

Summary of ‘look back’ at declined surgical mesh claims

October 2020

Introduction

- In 2019, we were involved in a restorative justice process commissioned by the Ministry of Health and run by Victoria University of Wellington, in which more than 600 people shared their experiences of harm caused by surgical mesh.
- In the report [‘Hearing the stories of survivors of surgical mesh’](#), based on the findings of the restorative justice process, we committed to several actions to improve the experience and health outcomes for people treated with surgical mesh.
- These committed actions included partnering with consumer representatives to design an approach for looking back through declined mesh-related treatment injury claims. Recognising that claim outcomes may not change; the aim of the process was to also learn where improvements could be made to the customer experience. An initial look back at a sample of 70 declined claims has now been completed.

Summary of surgical mesh claims

- Between July 2005 and June 2020, we decided 1,603 surgical mesh claims.
- 1,231 (77 percent) of these claims were accepted and 372 were declined.

Purpose and scope of the ‘look back’

In accordance with the action we committed to, the key reasons to undertake this look back were to:

1. Check that past decisions are consistent with the latest clinical understanding of mesh injuries.
2. Provide opportunities to improve the experience for mesh-injured people interacting with ACC in the future, including identifying ways that cover decisions can be made more transparent and easily understood by clients and their whānau, health professionals, and others.
3. Identify themes in the decisions to inform new cover guidance specifically for surgical mesh injuries.

The look back included three distinct groups of claims decided between 1 July 2005 and 25 November 2019:

1. All 20 cases where the decision to decline cover was taken to Review by a client, and where the final decision was in favour of the client.
2. All 19 claims declined due to the following reasons:
 - a. underlying health condition
 - b. desired results not achieved
 - c. necessary part of treatment
 - d. lack of information
 - e. treatment injury mental injury
 - f. previously declined medical misadventure
 - g. no registered health professional involved (patient was treated overseas by non-registered health professional).

3. A sample of approximately 10 percent of all declined claims for mesh related injury where cover was declined for the following reasons (31 claims):
 - a. no injury
 - b. no causal link
 - c. an ordinary consequence of treatment.

Summary of findings

- Some decline decisions were correct based on medical evidence at the time, but the same claim lodged today could potentially be informed by more up-to-date medical evidence and understanding and could therefore get a different outcome.
- Some claims would have benefited from additional investigation, including access to imaging prior to issuing the decline decision – noting that this may not have changed the decision.

Outcomes of the look back

Informing cover guidance

- Through the look back we identified several themes. We took these to an External Advisory Group made up of medical experts nominated by their professional body/college, to consider when developing new cover guidance. The guidance was also informed by the latest medical evidence, including a literature review completed by the University of South Australia.
- The External Advisory Group included New Zealand representatives of the Urology Society of Australia and New Zealand (USANZ), the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (RANZCOG), the Royal Australasian College of Surgeons (RACS), and the New Zealand Pain Society. The people on this group were nominated by their professional body/college.

Reassessing declined claims:

- In the sample of claims we looked at, there are some claims that might be looked at differently considering the latest medical knowledge, and some that may benefit from further investigation, even though the decision may not change.
- Because of this, anyone with a previously declined surgical mesh claim, regardless of the type of surgical mesh they have implanted, can have their cover decision reassessed, at their request.
- Information about this and the process can be found at acc.co.nz/surgical-mesh.