solve problems like this.

As I have already stated we had no help, support or consultation apart from ACC doing what ever it could to interrupt treatment or dismiss us from their care.

3/ I was offered to apply for a scheme where WINZ funded some people to start their own business up.

4/ I had always been keen on Photo Restoration and had become very good at it although had not considered becoming a professional.

5/ consultations between ACC, WINZ and Footbridge who would monitor my work trial went ahead, and I was given a definite date where ACC would discard me.

6/ the “Work Trials” were a bit of a farce as the only place that would give me the opportunity to show what I could do was planning to offer the same service and were not real keen to have me start up in competition. Therefore the work only involved 4-5 hours of actual work and not the required two 40 hr weeks to show that I was capable of working that amount of time to be able to support myself and justify the WINZ sponsored “Business Start Up Loan”.

7/ the hours I had actually done were somehow juggled to fit the requirements

8/ I attended a “Business Startup” course in Palmerston to learn how to run your own business, manage Tax and GST, and general business practices from marketing to legal requirements.

9/ A Business Plan was formulated and submitted to WINZ for them to have it appraised by an “Independent Consultant”.

10/ My application for the loan was granted and we were assigned a WINZ case worker to help us through the transition period of three months.

11/ ACC eventually come up with the proper “Ergonomic Office Furniture”.

12/ The loan paid for some of the required computer equipment and software to get me started. We borrowed money from family members, the bank and we maxed out our Visa card to get the rest of the equipment and supplies we needed, as well as to pay for some advertising of our new service.

13/ We were duly transferred to the care of WINZ and ACC washed their hands of me and my problems.

14/ Once we were on our own and supposedly set up in our new business we were practically abandoned. Consultations with our “WINZ Caseworker/Mentor” offered no help, advice or assistance at all and the slow but sure signs that our business was failing seemed no surprise at all to them either. It now seems to me that the whole process of evaluating the business opportunities was just as flawed as the “Work Trial” was.

15/ The business struggled on for 8-9 months more and while I had a few customers who were all extremely pleased with the results of my work, there was just not enough work out there for us to survive on.

16/ Four or five times during this whole sorry event we had to go to WINZ for “Food Vouchers” as we couldn’t afford food. Family members and friends helped where they could but could not afford to support us continually.

17/ Eventually we had to give up and go back to WINZ for help.

18/ From then onwards I slowly progressed from the Unemployment Benefit to the Invalids and from there to the Disability Benefit, where I am still today.

Patient L – There seems to be no control over ACC, there seems to be no-one there to say “Hey, what the Hell are you doing?”

19/ The loans we had taken out were eventually all paid off and we did it particularly hard doing that, but I felt that the option of declaring bankruptcy was not an honourable option.

My hand has never improved from its condition while I was under Tim’s care and has in fact regressed quite a bit since then. I suffer almost constant pain in my left hand now, a lot of tenderness and cramping as well in spite of attempting to use it all the time. I am on medication for this but try to keep that use down as much as possible.

Patient **M** – This farcical situation would have been amusing if it was a Monty Python skit, rather than a true series of events, which actually impacts on my life and my treatment

Patient M

Name:

Address:

Phone Numbers:

Email Address:

Physiotherapist:

Consent: Story to be released to Inquiry, personal contact details to be deleted from Public Version.

Summary of Issues:

Treatment from my physiotherapist has been an important part of my pain management strategy for over 15 years. It is the only ongoing “treatment” I receive and the only part of my management strategy that I can’t “do” myself.

Despite this, for most of this period I have had to fund my own treatment. Following an unnecessary and expensive process of jumping through hoops that took 8 months, ACC approved long term funding for my treatment.

After this approval, med fees contacted my case manager, who confirmed long term funding and the first two ACC32 requests for pre-approval of treatment were processed expediently, however in Feb 2007, when the third pre-approval was received, ACC wrote to me telling me that they needed to get further information from my specialist.

I thought, “You have got to be joking; here we go again, another 8 months of jumping through hoops...” To my great surprise, when I faxed them the information from my files, they approved the request almost immediately.

Explanation

My condition has required ongoing long-term treatment to maintain optimal physical conditioning and allow me to live as normal a life as possible including remaining in the workforce from 1991 until 2007.

