

SAPS Injury Management Practice Note

Management of Medical and Other Expenses

Objectives, Targets & Performance Indicators

Objective	Target	Performance Indicator
SAPS agencies have an implemented procedure regarding the management of medical and other expenses in accordance with Section 33 of the RTW Act	All SAPS agencies to have an implemented policy/procedure	Implemented policy/ procedure

Purpose

To ensure SAPS Agencies compensate workers in accordance with Section 33 of the Return to Work Act 2014 (RTW Act) and relevant regulations.

This Practice Note provides direction and guidance on Section 33 generally and also on the following newly created provisions under Section 33 of the RTW Act:

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| 1. <i>Applications for approval for future medical costs</i> | <i>Section 33(17) and (18)</i> |
| 2. <i>Seriously Injured Workers</i> | <i>Section 33(20) and (21)(a)</i> |
| 3. <i>Entitlement to Therapeutic Appliances</i> | <i>Section 33(20) and (21)(b)(i)</i> |
| 4. <i>Applications for future surgery</i> | <i>Section 33(20) and (21)(b)(ii)</i> |
| 5. <i>Prescribed classes of injury</i> | <i>Section 33(20) and (21)(b)(iii)</i> |

Context

This procedure applies to all workers compensation claims where a worker suffers a compensable work injury for which liability has been accepted.

Definitions

“The RTW Act” means the RTW Act 2014.

“Section 33 of the RTW Act” relates to the necessary costs of medical and associated services reasonably incurred by the worker as a consequence of having suffered a work injury.

“The RTW Act Regulations” means the Return to Work Regulations 2015

“The Repealed Act” means the Workers Rehabilitation and Compensation Act 1986, as amended

The RTW Act outlines medical expenses as follows:

A worker is entitled to be compensated for costs of services that are reasonably incurred by the worker in consequence of having suffered a work injury	Section 33(1)
<p>Costs include:</p> <ul style="list-style-type: none"> a) Medical services b) Hospitalisation and all associated medical, surgical and nursing services c) Approved recovery/return to work services d) Travelling or being transported, to and from any place for purpose of receiving medical services, hospitalisation or approved recovery/return to work services (but not where the worker travels in a private vehicle) e) Where it is necessary, accommodation away from home for the purpose of receiving medical services or approved recovery/return to work services f) Attendance by a registered or enrolled nurse or by some other person approved by the Corporation where the worker must have nursing or personal attendance g) The provision, maintenance, replacement or repair of therapeutic appliances h) Medicines and other material purchased on the prescription or recommendation of a health practitioner i) Other services authorised by the Corporation 	Section 33(2)
Costs may be paid directly to the worker or directly to the person to whom the worker is liable for those costs	Section 33(3)
If a worker has been charged more than the amount that the worker is entitled to claim the Agency may reduce the charge by the amount of the excess. A decision to reduce a charge under subsection (4) does not constitute a reviewable decision	Section 33(4)&(5)
If services were provided to a worker in relation to the work injury and the Agency considers that the services were, in the circumstances of the case, unnecessary or unreasonably incurred the Agency may disallow charges for the services	Section 33(6)
If the Agency disallows or reduces a charge it must give to the provider a notice setting out the basis for the decision and where the charge has been disallowed under subsection (6) the providers right to have the decision reviewed.	Section 33(7)
The worker is not liable to the provider for the disallowed charge or for more than the reduced charge. If the worker has paid an amount for which he/she is not liable, the Agency will reimburse the worker for that amount and may recover it from the provider as a debt.	Section 33(7)(b)
A worker is entitled to apply to the Agency for approval to obtain the provision of services or otherwise to incur costs on the basis that the Agency will agree in advance to be liable for the relevant costs of those services rather than the worker being required to claim compensation once the costs have been incurred.	Section 33(17) & Reg 22
An entitlement to compensation under this section (including an entitlement to make an application under s.33(17)) comes to an end if the worker has not had an entitlement to receive weekly payments in relation to the work injury for a continuous period of 12 months OR has not had an entitlement to receive weekly payments and a period of 12 months has expired	Section 33(20)

