

# Modernising WA's Workers Compensation Laws – Implementing Consultation Paper 25: Fees Order for Allied Health Services

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# EXERCISE & SPORTS SCIENCE AUSTRALIA (ESSA) SUBMISSION

## RE: MODERNISING WA'S WORKERS COMPENSATION LAWS – IMPLEMENTATION CONSULTATION PAPER 25: FEES ORDER FOR ALLIED HEALTH SERVICES

### Workcover WA

Dear Manager Policy and Legislative Services

Thank you for the opportunity to provide feedback in relation to the WorkCover WA, Workers Compensation and Injury Management Act – Fees Order for Allied Health Services Paper 25.

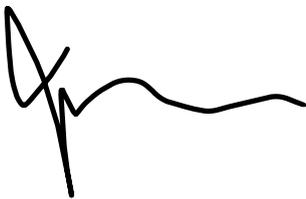
Exercise & Sports Science Australia (ESSA) is the peak professional association for exercise and sports science professionals in Australia, representing more than 11,000 members comprising university qualified Accredited Exercise Physiologists (AEP), Accredited Sports Scientists, Accredited High-Performance Managers and Accredited Exercise Scientists.

Work disability is a major personal, financial and public health burden. Return To Work (RTW) is a major indicator of real-world functioning, thus predicting future work success is a major focus. Individuals unable to RTW due to an injury or illness can experience greater physical ailments, as well as poorer psychosocial adjustment (i.e., increased anxiety, depression, and social isolation).

AEPs have been delivering return-to-work outcomes for injured workers in WA through the delivery of exercise program services for many years. This submission highlights areas where the implementation of the proposed regulations in WA has the potential to result in negative unintended consequences for the delivery of exercise program services. These services are essential in assisting individuals to achieve better RTW outcomes.

We welcome the opportunity to provide further information. Please contact ESSA Senior Policy & Advocacy Advisor, Jacintha Victor John at [Policy@essa.org.au](mailto:Policy@essa.org.au) for further information or questions arising from the following submission.

Yours sincerely



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## 1.0 ABOUT ACCREDITED EXERCISE PHYSIOLOGISTS

Accredited Exercise Physiologists (AEPs) are at least four-year university degree qualified allied health professionals. They provide services to people across the full health spectrum, from the healthy population through to those at risk of developing a health condition, people with mental and physical health conditions, a disability, and aged related illnesses, including chronic, complex conditions [1]. Exercise physiology services are recognised by Australian compensable schemes, including Medicare, the National Disability Insurance Scheme (NDIS), the Department of Veteran Affairs (DVA), workers' compensation schemes and private health insurers. Australia's exercise physiology profession comprises approximately 913 AEPs in Western Australia with 241 members identified to be working within the workers compensation schemes.

AEPs play a vital role in workers' compensation by supporting injured workers in their recovery journey, improving physical function, and promoting workplace wellness. Through personalised exercise programs and comprehensive support, exercise physiologists empower individuals to regain their strength, enhance their well-being, and successfully return to work. By integrating exercise physiology into workers' compensation, employers prioritise employee health, create a safer work environment, and foster a culture of well-being.

## 2.0 SUMMARY OF RECOMMENDATIONS

**Recommendation 1: That WorkCover WA consider reviewing the exercise program services fee freeze within the next two years to consider any local and jurisdictional disparity.**

**Recommendation 2: That data presented in the paper be revised to present a true and accurate figure of the hourly rate of remuneration for exercise physiology services in workers compensation schemes across five Australian jurisdictions.**

**Recommendation 3: That separate coding be retained for Exercise based programs delivered by exercise physiologists and physiotherapists.**

**Recommendation 4: ESSA recommends That WorkCover WA's reconsider the 30-minute cap on case conferences. This clearly disadvantages chronic and complex clients where the need for case conferences longer than 30 minutes may be reasonable and necessary.**

