



## **APPLICATION OF THE HEALTH AND OTHER SERVICES (COMPENSATION) ACT 1995 TO CLAIMS MADE UNDER THE SAFETY, REHABILITATION AND COMPENSATION ACT 1988**

### **PURPOSE**

To inform relevant authorities of the requirement to notify Medicare under the *Health and Other Services (Compensation) Act 1995* (HOSC Act) for claims made under the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act).

### **BACKGROUND**

The HOSC Act operates to recover Medicare benefits from a 'compensation payer' where a compensation payer is liable for the injury.

Services Australia manages the notification requirements of the HOSC Act. The HOSC Act ensures the Commonwealth recovers Medicare benefits paid where a compensation payer is liable for the injury.

Relevant authorities are compensation payers and must meet these notification requirements, even where it is unlikely an employee with an accepted injury under the SRC Act would receive Medicare benefits.

This guidance outlines the notification requirements as agreed between Comcare and Services Australia for claims made under the SRC Act.

**Attachment A** provides details of the agreed HOSC Act notification requirements.

### **GUIDANCE**

The following HOSC Act notification requirements apply to claims made under the SRC Act.

#### **1. Medical treatment claims (section 16 of the SRC Act)**

It is a requirement to notify Medicare about medical treatment claims where:

- > liability for injury (section 14 of the SRC Act) is accepted six months or more after the claim was lodged
- > liability for medical treatment is reinstated six months or more after the date of determination to cease medical treatment.

Notification to pay compensation for medical expenses is required in these circumstances as an employee is likely to seek Medicare benefits for treatment that may later be compensable under the SRC Act.

This is known as a 'reimbursement arrangement' and is notifiable under section 13 of the HOSC Act, regardless of the amount of medical treatment compensation to be determined against the injury.

Relevant authorities must ensure that the amount provided in the relevant Medicare notice is paid before processing the payment of medical treatment compensation under section 16 of the SRC Act.

The Medicare amount is deducted from the compensation amount payable.

## 2. Permanent impairment compensation (section 24 and section 27 of the SRC Act)

It is a requirement to notify Medicare about permanent impairment compensation equal to or more than \$5000

This is known as a 'judgment' or 'settlement' under the HOSC Act. Where the amount of compensation payable to an employee is equal to or more than \$5000, it is notifiable under section 23 of the HOSC Act.

Notification is required before payment of permanent impairment compensation, regardless of whether any medical treatment costs have been paid against the claim.

Relevant authorities must ensure that prior to processing the payment of any part of the permanent impairment compensation that either:

- > Medicare is paid the amount owed as provided in the Medicare notice (this may be nil)
- > Medicare receives an advance payment (10 percent of the permanent impairment compensation amount).

The Medicare amount is deducted from the compensation amount payable.

Relevant authorities are not required to pay interest on late payment of permanent impairment compensation. The HOSC Act provides for the suspension of compensation by a compensation payer in this circumstance.

### MORE INFORMATION

For more information about the Medicare compensation recovery process relevant authorities may email [compensation.recovery.policy@servicesaustralia.gov.au](mailto:compensation.recovery.policy@servicesaustralia.gov.au).

For more information about this scheme guidance, relevant authorities may contact Comcare's Scheme Policy and Design team on 1300 366 979 or email [general.enquiries@comcare.gov.au](mailto:general.enquiries@comcare.gov.au).

### Attachments

- > Attachment A—Agreed HOSC Act notification requirements.

# ATTACHMENT A—AGREED NOTIFICATION REQUIREMENTS

SRC Act payment type	Agreed notification requirement
<p>Following an Administrative Appeals Tribunal (AAT) (section 64) decision</p>	<p>Where medical treatment is compensable following an AAT decision the relevant authority must notify Medicare if:</p> <ul style="list-style-type: none"> <li>&gt; liability for injury is accepted (section 14) 6 months after the claim was lodged and medical treatment is compensable (section 16)</li> <li>&gt; liability for medical treatment is reinstated (section 16) 6 months after the date of determination to cease medical treatment.</li> </ul> <p>This is a 'once off' notification requirement and does not apply to ongoing future payments. This is a reimbursement arrangement (section 13 of the HOSC Act).</p> <p>Services Australia is required to recover from the compensation payer any Medicare benefits that may have been paid to the employee.</p> <p>Where permanent impairment (PI) is compensable following an AAT decision the relevant authority must notify Medicare if the PI compensation amount (section 24 and section 27) is \$5000 or more.</p> <p>This is a judgement or settlement (section 23 of the HOSC Act). Services Australia is required to recover from the compensation payer any Medicare benefits that may have been paid to the employee.</p>
<p>Compensation for injury (section 14)</p>	<p>If a relevant authority accepts liability for the compensation claim after six months from the date the employee lodges a claim for compensation the relevant authority <b>must notify</b> Services Australia, where medical treatment is compensable (section 16)</p> <p>This is a 'once off' notification requirement and does not apply to ongoing future payments. This is a reimbursement arrangement (section 13 of the HOSC Act).</p>
<p>Injury resulting in death (section 17) and reimbursement of funeral expenditure (section 18)</p>	<p><b>Not notifiable</b></p>
<p>Medical expenses (section 16)—ongoing payments</p>	<p><b>Not notifiable</b></p>
<p>Medical expenses (section 16)—ceased and later reinstated</p>	<p><b>Notifiable</b></p> <p>Where medical treatment compensation is reinstated six months or more after the date of determination to cease medical treatment.</p>
<p>Weekly incapacity compensation (section 19 to section 22)—ongoing payments</p>	<p><b>Not notifiable</b></p>

SRC Act payment type	Agreed notification requirement
Permanent impairment and non-economic loss lump sum compensation (section 24 and section 27)	<p><b>Notifiable</b></p> <p>PI compensation (section 24 and section 27) is a judgement or settlement under the HOSC Act and relevant authorities <b>must notify</b> Medicare where the PI compensation amount is \$5000 or more.</p>
Interim permanent impairment compensation (section 25)	<p><b>Not notifiable</b></p>
Household services and attendant care (section 29)	<p><b>Not notifiable</b></p>
Redemption of weekly incapacity lump sum (section 30)	<p><b>Not notifiable</b></p>
Rehabilitation costs (section 36 and section 37)	<p><b>Not notifiable</b></p>
Modifications, Aids and Appliances (section 39)	<p><b>Not notifiable</b></p>