The 12 month limitation does not apply:

- In relation to a seriously injured worker
- In relation to any therapeutic appliance required to maintain the worker's capacity
- In relation to surgery, any associated medical, nursing or medical rehabilitation services where the Corporation has determined or accepted on application made before the end of the period referred to in subsection 20, that it is reasonable and appropriate for such surgery to be undertaken at a later time due to the impact (or likely impact) of the work injury on the worker's health and capacity.
- In relation to prescribed classes of injury (see Regulation 23)
- In any other circumstances prescribed by regulations

Section 33(21)

An application for pre-approval for medical services must be:

Supported by medical evidence provided by a medical practitioner and include information on the worker (name, address, telephone number), date of birth, claim number, employer name, nature of injury, date of injury, details of the service, appliance, medicine or other materials forming the basis of the application and details for the reason for the application.

RTW Regulations
2015
Clause 22(2)

Policy Details

Medical and associated services will be paid in accordance with RTW Act and as published in the SA Government Gazette in respect to scale of charges or treatment protocols or frameworks.

Applications for approval for future medical costs must include the prescribed information as set out in Part 4 Regulation 22 of the RTW Act Regulations.

SAPS Practice

Upon receipt of claims for compensation for medical and associated costs, or applications for approval of future costs or later surgery, Agencies will investigate, assess and determine such entitlements in an expeditious manner.

Payment of expenses

Where a worker has paid for the costs/charges those costs will be reimbursed to the worker, otherwise costs will be paid direct to the provider.

Where the amount of compensation being sought is covered by a scale of charges, payment will be made consistent with that scale of charges.

In cases where the worker has been overcharged and has paid the account, Agencies are to reimburse the worker the total amount, then may seek debt recovery from the provider for the overcharged amount.

Where the cost/charge is above the scale of charges or schedule of fees, Agencies can reduce the charge to the scheduled rate but MUST provide a notice to the provider setting out the basis for the decision and where the charge has been disallowed. NOTE: This decision is not reviewable.

Medical expenses where a worker has no entitlement may include:

Acupuncture not provided by doctor or physiotherapist

Services provided by naturopath, kinesiologist, bowen therapist

Travel to and from pharmacy for prescriptions

Decision that medical expense is unnecessary or unreasonable

Where a determination has been made that the medical expense incurred is not related to the compensable work injury or is unnecessary or unreasonably incurred, Agencies may disallow the charge but MUST provide notice to the provider stating the reasons why the charge was disallowed and include the provider's right to have the decision reviewed.

Applications for approval for future medical costs Section 33(17) & (18)

Section 33(17) states:

"A worker is entitled, in relation to prescribed classes of services, appliances, medicines or materials referred to in subsection (2), to apply to the Corporation for approval to obtain the provision of those services or otherwise to incur costs on the basis that the Corporation will agree in advance to be liable for the relevant costs rather than the worker being required to claim compensation under this section once the costs have been incurred".

This section allows a worker to know in advance if the Agency will meet a medical or like cost that has not yet been incurred. The worker's application must be made within the time limit of the worker's entitlement to medical expenses.

Step 1	Worker must make application BEFORE the end of the entitlement period Section 33(18) requires that an application for pre-approval of these types of costs must: <i>"be made in accordance with the regulations and the Corporation must make a decision in relation to the application within the period prescribed by the regulations."</i>
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Step 2	Regulation 22(2) of the RTW Act Regulations sets out that the following information must be provided in support of such an application: <i>"For the purposes of section 33(18) of the Act, an application must—</i> <i>(a) be supported by medical evidence provided by a medical practitioner; and</i> <i>(b) include the following information:</i> <i>(i) the worker's full name, telephone number and address;</i> <i>(ii) the worker's date of birth;</i> <i>(iii) the claim number;</i> <i>(iv) the employer's name;</i> <i>(v) the nature of the injury;</i>
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	<p>(vi) <i>the date that the injury was suffered;</i></p> <p>(vii) <i>details of the service, appliance, medicine or other materials forming the basis of the application;</i></p> <p>(viii) <i>details of the reason for making the application”.</i></p>
Step 3	Agencies review and assess evidence and if required seek further medical clarification or information
Step 4	<p>Agency MUST determine the application within ONE month of receipt of the application. NOTE day one is date IM team received the application</p> <p>If a worker submits an application furnishing the required information and the application is supported by medical evidence, the Agency is to make a decision on the application within one month of receiving the information and medical evidence required by the RTW Act Regulations.</p> <p>Part 4 Regulation 22(3) of the RTW Act Regulations states:</p> <p><i>“For the purposes of section 33(18) of the Act, the Corporation must make a decision within 1 month of the making of the application”.</i></p>