**Recommendation 5: ESSA recommends that WorkCover WA considers the scope for insurers to approve additional per service or per claim communication charges that are reasonable and necessary. In other words, providers can charge more than the proposed cap if approved by the insurer.**

**Recommendation 6: WorkCover WA continue to reimburse providers for the full time that they are required to travel to deliver services for injured workers.**

**Recommendation 7: That WorkCover WA explore systems of accountability that are not administratively burdensome for providers such as the introduction of a logbook system.**

**Recommendation 8: ESSA recommends that WorkCover WA consult with ESSA and relevant stakeholders to develop a pilot treatment management plan prior to implementation.**

**Recommendation 9: ESSA recommends that WorkCover WA provide clarity concerning ancillary services.**

### 3.0 EXERCISE PROGRAM SERVICES FEE FREEZE

The *Workers Compensation and Injury Management Act 2023* (WCIMA23) proposes to freeze fees for exercise program services to address high costs relative to fee schedules in other workers compensation jurisdictions. WorkCover WA proposes an indefinite freeze to exercise program services, given the significant disparity in other workers compensation schemes.

An indefinite freeze will negatively impact providers in forecasting future service provision in the scheme, driving them to consider alternative sources of funding for their services. The allowance for higher rates in WA workers compensation scheme incentivises exercise physiology providers to participate and specialise in the delivery of services for injured workers. This promotes a competitive market and drives quality of care. The erosion of this incentive may lead to a decline in outcomes as providers seek to work in other schemes that offer greater remuneration, thus reducing access to providers and choice for injured workers.

There have been examples in the past where a freeze in compensable schemes has had a negative impact on professions. For example, the Medicare freeze on general practice items introduced by the Abbott Coalition Government has resulted in negative impacts for the profession [2]. The freeze was in place for 9 years and has resulted in medical students choosing alternative career pathways than general practice as a profession. The Australian community is now struggling to access these services. The Australian Medical Association (AMA) research reveals that the Medicare freeze has resulted in a \$3.8 billion loss to general practice since being introduced in 2013 [3]. The impact is caused by the long-term devaluing of general practice (GP) services.

ESSA WA members are concerned over the indefinite freeze of exercise program fees which may result in a similar decline to the GP example above. This would mean less AEPs choosing to deliver services in workers compensation, reducing access for injured workers and possibly quality.

**Recommendation 1: That WorkCover WA consider reviewing the exercise program services fee freeze within the next two years to consider any local and jurisdictional disparity.**

The data table below, provided by WorkCover WA, displays inaccurate rates for NSW's Exercise Program Services and is showing a flat fee rather than an hourly rate. The hourly rate in the current schedule for AEP services in NSW is currently \$204.00 per hour [4]. As a result, the calculation and decision to revise a rate of \$158 per hour is not accurate. As of 1 February 2024, the hourly rate for NSW will indexed as evidenced in the [Gazette](#) and will increase to \$214.80 per hour. As a result, the calculation and decision to revise a rate of \$158 per hour is not accurate.

The table below shows fees for exercise program services in Western Australia are the highest of comparable jurisdictions by a significant margin:

WA	NSW	QLD	VIC	SA	Average
\$221.50 (hourly)	\$129.30 (flat fee)	\$209 (hourly)	\$130.61 (pro-rata hourly)	\$162.90 (hourly)	\$158 (Hourly)

**Recommendation 2: That data presented in the paper be revised to present a true and accurate figure of the hourly rate of remuneration for exercise physiology services in workers compensation schemes across five Australian jurisdictions.**

In WorkCover reports and statistic report, Table 1 combines physiotherapists and exercise physiologists under Exercise Based Services [5]. ESSA also notes that physiotherapists and exercise physiology services have been combined in WorkCover WA table 1 below.

