

Workers Compensation and Injury Management Act 2023

Implementation proposals for regulations and administrative instruments

Implementation Consultation Paper 13: Approval Framework for Workplace Rehabilitation Providers

October 2023

Public comment on the implementation proposals
should be submitted to:

consultation@workcover.wa.gov.au by **1 December 2023**

All submissions will be publicly accessible unless confidentiality is requested.

For further details on making a submission see:

<https://www.workcover.wa.gov.au/resources/modernising-was-workers-compensation-laws/>

*****Draft proposals only*****

The proposals in this consultation paper are in draft form to facilitate public comment and do not represent the final position of WorkCover WA, the Minister or Government.

Implementation Consultation – Approval Framework for Workplace Rehabilitation Providers

Scope

This document outlines proposed implementation processes and requirements associated with the approval of workplace rehabilitation providers under the *Workers Compensation and Injury Management Act 2023 (WCIMA23)*.

This document does not address proposed regulations associated with prescribed workplace rehabilitation services and when it is reasonably necessary for workplace rehabilitation services to be provided (see *Implementation Consultation – Workplace Rehabilitation Services*).

Background and intent

The *WCIMA23* provides a framework for workplace rehabilitation providers (WRPs) to be approved by WorkCover WA to provide workplace rehabilitation services in the WA workers compensation scheme.

The framework addresses:

- approval criteria and operational conditions, duration of approval and the register of approved workplace rehabilitation providers
- WorkCover WA regulation and oversight.

Impact on existing WRPs

The substance of the WRP approval framework under the *WCIMA23* is similar to the approval framework under the *Workers' Compensation and Injury Management Act 1981* (the 1981 Act).

Prior to the commencement of the *WCIMA23*, WorkCover WA will contact all current WRPs to seek confirmation of their intention to continue as approved workplace rehabilitation providers under the *WCIMA23*.

Approved workplace rehabilitation providers under the 1981 Act may be converted by the *WCIMA23* to an indefinite approval unless WorkCover WA decides otherwise. It is WorkCover WA's intention to convert all existing WRPs (which want to be approved under the *WCIMA23*) to an indefinite period of approval.

Any workplace rehabilitation provider (including existing providers given indefinite approval) will be subject to the *WCIMA23*, regulations, approval criteria, operational conditions, and ministerial fee orders.

Any new WRP approved after the commencement date of the *WCIMA23* will be approved for an initial period of 3 years (after which a decision will be made as to whether to convert to indefinite approval).

WCIMA23 key provisions

s. 173, s. 174, s. 175, s. 176, s. 177, s. 178, s. 94, s. 569.

Approval framework overview

The WRP approval framework comprises:

- Approval criteria
- Operational conditions
- Performance monitoring by WorkCover WA

These components are provided for in the *WCIMA23*, regulations, and WorkCover WA imposed conditions.

Approval criteria

The regulations will specify the criteria that must be satisfied for the grant of approval of a WRP. The proposed approval criteria are set out in [Attachment 1 – Workplace Rehabilitation Providers – Approval Criteria](#).

Under the new framework there is a clear separation between approval criteria and conditions which are fused together in the framework under the 1981 Act. Approval criteria are threshold requirements that must be satisfied initially in order to be considered for approval, and are required to be maintained after approval is granted. Conditions are matters relating to operations and performance that approved WRPS must comply with at all times.

Application forms and instruments of approval will be redesigned consistent with the *WCIMA23*. For existing approved providers a new instrument of approval will be reissued that references the period of approval (indefinite unless WorkCover WA decides otherwise) and the revised criteria, conditions and legislation to which the approval is subject.

Duration of approval

WorkCover WA intends to approve any new WRP for an initial 3-year fixed period after which a decision to convert the fixed term period to indefinite approval will be made. Existing WRPs will be given indefinite approval (if that is sought and confirmed).

Operational conditions

The approval of a WRP is subject to conditions including any conditions imposed by the *WCIMA23*, regulations or by WorkCover WA.

There is no intention to include conditions in regulations at this time, however it is intended the operational conditions at [Attachment 2 – Workplace Rehabilitation Providers – Operational Conditions](#) will be imposed by WorkCover WA.

