

Workers Compensation and Injury Management Act 2023

Implementation proposals for regulations and administrative instruments

Implementation Consultation Paper 24: Fees Order for Medical Services

November 2023

Public comment on the implementation proposals
should be submitted to:

consultation@workcover.wa.gov.au by **12 January 2024**

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 – Fees Order for Medical Services

Scope

This document outlines proposed fees for compensable medical services that WorkCover WA intends to recommend to the Minister for inclusion in a medical expenses fee order on commencement of the *Workers Compensation and Injury Management Act 2023 (WCIMA23)*. This document does not address allied health fees which are covered in a separate consultation paper.

Background and intent

Under the *WCIMA23*, the Minister, on the recommendation of WorkCover WA, may make an order fixing scales of fees and charges for medical services.

If an order is made, the charge for a medical service must be in accordance with the scale of fees and charges fixed by the order.

A fee order has the same status as a regulation under the 1981 Act, but is made by the Minister as an order, rather than a regulation made by the Governor.

The *WCIMA23* also provides for fee orders to adopt provisions of other publications as they relate to medical services and fees.

Prior to the making of a fee order the Minister must seek recommendations from WorkCover WA.

WorkCover WA is consulting stakeholders on the following proposals for inclusion in the fees order for medical services when the *WCIMA23* commences operation (indicative - 1 July 2024):

- align medical fees with the *Australian Medical Association's List of Medical Services (AMA Fees List)* as in force each 1 November, except where otherwise specified for diagnostic imaging services and workers compensation specific items
- adopt AMA billing rules for medical procedures, including the multiple operation rule, to provide greater transparency
- provide for a schedule of non-AMA fees for diagnostic imaging services, and medical practitioner involvement in workers compensation claim and injury management specific services
- provide for automatic indexation of non-AMA fees each 1 November in accordance with WorkCover WA's composite index formula which will be specified in the order.

WCIMA23 key provisions

s. 73 – Medical and health expenses order

Rationale for changes to medical services & fees

The 1981 Act and supporting regulations currently set out a range of compensable medical services and corresponding scales of fees.

The regulated fee schedule was developed in 1998 and comprises consultation items for GPs and specialists, and commonly utilised medical services. The service descriptors in the regulated fee schedule were based on the *AMA Fees List* but the base rates were set against the average private practice rates at the time.

Where a medical service is provided to an injured worker and there is no relevant service listed in the regulated fee schedule, insurers generally assess reasonableness of the medical service with reference to the *AMA Fees List*.

The fee amounts in the regulated fee schedule have been indexed each year on 1 November in accordance with WorkCover WA's composite index. The composite index was developed by the scheme actuary in 2002 and accounts for changes in medical and health practice costs. It is comprised of the following formula:

$$60\% \text{ of WPI} + 30\% \text{ of AMA MFI} + 10\% \text{ of CPI}$$

where:

- WPI = Australian Bureau of Statistics (ABS) Wage Price Index for WA ordinary time earnings all sectors (a measure of WA wage growth)
- AMA MFI = the Australian Medical Association's Medical Fees Index for general practice non-procedural (which underpins AMA fees).
- CPI = Australian Bureau of Statistics Consumer Price Index for all groups excluding housing (a measure of inflation).

The composite index has often delivered annual increases above the AMA MFI during periods of strong wage growth (WPI) in WA. However, in recent years the regulated fees have trended below AMA fees.

Issues identified with the current medical fees framework include:

- The current regulated fee schedule comprises only a minority of medical services listed in the more comprehensive *AMA Fees List*.
- The medical service fees in the regulated schedule are generally below the comparable items in the *AMA Fees List*, due in large part to the base rates initially set.
- It is administratively complex for medical practices, insurers and WorkCover WA to code medical fees and services under a hybrid system of regulated and *AMA Fees List* items (often there are conflicts between descriptors, the inclusion of new items and deletion of obsolete items).
- There are inconsistencies and anomalies in fee items that relate specifically to medical practitioner involvement in workers compensation claims and injury management activities (e.g. charging to review or complete certificates of capacity, injury management reports and other ancillary items such as discussions with employers, visits to workplaces, surgery proposal forms and provision of clinical notes).
- Workers compensation patients are sometimes being charged higher fees for certain surgeries compared to private health patients.
- Lack of transparency around billing for some medical services, including inconsistent or inappropriate use of item codes, and uncertainty about the application and enforceability of AMA billing principles and rules specified in the *AMA Fees List*.

