



Legislative Council Economy and Infrastructure Committee

Inquiry: Inquiry into the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023

Hearing Date: 12 December 2023

Question[s] taken on notice

Directed to: Department of Treasury & Finance, Chris Barrett

Received Date: 8 January 2024

1. **Bev McARTHUR, page 12**

Question asked:

Bev McARTHUR: In PAEC – and I am a member of PAEC – we asked for some data and we received some. But it was not complete, so maybe you would like to take this on notice: can you provide the breakdown of the total mental injury claims for the years 2019–23 by industry sector, for statutory authorities and broken down by age and sex?

Chris BARRETT: We will take that on notice.

Response:

The Department of Treasury and Finance understands that this question has also been directed to WorkSafe and that, as the holders of this data, WorkSafe will respond to this question.

Additional Questions:

2. **David ETTERS HANK**

Question asked:

We understand that the government wishes to introduce a range of changes to preserve the financial position of the Workcover scheme.

2.1. What cost/benefit, actuarial or other studies can be provided to the committee to explain how the changes will achieve this objective?

2.2. Please detail the number and type of claimants that are likely to be affected by these proposed changes.

Response:

To support the financial sustainability of the Victorian WorkCover Scheme (the Scheme), in conjunction with changes to the average premium rate, the Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023 (the Bill) proposes changes to

modernise the Scheme. In particular, the Bill introduces new eligibility requirements for mental injury claims and a Whole Person Impairment (WPI) threshold of greater than 20 per cent for weekly payments to continue beyond 130 weeks.

Independent actuarial firms were engaged to assess the financial and worker impacts of the proposed changes.

Based on available data and analysis, the changes to mental injury eligibility are expected to reduce the number of claims that are eligible to receive weekly payments. The introduction of a WPI threshold is also expected to reduce the number of injured workers that continue to receive weekly payments beyond 130 weeks noting that, subject to eligibility requirements, workers that are no longer eligible to receive weekly payments beyond 130 weeks may be able to access impairment benefits and common law damages.

Combined with an average premium rate of 1.80 per cent of remuneration, over time these changes are expected to steadily return the Scheme to a financially sustainable position as measured by an Insurance Funding Ratio (IFR) (i.e. the ratio of assets to liabilities) close to the mid-point of the preferred IFR range of 100 to 140 per cent (i.e. 120 per cent).

3. **David ETTERSHANK**

Question asked:

A range of government announcements pertaining to the proposed changes have referenced the inter-relationship between these changes and the establishment of Return to Work Victoria. Please advise:

- 3.1. What roles and functions will be performed by Return to Work Victoria?
- 3.2. When will Return to Work Victoria be operational?
- 3.3. What is the estimated cost of the establishment and operation of Return to Work Victoria?

Response:

Return to Work Victoria will be established in 2024 as a business unit within WorkSafe and will centralise and enhance existing return to work supports that WorkSafe provides to give workers the best chance of return to the workforce.

Such services include:

- early triage and intervention for injured workers;
- early access to health and mental health services;
- worker mobility and funding retraining and vocational supports; and

- early access and provisional payments for workers who make workers' compensation claims for a mental injury, regardless of whether these claims are accepted.

Return to Work Victoria will work in partnership with worker and employer groups, together with mental health and occupational health experts, to pilot prevention, early intervention and return to work initiatives.

The cost of establishing and operating Return to Work Victoria will depend on its final form which is still being considered. However, it is expected that these costs will primarily be funded within WorkSafe's operating budget.

4. **David ETTERS HANK**

Question asked:

What milestones/KPIs associated with the establishment and operations of Return to Work Victoria can be provided?

4.1. Will Return to Work Victoria be a part of WorkSafe or a discrete entity with its own governance structure? If the latter, what does that look like?

4.2. Will the Return to Work Victoria workforce be additional to existing WorkSafe staff/business units, a reorganisation of existing resources or a combination of the two? Please detail.

Response:

A key milestone in relation to the establishment of Return to Work Victoria is that this is to occur in 2024 with the specific timing to be aligned with the Scheme modernisation changes.

Return to Work Victoria is to be established as a business unit within WorkSafe and will be subject to WorkSafe's existing governance structure. It is expected that initially, Return to Work Victoria will be staffed by reorganising existing resources.

Operational milestones and key performance indicators (KPIs) will be developed and included in WorkSafe's 2024-25 Corporate Plan. In relation to new initiatives, key milestones and KPIs are initially expected to include the timing and number of pilots that are developed, trialled and evaluated. KPIs in relation to WorkSafe's existing return to work activity will be transferred to Return to Work Victoria. For further detail on these KPIs, please refer to WorkSafe's annual report and corporate plan which is available on WorkSafe's website.