Patient **M** – This farcical situation would have been amusing if it was a Monty Python skit, rather than a true series of events, which actually impacts on my life and my treatment

From my injury in 1989 until my surgery in Jan 1991, I received ongoing Physiotherapy treatment from ACC, there was never any question about funding for this. Following my surgery and the four months that I waited for the graft to take and the bone to become sufficiently dense, I began receiving physiotherapy to restore my range of movement and to strengthen and recondition my body. That continued into early 1992.

In around 1993, I started returning to physiotherapy on an ad hoc basis seeking pain relief and monitoring of exercise programs. Part of the treatment was acupuncture. I funded this myself and this treatment pattern continued through to 1997.

I received 33 treatments in 1997 funded by ACC, and then went back to the self funding treatment on an “as required” basis.

In late 2004, I started presenting with significant symptoms in my right groin, and this was treated through twice weekly acupuncture for several months followed by weekly acupuncture for another year or so. I received significant relief through this treatment and continue to receive acupuncture as part of my pain management strategy. I currently require treatment about every 3 weeks.

In early May 2005, a Case Co-ordination Conference was held in Christchurch, present at this conference were the Branch Manager, the Branch Medical Advisor, the Technical Claims Manager, the Team Manager, the Case Manager and Dr Robb, the Director of “Workwise” in Christchurch. Following this Case conference which was attended by all ACC staff involved in the management of my claim, but none of my treating healthcare professionals or myself, the case manager wrote to Dr L in Auckland. This email stated

6 May 2005

Dr L,

I have the above client who has a chronic pain problem which her GP feels is static but precludes her from being functionally independent. This is a complex case and our Branch Medical Advisor, Dr M in conjunction with Dr Robb of Workwise in Christchurch have queried if you would be available to come to Dunedin to undertake an assessment of Tina, and if this is possible, when you could do this. I would be grateful if you could let me know if this is a possibility...

Case Manager

It appears that no response was received from Dr L, on 11 May 2005; the Case Manager rang again and left a message for Dr L. It would appear that Dr L declined this referral.

On 27 May 2005, Tina requested that ACC fund or contribute to the cost of her treatment. The notes from this meeting on ACC’s file state:

The following was discussed and agreed:

Patient **M** – This farcical situation would have been amusing if it was a Monty Python skit, rather than a true series of events, which actually impacts on my life and my treatment

Pain Assessment – Tina did not want to take up ACC's offer of a pain assessment at Mercy. She says that she is managing this herself and has been having acupuncture since 1992 which she funds herself.

LTMC – Mr D discussed her referral for consideration of this internal classification of her claim following the IOA and IMA. Tina would like closure on these assessments. I indicated that ACC would only consider further assessment if it looked like there was some change to the situation but that further assessment could happen when that claim was reconsidered or relooked at from time to time. Paul accepted that was the best that could be said given that there is no permanent compensation provisions to the current Act.

Needs Assessment – Agreement was reached that ACC undertake a needs assessment and Tina elected Ms D. Release of necessary information was agreed to and this included Ms D's last report, the IMA, and medical certificate.

Acupuncture – Tina asked if ACC would fund (or contribute to this). I indicated that the acupuncture would need to be on referral from her GP and that the physio would need to make prior approval application to ACC on the Appropriate form. I said I thought that there may be some place for comment on the form from the GP and then the form came to ACC (medfees) and may then come to Mr D since he manages the claim. To consider whether the treatment requested is both necessary and appropriate, ACC may require an assessment and I suggested that this may be a Pain Assessment. As I was not medically qualified, that opinion would be sought from our Branch Medical Advisor. We spoke about endorsed providers and that there is no additional cost but Tina explained that her provider is not in this scheme.

This meant that ACC would consider funding this treatment following a formal request from my GP. What is missing from the notes Mr W made of that meeting is, instead of funding the acupuncture treatment, which was producing results, ACC wanted me to trial Gabapentin, a significantly stronger drug than what I was currently taking.

My GP wrote to ACC explaining that we had spent a long term getting my medical to a sustainable and safe level and that the Gabapentin could upset the balance. Also, I was working 12 –16 hours per week and the Gabapentin would seriously affect my cognitive function and this would inhibit my ability to function effectively at work. My GP formally requested that ACC fund ongoing acupuncture, delivered by my Physiotherapist.

