



CHIROPRACTORS'  
ASSOCIATION  
OF AUSTRALIA  
(NATIONAL)  
LIMITED

29 January 2004

Workers' Compensation and OH&S Inquiry  
Productivity Commission  
P O Box 80  
BELCONNEN ACT 2616

---

Tel 024731 8011  
Fax 024731 8088  
Email  
ceo@caa.asn.au

---

**By Fax: (02) 6240 3311**

The Chiropractors' Association of Australia (National) Limited (CAA) provides this short submission on the Productivity Commission's Interim Report of recommendations towards national and uniform frameworks for Occupational, Health and Safety management, and Workers' Compensation issues.

The CAA is supportive of nationally uniform OHS requirements. With these in place the chiropractic profession via CAA (National) can have singular, combined and controlled input into these matters rather than individual state-based approaches.

The CAA is also supportive of attempts to make a national Workers' Compensation scheme (whether part or full). The Interim Report discusses four possible models where a national commonwealth scheme would probably operate in conjunction with existing State and Territory schemes.

The greatest need besides the obvious need to standardise and create uniformity amongst the various Workers' Compensation schemes is a need to consider those national employers who must operate within all State and Territory schemes (each with their separate legislation's, requirements and policies) at considerable added cost to the companies.

The advantage to a professional association such as the CAA of uniformity and standardisation is that consultation can occur at the top nationally, rather than having to be an observer of individual states who often fumble due to lack of experience or "re-invent the wheel" many times over. It will be a great saving of branch resources.

The CAA offers the following comment on the Interim Recommendations as presented between pages xxxviii to xxxiv covering the following issues:

NATIONAL  
HEADQUARTERS

---

Suite 4  
148 Station Street  
PENRITH NSW  
2750  
AUSTRALIA

---

PO Box 6246  
SOUTH PENRITH  
DC  
NSW 2750

---

ACN 050 096 038  
Incorporated in NSW

- a) National frameworks for O.H.S
- b) National frameworks for workers compensation
- c) Defining access and coverage
- d) Injury management
- e) Common law access
- f) Statutory benefit structures
- g) Premium setting
- h) The role of private insurers
- i) Self insurance
- j) Dispute resolution

The CAA is supportive of a) – c) and f) – i).

In regard to sub-section d) "Injury Management" CAA members have had difficulties in interpreting the term 'rehabilitation' in a Workers' Compensation setting as it often has a different definition and as such means "different things to different groups". Similarly the use of 'rehabilitation provider' refers to a person who coordinates a "return to work" plan with treating providers, employers, unions, claimant etc rather than providing treatment of physical rehabilitation techniques. Although this terminology may be well understood in the system, it could be that other health professionals may be confused. Certainly if there is broad confusion within the health industry, a suggestion would be to highlight this concern and confusion and to ensure that this is reflected in the document and recommendations.

The third recommendation in this section is; -

*"return to work programs developed and implemented by a committed partnership of the employer, employee, treating doctor and rehabilitation provider (where required)".*

The CAA expresses the view that this reinforces (as does the whole document) the GP as the gatekeeper and makes no mention of other allied health professionals who have an important role in the management of many claimants and especially of those workers who require a rehabilitation coordinator. The CAA recommends that the words "or other health care provider where relevant" be included. The CAA is of the view that chiropractors by virtue of their undergraduate training are suitably qualified to provide an equal or superior gate-keeping role to GPs for neuro-musculoskeletal injuries. There have been instances in the past where medical practitioners have indulged in discriminatory practices against chiropractors (and other health professionals). We consider this may prejudice the rehabilitation of the worker and compromise the ability of the medical practitioner to act as the sole gate-keeper for workplace injuries.

Under sub-section e) "Common Law access" it is noted that the recommendations are based upon a preference for "no-fault" systems rather than common law access.

While this is generally a sensible approach a total no-fault system (where the employer is liable on all occasions) needs to be tempered by employee responsibility for employee negligence where employers have made every reasonable attempt to ensure a safe work environment. Examples include the not wearing of safety glasses where ample and adequate signage exists to wear such glasses. In such cases employers should not be penalised through increased premiums or other penalty imposts. Secondly, common law should be accessible for the most seriously injured/impaired workers. With respect to lump sum payments it is suggested that these payments occur by periodic and progressive payments as past experience shows that very few recipients have been adequately able to manage large sums of money.

Under sub-section j) "Dispute Resolution" there is a recommendation to utilise "independent medical panels to provide final and binding determinations on questions of medical opinion." The CAA sees this as a very valuable recommendation as in the past judges have had to choose the middle ground when attempting to consider opposite medical opinions. The CAA is of the opinion that these panels should be independent and selected by peers. The report however does not describe the composition of this panel and the CAA believes it would be preferable to determine and publish this.

The CAA notes that throughout the Workers' Compensation system and certainly reflected in the Report is the focus on durable return to work (RTW) as being the key indicator of injury management as opposed to recommended OHS frameworks, which represent prevention strategies. While durable RTW is indeed an important outcome the CAA is of the opinion that there certainly also needs to be considered focus on the return to pre-injury status. This added focus would then contribute to less recurrent injury and better prevention.

The CAA thanks the Productivity Commission for the opportunity to provide comment. Should you require further discussion or input on any of the above comments, please do not hesitate to contact the writer.

Yours sincerely

Krystina Brown  
Chief Executive Officer