Exercise based program	94,090	82,249	92,979	102,838
Exercise physiology	15,352	40,938	42,499	49,910
Exercise based program - Exercise physiologists <sup>1</sup>	1,880	1,829	1,858	1,497

Whilst there is no wording in the paper that the current codes would be combined for exercise programs delivered by exercise physiology and physiotherapy, the preference is that the current coding be retained. This helps to highlight the input from different professions and assists engagement with peak professional associations. It may also help the regulator if data was to be analysed/compared in relation to return to work outcomes from different professions.

**Recommendation 3: That separate coding be retained for Exercise based programs delivered by exercise physiologists and physiotherapists.**

#### 4.0 CAP CUMULATIVE ANCILLARY SERVICES DURATION

Workcover WA have proposed a 30 min cap per communication service and 60 min cap for cumulative communication per claim.

In the current Workcover WA legislation, AEPs must request pre-approval for progress reports if AEPs are planning to submit these throughout the claim and are provided “at the request of the referrer”. These progress reports are charged at \$221.50 per hour to a maximum of 30 minutes (\$110.75).

In most circumstances, the feedback from insurers has been to provide shorter updates charged as communications. As per the current Workcover WA legislation, “Any requested or required oral communication with relevant parties (treating medical practitioners, employers and insurers) relating to the treatment of a specific worker”, charged at \$22.20 per 6-minute block. There is concern that long tail claims will be disadvantaged and cessation after the 60 minutes has been reached will be detrimental for recovery.

Examples of travel times & charges for WorkCover WA

##### Communication - CASE EXAMPLE

Client A, Long-tail claim (DOI: 23/03/2023), Complete ACL Rupture and MCL strain, Meniscus tear, non-operative management. AEP management commenced on 19/06/2023.

Client A commenced with Hydrotherapy and then progressed to gym-based management and is now being reviewed 3-4 weekly, she is still on restricted duties with restrictions in ROM and strength and continuing with multidisciplinary care with Physio and Ex Phys at her surgeon’s recommendations.

In this example, the functional updates have been paramount in enabling the progression of her RTWP and provided valuable information for her surgeon in making clinical assessments of her overall progress in a non-operative ACL rehabilitation protocol.

Throughout her claim, functional updates (equivalent to a progress report) were sent on the below dates:

- 21/07/23 – billed at 12mins comms \$44.40
- 18/08/23 – billed at 12mins comms \$44.40
- 08/09/23 – billed at 18mins comms (inclusive of an extension request) \$66.60
- 12/10/23 – billed at 12mins comms \$44.40
- 27/10/23 – billed at 18mins comms (inclusive of an extension request) \$66.60
- 20/11/23 – billed at 12mins comms \$44.40
- 08/12/23 - billed at 18mins comms (inclusive of an extension request) \$66.60
  - Intermittent comms were billed in between dates for these formal updates, including phone calls and emails between stakeholders to clarify capacities, discuss return to work plans and strategies for progression of treatment, etc.
  - Approximate total cost for functional updates via communications: \$377.40
  - If these functional updates were billed as “progress reports”, the total estimated cost would be: \$775.25
  - Billing updates as communications instead of progress reports saves a significant amount of money on the claim, however, **the proposed 60-minute cap on communications, would easily be exceeded especially on long term claims.**

**Recommendation 4: ESSA recommends That WorkCover WA's reconsider the 30-minute cap on case conferences. This clearly disadvantages chronic and complex clients where the need for case conferences longer than 30 minutes may be reasonable and necessary.**

**Recommendation 5: ESSA recommends that WorkCover WA considers the scope for insurers to approve additional per service or per claim communication charges that are reasonable and necessary. In other words providers can charge more than the proposed cap if approved by the insurer.**