- Increasing utilisation and cost of diagnostic imaging services. In particular, WA has seen an increase in utilisation for Magnetic Resonance Imaging (MRI) scans. These scans come at significant cost with the top 10 most utilised services (9007 in total) costing on average \$1,137.88 per scan for an aggregate total of \$10,248,926. Utilisation of other diagnostic imaging services is also high with 18,843 services at a total cost of \$5,495,710.

Proposed medical services & fees

The *WCIMA23* provides that fees payable for compensable medical and health service expenses will be fixed by Ministerial order on the recommendation of WorkCover WA, rather than by regulations as required under the 1981 Act.

Having considered the sustainability of the WA scheme and informed by perspectives from the AMA (WA), medical specialists, insurers and other jurisdictions over many years the following is proposed for consideration in a Ministerial medical expenses fee order:

- align medical fees with the *Australian Medical Association's List of Medical Services (AMA Fees List)* as in force each 1 November, except where otherwise specified for diagnostic imaging services and workers compensation specific items
- adopt billing rules specified in the *AMA Fees List* for medical procedures, including the multiple operation rule, to provide greater transparency
- provide for a schedule of non-AMA fees for diagnostic imaging services, and medical practitioner involvement in workers compensation claim and injury management specific activities
- provide for automatic indexation of non-AMA fee items each 1 November in accordance with WorkCover WA's composite index formula which will be specified in the fee order.

Details of the proposal are set out below.

AMA Fees List for most compensable medical services

It is proposed the maximum fee for compensable medical services will be fixed by reference to the *AMA Fees List* as in force each 1 November, except where otherwise specified.

This is intended to address AMA concerns around disparities between the regulated fees in the workers compensation scheme and AMA fees, ensure comprehensive coverage of all medical procedures, and ensure consistency with most other workers compensation jurisdictions.

The only services not intended to be set at the AMA rate are diagnostic imaging due to concerns around significant cost increases to the scheme. This is consistent with other jurisdictions where fees set by the regulator apply (see proposal for diagnostic imaging fees below).

Billing rules and requirements

All proposed medical fees are intended as maximum fees and will continue to be GST exclusive.

It is proposed the fee order will specify the following requirements:

- to charge for a medical service, a medical practitioner must have fulfilled the service requirements as specified in the item descriptor in the *AMA Fees List* or the attached schedule of non-AMA workers compensation and injury management services
- medical practitioners must utilise AMA item numbers as specified in the *AMA Fees List* relevant to the type of consultation/service provided

- where a comprehensive item is used, separate items must not be claimed for any of the individual items included in the comprehensive service
- where two or more operations are performed on a patient on the one occasion, the Multiple Operations Rules in the *AMA Fees List* will apply
- invoices for medical services must include all item numbers and fees charged relevant to the service or services provided.

For the avoidance of doubt it is intended the fee order will adopt the billing rules for multiple surgical procedures (multiple operations rule) specified in the *AMA Fees List*. For example, for orthopaedic and hand surgery the following generally applies:

- 100% for item with greatest fee; and
- 75% for each item thereafter.

All other surgeries are intended to be billed as follows:

- 100% for item with greatest fee
- 50% for item with next greatest fee
- 25% for each other item thereafter.

This will ensure there is clarity around billing for all stakeholders and also aligns with other jurisdictions where billing rules are complied with.

Fees for specific workers compensation and injury management services

While there are consultation fees for attendance and treatment of workers there is currently no specific fee for general practitioners and medical specialists when completing certificates of capacity for workers compensation patients, or reviewing return to work programs or otherwise participating in claim and injury management activities.

