Consideration of the ACC Review Process

ACC is a well operating scheme and most of their clients are satisfied with their interaction and services received. Arthritis New Zealand strongly supports the work of ACC.

However a number of clients have approached Arthritis New Zealand concerned that their claims for elective surgery are being declined on the grounds that their injury is the result of age related age degeneration caused by mainly osteoarthritis (asymptomatic at the time of injury). This concern is exacerbated by a perception that the Review process is complex and difficult and that there is no independent oversight of this process.

Arthritis New Zealand has looked at the Review process as part of our role as an advocate on behalf of people with arthritis. After consideration we have found the process could be appreciably improved.

Issues identified were

- The current Review process is not adequately outlined to and understood by claimants
- There is no statistical data that can be made publicly available quantifying the numbers of claims being declined on the grounds of degeneration.
- The current level of fees that can be reimbursed for clients for expenses incurred going to Review does not meet the actual cost of professional representation. Under the Act an applicant's representative can claim up to $1052.00 with a further small amount that can be claimed for a review that goes beyond one hour. This amount falls far short of the actual costs incurred which is usually $4,000-$7,000. The Legal Aid scheme can fund representation if a claimant qualifies. Legal Aid pays a fee of $1660 for preparation plus $60 per half hour for the hearing. Once again this does not meet the actual costs and Legal Aid has to be repaid - after 6 months there is an 8% interest charge.
- Specialized free advocacy support is not available and a number of claimants are not going to Review as they lack the resources to do so
- The Code of ACC Complainants' Rights is perceived to be weak in comparison with the Health & Disability Code of Consumer Rights
- More independent oversight of the Review process would be beneficial in building public trust in ACC.

Recommendations

For Implementation by ACC

- Data quantifying the numbers of claims being declined on the grounds of degeneration should be collected and clearly recorded by ACC
- ACC and Fairway provide comprehensive and consistent information about the Review process that makes clear exactly what information is required for Review and is explicit that professional representation can be advantageous. This should also include consistent and clear information about what fees may be awarded at Review. The website of both organisations should have the same information.
- Explore options for providing advocacy support and expert advice for claimants to go to Review- this to include help with preparation for Review, not just information about the process. The role of the Health & Disability Commission Advocacy Service may be a model for consideration.

Requiring legislative change

- Fees for Review and appeal processes be set at a level that achieves parity with those of ACC. Amendment would be required to the Review Costs and Appeals Regulations (2002).
- The Code of Claimants Rights should have the same statutory standing that the Health & Disability Commission Code of Consumer Rights enjoys.
- Independent oversight should be established to monitor the consistency of Review decisions and monitor and report on the performance of the contracted reviewing agency. The initial exploration of the best way to do this should initially consider utilisation of either the Ombudsman's Office or Health & Disability Commission as two bodies that enjoy public confidence, will be seen to develop a strong consumer focus and are independent of ACC.

Arthritis New Zealand has a comprehensive report looking at the Review process and its operation particularly in regard to issues around degeneration and ageing. This can be made available to people wishing to have more background information.

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