



## APPLYING THE CLINICAL FRAMEWORK TO ASSESS THE REASONABLENESS OF MEDICAL TREATMENT

### PURPOSE

- > To provide scheme guidance to claims managers on the application of the Clinical Framework for the Delivery of Health Services (the *Clinical Framework*) principles when considering the reasonableness of medical treatment under **section 16** of the *Safety, Rehabilitation and Compensation Act 1988* (the SRC Act).

### BACKGROUND

- > Once a claim for injury is accepted, a relevant authority<sup>1</sup> is liable to pay compensation of such an amount as it determines is appropriate in respect of medical treatment that was reasonably obtained by an employee under subsection 16(1) of the SRC Act.
- > Claims managers should consider all of the requirements of section 16 of the SRC Act when determining liability for medical treatment. The four essential statutory steps for a claims manager to consider are:
  1. Is the claimed service medical treatment<sup>2</sup>?
  2. If so, was it obtained in relation to the compensable injury?
  3. If so, was the medical treatment reasonable for the employee to have obtained in the circumstances?
  4. If so, what amount of compensation is appropriate to the medical treatment?<sup>3</sup>
- > This scheme guidance is about Step 3—**assessing the reasonableness of medical treatment**.
- > The term 'reasonable' is not defined in the SRC Act. The assessment of what is reasonable is determined on a case-by-case basis.
- > The Clinical Framework is a better practice tool that claims managers may take into account when making evidence-based assessments on the reasonableness, or otherwise, of medical treatment. The Clinical Framework **does not** alter the statutory test of whether medical treatment is reasonable under section 16 under the SRC Act.
- > Claims managers should refer to this guidance when applying the Clinical Framework to assist with assessing the reasonableness of claimed medical treatment.

<sup>1</sup> Relevant authority is defined in subsection 4(1) of the SRC Act. It is defined as either a licensee (in relation to an employee who is employed by a licensee) or Comcare (in relation to any other employee).

<sup>2</sup> Medical treatment is defined in subsection 4(1) of the SRC Act.

<sup>3</sup> [Scheme guidance 301](#) provides claims managers with guidance on the appropriate cost of medical treatment.

## What is the Clinical Framework?

- > The Clinical Framework is a set of guiding principles that outlines expectations for evidence-based clinical practice and the use of objective outcome measures in assessing the treatment of compensable injuries. It is an objective tool by which the clinical justifiability of medical treatment can be assessed<sup>3</sup>.
- > Supported by all state and territory workers' compensation schemes and various peak bodies and associations, the Clinical Framework assists claims managers to work with healthcare professionals in ensuring evidence based, clinically justifiable treatments are provided to injured employees.

## GUIDANCE

### What is 'reasonable'?

- > What is reasonable medical treatment is highly dependent upon the individual facts and the medical evidence before the claims manager in each particular case. The Administrative Appeals Tribunal (the Tribunal) has supported the use of the Clinical Framework as a relevant consideration in determining the reasonableness of medical treatment.
- > Whether or not the treatment is reasonable involves consideration of a number of factors. This includes whether the proposed treatment is
  - clinically justified;
  - provides for monitoring and review of progress and health outcomes; and
  - includes self-management strategies to encourage independence.
- > Whether or not treatment is reasonable also involves a consideration of whether the cost of the treatment outweighs the benefits provided. This includes considering:
  - other treatment options; and
  - whether the treatment is a good value investment toward meeting treatment goals; whilst cost is a consideration under section 16 of the SRC Act, it is not explicitly dealt with in the Clinical Framework.

### Role of the Clinical Framework in decision-making

- > The Clinical Framework can be used by claims managers as a tool in assessing the reasonableness or otherwise of medical treatment. It outlines five guiding principles which claims managers can take into consideration when making such an assessment based on the facts of each case.
- > The five guiding principles are:
  1. Measurement and demonstration of the effectiveness of treatment;
  2. Adoption of a biopsychosocial approach;
  3. Empowering the injured person to manage their injury;
  4. Implementing goals focused on optimising function, participation and return to work; and
  5. Basing treatment on best available research evidence.
- > Claims managers should take into account these principles only as relevant when determining whether medical treatment is reasonable to obtain in the circumstances of each case. Depending on the facts of each case, some principles may or may not be relevant to the question of whether medical treatment is reasonable in specific circumstances. In assessing the personal circumstances of an employee, only those personal circumstances that directly relate to the employee's injury should be taken into consideration<sup>4</sup>.

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<sup>3</sup> In *Evans v Comcare* [2016] AATA 827, the Tribunal agreed that "the Clinical Framework is an appropriate benchmark by which the objective reasonableness of medical treatment can be measured".

<sup>4</sup> *Re Jorgensen and The Commonwealth* [1990] 23 ALD 321

## Applicability of the Clinical Framework

- > The Clinical Framework principles can be used to consider the reasonableness of each claim for medical treatment. However, the principles may be particularly useful where:
  - it is unclear whether the particular treatment is a reasonable treatment for the employee’s medical condition;
  - the provision of treatment(s) does not appear to be providing measurable improvements in the employee’s condition;
  - there appears to be a degree of dependence on the treatment(s) by the employee.
- > The reasonableness of each claim for medical treatment should be assessed on its merits, based on the facts of the matter and the clinical evidence on the claim file.