Under current arrangements certificates of capacity provided by specialists are sometimes billed as part of the consultation fee (where a flat fee applies) or with reference to the case conference rate.

For general practitioners, it is understood an ad hoc arrangement exists where time-based consultations are often extended to reflect the time taken to complete a certificate.

It is proposed there is a schedule of fees for specific services not specified in the *AMA Fees List* relating to medical practitioner involvement in workers compensation claims and injury management activities (See attached schedule 1). These include:

- completing certificates of capacity
- participating in return to work case conferences
- report preparation
- review of return to work programs
- one on one discussions with employers
- visits to work sites
- providing surgery proposal forms
- providing clinical records and notes

It is proposed the rates for general practitioners and medical specialists will be:

- General practitioners: the rate for certificates of capacity will be calculated as part of a time based consultation. This formalises existing, commonly used arrangements (AMA codes AA220 – AA320). The rate for other activities will be calculated relative to the case conference rate of \$32.80 per 6 min block.
- Medical specialists: an initial rate of \$48.65 per 6 min block based on the current case conference rate will apply.

The proposed fees ensure medical practitioners are remunerated appropriately for involvement in the workers compensation and injury management process. The rates are derived from the current case conference rate for medical practitioners and specialists respectively.

On occasion insurers request copies of clinical notes and records, however there is currently no fee available to reimburse the time spent on a request. It is therefore intended a flat rate of \$60 (inclusive of postage and handling) is applied. This rate aligns with fees for similar services in other workers compensation jurisdictions.

Fees for diagnostic imaging

WorkCover WA's current regulated fees for diagnostic imaging services are significantly higher than NSW, SA, QLD and Victoria (although far less than the AMA average fees).

A particular concern is Magnetic Resonance Imaging (MRI) with the top 10 most utilised services (9,007 in total) costing on average \$1,137.88 per scan for an aggregate total cost of \$10,248,926 in 2022/2023. In comparison, the AMA rate for MRIs is either \$1,865 (one region or two contiguous regions of the body) or \$3,730 (three or more contiguous regions or two or more separate regions of the body).

Based on an analysis of 2022/2023 data the estimated additional cost of adopting AMA fees for diagnostic imaging services would be \$9,950,932.

Other jurisdictions have introduced a range of measures to address MRI costs including price capping (NSW) or setting lower fees to begin with (QLD, SA and VIC pay as low as half the WA rate for MRIs). QLD has a two-tiered system where a higher fee (albeit still lower than WA) for MRIs applies when the patient is referred by a specialist and all terms of their MRI service standards (including approval and reporting requirements) are met. All non-complying services are paid at the much lower MBS rate.

Restrictions on other diagnostic imaging services are less common across other jurisdictions although it is noted QLD, SA and VIC rates are significantly lower than WA.

While it is not proposed to include any restrictions on use of MRIs or other diagnostic imaging services it is proposed the fees for diagnostic imaging under the current regulations as at 1 November 2023 as specified in schedule 2 (not the fee in the *AMA Fees List*) be adopted in the fee order under the *WCIMA23*.

Indexation

It is proposed fees for diagnostic imaging and medical practitioner involvement in workers compensation and injury management activities will continue to be indexed each 1 November in accordance with WorkCover WA's Composite Index which has been in place since the early 2000s.

It is proposed the fee order will adopt WorkCover WA's composite index adjustment methodology so that subsequent fees are automatically indexed without the need for a Ministerial fee order each year.

By adopting the composite index formula in the fee order this will automate the annual indexation and will not require a new ministerial fee order to be made each year. Subsequent ministerial fee orders will only be required if new services are added, or existing services are deleted or modified.

WorkCover WA will publish the indexed fees for diagnostic imaging and items for medical practitioner involvement in workers compensation and injury management activities prior to 1 November each year.