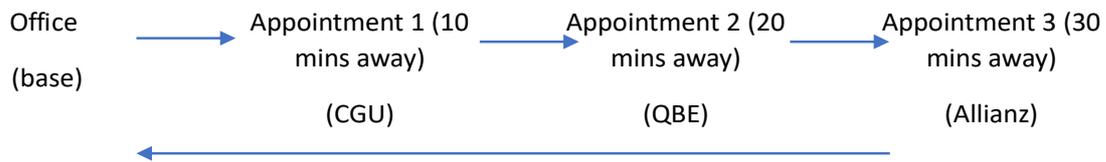
## 5.0 REMOVAL OF RETURN TRAVEL AND POINT TO POINT CHARGES

It is proposed that no travel charges are to be charged if returning from service to the allied health service provider's office location. ESSA recommends providers to be reimbursed for travel returning to the office where reasonable. Travel should be appropriate between provider claims in the same journey pro-rata and as reasonably allocated.

The following figure illustrates two examples (1 and 2) which would result in significantly different travel charges if WorkCover's proposal is implemented, based solely on the order of appointments. Example 3 in the 1<sup>st</sup> case study demonstrates the current system of fairly distributing travel charges to the appropriate insurers. ESSA recommends Example 3 as it is a system that remains equitable for both providers and insurers.

## Examples of travel times & charges for WorkCover WA

### Example 1:



### **Charges**

CGU claim = 10 mins

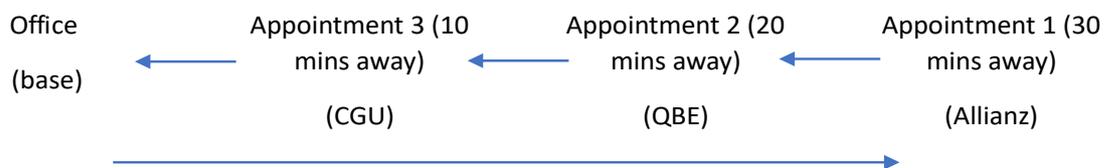
QBE claim = 10 mins

Allianz claim = 10 mins

Return to office = 30 mins (not chargeable)

**Total charged = 30 mins (of 60 mins actually delivered)**

### Example 2:



### **Charges**

CGU claim = 10 mins

QBE claim = 10 mins

Allianz claim = 30 mins

Return to office = 10 mins (not chargeable)

**Total charged = 50 mins (of 60 mins actually delivered)**

### Example 3:

#### What it currently is (and should stay) - A “reasonable allocation of expenses” approach:

CGU claim = 10 mins

QBE claim = 20 mins (as this is twice as far as CGU claim)

Allianz claim = 30 mins (as this is 3x as far as CGU claim)

**Total travel time claimed = 60 mins (this should never be higher than actual travel time)**

Example of assumption of how the new schedule would work in a practical situation.

Starting location	Finishing location	Time travelled	Insurer to pay (note – this may be no insurer to pay)
Como	Armadale	30 mins	Insurer A
Armadale	Beechboro	40 mins	Insurer B
Beechboro	Subiaco	40-45 mins in traffic	Insurer A
Subiaco	Butler	45-50 mins in traffic	Insurer B
Butler	Craigie	20 mins	Insurer C
Craigie	Como	35 mins	No payment

It is assumed that in this example, the provider is driving to the service in each instance and theoretically should be paid for each of these services except for the trip from Craigie to Como which is clearly a return trip. No examples were provided in the paper on how this would work in practice.

The removal of remuneration of the return trip will disadvantage injured workers residing in rural and remote locations where distances to services can be significant. Providers will be put in a situation where they will need to reconsider the deliver of services that become financially marginal through this policy.

**Recommendation 6: WorkCover WA continue to reimburse providers for the full time that they are required to travel to deliver services for injured workers.**

## 6.0 REQUIREMENT OF TRAVEL LOGBOOK

Workcover have proposed all providers keep a travel logbook documenting travel location (point-to-point), duration, and distance. It is unclear how this information is to be stored, who can access it, and how they request access. Given one ‘trip’ may involve claims from multiple insurers, are there potential privacy issues with accessing real travel data from other claims. ESSA supports the need for providers to document/log their travel locations and duration and support the ability of insurers to audit this information.

