

**WORKERS COMPENSATION (MEDICAL PRACTITIONER FEES)
ORDER 2021 No.2**

under the

Workers Compensation Act 1987

I, Adam Dent, Chief Executive, State Insurance Regulatory Authority, make the following Order pursuant to section 61(2) of the *Workers Compensation Act 1987*.

Dated this 22nd day of November 2021



Adam Dent
Chief Executive
State Insurance Regulatory Authority

Explanatory Note

Treatment by a Medical Practitioner is medical or related treatment covered under the *Workers Compensation Act 1987*. This Order sets the maximum fees for which an employer is liable under the Act for any medical or related treatment provided to a NSW worker. The fee for the treatment or service must not exceed the maximum fee for the treatment or service as specified in this Order. Workers are not liable for the cost of any medical or related treatment covered by this Order. The effect of this Order is to prevent a Medical Practitioner from recovering from the worker or employer any extra charge for treatments covered by this Order.

Under section 60(2A)(a) of the *Workers Compensation Act 1987*, medical or related treatment requires prior insurer approval unless treatment is provided within 48 hours of the injury happening or treatment is exempt from pre-approval under the *Workers Compensation Act 1987* or the State Insurance Regulatory Authority's *Workers Compensation Guidelines* in effect at the time.

This Order adopts the *List of Medical Services and Fees* issued by the Australian Medical Association (AMA), except where specified in this Order. To bill an AMA item, a Medical Practitioner must have fulfilled the service requirements as specified in the item descriptor. Medical Specialists must utilise AMA item numbers relevant to the type of consultation/service provided (e.g. a dually qualified Pain medicine specialist/anaesthetist cannot bill time based anaesthetic item numbers where pain medicine consultations/services apply; etc). Where a comprehensive item is used, separate items cannot be claimed for any of the individual items included in the comprehensive service.

The incorrect use of any item referred to in this Order can result in penalties, including the Medical Practitioner being required to repay monies that the Medical Practitioner has incorrectly received.

Consulting Surgeons should also refer to the *Workers Compensation (Surgeon Fees) Order* or, if an Orthopaedic Surgeon, the *Workers Compensation (Orthopaedic Surgeon Fees) Order*.

Workers Compensation (Medical Practitioner Fees) Order 2021 No.2

1. Name of Order

This Order is the *Workers Compensation (Medical Practitioner Fees) Order 2021 No.2*.

2. Commencement

This Order commences on 1 December 2021.

3. Definitions

In this Order:

the Act means the *Workers Compensation Act 1987*.

the Authority means the State Insurance Regulatory Authority as constituted under section 17 of the *State Insurance and Care Governance Act 2015*.

Aftercare visits are covered by the surgical procedure fee during the first six weeks following the date of surgery or until wound healing has occurred. Unrelated visits or incidental reasons for visits that are not regarded as routine aftercare must be explained with accounts rendered.

AMA List means the document entitled *List of Medical Services and Fees* as amended or replaced, from time to time, published by the Australian Medical Association, that is the current edition on the AMA website at the date of service delivery.

Assistance at Operation means assistance provided by a Medical Practitioner, but only where an assistant's fee is allowed for in the Commonwealth Medical Benefits Schedule (MBS). An assistant fee may only be applicable for surgical procedures EA015 – MY330 and MZ731 to MZ871.

Assistance at Operation is only payable once per eligible item number performed by the principal Surgeon/Medical Practitioner irrespective of the number of Medical Practitioners providing Assistance at Operation.

Note: *Assistance at Operation* fees are not payable to health practitioners who are not a Medical Practitioner e.g. perioperative nurses.

In accordance with NSW Health policy directive *Employment Arrangements for Medical Officers in the NSW Public Health Service (Doc No: PD2019_027)*, Assistance at Operation fees cannot be charged for workers compensation cases performed in a public hospital when the assistant is a resident medical officer or registrar. If a resident medical officer or registrar is on rotation to an accredited private hospital, the relevant Assistance at Operation fee may be charged. Payment of these fees are to be directed into a hospital or departmental trust fund account and the invoice should include details of this account. The Authority reserves the

right to conduct an audit of Assistance at Operation fee payments to ensure their proper distribution into the named trust fund.

Case conference means a face-to-face meeting, video conference or teleconference with any or all of the following parties – worker (including a support person, if requested by the worker), employer, workplace rehabilitation provider, insurer or other treatment practitioner/s delivering services to the worker. Discussion must seek to clarify the worker's capacity for work, barriers to return to work and strategies to overcome these barriers via an open forum to ensure parties are aligned with respect to expectations and direction of the worker's recovery at work/return to suitable employment. If the discussion you have is with the worker and their chosen support person, it must include another third party to be considered a Case conference. Discussions between the worker's nominated treating doctor and other treating practitioners (e.g. allied health practitioners, medical specialists/surgeons) relating to treatment are considered a normal interaction between referring doctor and practitioner. This is not to be charged as a Case conference.