Cost impacts

The indicative scheme cost of the medical fee proposal is \$4,077,056 based on differentials between the current scheduled rates and the comparable *AMA Fees List* items for consultations and medical procedures. There is no material change for non-AMA proposed items (diagnostic imaging and workers compensation specific services) as these are based upon the current scheduled rates as at 1 November 2023.

If adopted the cost increases will be factored into recommended premium rates for 2023/2024.

Transition

The proposed medical fees if made by Ministerial order are intended to commence on 1 July 2024.

Application to fees in *AMA Fees List*

It is intended the ministerial fee order will adopt the fees in the edition of the *AMA Fees List* in force on 1 July 2024 for the period 1 July 2024 to 31 October 2024.

From 1 November 2024, and for each subsequent year from 1 November to the following 31 October, it is intended the order will adopt the fees in the edition of the *AMA Fees List* in force on 1 November of that year.

Application to fees in schedule 1 and 2

It is intended the ministerial fee order will adopt the fees in schedule 1 & 2 for the period 1 July 2024 to 31 October 2024.

From 1 November 2024, and for each subsequent year from 1 November to the following 31 October, it is intended the fees listed in schedule 1 & 2 will be adjusted by the percentage variation in the *Composite Index*.

Service codes

Medical and allied health service codes are built into WorkCover WA and insurer systems, and some medical practice software systems.

WorkCover WA will advise stakeholders of service codes for schedule 1 and schedule 2 items prior to implementation.

WorkCover WA expectations

WorkCover WA expects medical practitioners to:

- charge for services in accordance with the ministerial fee order after the commencement date of the *WC/MA23* (1 July 2024 – indicative)
- comply with billing rules and any other requirements specified in the fee order
- use appropriate service codes (Schedule 1 & 2 items) when invoicing for services

Attachments

1. Schedule 1 - Proposed fees for specific workers compensation and injury management services
2. Schedule 2 – Proposed fees for diagnostic imaging

Schedule 1 - Proposed fees for specific workers compensation and injury management services

Item	Description	Item Code	Proposed Fee	
Certificates of Capacity	Issuing a certificate of capacity.	AA220 – AA320	General Practitioners	To be calculated as part of a time-based consultation (AA220 – AA320)
		(TBC)	Medical Specialists	\$48.65 per 6 mins
Return to Work (RTW) Case Conference	Conference arranged by the worker's employer, the employer's insurer or the worker's treating medical practitioner for the purpose of supporting the worker's recovery and enhancing opportunities for the worker's return to work.	WG010	General Practitioners	\$32.80 per 6 mins
		WS010	Medical Specialists	\$48.65 per 6 mins
Reports (to the referring medical practitioner and/or insurer (if requested))	<p>A report may contain the following:</p> <ul style="list-style-type: none"> The worker's diagnosis and present condition An outline of the mechanism of injury The workers' capacity for work (not including a certificate of capacity) The need for treatment or additional rehabilitation Medical co-morbidities that are likely to impact on the management of the worker's condition. <p>Note - not applicable for employer requested information</p>	(TBC)	General Practitioners	\$32.80 per 6 mins
		(TBC)	Medical Specialists	\$48.65 per 6 mins
Review of RTW programs	Review of an injured worker's RTW program.	(TBC)	General Practitioners	\$32.80 per 6 mins
		(TBC)	Medical Specialists	\$48.65 per 6 mins
Discussions with Employers	One-on-one discussions with an employer.	(TBC)	General Practitioners	\$32.80 per 6 mins
		(TBC)	Medical Specialists	\$48.65 per 6 mins
Visits to work sites	Visit to the injured worker's place of work.	(TBC)	General Practitioners	\$32.80 per 6 mins
		(TBC)	Medical Specialists	\$48.65 per 6 mins

Item	Description	Item Code	Proposed Fee
Surgery Proposal Form	Completion of approved Form (approved form TBC)	(TBC)	\$48.65 per 6 mins
Surgery Operation Report	All invoices with surgical items must also include detailed operation report including a description of the initial injury and an outline of the mechanism of injury, time surgery commenced and finished, intra-operative findings and the procedures performed, including structures that were repaired (stating the anatomic location) and technique of repair.	(TBC)	\$48.65 per 6 mins
Clinical Notes and Records	Provision of all requested medical records held by the medical practice) inclusive of postage and handling.	(TBC)	\$60 (flat fee inclusive of postage and handling)

