



THE ACCIDENT COMPENSATION (REFERRED TREATMENTS COSTS) REGULATIONS 1990

PAUL REEVES, Governor-General

ORDER IN COUNCIL

At Wellington this 10th day of September 1990

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to section 120 (1) (f) of the Accident Compensation Act 1982, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Accident Compensation (Referred Treatments Costs) Regulations 1990.
 (2) These regulations shall come into force on the 15th day of October 1990.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Accident Compensation Act 1982:

“Acupuncturist” means a member of the New Zealand Register of Acupuncturists Inc.:

“Chiropractor” means any person who holds a current annual practising certificate issued by the Chiropractic Board:

“Claimant” means a person who has suffered personal injury by accident to which the Act applies:

“Corporation” means the Accident Compensation Corporation:

“General practitioner” means any registered medical practitioner working in a non-specialist capacity; and includes any specialist working outside his or her registered speciality:

“Hospital” has the same meaning as in the Hospitals Act 1957:

“Occupational therapist” means any person who holds a current annual practising certificate issued by the Occupational Therapy Board:

“Osteopath” means a member of the New Zealand Register of Osteopaths Inc.:

“Personal injury by accident” means personal injury by accident to which the Act applies:

“Physiotherapist” means any person who holds a current annual practising certificate issued by the Physiotherapy Board, and who is recognised or is employed in a practice that is recognised by the Minister of Health for the purposes of claiming a supplementary benefit:

“Podiatrist” means any person registered with the Podiatry Board:

“Private hospital” means a licensed hospital as defined in section 118 of the Hospitals Act 1957:

“Public hospital” means any hospital that is not a private hospital and is operated by the Crown or an area health board:

“Registered medical practitioner” means any person who holds a current annual practising certificate issued by the Medical Council of New Zealand:

“Registered specialist” means any registered medical practitioner registered as a specialist with—

(a) The Medical Council of New Zealand; or

(b) The Department of Health for the purposes of Drug Tariff and health benefits;—

but does not include any registered specialist working outside his or her registered speciality:

“Social Security benefit” means any benefit payable under Part II of the Social Security Act 1964 or any regulations in force under that Part; and includes any payment in respect of any specific treatment made to any treatment provider under any arrangement entered into under section 97 of the Social Security Act 1964:

“Speech therapist” means a member of the New Zealand Speech Language Therapists Association (Inc):

“State services” has the same meaning as in the State Sector Act 1988:

“Treatment provider” means an acupuncturist, chiropractor, occupational therapist, osteopath, physiotherapist, podiatrist, or speech therapist.

(2) No person shall be regarded as acting in the course of employment by an area health board by reason of that person being a general practitioner contracted to work in a special area designated as such by the Director-General of Health.

3. Application—(1) Subject to these regulations, these regulations shall apply in respect of any treatment provided on or after the 15th day of October 1990 by a treatment provider to a claimant in respect of personal injury by accident, irrespective of—

(a) The date on which any fee for any treatment was charged or paid; or

(b) The date on which the personal injury by accident occurred.

(2) These regulations (other than regulation 12 (2)) shall not apply in respect of any treatment provided before the 15th day of October 1990 by a treatment provider to a claimant in respect of personal injury by accident, irrespective of the date of the charging or payment of any fee for the treatment.

4. Corporation to pay certain costs—(1) Subject to these regulations, the Corporation shall pay the costs of treatment provided by a treatment provider to any claimant in respect of personal injury by accident to the extent specified in the Schedule to these regulations.

(2) The Corporation shall make a payment in respect of only one treatment per claimant per day in respect of treatment provided by each class of treatment provider, irrespective of the number of treatments provided by any member or members of that class.

(3) Any treatment provider may, by notice in writing to the Corporation, elect that subclauses (1) and (2) of this regulation shall not apply in respect of all treatments provided by that treatment provider. In any such case the Corporation shall, subject to these regulations, pay in respect of any treatment provided by the treatment provider to any claimant in respect of personal injury by accident the amount the treatment provider would have charged the claimant if the treatment were one for which the Corporation was not making a payment (less any Social Security benefit) or \$56.25 per hour with appropriate proportions for parts of an hour (less any Social Security benefit), whichever is the lesser.

(4) Any notice referred to in subclause (3) of this regulation may be revoked by the treatment provider who made the election; but, if it is revoked, a further notice may be given under that subclause only with the prior written consent of the Corporation.

(5) The Corporation shall not pay any costs unless it has received such information and declarations as it may require in order to verify that the claimant has suffered personal injury by accident and that the treatment in respect of which the claim for payment is made was provided in respect of personal injury by accident.

(6) The Corporation shall not pay any costs unless it has been advised of the date on which the treatment was provided and the specific nature of that treatment.

(7) The Corporation shall not pay any costs in respect of any treatment provided by a treatment provider unless—

(a) Prior to that treatment being provided, the claimant has been referred for that treatment—

- (i) By a general practitioner; or
- (ii) By a registered specialist; and

(b) Where the referral is by a registered specialist, the Corporation has received written advice from a general practitioner that the general practitioner has transferred management of the claimant's treatment to that registered specialist either generally, or in respect of a specified condition or conditions, or the treatment provided—

and neither the general practitioner nor the registered specialist is acting in the course of employment by an area health board.

(8) The costs payable by the Corporation, as required or permitted under these regulations, shall be paid—

- (a) To the treatment provider; or
- (b) If they have already been paid by the claimant, then to the claimant.

