

WOOLWORTHS UmITED

FURTHER SUBMISSION TO THE NATIONAL WORKERS' COMPENSATION AND OHS FRAMEWORK INQUIRY

Woolworths has previously provided a written submission to the Inquiry, and were also represented at the public hearing in Sydney on 24th June. At the time of the public hearing the Commissioners requested that the company provide further information on some of the matters raised. This submission addresses these issues.

1. The Effect of Step-down Features in Benefit Design

Woolworths original submission proposed the introduction of a step-down in weekly benefits at three months post-injury, to encourage workers to focus on their return to work efforts. The Commissioners queried whether there was any quantitative data available from Woolworths that would support the effectiveness of such a strategy.

Investigation of this matter in all states reveals that most of the current step-down provisions only commence at either 26 or 52 weeks post injury. The only state where there is a 13 week step-down in benefits is Tasmania, however this is not 13 calendar weeks, rather 13 cumulative weeks of hours lost.

As Woolworths has an extremely active Return to Work program in place for our workers, which commences as soon as possible after injury, most injured workers have returned to do at least partial hours on Suitable Duties Programs by 26 weeks. Therefore the incentive at the 26 week stage of the step-down arrangements, is to encourage workers to increase the number of hours worked as well as upgrade the nature of the duties performed. This is also the case in Tasmania, where because of the cumulative nature of the step-down, the reduction in benefits actually occurs many weeks later for most workers.

Anecdotally, our Rehabilitation staff in all states confirm that the knowledge of an impending reduction in benefits motivates workers to progress towards a full return to work, when there was previously a lack of motivation. However, it is unfortunately impossible to measure this impact quantitatively.

2. Journey Claims

Woolworths proposed that journey claims (to and from work only) should not be covered under workers' compensation legislation. This is primarily based on the inability of employers to have any control over these events. The Commissioners requested further information on the number and cost of these claims to Woolworths.

Review of all state legislation reveals that journey claims are only included in the New South Wales and Queensland legislation. In both these states journey claims have represented 4-5% of the total number of claims over the last 2 years. Cost analysis reveals journey claims have been approximately 20% higher on average than other workers compensation claims.

Another matter that is worthy of note in relation to journey claims, which was not mentioned in our previous submission, is the problems that can occur when there is a third party recovery action pending. Third party litigation occurs in approximately 30% of cases, and can be a significant deterrent in a successful return to work. The legal action in these cases is often not resolved for at least two years, and the worker is often not motivated to achieve a full return to work until the action is settled.

3. Definition of Injury

Woolworths proposes that injuries covered under the workers' compensation scheme should be limited to those arising "out of or in the course of employment" and where employment is "the major significant factor" contributing to the injury. It is not considered reasonable for an employer to be considered liable under the workers' compensation scheme for injuries or illnesses that merely become apparent at work.

The Commissioners asked Woolworths to review their workers compensation data to determine if the different definitions of injury appeared to have any significant impact on the acceptance of claims.

Analysis of the definition of injury in the different states' legislation indicates that the definitions have not changed in Victoria, South Australia, and Western Australia for many years. The last significant change in New South Wales was in 1998, however this was prior to Woolworths commencing selfinsurance, and therefore we do not have the relevant data to analyse.

The only state where the company was able to analyse a trend was in Queensland where the proposed definition of "the major significant factor" was introduced into legislation from January 1997 to June 1999. From July 1999 the definition was changed to "a significant contributing factor". Woolworths self-insurance statistics show that the rejection of claims lodged under the previous definition in 1998/99 was 5.8%, and that this decreased to 3.3% in 1999/00 with the amended definition.

Woolworths considers that the nature of injuries that were previously able to be rejected, were those where an injury merely manifested itself at work, but was not actually caused by a work-related activity. It is considered that there should be some specific work event for an injury to be considered compensable.

4. Self-Insurance Costs vs Paying Work Cover Premiums

In Woolworths' original submission many advantages of self-insurance were highlighted. One of these advantages was the cost effectiveness that can be achieved in the delivery of claims and rehabilitation services. It is proposed that self-insurers can deliver an improved level of service to their workers, and at a lower cost than the WorkCover Authorities and private insurers.

(a) Claims Costs

Woolworths recently commissioned an actuarial analysis to gain a comparison between the company's claims costs paid under the various self-insurance licences during 2002/03, and the total premium that would have been paid to the WorkCover Authorities, had the company not taken the decision to selfinsure. This indicated that the total claims costs incurred by the company during 2002/03, including all outstanding liabilities, were at least 20% lower than the total amount that would have been payable to the WorkCover Authorities.

(b) Administrative Costs

The company also conducted an analysis of the administrative costs associated with self-insurance in all states last year. This has included the administrative levies paid to the WorkCover Authorities, as well as the cost of Excess of Loss insurance and bank guarantees.

The analysis shows that Woolworths spends \$1 in administrative costs for every \$8.5 of claims expenditure. The only relevant comparison that the company could find for the WorkCover schemes is contained in the Workplace Relations Ministers' Council "Comparative Performance Monitoring Fourth Report" published in August 2002. This publication states that \$1 in every \$6 paid in Workcover premiums is spent on administration of the schemes.

The WorkCover self-insurance levy in most states is set at a level that recovers the actual regulatory costs of running the scheme for self-insurers. Therefore it is considered that the comparison offered above is legitimate evidence that self-insurance can deliver these services at a lower cost than the WorkCover insurance schemes.

5. Extra Costs Incurred From The Maintenance Of Multiple Self-Insurance Licences

This matter was addressed briefly in Woolworths' original submission. The Commissioners requested that the company provide further information in relation to the inefficiencies of maintaining separate self-insurance licences in each state.

(a) Occupational Health and Safety (OHS) Management System Requirements

There are different requirements in each state regarding the OHS management system that must be in place, to ensure the retention of the company's self-insurance licences. This requires a full-time resource, on average, being dedicated to the maintenance of the individual system in each state. If one national OHS management system were to be introduced, which could be maintained by one full-time resource, it is estimated that Woolworths would save approximately \$400,000.

(b) Self-Insurance Application Costs

Most states must re-apply for their self-insurance licences every second year. The resource requirements associated with the application process vary widely, and the associated costs are

therefore difficult to quantify. However, a one-off process, which would be the case if a national self-insurance licensing mechanism was to be available, should certainly be more efficient.

Other costs necessitated by the self-insurance licensing process include actuarial services and costs associated with obtaining bank guarantees. It is conservatively estimated that these costs could be reduced by 50% if all states were covered by the same licensing criteria and benefits structure.

(c) Other Inefficiencies

Woolworths has developed consistent operational activities across Australia in all areas of business, with the exception of OHS and workers' compensation. This allows for managers at all levels of the organisation to be transferred to positions across Australia without the need for significant re-training. The differences that exist in the OHS and workers' compensation do create considerable confusion, and require re-training each time a transfer occurs across states. This is certainly inefficient, although it is difficult to estimate the cost to the organisation.