## HOW TO APPLY THE CLINICAL FRAMEWORK PRINCIPLES WHEN CONSIDERING THE REASONABLENESS OF MEDICAL TREATMENT

### STEP 1: USE THE PRINCIPLES TO ASSESS THE REASONABLENESS OF THE TREATMENT

- > Claims managers should familiarise themselves with the detailed information for each principle found in the Clinical Framework publication.
- > Regard should be given to the specific circumstances of the claim for medical treatment; consideration of all the information in each principle will not always be relevant to the assessment of reasonableness of the treatment for each claim.
- > To assist in considering the Clinical Framework principles, claims managers should work through the questions below:

#### Principle 1: Demonstrate effectiveness<sup>5</sup>

- > Can the treating practitioner demonstrate that the treatment results in a measurable benefit assisting the employee’s return to work and health?
- > Has the treating practitioner provided functional and health related goals relevant to the employee’s injury and how the medical treatment helps achieve that?
- > Are there reliable and valid outcome measures related to the goals of the medical treatment that demonstrate progress or change?

#### Principle 2: Biopsychosocial approach<sup>6</sup>

- > Has the treating practitioner identified and addressed any biological or psychosocial factors likely to result in the treatment goals not being achieved (such as other serious medical conditions, the employee having unhelpful beliefs about their injury, low expectations about return to work, etc.)?

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5 The Tribunal has focused on this principle in a number of matters involving the compensability of therapeutic treatment. In *Topping and Comcare* [2015] AATA 525, the Tribunal held that some object of measurable improvement is necessary to weigh in the scales brought forth by section 16 against the ongoing cost of the treatments. In *Bayani and Australia Post* [2015] AATA 342, the Tribunal found that the physiotherapy treatment over many years had not provided any real benefit and that self-management of the employee’s injury should be tested, in line with the Clinical Framework. The Tribunal noted the need for ongoing household services as an indication that the physiotherapy was having no real benefit.

6 The intent of the biopsychosocial approach is to combine the biological and psychosocial factors into a holistic consideration. Claims managers should exercise caution in applying this principle to the question of whether treatment is reasonable to obtain in the circumstances. The idea of reasonableness involves objectivity. A reference to the circumstances raises subjective factors but these are intended to be related to the nature of the injury, and not to details of the personal life of an applicant (*Re Jorgensen and The Commonwealth* [1990] AATA 129).

## Principle 3: Empowerment<sup>7</sup>

- > How is the proposed treatment approach empowering the employee (through education, expectation setting and/or self-management strategies) to manage their compensable condition independently?<sup>8</sup>

## Principle 4: Goal focused<sup>9</sup>

- > Does the proposed approach have functional and health related treatment goals? Have they been developed in collaboration with, and agreed to by, the employee?
- > Are treatment goals SMART—specific, measurable, achievable, relevant and timed?
- > Is progress towards goal achievement regularly assessed and reset or modified where necessary?

## Principle 5: Evidence based

- > Is the treatment being provided or recommended based on the best available research evidence (e.g. a systematic literature review)?
- > Does research evidence indicate that the treatment is effective and unlikely to cause harm?

## Assessment of reasonableness of treatment

- > If a claims manager is satisfied that the medical treatment has met the requirements of each principle, as relevant to the specific circumstances of the claim, it is more likely to be considered reasonable. If not, the treatment may not be reasonable under section 16 of the SRC Act.

## Additional support

- > An example worksheet with additional questions and considerations is provided at **Attachment A**. The worksheet is designed as a tool to support claims managers in using the Clinical Framework principles to assess the reasonableness of medical treatment.

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7 The Tribunal and Federal Court have found that the risk of dependence inhibiting the ability of an employee to self-manage their injury is relevant, and that self-managed exercise programs may be more reasonable than lengthy periods of treatment that produce only temporary relief. In *Comcare v Holt* [2007] FCA 405, it was noted that there might be circumstances where therapeutic treatment will be unreasonable if alternative treatment is available for potentially similar benefit at a lower cost. In *Oliver and Comcare* [2017] AATA 252, the Tribunal noted that an open-ended program of physiotherapy (that only provide short-term pain relief from the treatment) had made the claimant dependent and discouraged exploration of less costly alternatives. In the circumstances, physiotherapy did not constitute reasonable medical treatment. Principle 3 provides a path to transitioning to treatment options that are more effective.

8 A progressive transition to self-management, which may involve a gradual reduction in treatments, is likely to be more successful.

9 Claims managers should exercise caution in applying this principle to the question of whether treatment is reasonable to obtain in the circumstances. There can be some inconsistency in the focus on setting and achieving goals. Therapeutic treatment does not need to have the objective of curing or remedying an injury; it simply needs to have the purpose of alleviating an injury. There should be some level of monitoring of the treatment to assess whether it is effective in some degree in realising that purpose (see *Comcare v Watson* [1997] FCA 149; 24 AAR 516).

