

28 November – 1 December 2004

Xth Accident Compensation Seminar

2004



Institute of Actuaries of Australia

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MAS

A successful work in progress



Institute of Actuaries of Australia



The 1999 Act reform principles

- Determination of disputes re treatment, rehabilitation and care by independent medical assessment
- Objective assessment of impairment as a gateway for non-economic loss, determined by independent medical assessment



MAS: why

- System of adversarial medicine was inherently expensive and time consuming
- Claimants concerns with medico-legal merry-go-round
- Medical professions concerns about misuse of their time and expertise in the litigation process



MAS: determinations not medico-legal opinions

- **MAS determinations are:**
 - decisions by independent MAA-accredited assessors
 - final and binding for disputes in past treatment, stabilisation and permanent impairment
 - made consistent with Medical Guidelines produced by the MAA
 - persuasive evidence for other determinations
 - deal only with the matter in dispute.



MAS: jurisdiction

- Treatment reasonable and necessary (past and future)
- Treatment causally related to accident
- Stabilisation of injury
- % whole person impairment relating to the injuries
- Impairment to earning capacity (past/future)



Specialist Medical Tribunals: MAS and WCC

- The Approved Medical Specialists (AMS) appointed by WCC perform a very similar role, with final determination making power in impairment disputes only.
- This is in keeping with the international trend toward specialist tribunals with expert members making final decisions



Establishment of MAS

- Set up with 'new' *Motor Accidents Compensation Act in 1999* to assess and resolve medical disputes between parties to CTP claims in NSW.
- Initially growth was slow and then explosive, peaking in 2003 and since remaining relatively steady



MAS Disputes	Applications received	Matters assessed and finalised
1A Treatment or other service	805	992
2A Permanent impairment, stabilisation	3,469	3,372
3A Earning capacity	787	1,106
4A Further medical assessment	770	390
Total	5,831	5,860



Treatment	Number
All treatment allowed	265
Some treatment allowed	770
No treatment allowed	336
Sub total	1,371
Unable to be assessed/settle/withdrawn/rejected at PA stage	276



WPI assessments	Number
Not permanent and likely not greater than 10%	87
Not permanent and likely greater than 10%	26
Permanent and not greater than 10%	2,734
Permanent and greater than 10%	581
Sub total	3,428
Unable to be assessed/settle/withdrawn/rejected at PA stage	295



The role of the MAS Assessor

- Review evidence provided by the parties
- Interview and examine the claimant
- make a determination and issue a certificate
- state their reasons and publish their findings to the parties



Problems encountered

- Different interpretations by assessors of the AMA 4 Guides to Impairment and the MAA Guidelines initially led to some errors and confusion
- Administratively challenging as staff need to be well-versed in medical terminology and medical specialties
- Peak in 2003 caused significant delays and some still have misperception of long delays at MAS now



Assessor Consistency: QA of Determinations

- Risk-strategic approach to checking the content of the determinations
- Request to amend for identified errors
- Separate QA (random selection) of determinations for feedback and accreditation purposes



Assessor consistency: other sources

- Review determinations
- CARS & Court decisions
- Comprehensive training and education program
- Regular electronic communication with the Assessors
- Regular Assessor Forums
- Level of MAS support needed
- Timeliness of determinations
- Complaints monitoring
- CARS Assessor feedback
- External user satisfaction surveys
- Monitoring of Terms of Engagement and Code of Conduct
- Biannual Assessor Details Audit
- Self-assessment tools
- Practice Notes



Success?

- Outstanding success in developing a new, relatively cheap and practical way to resolve medical disputes
- Moderate success in changing stakeholder attitudes to the issue of non-economic loss and removing adversarial medicine from the claims process



Continuing Challenges

- Internal consistency between assessors
- Understanding by the parties about how to settle disputes first. If not possible, then understanding of how to frame disputes for MAS and provide adequate evidence for Assessors to make an accurate decision
- Legal challenges to the determinations especially on procedural fairness grounds



Future Directions

- Internal assessments
- Drive to educate the parties and the community about MAS
- Increased assessor utility
- Increased use of technology (digital signatures/e-lodgement/video conferencing)
- Increased use of self-assessment tools
- Increased use of practice notes



Dawn of a Bright Future