File notes of Case conferences are to be documented in the Medical Practitioner's records indicating the person/s spoken to, details of discussions, duration of the discussion and outcomes. This information may be required for invoicing purposes.

Consulting Surgeon means a Medical Practitioner who is recognised by the Medical Board of Australia or by Medicare Australia as a Specialist Surgeon or Specialist in orthopaedic surgery and who is registered with the Australian Health Practitioner Regulation Authority as a Specialist in surgery in their chosen field. It also includes a Surgeon or Orthopaedic Surgeon who is a staff member at a public hospital providing services at that public hospital. In accordance with section 60(2A)(d) of the Act, the employer will not be liable for the treatment provided if the treatment or service is provided by a Medical Practitioner who is suspended or disqualified from practice under any relevant law or the Medical Practitioner's registration is limited or subject to any condition imposed as a result of a disciplinary process.

General Practitioner is a Medical Practitioner and has the meaning given by subsection 3(1) of the *Health Insurance Act 1973 (Cth)*. In accordance with section 60(2A)(d) of the Act, the employer will not be liable for the treatment provided if the treatment or service is provided by a Medical Practitioner who is suspended or disqualified from practice under any relevant law or the Medical Practitioner's registration is limited or subject to any condition imposed as a result of a disciplinary process.

GST means the Goods and Services Tax payable under the GST Law.

GST Law has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Insurer means the employer's workers compensation insurer.

Medical Practitioner means a person registered in the medical profession under the *Health Practitioner Regulation National Law (NSW) No.86a*, or equivalent in their jurisdiction with the Australian Health Practitioner Regulation Agency. In

accordance with section 60(2A)(d) of the Act, the employer will not be liable for the treatment provided if the treatment or service is provided by a Medical Practitioner who is suspended or disqualified from practice under any relevant law or the Medical Practitioner's registration is limited or subject to any condition imposed as a result of a disciplinary process.

Medical Specialist means a Medical Practitioner recognised as a specialist in accordance with the *Health Insurance Regulations 2018 (Cth)*, Part 2, Division 4, who is remunerated at specialist rates under Medicare. In accordance with section 60(2A)(d) of the Act, the employer will not be liable for the treatment provided if the treatment or service is provided by a Medical Practitioner who is suspended or disqualified from practice under any relevant law or the Medical Practitioner's registration is limited or subject to any condition imposed as a result of a disciplinary process.

Multiple operations or injuries refer to situations that require two or more operations or for the treatment of two or more injuries carried out at the same time. It applies to the AMA items EA015 to MY330 and MZ731 to MZ871, with the exception of items specifically listed as a multiple procedure item in the AMA List, or where Schedules in the *Workers Compensation (Orthopaedic Surgeon Fees) Order* or *Workers Compensation (Surgeon Fees) Order* prevent combining of items.

Out-of-hours services only apply in an emergency where the clinic is not normally open at that time, and urgent treatment is provided. This fee is not to be utilised in the situation where a consultation is conducted within the advertised hours of a clinic.

Telehealth means delivery of consultations via video or telephone by a Medical Practitioner. Consultations would be inclusive of any electronic communication to support the delivery of the consultation service. Medical Practitioners must consider the appropriateness of this mode of service delivery for each worker on a case-by-case basis and be satisfied worker outcomes are not compromised. Telehealth consultations must be consented to by the worker. Medical Practitioners are responsible for delivering Telehealth consultations in accordance with the principles of professional conduct and the relevant professional and practice guidelines to ensure that all care is taken to ensure the safety, appropriateness and effectiveness of the service. Telehealth consultations are to be paid in accordance with this Order (noting those items specifically excluded in Clause 7 of this Order). Medical Practitioners are to bill for Telehealth consultations using the same AMA List item number normally billed for a face to face consultation, with the addition of a 'T' as a suffix to the item number e.g. AA020T (Level B consultation delivered via telehealth) versus AA020 (Level B consultation delivered face to face). The fee payable remains the same. No additional fee (e.g. facility fees) can be charged in relation to the consultation.

Workers Compensation (Orthopaedic Surgeon Fees) Order means the *Workers Compensation (Orthopaedic Surgeon Fees) Order* in force on the date the service is provided.

Workers Compensation (Surgeon Fees) Order means the *Workers Compensation (Surgeon Fees) Order* in force on the date the service is provided.