These conditions are in substance the same conditions that currently apply to WRPs relating to:

- compliance with *WorkCover WA's Workplace Rehabilitation Providers Principles and Standards of Practice*, and *Heads of Workers Compensation Authorities: Principles of Practice for Workplace Rehabilitation Providers*
- compliance with Ministerial fee orders

- participating in annual self-evaluations and audits as required by WorkCover WA to demonstrate compliance with the criteria and conditions of approval, the fees charged for workplace rehabilitation services and compliance with standards
- provision, timing, and accuracy of information provided to WorkCover WA.

Ministerial fee order

The *WCIMA23* imposes a condition that WRPs charge fees in accordance with the Ministerial Fee Order for Workplace Rehabilitation Services.

Consultation on any proposed Ministerial Fee Order will be undertaken in early 2024.

There is no intention at this time to move towards outcome-based models or alternative service delivery models.

Register

WorkCover WA will continue to maintain a register of the names, contact details and other pertinent WRP information and make it available on the WorkCover WA website.

WorkCover WA will allocate an identification number to each approved WRP. WRPs will be required to include this number on reports and correspondence completed after the implementation date.

WorkCover WA expectations

WorkCover WA expects approved WRPs to:

- always maintain the approval criteria and comply with the operational conditions
- deliver workplace rehabilitation services in accordance with the regulations, *WorkCover WA's Rehabilitation Providers Principles and Standards of Practice*, and charge for services in accordance with the Ministerial Fee Order
- participate in any WorkCover WA audit or performance monitoring activities and provide accurate, timely and reliable information.

Evaluation and monitoring

The *WCIMA23* provides for WorkCover WA to conduct performance monitoring and review of WRPs to determine compliance with legislation, regulations, approval criteria, operational conditions, and ministerial fee orders.

Attachments

1. Approved WRPS – Approval Criteria
2. Approved WRPs - Operational Conditions

Attachment 1: Workplace Rehabilitation Providers – Approval Criteria

It is intended the regulations will specify the following criteria that must be satisfied for the grant of approval of a WRP and thereafter maintained.

Workplace rehabilitation provider and consultant

A WRP is the organisation responsible for providing workplace rehabilitation services in accordance with the *WCIMA23*, regulations and conditions of approval. The organisation may be a corporation, partnership, sole-trader or some other type of business with an Australian Business Number (ABN).

A workplace rehabilitation consultant is the individual(s) employed by a WRP to provide services based on the assessed needs of a worker and/or the workplace. The nature of the employment relationship between the WRP and the consultant (e.g. employee or contractor) is immaterial to the requirements of the approval criteria. The WRP must ensure its consultant(s) meet the minimum qualifications, experience and competency standards.

Criteria for grant of approval

The following approval criteria apply to the grant of an approval to a WRP, whether or not it is a new or renewed approval (where a fixed period of approval applies) or the provider was approved under the 1981 Act and taken to be an approved WRP under the *WCIMA23*. The criteria must be satisfied at all times.

A workplace rehabilitation provider must:

1. Have the material, financial and administrative resources WorkCover WA considers sufficient to enable the WRP to provide effective workplace rehabilitation services and comply with the *WCIMA23*, regulations, approval criteria and conditions, and ministerial fee orders applicable to approved workplace rehabilitation providers.
2. Ensure workplace rehabilitation services are delivered by persons (rehabilitation consultants) who hold the minimum qualifications, experience and competency standards (described below) and provide ongoing training, induction and supervision to consultants when required.
3. Include in its management structure at least one person who holds a rehabilitation consultant qualification and who has at least 5 years workplace rehabilitation experience.
4. Have quality systems to ensure outcome and customer focused service delivery.
5. Collect data to undertake analysis and reporting of performance as required by WorkCover WA
6. Cooperate and provide accurate information to WorkCover WA to assist in performance monitoring and compliance activities
7. Meet all relevant state, territory and commonwealth legislative requirements in the operations of the business, including for records management, security privacy and confidentiality.
8. Ensure facilities at all locations where services are delivered provide an accessible and appropriate environment for workers, staff and visitors, and comply with local workplace health and safety legislation.