ACC's Branch Medical Advisor reviewed that request on 19 July 2005 and advised ACC needed an assessment for Pain Management. My Case Manager then wrote to me on 19 July 2005 stating:

Following your query about long term funding for acupuncture, I also discussed this morning with our Case Co-ordination committee the procedure for long term funding for acupuncture. Mr W confirmed to me that the physiotherapist needs to request the blocks of treatment and also reiterated what he had said in our meeting that for long term funding, ACC would need an assessment in

Patient **M** – This farcical situation would have been amusing if it was a Monty Python skit, rather than a true series of events, which actually impacts on my life and my treatment

relation to pain management. This was also the view held by the Branch Medical Advisor and Manager and so accordingly, I have been asked to arrange for Pain Assessment for you. Locally at present this can only be provided via the pain clinic at A Hospital and accordingly the ACC referral has been forwarded to them.

Once the assessment from A Hospital has been received, we shall advise you but if you have any queries, please do not hesitate to contact me.

At this point, I wrote an email to my case manager explaining that I understood that the Cost to the Taxpayer of a Pain Assessment was over \$3,000 and advised that I would continue to self fund my acupuncture as I felt that such assessment was waste of resources and taxpayer's money. The reply I received stated, in part,

As this is an assessment, the indication to me is that ACC requires you to undertake the assessment. As you are reasonably required to undertake assessments ACC considers necessary, I would appreciate if you could confirm to me over the coming week that you agree to ACC releasing copies of all medical notes we currently have, in order that A Hospital can reasonably undertake the assessment.

While I note your comments concerning the assessment, both I and Mr W recall the indication to you made, that to consider request for acupuncture, the need for assessment would be likely.

I thought that the whole thing was a waste of time and money, but I agreed under veiled threats of cutting off my entitlements. I attended the full day of assessments and the lengthy report stated, in summary at the beginning,

Medical Recommendations:

- *Continued use of Acupuncture along with TNS...*

In the Body of the report, Dr A stated

The use of repeat acupuncture has been of benefit and the sustained affect has been demonstrated. I would certainly support the continued use of acupuncture along with TNS...

After ACC received this report, I got a letter from my Case Manager, it stated in full,

Copy of assessment is in the mail to you. The report is with the medical advisor at present Tina, but I have to say, my reading of it was while it indicates generally you manage to the extent you can, I couldn't see that it recommended acupuncture, and in particular, ongoing acupuncture which I think we probably need to specifically ask Dr A if we are to pay.

Patient **M** – This farcical situation would have been amusing if it was a Monty Python skit, rather than a true series of events, which actually impacts on my life and my treatment

I wrote back to my case manager stating, in part,

I actually disagree with you and suggest that you look both the front summary page under medical recommendations "continued use of acupuncture along with TNS" and page 2 of Dr A's report "I would certainly support the continued use of acupuncture along with TNS".

The Branch Medical Advisor reviewed the Integrated Comprehensive Pain Assessment report and stated:

Dr A wonders if Gabapentin could help but the other modalities (except acupuncture) he discusses, he feels are not useful or appropriate. Essentially there is no further medical therapy that is recommended apart from ongoing acupuncture to control her pain suggest this be approved.

Following the BMA recommending on 9 December 2005 that my additional treatment be approved, my physio applied for additional treatments on 16 Jan 2006 by completing an ACC 32 Application for additional treatments. This was processed by Med Fees South on 23 Jan 2006. When processing this application, Medfees wrote to the case manager stating:

*Hi,
Medical fees have received an ACC32 Request for Physiotherapy for this claimant. The claimant has received 33 treatments in 1997, and a further 12 has been requested.*

The Medical Fees clinical advisor is happy to consider this, clinically, but would welcome your input as to whether this sits appropriately with your current rehabilitation plan. Thanks for your help.

Email back from Case Manager to Medfees stated in full:

BMA has recommended ACC approve ongoing physio...

At this stage, treatment was approved from 16 Jan 2006. I received my 12 treatments and again my physio applied for additional treatments, this second group of additional treatments was also approved. After we had used this second group of treatments i.e. Treatment 24 my physiotherapist filled in another ACC32 requesting more treatments.

On 26 Feb 2007, both my physiotherapist and I received a letter from Medical Fees stating that further information was required from my specialist before they could approve another bundle of 12 treatments. This letter stated:

Patient **M** – This farcical situation would have been amusing if it was a Monty Python skit, rather than a true series of events, which actually impacts on my life and my treatment

Dear Ms

Additional Treatment

Your Physiotherapist has asked ACC to fund additional treatment for your injury sustained on 01/09/1989.