Schedule 2 - Proposed fees for diagnostic imaging

Magnetic Resonance Imaging	MBS #	Proposed Fee
	63000-63200	\$1,188.45
	63201	\$1,782.60
	63204	\$1,782.60
	63219-63243	\$1,782.60
	63271-63473	\$1,188.45
	63491-63494	\$135.90
	63497	\$407.90

Ultrasound					
MBS #	Fee	MBS #	Fee	MBS #	Fee
55028	\$243.80	55246	\$378.60	55718	\$223.35
55029	\$84.55	55248	\$378.60	55721	\$256.95
55030	\$243.80	55252	\$378.60	55723	\$84.90
55031	\$84.55	55274	\$378.60	55725	\$89.40
55032	\$243.80	55276	\$378.60	55729	\$60.90
55033	\$84.55	55278	\$378.60	55736	\$283.60
55036	\$248.50	55280	\$378.60	55739	\$127.25
55037	\$84.55	55282	\$378.60	55759	\$335.15
55038	\$243.80	55284	\$378.60	55762	\$133.90
55039	\$84.55	55292	\$378.60	55764	\$357.40
55048	\$243.80	55294	\$378.60	55766	\$145.10
55049	\$84.55	55296	\$248.10	55768	\$335.15
55054	\$243.80	55600	\$243.80	55770	\$133.90
55070	\$219.45	55603	\$243.80	55772	\$357.40
55073	\$76.05	55700	\$133.90	55774	\$145.10
55076	\$243.80	55703	\$78.25	55812	\$243.80
55079	\$84.55	55704	\$156.40	55814	\$84.55
55084	\$219.45	55705	\$78.25	55844	\$195.10
55085	\$76.05	55706	\$223.35	55846	\$84.55
55118	\$615.35	55707	\$156.40	55848	\$243.80
55130	\$379.90	55708	\$78.25	55850	\$341.45
55135	\$789.90	55709	\$84.90	55852	\$243.80
55238	\$378.60	55712	\$256.95	55854	\$84.55
55244	\$378.60	55715	\$89.40		

Computed tomography – examination and report					
MBS #	Fee	MBS #	Fee	MBS #	Fee
56001	\$400.05	56220	\$492.45	56401	\$512.90
56007	\$512.90	56221	\$492.45	56407	\$738.55
56010	\$517.20	56223	\$492.45	56409	\$512.90
56013	\$512.90	56224	\$720.95	56412	\$738.55
56016	\$594.95	56225	\$720.95	56501	\$789.90
56022	\$461.65	56226	\$720.95	56507	\$984.75
56028	\$691.10	56233	\$492.45	56801	\$957.35
56030	\$461.65	56234	\$720.95	56807	\$1,149.05
56036	\$691.10	56237	\$492.45	57001	\$957.55
56101	\$472.05	56238	\$720.95	57007	\$1,164.85
56107	\$697.75	56301	\$605.30	57201	\$318.35
56219	\$669.35	56307	\$820.50	57341	\$964.35