## STEP 2: GATHER MORE INFORMATION WHERE REQUIRED

- > If a claims manager is unsure whether any of the above principles have been met, they may need to obtain additional medical evidence or guidance on treatment options.
- > In the first instance, the claims manager should engage with the treating practitioner providing the treatment and encourage their consideration and application of the Clinical Framework's principles in the provision of medical treatment.
- > If the claims manager is still concerned about the reasonableness of the medical treatment(s), they may consider further options. Claims managers may have in-house injury management support available to provide that guidance, or there may be in-house health professionals available to make peer-to-peer contact with the treating practitioner in this regard.
- > A claims manager may also arrange an examination under section 57 of the SRC Act to seek an opinion on whether particular medical treatments are being provided in line with the Clinical Framework principles. A claims manager should have regard to the individual circumstances of the employee's claim when deciding what specific questions to ask the examining practitioner. The questions should be asked in a way that allows the practitioner to elaborate and provide context and justification for their answer, and the context should relate to the individual circumstances of the employee's claim.
- > Where there are conflicting opinions, the claims manager should make a judgement about which opinion they prefer. A medical opinion may be preferred based on a greater knowledge of the employee's medical condition and the history of the claim or because of the specialist expertise and/or qualifications of the person providing the opinion.
- > Based on all the available information, a claims manager can then make an assessment of whether or not to determine that the medical treatment being provided is reasonable.

## FURTHER INFORMATION

For further information, please contact Comcare's Scheme Policy team on 1300 366 979 or email: [schemepolicyanddesign@comcare.gov.au](mailto:schemepolicyanddesign@comcare.gov.au).

## ATTACHMENTS

- > Attachment A—Clinical Justification Worksheet

# ATTACHMENT A—CLINICAL JUSTIFICATION WORKSHEET

The reasonableness of each claim for medical treatment should be assessed on its merits, based on the facts of the matter and the clinical evidence on the claim file. Claims managers should consider all of the requirements of section 16 of the SRC Act when determining liability for medical treatment.

Step 1			
Once satisfied the proposed treatment is 'medical treatment' for the compensable injury, consider the employee's individual circumstances and the available clinical evidence to assess the reasonableness of treatment against the guiding principles			
Principles	Key Questions	Action required to get to YES	Addressed?
<b>Principle 1</b> <i>Demonstrate effectiveness</i>	<b>Measure and demonstrate effectiveness of treatment</b> <ul style="list-style-type: none"> <li>&gt; Does the treatment focus on relevant aspects of the employee's health status?</li> <li>&gt; Is effectiveness being measured? How?</li> </ul>	Measurement of treatment provides the employee, treatment provider and other decision makers with information on the treatment's efficacy (i.e. status improving, worsening, or not changing).  <b>Is this treatment working or not?</b> If additional evidence is required, ask the most appropriate treatment provider (preferably a treatment provider who is registered with AHPRA ( <a href="http://www.ahpra.gov.au">www.ahpra.gov.au</a> )). If they are not AHPRA registered (e.g. acupuncturist, etc.), <b>ask the GP</b> for clinical justification.	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>Principle 2</b> <i>Biopsychosocial approach</i>	<b>Adopt a biopsychosocial approach</b> <ul style="list-style-type: none"> <li>&gt; Does the treatment provider have strategies to address barriers?</li> </ul>	Has the provider identified risk factors and are they being addressed?  <b>Is the provider aware of all relevant circumstances that may affect the compensable injury?</b>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>Principle 3</b> <i>Empowerment</i>	<b>Empower the employee to manage their injury</b> <ul style="list-style-type: none"> <li>&gt; Is there a move to self-management?</li> <li>&gt; Is the employee involved in goal setting?</li> </ul>	Empower the employee by educating, setting expectations, developing self-management strategies and promoting independence from treatment.  <b>Can you see all of the above within the treatment planning?</b>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>Principle 4</b> <i>Goal focused</i>	<b>Implement goals focused on optimising function, participation and return to work</b> <ul style="list-style-type: none"> <li>&gt; Are goals functional (measurable improvement in physical and/or mental functioning) and SMART?</li> </ul>	Goals should be developed at the beginning of treatment in collaboration with the employee. Progress towards goal achievement should be regularly assessed, with goals reset or modified as necessary.  <b>If the above is NOT addressed, talk to the provider.</b>	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>Principle 5</b> <i>Evidence based</i>	<b>Base treatment on best available research evidence</b> <ul style="list-style-type: none"> <li>&gt; Does the treatment offer best chance of success?</li> <li>&gt; What are the risks? Any other suitable treatments?</li> <li>&gt; Is treatment supported by research evidence?</li> </ul>	Healthcare professionals should use the best available research evidence to inform their recommendations. The proposed treatment should be supported by Level 1 or 2 evidence. NHMRC ( <a href="http://www.nhmrc.gov.au">www.nhmrc.gov.au</a> ) ranks study designs in order of confidence about the treatment's efficacy.	<input type="checkbox"/> YES <input type="checkbox"/> NO
<b>Step 2</b>			
Gather more information where required—seek assistance with 'NO' answers before you make a determination			