5. Restrictions on number and time period of treatments for which Corporation may make payments—(1) The Corporation shall only make a payment in respect of any treatment provided by a treatment provider if all the following conditions are met:

- (a) Treatments of that class are provided on not more than 24 occasions for any one patient in respect of the same claim;
- (b) The treatment is commenced, or is part of a course of treatment that has commenced, within 8 weeks after the date of referral;
- (c) Subject to subclauses (2) and (3) of this regulation, the treatment is completed within 8 weeks after the date of commencement of the course of treatment.

(2) Notwithstanding subclause (1)(c) of this regulation, but subject to subclause (3) of this regulation, where treatment is provided on not more than 21 occasions within the 8 weeks following the date of commencement of the treatment, payment may be made in respect of not more than 3 further treatments within the 6-month period that follows the date of commencement of the course of treatment.

(3) Every referral by a registered medical practitioner for treatment to be provided by a treatment provider shall specify a date by which the treatment to which the referral relates shall be completed, and the Corporation shall not make any payment in respect of any treatment provided by the treatment provider pursuant to that referral after that date.

6. Corporation to pay equivalent of Social Security benefit to Crown Bank Account—In addition to the costs payable under regulation 4 of these regulations, in any case where costs are payable under that regulation and the total cost of the treatment includes a Social Security benefit, the Corporation shall pay an amount equivalent to that Social Security benefit to a Crown Bank Account nominated by the Minister of Finance.

7. Second opinions—(1) The Corporation shall decline to make any payment in respect of any treatment that it considers may not be

necessary or appropriate or that it considers may have exceeded the number or duration necessary or appropriate in the particular case until it has obtained a second opinion on the matter.

(2) Where the Corporation, after having obtained the second opinion, believes that the treatment was unnecessary or inappropriate it shall decline to make any payment in respect of the treatment or part of the treatment (as appropriate) and shall advise the claimant and the treatment provider accordingly.

(3) Nothing in this regulation shall apply in any case where the treatment concerned or the number of treatments or the duration of the treatment concerned has been provided with the prior approval of the Corporation.

8. Costs not payable in respect of certain treatment—No payment shall be made by the Corporation under these regulations in respect of any treatment provided by a treatment provider—

- (a) In a public hospital; or
- (b) To any claimant as an out-patient of a public hospital; or
- (c) While the treatment provider is acting in the course of employment in the State services or by an area health board.

9. Certificates—The Corporation shall not make any payment under these regulations in respect of any certificate provided to the Corporation by a treatment provider other than the payment in respect of the treatment that relates to the issue of the certificate.

10. Goods and services tax—(1) All amounts specified or referred to in these regulations are inclusive of goods and services tax.

(2) Where any amount is to be calculated in a manner that involves the deduction of any Social Security benefit, the full amount of that benefit, including any goods and services tax component, shall be deducted.

11. Application of regulations to certificates and treatments provided overseas—Nothing in these regulations shall limit or restrict section 75 (8) of the Act.

12. Revocations and savings—(1) The following regulations are hereby revoked:

- (a) The Accident Compensation (Referred Treatments Costs) Regulations 1989 (S.R. 1989/332);
- (b) The Accident Compensation (Referred Treatments Costs) Regulations 1989, Amendment No. 1 (S.R. 1989/401);
- (c) The Accident Compensation (Referred Treatments Costs) Regulations 1989, Amendment No. 2 (S.R. 1990/179).

(2) Notwithstanding regulation 3 (2) of these regulations and subclause (1) of this regulation, where a treatment provider has provided, at any time in the period beginning on the 1st day of December 1989 and ending with the close of the 14th day of October 1990, treatment to a claimant in respect of personal injury by accident, the regulations revoked by subclause (1) of this regulation shall continue to apply in respect of the treatment so provided.

Reg. 4

SCHEDULE

COSTS PAYABLE BY CORPORATION IN RESPECT OF TREATMENTS PROVIDED BY
TREATMENT PROVIDERS

The costs payable by the Corporation for treatments provided by treatment providers is the amount that the treatment provider would have charged the claimant if the treatment were one for which the Corporation was not making a payment (less any Social Security benefit) or the amount specified below (less any Social Security benefit), whichever is the lesser.

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1. All treatment (other than that specified in clause 2)	22.50
2. X-ray services provided by chiropractor (maximum of 2 films per claimant per personal injury by accident)	18 per film.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations specify the fees that the Accident Compensation Corporation is to pay in respect of services provided on or after 15 October 1990 by acupuncturists, chiropractors, occupational therapists, osteopaths, physiotherapists, podiatrists, and speech therapists ("treatment providers") in respect of personal injury by accident.

The inclusion of speech therapists is new. Counsellors are excluded because they are now covered by other regulations.

Restrictions on the number of treatments and the period within which they may be performed are introduced. These restrictions are similar to those contained in the Social Security (Physiotherapy Benefits) Regulations 1984, but apply here to all treatment providers.

Referral by a specialist is permitted where a general practitioner has transferred management of the case to the specialist.

Referrals by registered medical practitioners employed by the Crown are no longer prohibited.

Treatment providers may elect to be paid at the rate of \$56.25 per hour or for actual amounts charged (whichever is the lesser), instead of receiving payments on a per treatment basis.

All amounts specified are now inclusive of goods and services tax.

Other changes are made to align these regulations with other regulations relating to costs.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 13 September 1990.

These regulations are administered in the Accident Compensation Corporation.