Diagnostic radiology							
MBS #	Fee	MBS #	Fee	MBS #	Fee	MBS #	Fee
57506	\$70.40	57924	\$111.75	58500	\$83.75	58933	\$487.20
57509	\$94.20	57927	\$117.45	58503	\$111.75	58936	\$464.35
57512	\$96.00	57930	\$78.00	58506	\$144.20	58939	\$330.00
57515	\$127.85	57933	\$185.40	58509	\$94.20	59103	\$50.55
57518	\$76.85	57939	\$152.75	58521	\$102.80	59300	\$212.10
57521	\$102.80	57942	\$117.45	58524	\$133.85	59303	\$127.75
57524	\$117.10	57945	\$102.80	58527	\$164.35	59312	\$206.15
57527	\$155.90	57960	\$112.40	58700	\$109.30	59314	\$124.30
57700	\$96.00	57963	\$112.40	58706	\$374.05	59318	\$111.50
57703	\$127.85	57966	\$112.40	58715	\$359.10	59700	\$228.75
57706	\$76.85	57969	\$112.40	58718	\$299.00	59703	\$179.95
57709	\$102.80	58100	\$159.00	58721	\$327.60	59712	\$269.40
57712	\$111.75	58103	\$130.55	58900	\$84.55	59715	\$340.15
57715	\$144.45	58106	\$182.40	58903	\$112.70	59718	\$319.05
57721	\$235.15	58108	\$314.80	58909	\$213.00	59724	\$536.65
57901	\$152.75	58109	\$111.45	58912	\$261.25	59733	\$255.15
57902	\$152.75	58112	\$230.45	58915	\$187.00	58933	\$487.20
57915	\$111.75	58115	\$314.80	58916	\$328.15	58936	\$464.35
57918	\$111.75	58300	\$95.05	58921	\$320.50	58939	\$330.00
57921	\$111.75	58306	\$211.65	58927	\$181.10	59103	\$50.55

Diagnostic radiology					
MBS #	Fee	MBS #	Fee	MBS #	Fee
59300	\$212.10	60000	\$1,336.40	60051	\$1,959.90
59303	\$127.75	60003	\$1,959.90	60054	\$2,786.65
59312	\$206.15	60006	\$2,786.65	60057	\$3,261.15
59314	\$124.30	60009	\$3,261.15	60060	\$1,336.40
59318	\$111.50	60012	\$1,336.40	60063	\$1,959.90
59700	\$228.75	60015	\$1,959.90	60066	\$2,786.65
59703	\$179.95	60018	\$2,786.65	60069	\$3,261.15
59712	\$269.40	60021	\$3,261.15	60072	\$114.15
59715	\$340.15	60024	\$1,336.40	60075	\$227.75
59718	\$319.05	60027	\$1,959.90	60078	\$341.65
59724	\$536.65	60030	\$2,786.65	60500	\$102.80
59733	\$255.15	60033	\$3,261.15	60503	\$70.40
59739	\$175.00	60036	\$1,336.40	60506	\$151.20
59751	\$329.70	60039	\$1,959.90	60509	\$234.30
59754	\$519.70	60042	\$2,786.65	60918	\$111.75
59763	\$317.30	60045	\$3,261.15	60927	\$90.25
59970	\$398.85	60048	\$1,336.40	61109	\$613.45

Nuclear medicine imaging					
MBS #	Fee	MBS #	Fee	MBS #	Fee
61310	\$670.30	61384	\$1,255.05	61441	\$893.70
61313	\$553.70	61386	\$606.90	61442	\$1,373.10
61314	\$766.45	61387	\$786.20	61445	\$523.35
61328	\$415.50	61389	\$676.25	61446	\$608.85
61340	\$461.75	61390	\$748.25	61449	\$832.50
61348	\$809.20	61393	\$1,105.05	61450	\$725.50
61353	\$705.45	61397	\$450.45	61453	\$939.35
61356	\$716.85	61402	\$1,104.25	61454	\$635.20
61360	\$736.20	61409	\$1,594.30	61457	\$858.55
61361	\$842.15	61413	\$412.30	61461	\$963.20
61364	\$907.05	61421	\$875.65	61462	\$237.80
61368	\$407.25	61425	\$1,096.30	61469	\$635.20
61369	\$3,678.75	61426	\$1,012.50	61473	\$320.05
61372	\$407.25	61429	\$990.95	61480	\$706.10
61373	\$893.70	61430	\$1,203.55	61485	\$1,823.60
61376	\$261.65	61433	\$907.05	61495	\$407.25
61381	\$1,048.15	61434	\$1,123.10	61499	\$461.75
61383	\$1,140.40	61438	\$1,228.20		