5. **David ETTERS HANK**

Question asked:

Please provide a current/final copy of the Psycho-Social Regulations and advise when these will be enacted.

Response:

The Psychological Health Regulations are yet to be finalised and the status of the regulations, and other relevant information can be found online via the following link:

<https://engage.vic.gov.au/proposed-psychological-health-regulations>

6. **Evan MULHOLLAND**

Question asked:

In 2021 the government expanded WorkCover to cover provisional payments for all workers claiming a mental injury.

6.1. Did you do any modelling on what impact this would have on further increasing the cost of the scheme?

Response:

The Department of Treasury and Finance (DTF) was not involved in this work and did not undertake any modelling.

7. **Evan MULHOLLAND**

Question asked:

How many WorkCover claims have been made:

7.1. By sector

7.2. By code

7.3. Per year, over the past five financial years.

Response:

WorkCover claims data for the period from 2011-12 to 2021-22 are available on line at <https://www.worksafe.vic.gov.au/resources/claims-statistical-report-financial-year>

Please note that the terms 'sector' and 'code' are not used to classify claims and that claims data are available for:

(a) industry

(b) occupation

(c) age and gender

- (d) mechanism of injury
- (e) nature of injury
- (f) bodily location of injury
- (g) agency of injury, and
- (h) injury year

8. **Evan MULHOLLAND**

Question asked:

What is the average cost of:

- 8.1. Any claim
- 8.2. A mental injury claim

Response:

The Department of Treasury and Finance understands that this question has also been directed to WorkSafe and that, as the holders of this data, WorkSafe will respond to this question.

9. **Evan MULHOLLAND**

Question asked:

What is the median cost of:

- 9.1. Any claim
- 9.2. A mental injury claim

Response:

The Department of Treasury and Finance understands that this question has also been directed to WorkSafe and that, as the holders of this data, WorkSafe will respond to this question.

10. **David ETTERS HANK**

Question asked:

What is the number of people who are currently receiving compensation in their first or second entitlement period that will be removed from the scheme when they reach the end of their second entitlement period should the changes proposed by the bill come into effect?

Response:

Currently, an injured worker's entitlement to receive weekly benefits ceases after 130 weeks unless the worker is assessed as having no capacity for work and this is likely to continue indefinitely. This is known as the 'capacity test'.

The Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023 (the Bill) will introduce a whole person impairment (WPI) threshold of greater than 20 per cent alongside the existing capacity test. An injured worker will continue to receive weekly compensation beyond 130 weeks (i.e. beyond the second entitlement period) if the greater of their WPI for physical injuries or mental injuries meets the threshold. This threshold will more objectively measure a worker's degree of impairment and provide a more consistent and objective basis to assess ongoing eligibility for weekly benefits.

Currently, each year approximately 4 900 injured workers are expected to continue to receive weekly payments from the WorkCover Scheme (Scheme) beyond 130 weeks.

Given WPI is not currently assessed for weekly benefit purposes the impact of the proposed WPI threshold is difficult to predict. Based on available data and analysis, the introduction of the proposed WPI threshold is expected to reduce the number of workers that receive weekly benefits beyond 130 weeks. However, subject to eligibility requirements, workers that are no longer eligible to receive weekly payments beyond 130 weeks may be able to access impairment benefits and common law damages.

The new WPI threshold will not apply to injured workers who have already received more than 130 weeks of weekly payments when the Bill commences. These workers will not need to undergo a WPI assessment and their ongoing eligibility for weekly benefits will continue to be determined based on periodic capacity tests.

11. **David ETTERSHANK**

Question asked:

Based on current data, what is the number of workers who will likely be denied access to the scheme due to their mental injury being as a result of stress and burnout?

Response:

The proposed changes to mental injury eligibility will mean that:

- only significant mental injuries diagnosed by a medical practitioner in accordance with the most recent Diagnostic and Statistical Manual of Mental Disorders (DSM) that predominantly arise out of or in the course of employment are compensable; and
- there will be no entitlement to compensation for mental injuries that are predominantly caused by work-related stress or burnout arising from events that may be considered usual or typical and

reasonably expected to occur in the course of the worker's duties, unless their duties are routinely traumatic (e.g. emergency services personnel).

The impact of this new definition was assessed in its entirety and did not consider the new requirements and exclusion separately.

Based on available data and analysis, the changes are expected to reduce the number of compensable mental injury claims.

However, it is important to note that workers in frontline roles and emergency service functions that are diagnosed with a significant mental injury that is predominantly caused by work will continue to be eligible for compensation, even if their injury arose due to work-related stress and burnout, given their work is routinely traumatic.