9. Maintain systems of probity to avoid conflicts of interest and to prevent, manage and report malpractice/fraud.
10. Maintain current insurances including professional indemnity insurance, public liability insurance and workers compensation insurance.
11. Notify WorkCover WA in advance in writing, or as soon as practical, if any of the following situations arise and accept that WorkCover WA will review the status of approval and determine whether the proposed arrangements conform with the approval criteria:
 - a) the business is sold or the controlling interest in the business is taken over by a new shareholder(s), owner(s) or director(s)
 - b) the business changes its trading name or location of premises
 - c) the business supplies or has connections with other suppliers of services within the workers compensation industry
 - d) a new chief executive officer or director or head of management is appointed
 - e) there is a major change in the service delivery model and/or staff which may impact on the delivery of workplace rehabilitation services
 - f) there is any other change that affects, or may affect, the provider's service quality and procedures
 - g) the provider has entered into voluntary financial administration, becomes insolvent or is the subject of bankruptcy proceedings
 - h) there are any professional misconduct proceedings being taken against the provider or any individuals employed or engaged.

Competent and qualified professionals

To meet and maintain competency and professional standards, workplace rehabilitation consultants must:

1. Achieve and maintain an applied knowledge of all conditions and standards of practice relevant to the provision of workplace rehabilitation services, including *WorkCover WA's Workplace Rehabilitation Providers Principles and Standards of Practice*.
2. Have and maintain relevant professional registration/recognition/membership (see below).
3. Operate in an ethical manner, complying with any codes of conduct relevant to their profession, including operating within the limits of the acquired level of expertise.
4. Comply with standards, guidelines and codes relevant to their profession.
5. Achieve and maintain knowledge of workers compensation legislation and scheme policy and principles relating to injury management and return to work.
6. Participate in induction and continuing professional development programs to maintain skills and knowledge in workplace rehabilitation.
7. Have the ability to communicate effectively and collaborate with diverse stakeholders, displaying empathy, resilience and emotional intelligence.

Minimum experience

Workplace rehabilitation consultants will have 12 months or more experience delivering workplace rehabilitation services.

Where provisional workplace rehabilitation consultants have less than 12 months experience delivering workplace rehabilitation services, a comprehensive induction and learning development plan must be completed, including demonstrated professional supervision, for at least 12 months.

Recognised professions and qualifications

The recognised professions and qualifications for workplace rehabilitation consultants are:

- a) a registered health practitioner who is registered to practise one of the following health professions:
 - i. Occupational therapist;
 - ii. Physiotherapist;
 - iii. Psychologist (including provisionally registered psychologists);
 - iv. Medical practitioner;
 - v. Nurse;
 - vi. Chiropractor
- b) a rehabilitation counsellor who holds full membership of the Australian Society of Rehabilitation Counsellors;
- c) a rehabilitation counsellor who holds associate and affiliate membership of the Australian Society of Rehabilitation Counsellors;
- d) a rehabilitation counsellor who holds full membership of the Rehabilitation Counselling Association of Australasia;
- e) an exercise physiologist who is accredited with Exercise and Sports Science Australia;
- f) a social worker who has full membership of the Australian Association of Social Workers;
- g) a speech pathologist accredited with Speech Pathology Australia.

Registered health practitioner means an individual registered to practise a health profession under the Health Practitioner Regulation National Law as in force in the relevant State or Territory, but does not include an individual who holds a non-practising registration under that Law.

Attachment 2: Workplace Rehabilitation Providers – Operational Conditions

It is intended approval as a WRP will be subject to the following operational conditions imposed by WorkCover WA, s. 174(1)(c) of the *WCIMA23*:

Principles and standards of practice

- Compliance with *WorkCover WA's Workplace Rehabilitation Providers Principles and Standards of Practice*, as amended from time to time (the current edition will be updated for consistency with the new approval framework).
- Services are delivered in accordance with *Heads of Workers' Compensation Authorities: Principles of Practice for Workplace Rehabilitation Providers*, September 2019, principles 1-5 (Principles of service delivery). To be published on WorkCover WA website for reference.

Fees and charges

- Fees and charges for workplace rehabilitation services do not exceed the fees and charges fixed by the Ministerial Fee Order and comply with the requirements of the order.

Return to work rate

- A minimum return to work rate is achieved of 85% for cases involving the same employer and/or a minimum return to work rate of 65% for cases involving a new employer.

Performance and review

- Participation in annual self-evaluations and audits as required by WorkCover WA.
- Participation in training with respect to WRP services from time to time as required by WorkCover WA
- Accurate case documentation is maintained and made available to WorkCover WA upon request to demonstrate ongoing compliance with the approval criteria and approval conditions (including compliance with principles and standards of practice) and ministerial fee orders.

Data and interactions with WorkCover WA

- Contact details are up to date.
- Data and information given to WorkCover WA on WRP services and performance is on time and accurate.