There has been a delay in processing this request.

ACC needs further information from your specialist before deciding whether this treatment is appropriate.

When ACC has received this information, we will process the treatment request.

If you have any questions, please contact me.

Yours sincerely,

[Signed]

Medical fees

TMT17bCLM

I rang Ms H from Medfees and explained that I had undergone a significant and expensive process required by ACC to determine if long term acupuncture was appropriate for my injury. Long term acupuncture was approved by ACC following a report from Dr A (Pain Specialist) that was endorsed by the Branch Medical Advisor and that there should be no question that long term acupuncture is part of my rehab. Ms H from Medfees stated that if I could fax her information, she would look at it and be able to make a decision.

She told me that none of what I was telling her was on her new computer system. I was frustrated that their communication was so bad that instead of contacting the case manager and speaking to him about it, she asked me to fax the information to her.

This was especially frustrating when one considers the email contact between the case manager and Ms H in early 2006 when the case manager told her that ACC approved ongoing physiotherapy.

This farcical situation would have been amusing if it was a Monty Python skit, rather than a true series of events, which actually impacts on my life and my treatment.

I have retained a good cognitive ability and can only imagine how other claimants, who are not as fortunate as me, navigate this bumbling bureaucratic mess.

Patient N – The effect of this frustration and “rationing of treatment” has a dramatic effect on Peter’s quality of life

Patient N

Name:

Address:

Phone Numbers:

Email Address:

Physiotherapist:

Consent: Story to be released to Inquiry, contact via Lawyer, contact details to be deleted from Public Version.

Summary of Issues:

I was receiving treatment and then ACC decided that they would try and exit me by sending me on a Work Hardening program. This was out of left field and inappropriate and actually injured me further.

Fear of reprisals from ACC is a very real fear for this claimant however he is happy to be contacted by his solicitor.

Explanation

Peter has had multiple injuries over the years, mainly from several motor vehicle accidents. He suffered a severe Traumatic Brain Injury, significant whiplash injuries, and other head and neck injuries. Peter suffers from significant balance and co-ordination problems.

Peter receives ongoing physiotherapy for his injuries currently funded by ACC but has spent many thousands of dollars of his own money on Physiotherapy, Chiropractic, Osteopathic and Massage Therapy over the years.

Peter feels that the treatment he has paid for himself has been an important part of his efforts to return to as normal a life as possible, including managing his chronic pain and other effects of his injuries.

At times Peter has been frustrated with ACC’s bureaucratic system, which limits the number of physiotherapy treatments that can be received at any one time.

Patient **N** – The effect of this frustration and “rationing of treatment” has a dramatic effect on Peter’s quality of life

The effect of this frustration and “rationing of treatment” has a dramatic effect on Peter’s quality of life.

Unfortunately, because of his injuries, Peter needs ongoing treatment, probably for the rest of his life. Peter has had 6 trips to Wellington Pain Management Clinic yet is forced to live on a daily cocktail of drugs to have even the minimal quality of life.

Because of the quantity and duration of taking these drugs, it will probably considerably shorten his life.

Several years ago, whilst Peter was receiving physiotherapy treatment from his Physio, his case manager sent him to another physiotherapist on a “work hardening program” in Invercargill. It was clear to Peter after the first or second visit that this program was causing significant ongoing harm and injury to Peter. It was clear to him that the physiotherapist running the program had little to no interest, nor understanding of Peter’s complex and significant injuries, telling Peter that he just had to “toughen up” as Peter feels that this was what she was directed to do by ACC.

Peter recalls that during this “toughen up” program he was not receiving physiotherapy from his regular physiotherapist who Peter felt had a good understanding of, and professional and ethical interest in, his injuries.

Peter felt that the entire program was nothing more than a pre-determined exit strategy for him.

After attending the program a couple of times, Peter was injured by the program and could not continue any more. Peter went to discuss this with his GP and did to return to the program for safety reasons.

Peter ultimately went back to his treating physiotherapist. He can’t recall how ACC responded to this.

Patient O – ...it is only the close family support and the support of some of the professionals involved in his case, that have prevented him committing suicide.