Section 33(19) requires an Agency to give the same consideration to the application as if the worker had incurred and claimed the cost. Therefore, if the cost is one that if incurred would be considered by the Agency to be reasonably incurred in consequence of having suffered a work injury, the Agency should determine to agree in advance to be liable for the relevant costs.

A decision not to approve the provision of services of the incurring of costs under Section 33(17) is a reviewable decision under Section 97 of the RTW Act.

Medical expenses cease

- 12 months after last income payment
- If no income payments (i.e. medical expenses claim only), 12 months after the date of injury

Section 33(20) of the RTW Act states that:

“An entitlement to compensation under this section (including an entitlement to make an application under subsection (17)) comes to an end if the worker has not had an entitlement to receive weekly payments in relation to the work injury under Division 4 for a continuous period of 12 months (or has not had an entitlement to receive weekly payments under Division 4 and a period of 12 months has expired)”

Exceptions to medical expenses ceasing at 12 months

Seriously Injured Workers Section 33(21)(a)

Section 33(21)(b) of the RTW Act states that Section 33(20) does not apply to a seriously injured worker.

Section 21(2) of the RTW Act defines a seriously injured worker as a worker whose work injury has resulted in a permanent impairment and the degree of whole person impairment has been assessed under Division 5 to be 30% or more.

Provision 34 of Schedule 9 (repeal, amendments and transitional provisions) of the RTW Act states a worker whose degree of WPI for an existing injury that has been assessed under the repealed Act to be 30% or more will be taken to be a seriously injured worker under the RTW Act.

Therefore a worker who is taken to be a seriously injured worker is entitled to be compensated for medical expenses in accordance with Section 33 of the RTW Act without being subject to temporal cut-off.

Entitlement to Therapeutic Appliances Section 33(21)(b)(i)

Section 33(21)(b)(i) sets out that Section 33(20) does not apply in relation to any therapeutic appliance required to maintain the worker's capacity.

Section 4 of the RTW Act defines a "therapeutic appliance" as:

- (a) *spectacles or contact lenses; or*
- (b) *a hearing aid; or*
- (c) *false teeth; or*
- (d) *a prosthesis; or*
- (e) *a crutch or wheelchair; or*
- (f) *any other appliance or aid for reducing the extent of an injury or enabling a person to overcome in whole or part the effects of an injury*

In the absence of legal precedence, the reference in Section 33(21)(b)(i) to "therapeutic appliance required to maintain the worker's capacity" is to be interpreted to mean on an activities of daily living basis rather than "to maintain the worker's capacity for work".

Regulation 23(2) of the RTW Act Regulations provides that section 33(20) (the temporal cut-off) will not apply with regard to therapeutic appliances for a worker with an existing injury.

Applications for future surgery Section 33(21)(b)(ii)

Section 33(21)(b)(ii) sets out that Section 33(20) does not apply to the following:

"In relation to surgery, any associated medical, nursing or medical rehabilitation services (including the cost of hospitalisation), where the Corporation has determined or accepted, on application made before the end of the period referred to in subsection (20), that it is unreasonable and appropriate for such surgery to be undertaken at a later time due to the impact (or likely impact) of the work injury on the worker's health and capacity (or future health and capacity)"

Consideration should be given to whether the evidence provided by the worker or the doctor satisfies the requirements of Section 33(21)(b)(ii) and the RTW Regulations.

