

## **SUBMISSION ON BEHALF OF AUSTRALIAN ORTHOPAEDIC ASSOCIATION OF WESTERN AUSTRALIA (AOAWA) MEMBERS**

SUBMISSION FOR COMMENT – IMPLEMENTATION CONSULTATION PAPER 24 - FEES ORDER FOR MEDICAL SERVICES NOVEMBER 2023

Dear Manager Policy and Legislative Services,

Lodged 11<sup>th</sup> January, 2024 via email to [consultation@workcover.wa.gov.au](mailto:consultation@workcover.wa.gov.au)

Thank you for accepting the AOAWA submission regarding the Consultation Paper 24.

The Australian Orthopaedic Association of Western Australia is the professional body representing Orthopaedic Surgeons in Western Australia.

Historically, WorkCover WA has overseen a robust workers' compensation scheme. There has been significant change in the Workers Compensation landscape in the last ten years with considerable effort by the Orthopaedic community in Western Australia to increase transparency and provide additional clarity for insurers. Notably, the surgeon group in Western Australia has relinquished substantial ground in support of these initiatives. There has been additional work by surgeons and their staff without imposing further cost for the insurance companies in the provision of item numbers and quotes, organising the OSCARP panel, and additional reviews prior to surgery authority.

Previously, submissions for surgeries sent to insurers were provided retrospectively, with a full 100% remuneration for all item numbers and an implicit adherence to the AMA fee schedule. However, recent developments have witnessed a gradual push for a reduction in remuneration for surgeons. This shift has inevitably resulted in an increased workload for surgeons and their teams, coupled with a decrease in remuneration for those performing Workers Compensation surgeries.

We, the AOAWA, would like to highlight serious concerns regarding the proposed changes which are likely to impact patients managed through the Workers Compensation scheme and on injury management overall. We foresee that the proposed changes will result in a significant change in the workers compensation landscape which will likely result in the bulk of workers compensation patients being managed through the public health system. This will be to the detriment of both the workers compensation patient, and the public health patient.

AOAWA comments on the “Stated Aims of the Consultation Paper”:

WorkCover WA is consulting stakeholders on the following proposals for inclusion in the fees order for medical services when the *WC/IMA23* 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

Comment:

We agree that this system has been in place for many years now and represents for the time being a suitable alternative to WorkCover WA instituting its own schedule of fees: a Workcover WA scheme of fees would naturally require significant work and ongoing administration on behalf of WorkCover WA. It is important to note, however, that the AMA fees for clinical services are not commercially viable and the bulk of Orthopaedic Surgeons charge above the AMA rate for clinical fees for private patients. It is also important to clarify that the AMA fees list is not and never was intended to be a surrogate for a Workers compensation schedule of fees.

- adopt AMA billing rules for medical procedures, including the multiple operation rule, to provide greater transparency

Comment:

This is a significantly problematic issue for surgeons. Implementing the multiple operation rule does not enhance transparency; rather, it seems to serve as a means to diminish remuneration for surgeons' efforts. Managing injuries of workers' compensation patients involves numerous complexities, and historically, the non-application of the multiple operation rule was considered essential to adequately remunerate surgery in this patient group. This served to compensate surgeons for the additional time, thoughtful consideration, and work involved in handling workers' compensation cases. Anticipated consequences of adopting the multiple procedure rule include substantial disruptions in the workers' compensation scheme, leading to a cascade of effects, such as a notable increase in the number of workers' compensation patients being directed to the public health system.

- 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.

Comment:

This issue stands as a significant concern for surgeons. The fees suggested for consultation, documentation, and certification are deemed inadequate. Assigning a value to a surgeon's time is inherently challenging, as each individual has the right to determine that value. Proposing a valuation of approximately \$490 per hour for the non-clinical task of providing paperwork to WorkCover is commercially unviable. Sustaining a small business on such income becomes impractical when factoring in the costs associated with employees, running private consulting rooms, and document production. Surgeons would prefer to allocate their time to consulting with new privately insured patients or performing surgeries.

- 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.

Comment:

Provided there is room for a future review of these fees, it is deemed reasonable to conduct a thorough assessment, ideally at the five-year mark post the institution of the indexation. Such a review should encompass an evaluation of the merits of the indexation scheme. The fact that this marks the first review since 2002 appears somewhat incongruent with the anticipated enhancement in 'transparency.' From the AOAWA's perspective, conducting reviews every five years would be a more 'transparent' approach. This would allow for adjustments by WorkCover WA, insurers, and surgeon stakeholders in the short to medium term, as opposed to prolonging changes to the long term

AOAWA comments on the [Proposed medical services & fees](#):

We are uncertain about the extent of consultation implied by the paragraph that mentions, 'Having considered the sustainability of the WA scheme and informed by perspectives from the AMA (WA), medical specialists, insurers, and other jurisdictions.' It would be enlightening to know the specific individuals at the AMA (WA) and the medical specialists who provided insights regarding the application of medical fees. As far as our knowledge extends, there has been no formal consultation with the AMA (WA) concerning the application of the AMA schedule of fees to the WorkCover Scheme. If you could kindly furnish details regarding these 'perspectives,' it would be greatly appreciated.

[AMA Fees List for most compensable medical services](#)

#### [Billing rules and requirements](#)

We disagree with the assertion, 'This will ensure there is clarity around billing for all stakeholders and also aligns with other jurisdictions where billing rules are complied with.' Full disclosure of item numbers and their corresponding percentage values has been adhered to for over five years in accordance with Workcover regulations. The implementation of the multiple item number rule does not enhance clarity in billing; instead, it serves as a method to diminish the value of surgical remuneration under the guise of improving 'transparency' and 'clarity.' More accurate terms for this approach would be 'surgical fee reduction' or 'surgical fee cut.' We oppose the utilisation of the multiple operation rule, as detailed above, as it is likely to prompt a significant number of Orthopaedic Surgeons in Western Australia to opt out of treating workers' compensation patients.

#### [Fees for specific workers compensation and injury management services](#)

As highlighted earlier, the suggested fees for consultation, documentation, and certification fall significantly short. At the currently proposed remuneration rate, it is anticipated that clinic appointments and the preparation of documentation would result in a financial burden on the surgeon, factoring in the operational costs of running a private practice.

Comparable professions appropriately charge a much higher hourly rate than what is currently proposed.

Additionally, another overlooked expense for the surgeon, not accounted for by Workcover, is the lack of reimbursement for patient non-attendance. Currently, there is no recourse for a surgeon's lost opportunity when patients fail to attend their appointments. We strongly recommend the introduction of a non-attendance fee to address this issue.

To Summarise:

- 1) We oppose the application of the multiple operation rule.
- 2) We recommend a revision of the rate of remuneration for administrative work.
- 3) We recommend the introduction of a non-attendance fee.
- 4) We recommend the use of the phrase "surgical fee reduction" rather than "transparency" or "clarity" when discussions are held regarding the implementation of the multiple operation rule.
- 5) We ask for clarification regarding the quoted consultation of the Australian Medical Association WA and medical specialists.

We appreciate your attention to our submission. From the perspective of AOAWA, it is crucial that these concerns are addressed before implementation. Failure to do so would result in a substantial transfer of the surgical management of Workers' Compensation patients to the public healthcare system, negatively impacting patients and paradoxically leading to increased costs for insurance companies. This shift may contribute to prolonged return-to-work times for patients and hinder overall patient recovery.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Keogh', with a large, stylized initial 'A'.

Angus Keogh, AOAWA Secretary and Treasurer on behalf of the AOAWA.