Patient O

Name: Withheld

Address: Withheld

Phone Numbers: Withheld

Email Address: Withheld

Physiotherapist: Withheld

Consent: Story to be released to Inquiry, no contact details to be released.

Summary of Issues:

Despite professional recommendations, ACC has failed to facilitate ongoing access to physiotherapy treatment, which is critical to maintaining the little quality of life he now has.

Explanation

Patient has had several motor vehicle accidents and two major neck operations. He also has a spinal cord injury in his cervical spine and a significant brain injury from the accidents.

He requires ongoing physiotherapy treatment, at times up to 2-3 treatments per week, just so that he can get some sleep and function as a Normal human being. Some other weeks, he does not require physiotherapy treatment.

Specialists, including a Neurosurgeon, have recommended ACC fund ongoing physiotherapy on an as required basis because this is critical to the patient's survival, similar to ongoing medication for some patients.

Despite this, ACC constantly refuse to fund additional treatments and make it very difficult for this patient to access physiotherapy treatment with the physiotherapist of his choice, funded by ACC.

Because of this he is forced to fund his own treatment and then has to take legal action against ACC through his lawyer to gain his lawful entitlements that ACC is meant to facilitate access to. These legal costs are never reimbursed and often costs more than the refunds of entitlements

Patient ① – ...it is only the close family support and the support of some of the professionals involved in his case, that have prevented him committing suicide.

In addition to the physiotherapy issues, he has been completely disintitiled on several occasions and is the subject of an ongoing fraud investigation that has gone on for a considerable length of time, which he, and the professionals involved in his case, consider to be part of ACC's exit strategy.

This patient has got no hope of ever being able to return to his previous occupation or any other occupation for 35 or more hours per week – he is lucky not to be a tetraplegic and it is very fortunate that he is able to take care of himself as much as he can.

Because of the ongoing interference in his life by ACC, which compounds the effects of his injury, it is only the close family support and the support of some of the professionals involved in his case, that have prevented him committing suicide.

Patient **P** – This directly impacts on New Zealanders who are already suffering because of their accident, it affects their treatment, their quality of life and their participation in their community.

Patient P

Name:

Address:

Phone Numbers:

Email Address:

Physiotherapist:

Consent: Story to be released to Inquiry, contact details to be deleted from Public Version.

Summary of Issues:

I was denied further physio treatment by ACC. For details of my story, please see my submissions.

Explanation

Anne's physiotherapist applied for pre-approval of treatments. ACC refused to process this application for nearly a month. The physio practice contacted ACC repeatedly, but to no avail. During this period of uncertainty, I received some ongoing treatment from my physiotherapist and it appears that the physiotherapist herself had taken the risk and continued to treat me, hoping that ACC would get around to approving it. My Physiotherapist, Ms R, was under no obligation to do this, it was a kind gesture made in the spirit of the Act and within the ethics of the profession.

I commend Ms R for continuing to provide physiotherapy treatment as part of an effort to effectively treat me. I can only imagine the moral and ethical dilemma in which she found herself. Me in severe pain on one hand and then a "clinical advisor" refusing to make a decision on the other. I can imagine that this process may not have been a pleasant one for my treatment providers

The important point here is that the burden of treating me, whilst ACC jumps through their self imposed bureaucratic hoops, should not be a financial burden absorbed by the individual physiotherapist, or the practice. This system of increasing red tape and causing administrative delay was developed as part of a deliberate policy to constrain provision of entitlements to claimants and enforce ACC's treatment profiles, which were designed for simple and non-complex injuries. This directly impact on New Zealanders who are

Patient **P** – This directly impacts on New Zealanders who are already suffering because of their accident, it affects their treatment, their quality of life and their participation in their community.

already suffering because of their accident, it affects their treatment, their quality of life and their participation in their community.

The letter that the patient received from ACC declining physiotherapy is outlined below:

__November 2005,

Dear Ms

Additional Treatment for your right lower back/spine

Your Physiotherapist has asked ACC to fund further treatment.

ACC must decline this request.

We have considered all of the available information. It has not been established that your need for treatment is primarily a result of your injury sustained on 04/08/2005.

ACC has advised your physiotherapist of this decision.

If you have any questions about this decision, please contact me. If you are still not satisfied, you can ask for an independent review of our decision. The review process is outlined in the enclosed Working Together fact sheet.

Yours sincerely,

[Signed]

Clinical Advisor

TMT16CLM