



14 December 2015

Mr Anthony Lean
Chief Executive
State Insurance Regulatory Authority
2-24 Rawson Place
SYDNEY NSW 2000

By email: 2015BenefitsReform@sira.nsw.gov.au

Dear Mr Lean

Re: New Return to Work Assistance – Discussion Paper

The NSW Business Chamber (“the Chamber”) welcomes the opportunity to provide feedback on the issues raised in the new Return to Work Assistance discussion paper. This submission is intended to supplement our discussions with the State Insurance Regulatory Authority (SIRA) in relation to these new benefits on 9 December 2015.

As you may be aware, the Chamber is one of Australia’s largest business support groups, with a direct membership of more than 19,000 businesses, providing services to over 30,000 businesses each year. Tracing its heritage back to the Sydney Chamber of Commerce established in 1825, the Chamber works with thousands of businesses ranging in size from owner operators to large corporations, and spanning all industry sectors from product-based manufacturers to service provider enterprises.

The Chamber is a leading business solutions provider and advocacy group with strengths in workplace management, work health and safety, industrial relations, human resources, international trade and business performance consulting. Operating throughout a network of offices in metropolitan and regional NSW, the Chamber represents the needs of business at a local, regional, state and federal level, advocating on behalf of its members to create a better environment for industry.

The Chamber understands that as a result of the passage of the *Workers Compensation Amendment Act 2015* through the parliament in August 2015 a range of benefit reforms were introduced into the NSW workers compensation system.

The new return to work assistance provisions form a part of these new benefit reforms (under Schedule 4 of the Act) with 2 specific assistance options available:

1. For all workers with a work-related injury who are unable to return to work with their pre-injury employer and accept an offer of work with a new employer – up to \$1,000 to assist the worker to meet costs associated with returning to work (e.g. transport, child care and clothing); and

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2. For workers with greater than 20 per cent permanent impairment who have been in receipt of weekly payments for more than 78 weeks – up to \$8,000 to assist the worker with the cost of undertaking education and training to prepare for new employment.

The Chamber has been a consistent advocate of the need for the workers compensation system to better support injured workers return to the workplace.

This support is based on evidence that injured workers recover best when they are in employment as well as the reduced impact a worker in employment (be it casual, part, or full time work) has on the cost of maintaining the compensation scheme itself. The Chamber therefore supported, in principle, the creation of the new return to work assistance benefits. As outlined in our discussions with SIRA we do however hold concerns in relation to the implementation of these benefits, in particular the way in which these new benefits will impact on employer's claims costs. These key concerns are outlined below.

Review Timeframes and Data Release

As indicated in our discussions, with these benefits being newly introduced there is a need to monitor closely their implementation through a structured timeframe of reviews and regular release of data on the uptake of benefits (and for what purpose).

We note advice from SIRA that there is a requirement for a review of the legislation and regulations 5 years post proclamation. We believe that this timeframe is too long and that these new benefits should be reviewed within 3 years to ensure that they are operating as intended.

An earlier review timeframe would help to ensure there is confidence the benefits are serving to support injured workers return to work and that the training and other assistance being offered is not misused.

Linked to these reviews would be the provision of data about the type of assistance applied for by injured workers. As we noted in our meeting, the Chamber is comfortable with a relatively broad range of assistance (under the \$1,000 benefit) being offered (such as assistance with training, transport, childcare and clothing) so long as it can be demonstrated and clearly linked that this assistance is serving to return the injured worker to employment. Monitoring and regular data release (on at least an annual basis) should be a priority. Where assistance is not being applied appropriately immediate steps should be undertaken to rectify these issues.

Limitation on Benefits and Claims

To emphasise the points made in our discussions with SIRA, while we hold the view that any return to work improvement is a positive for both an injured worker and the scheme, any assistance should be proportional to the employment opportunity. For example, while we are happy for assistance for childcare under the benefit to be

provided, if you are employed on a part time basis e.g. 2 days a week you should not be able to claim for assistance outside of those days of work (e.g. 5 days childcare).

Training

The Chamber notes the comments made in our discussion in relation to training opportunities under the new benefits. The Chamber stands by its comments in relation to the classes of education and training but reiterates its guiding principle that there must be a sufficient connection between the type of training undertaken and the potential employment for the injured worker. A framework of assessment should be developed by/for scheme agents to assist in assessing an injured worker's training and employment pathways. Such an assessment should be undertaken prior to any training being approved under the benefit.

The Chamber has further considered the classes of training provider that might be utilised under the new benefits for training. The Chamber supports any training provider under the NSW approved training provider list to provide training under the new benefits¹.

Impact on Premiums

From subsequent discussions with SIRA, the Chamber understands both the \$1000 and \$8000 initiatives will have an impact on premiums. We further understand that the estimated number of workers eligible for the \$1000 benefit is 11,500 current claims, and the estimated number for the \$8000 benefit is in the order of 4000 current claims. While we note that the overall impact on the scheme of these individual measures will be limited, the Chamber's experience historically with the scheme has been that cumulative impact of incremental changes on scheme performance can be significant. Such changes should be monitored carefully.

Impact on Claims Costs

As outlined in both our discussions with SIRA and at the outset of this submission, while the Chamber does support both of these initiatives in principle, the Chamber holds strong concerns about the way these new benefits will impact on individual employer's claims costs.

In circumstances where all but weekly payments (including commutations) and lump sums have been removed from the calculation of the cost of claims to, notionally, focus employers on the objective of return to work, to now apply these new benefits into the costs of claims seemingly breaks the logic of the system.

While this is an issue that may need to be considered and addressed (under the new separation of functions) by icare and the nominal insurer it is essential it is addressed prior to introducing these changes. As we indicated during our discussions with SIRA, much positive work has been undertaken in recent years to encourage employers and injured workers to work together to improve return to work outcomes. Adding these new benefits to the costs of claims for individual employers could undermine these efforts and cause employers to question why

¹ http://www.training.nsw.gov.au/training_providers/training_market/contract/

return to work should be pursued as an outcome. With medical benefits having been removed from the calculation of claims costs, arguments over the suitability of medical treatments for injured workers have largely reduced (as the key impact on premiums is time off work i.e. weekly benefits).

While the new work assistance benefits obviously aim to get injured workers back in the workplace, despite best efforts there will still be circumstances where return to work is not achieved (and an employer's premium impacted for no benefit). It is the Chamber's strong view that in circumstances where weekly benefits have become the proxy for employer (and scheme agent) performance, it seems out of step to be adding in an injured workers use of the return to work assistance benefit as a factor in the calculation of the costs of claim.

The Chamber would strongly encourage SIRA looking into this issue further to see how a better alignment between the operation of the benefit and the overarching policy principle can be achieved.

If you require more information regarding our submission, please contact Craig Milton, Policy Analyst on (02) 9458 7913 or craig.milton@nswbc.com.au.

Yours sincerely



Paul Orton
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