



SISA Forum – August 2020

*A regulatory program update
COVID-19 response and a significant cases update*

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COVID-19 Response

- **Self-Insured Fee Relief**

- Private: 2020-21 rate (maintained at 2019-20 rate of 4.3%) Crown: 2020-21 rate (maintained at 2019-20 rate of 3.7%)
- Job Keeper Program will NOT be considered remuneration for calculation of 2020-21 premium
- Aged Care Retention Bonus will NOT be considered remuneration for 2019-20 or 2020-21



COVID-19 Response

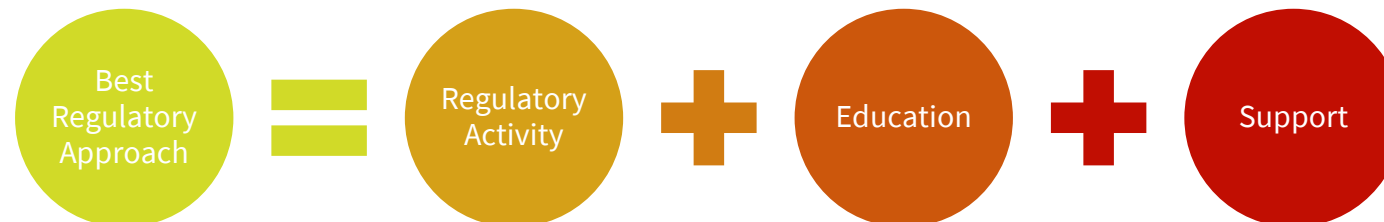
- **Self-Insured Evaluation and Partnership**
 - Alternative arrangements including:
 - Short-term renewals of one year
 - Compliance activities completed remotely
 - Postponement where necessary



Regulatory Program – *Private Self-Insured*

Systematic review of our Regulatory Framework

- Reduce regulatory burden
- Equitable compliance tools and performance standards across self-insurers
- Enhance guidance documents
- Efficient and effective delivery of partnering activities



Regulatory Program – *Private Self-Insured*

Review Outcomes

- ✓ Release of Self-insured Registration and Evaluation Practice Guideline
- ✓ Terms & Conditions of registration – consistent application
- ✓ Self-Assessments (revoked)
- ✓ ISO 45001 – review undertaken

Pending: 2020 Review of Partnering Activity Services



Regulatory Program – *Crown Self-Insured*

Injury Management

- 2019 Audit (8 Focus Areas) – Reporting & Compensability, RRTW, Suitable Employment, Entitlements, Service Standards, Lump Sum, Reviewable Decisions, Serious Injury Management

2019 Audit Outcomes

- systems are adequately maintained to administer powers and discretions delegated under the *Return to Work Act 2014*
- Reported annually to the Treasurer and Cabinet

Injury Prevention

- Verified Self Assessment & Whole of Sector Risk Based Audits
- Partnership with Office of the Commissioner for Public Sector Employment (compliance monitoring)



Recent significant decisions



RTWSA v Cooper
[2020] SAET 117

“The trial judge was obliged to deal with Dr Suyapto’s evidence. Had she done so, she may well have come to the conclusion that Mr Cooper’s knee and lower back impairments were not from the same injury or cause.”



***RTWSA v
Summerfield
[2020] SAET 106***

“The impairment sought to be combined did not arise from the *same injury*, but did arise from the *same cause*.

That conclusion was open having regard to the language of s 22(8)(c), and unsurprising in light of the consequential injury illustration given in *Preedy*.”



RTWSA v Opie
[2020] SAET 62

“In the present case there are at least two ways in which the degree of WPI that applies to the work injury of 17 January 2014 could be assessed.”

“The Deputy President was in error in not recognising the alternative method of assessment and in failing to apply Chapter 1.38 of the IAG.”



***Soldi v
Wesfarmers &
RTWSA (no.2)
[2020] SAET 90***

“It is only once a decision to proceed with surgery is made that it can be reliably determined that the surgery sought to be undertaken is the result of the work injury.

If that question is answered before the surgery is to take place, indeed many years before, and if other incidents or injuries occur in the meantime, an earlier answer to the question may be unreliable.”



Walker v RTWSA
[2020] SASCF 55

“The impairment for which the appellant seeks compensation, being his difficulties with mastication, is not “in relation to” a psychiatric impairment but “in relation to” a physical impairment being his TMJ dysfunction.

Thus, section 43(5) does not operate to preclude the payment of lump sum compensation for non-economic loss attributable to that impairment.”



McPhail v RTWSA
[2020] SAET 53

“The context of a ‘carve out’ of surgery in s 33(21)(b)(ii) is one of deferral, seemingly inconsistent with it encompassing temporary and repeated pain relieving procedures undertaken in the hope of deferring or avoiding the need for what would unarguably be surgical procedures.”