Workplace Injury Management and Workers Compensation (Medical Examinations and Reports Fees) Order means the *Workplace Injury*

Management and Workers Compensation (Medical Examinations and Reports Fees) Order in force on the date the service is provided.

4. Application of Order

This Order applies to treatment provided on or after the commencement date of this Order, whether it relates to an injury received before, on, or after that date.

5. Maximum fees for Medical Practitioners

(1) This clause applies to medical and related treatment provided by a Medical Practitioner in respect of which a fee is specified in the AMA List, except:

- Medical services identified in the AMA List by AMA numbers AC500/AC500T, AC510/AC510T, AC520, AC530, AC600/AC600T and AC610/AC610T (Professional Attendances by a Specialist), if these medical services are provided by a Specialist Surgeon;
- Medical services identified in the AMA List by AMA Numbers EA015 to MZ871 (Surgical Operations) if these medical services are provided by a Specialist Surgeon;
- Medical services identified in the AMA List by AMA Number MZ900 (Assistance at Operation fee);
- Medical services identified in the AMA List by AMA numbers OP200 and OP210 (magnetic resonance imaging – MRI).

(2) The maximum amount payable for magnetic resonance imaging (MRI) is:

- OP200 - \$700 for one region of the body or two contiguous regions of the body
- OP210 - \$1050 for three or more contiguous regions of the body, or two or more entirely **separate** regions of the body (e.g. wrist and ankle).

(3) The maximum amount payable for a certificate of capacity is \$48.40. This fee is payable only once per claim for completion of the initial certificate of capacity and is invoiced under payment classification code **WCO001**.

(4) A General Practitioner, Medical Specialist and Consulting Surgeon may be remunerated for time spent in addition to the usual medical management to assist a worker recover at/return to work. This time may include discussions with employers, Case conferences, visits to work sites, time spent reviewing injury management or recovery at/return to work plans and providing additional reports (where pre-approved by the insurer).

The time taken for these services must be billed under payment classification code **WCO002** (with the exception of some reports – see explanation below) and reflect the time taken (to the nearest 5 minutes) to deliver the service.

The following maximum hourly rates are payable:

- General Practitioner: \$296.40 or \$24.70 per 5 minutes
- Medical Specialist: \$411.60 or \$34.30 per 5 minutes
- Consulting Surgeon: \$543.60 or \$45.30 per 5 minutes.

Note: No fee is payable for liaising with other health providers involved in the treatment of the worker (e.g. Medical Specialists/Surgeons, allied health practitioners) unless the communication is additional to that required for the management of patients with comparable injuries/conditions that are not work related.

Where a report is requested regarding the management of a worker's injury and is additional to any report routinely provided as part of a specialist consultation (refer to clause 6 'Specialist consultations' below) it should be billed under **WCO002** at the above 5-minute pro-rata rates to reflect the time taken to prepare the report. These reports may answer questions to assist the insurer determine prognosis for recovery and timeframes for returning to work. The medical practitioner requires pre-approval from the insurer for provision of these reports.

If the report is requested as part of a current or potential dispute (for example, when there is lack of agreement regarding liability, causation, capacity for work or treatment between key parties) and the treating Medical Practitioner is requested to provide their opinion, the *Workplace Injury Management and Workers Compensation (Medical Examinations and Reports Fees) Order* applies.

- (5) Where medical records are maintained electronically by a Medical Practitioner/practice a flat fee of \$60 is payable (for provision of all requested medical records held by the medical practice) inclusive of postage and handling. A Medical Practitioner/practice should not provide or bill for hard copy medical records if they are maintained electronically.

Where medical records are not maintained electronically the maximum fee for providing hard copies of medical records is \$38 (for 33 pages or less) and an additional \$1.40 per page if more than 33 pages. This fee is inclusive of postage and handling.

Provision of electronic or hard copy medical records is to be billed under State Insurance Regulatory Authority payment classification code **WCO005**.

Where a Medical Practitioner has been requested to provide medical records and the doctor needs to review the records prior to provision (to redact non-work-related injury information), the time taken to review the records is to be billed under **WCO002** at the pro-rata rates specified above at 5(4). This fee can be billed in addition to the fees stated above for provision of medical records by hard copy or electronically.