The introduction of a logbook system has the potential to create unnecessary administrative burden for providers and take time away from direct service delivery. This system would also create a burden on funders to establish, and monitor. ESSA understands that the intent of introducing such a system is for accountability purposes, however this is a narrow view as travel is only one element in the whole system.

Regulators in other jurisdictions have other methods to ensure accountability and the responsible use of overall funding in workers compensation schemes. For example, in 2022 the NSW State Insurance Regulatory Scheme (SIRA) introduced [6] to specifically deal with outlier behaviour and this has now been operationalised with regulations and guidelines. This system uses data from across multiple service codes to identify providers that are billing above practical levels. This is a fair and reasonable approach targeting those providers that are not

delivering a service that is responsible. To this end, alternative systems that don't create administrative burden and take time away from direct service provision should be investigated.

**Recommendation 7: That WorkCover WA explore systems of accountability that are not administratively burdensome for providers such as the introduction of a logbook system.**

## 7.0 TREATMENT MANAGEMENT PLAN

The consultation paper has proposed a Treatment Management Plan (TMP) for Exercise Programs but no fee has been specified. The ESSA WA workers compensation subcommittee, with support from ESSA national has been collaborating with an inter-insurer group for the past two years to develop a draft Physiotherapy and Exercise Physiology treatment management plan. Whilst ESSA notes that it should not be implemented in the new ACT without further consultation. WorkCover WA should conduct a TMP consultation and a pilot trial of the plan prior to its introduction.

**Recommendation 8: ESSA recommends that WorkCover WA consult with ESSA and relevant stakeholders to develop a pilot treatment management plan prior to implementation.**

## 9.0 ANCILLARY SERVICES INDEXATION

The Act proposes changes around allied health providers service charges for ancillary services such as reports, communication and travel. WorkCover WA proposes the following *reset consultation fees for health services based on the average private practice charge for the relevant service by a large private health insurer in Western Australia, before any gap or rebate is applied with the exception of exercise program services (as there is no appropriate equivalent) and ancillary services.*

ESSA notes that there is a lack of clarity in the wording in the Consultation paper on whether ancillary services will be frozen or indexed. At ESSA's meeting in December 2023, WorkCover WA stated that ancillary services will continue to receive annual indexation. If exercise program service fees remain frozen, ancillary services may incur a higher hourly rate than actual exercise program services.

**Recommendation 9: ESSA recommends that WorkCover WA provide clarity concerning ancillary services.**

## 10.0 CONCLUSION

The current form of the proposed regulations in Western Australia has the potential to bring about negative unintended consequences for the delivery of exercise program services. These services play a fundamental role in helping individuals achieve better outcomes in recovery and return to work.

## 11.0 REFERENCES

1. Exercise & Sports Science Australia, *Accredited Exercise Physiologist Scope of Practice*. 2021.
2. Australia, C.o. *Budget Measures - Budget Paper No 2*. 2013-14 [cited 2024 17/02]; Available from: [https://archive.budget.gov.au/2013-14/bp2/BP2\\_consolidated.pdf](https://archive.budget.gov.au/2013-14/bp2/BP2_consolidated.pdf).
3. AMA. *AMA Analysis of Medicare indexation freeze*. 2023 [cited 2023 16/01 ]; Available from: file:///C:/Users/JacinthaJohn/Downloads/AMA%20analysis%20of%20Medicare%20indexation%20freeze.pdf.
4. State Insurance Regulatory Authority, *Accredited Exercise Physiology Fees and Practice Requirements*, N. Government, Editor. 2023.
5. WA, W. *WorkCover WA Reports and Statistics*. 2023; Available from: <https://www.workcover.wa.gov.au/resources/reports-and-statistics/>.

6. Parliament, N. *State Insurance and Care Legislation Amendment Bill 2022*. 2022; Available from: <https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3958>.