- (6) Fees for Assistance at Operation are calculated at 20% of the principal Surgeon/Medical Practitioner's fee for the surgical procedure/s performed, but only those surgical procedure/s where an assistance fee is allowed for in the MBS, or \$393.20, whichever is the greater. Assistance at Operation is only payable once per eligible item number performed by the principal Surgeon irrespective of the number of Medical Practitioners providing Assistance at Operation.
- (7) Telehealth consultations are to be paid in accordance with this Order (noting those items specifically excluded in Clause 7 of this Order). Medical Practitioners are to bill for Telehealth consultations using the same AMA Fees List item number normally billed for a face-to-face consultation, with the addition of a 'T' as a suffix to the item number e.g. AA020T (Level B consultation delivered via telehealth) versus AA020 (Level B consultation

delivered face to face). The fee payable remains the same. No additional fee (e.g. facility fees) can be charged in relation to the consultation.

(8) Fees for Multiple operations or injuries are to be paid in accordance with the AMA List '*Multiple Operations Rule*' with the exception of:

- items specifically listed as a multiple procedure item in the AMA List or where Schedules in the *Workers Compensation (Surgeon Fees) Order* or the *Workers Compensation (Orthopaedic Surgeon Fees) Order* prevent combining of items.
- Medical Practitioners who meet the definition of Surgeon or Orthopaedic surgeon as defined in the *Workers Compensation (Surgeons Fees) Order* or *Workers Compensation (Orthopaedic Surgeons Fees) Order* are to be paid in accordance with the provisions specified in the *Workers Compensation (Surgeon Fees) Order* or, if an Orthopaedic Surgeon, the *Workers Compensation (Orthopaedic Surgeon Fees) Order*.

(9) Subject to subclauses (1), (2), (3), (4), (5), (6), (7), (8) and clause 7 (Nil fee for certain medical services) and clause 8 (Nil payment for cancellation or non-attendance) of this Order, the maximum amount for which an employer is liable under the Act for any claim for medical or related treatment is the fee listed, in respect of the medical or related treatment concerned, in the AMA List.

6. Specialist consultations

The initial Medical Specialist/Consulting Surgeon consultation fee includes the first consultation, the report to the referring Medical Practitioner and copy of the report to the insurer.

The report will contain:

- The worker's diagnosis and present condition;
- An outline of the mechanism of injury;
- The worker's capacity for work;
- The need for treatment or additional rehabilitation; and
- Medical co-morbidities that are likely to impact on the management of the worker's condition (subject to relevant privacy considerations).

A subsequent Medical Specialist/Consulting Surgeon consultation fee includes a consultation with a Medical Specialist/Consulting Surgeon subsequent to the first in a single course of treatment, the report from the subsequent consultation to the referring Medical Practitioner and copy of the report to the insurer.

A subsequent consultation fee is not to be billed if conducted on the same day as surgery or in the normal aftercare that applies following surgery. The cost of these consultations is included in the fee for the surgical procedure.

Consultations with Medical Specialists/Consultant Surgeons require prior approval by the insurer, unless exempt from pre-approval by the Act or the Authority's *Workers Compensation Guidelines*.

7. Nil fee for certain medical services

The AMA List includes items that are not relevant to medical services provided to

workers. As such, the fee set for the following items is nil:

- General Practitioner - Urgent attendances after hours item (Medical services identified in the AMA List by AMA number AA007)
- All time-based General Practitioner fees items (Medical services identified in the AMA List by AMA numbers AA190 – AA320)
- Enhanced primary care items (Medical services identified in the AMA List by AMA numbers AA501 – AA670, AA850)
- All shared health summary items (Medical services identified in the AMA List by AMA numbers AA340 – AA343)
- Telehealth items (Medical services identified in the AMA List by AMA numbers AA170 – AA210, AA584 – AA670, AF070 – AF180, AF260 – AF370, AJ051 – AJ200, AM210 – AM 240, AP040, and AP050 – AP105).
- Imaging/radiology – Professional attendance items billed in conjunction with imaging /radiology services where an interventional procedure/s has not been provided by the attending radiologist.

8. Nil payment for cancellation or non-attendance

No fee is payable for cancellation or non-attendance by a worker for treatment services with a Medical Practitioner/Medical Specialist/Consulting Surgeon.

9. No pre-payment of fees

Pre-payment of fees for reports and services is not permitted.

10. Goods and Services Tax

An amount fixed by this Order is exclusive of GST. An amount fixed by this Order may be increased by the amount of any GST payable in respect of the service to which the cost relates, and the cost so increased is taken to be the amount fixed by this Order. This clause does not permit a Medical Practitioner/Medical Specialist/Consulting Surgeon to charge or recover more than the amount of GST payable in respect of the service to which the cost relates.

11. Requirements for invoices

All invoices should be submitted to the insurer within 30 calendar days of the service provided and must comply with the Authority's itemised invoicing requirements for the invoice to be processed. Refer to the Doctors in workers compensation webpage on the SIRA website at www.sira.nsw.gov.au