

Reassessing declined surgical mesh claims

Client information – October 2020



Reassessing declined surgical mesh claims

If you've had a claim for a surgical mesh injury declined, you can ask us to reassess it based on the latest evidence and understanding of mesh injuries.

ACC and surgical mesh

In 2019 we were involved in the surgical mesh restorative justice process commissioned by the Ministry of Health and run by Victoria University of Wellington. More than 600 people shared their experiences of harm caused by surgical mesh.

We heard directly from mesh-injured people about how our claims experience has contributed to the harm they have experienced. We recognise the severity and impact of the harm on people with surgical mesh injuries and the need for us to improve our systems and processes.

We committed to looking back through declined surgical mesh claims to check that past cover decisions are consistent with the latest understanding of mesh injuries, and to look for opportunities to improve the experience of those who come to us for help.

We've now looked back at a sample of declined claims and worked with medical experts to consider the latest medical evidence and understanding of surgical mesh injuries. In the sample, we found that some claims could potentially get a different decision today based on the new evidence and understanding. Some claims might also benefit from more clinical investigation.

We know these injuries have had a huge impact on people and we want to provide support where we can. To allow that, people who have had a claim declined in the past are able to have their cover decision reassessed, recognising that the decision may not change.

Reassessing declined claims

We'll reassess any declined surgical mesh claim, regardless of the type of surgical mesh you have implanted, at your request. This applies to cover decisions made before 28 October 2020.

We know that going through the claims process and further clinical assessments may be difficult for some people, and we're committed to minimising any further trauma. We have a small dedicated team that will help guide you through the reassessment process.

If you think you might benefit from having your declined claim reassessed, you can:

- contact our dedicated team on 0800 735 566 or email surgical-mesh@acc.co.nz
- visit your GP and take this information with you (print this document or save it on your phone)
- discuss this with your specialist doctor (if you are receiving specialist care) at an upcoming appointment
- visit acc.co.nz/surgical-mesh for more detailed information about the process - including a process diagram and a question and answer document.

We can reimburse you for the cost of the appointment with your GP or specialist. If you're unable to cover the initial cost, please contact us about other options.

When you first contact our team, we'll take your details and arrange a time to call or email you back (depending on your preference).

We'll then look at the information we have on file and let you know what the next steps are. You'll have a dedicated specialist cover assessor who'll be in regular contact with you and will support you through the process – you can choose if they are male or female.

To reassess some claims, we may need more medical information. This may or may not involve further medical assessment. If an assessment is needed, we'll talk this through with you, help arrange it and cover the costs, and support you through the process.

You'll need to give us your consent to start the reassessment process. If you would rather see your GP or medical specialist first instead of contacting us directly, they can contact us and initiate this for you. We'll then contact you to confirm your consent.

If you think you have a surgical mesh injury that can be covered and haven't made a claim yet, talk to your GP or specialist about submitting one now.

How we'll assess your claim

We've worked with an external advisory group to develop new cover guidance for surgical mesh injuries, based on the latest medical evidence and understanding of mesh injuries. We'll use this guidance to assess both previously declined claims and new claims.

The new guidance means:

- Where there is clear evidence of mesh erosion/extrusion, specific nerve damage, or surgical error, we're likely to accept the claim.
- In some cases, there is evidence of symptoms such as pain or sexual dysfunction, but no clear diagnosis of a physical injury causing the symptoms. In some cases,

new medical evidence may support the link to mesh injury, and we can support further assessment to investigate if there is a physical injury - if you're happy to have the necessary assessments done.

- We now know that age, menopause and/or use of oestrogen therapy aren't relevant to the cause of surgical mesh injuries. Claims are unlikely to be declined because of these reasons alone.

We look at every injury claim on a case-by-case basis, in line with the latest medical evidence, and with the information available.

Find out more

For more information or to request a reassessment, you can:

- contact our dedicated team on 0800 735 566 or email surgical-mesh@acc.co.nz
- visit your GP and take this information with you (print this out or save it on your phone)
- discuss this with your specialist doctor (if you are receiving specialist care) at an upcoming appointment
- visit acc.co.nz/surgical-mesh to find more information including a question and answer document and process diagram.

We can reimburse you for the cost of the appointment with your GP or specialist. If you're unable to cover the initial cost, please contact us about other options.

If you need support while going through this process you can:

- talk to your GP about what local support is available
- call or text the free 'Need to talk?' service on 1737, for emotional support.



Claim examples

The examples below are fictional claims used to illustrate how the new cover guidance and other new understanding about mesh-related neuropathic pain might impact different types of claims. Any resemblance to actual cases is purely coincidental.

Example 1: Claim may get a different decision based on new cover guidance

Jane had a surgical mesh repair for issues involving the vagina and parts of the bowel. Following the surgery, it was noted that there was a small area of mesh exposure in the vaginal wall and a claim was lodged.

Original decision: We declined Jane's claim as there was no evidence of a physical injury caused by treatment other than the surgical incision and placement of the mesh. Both the surgical incision and mesh placement are necessary parts of the treatment provided and therefore, were not considered an injury under ACC legislation.

Now: There is new medical evidence about mesh erosion/extrusion/exposure, what it is, and the impact it can have on the body. The guidance indicates that this can be considered a personal injury and so, depending on all the factors in Jane's case, this claim may receive a different decision today. If people like Jane wanted their claim reassessed, we would request current medical information about any ongoing symptoms to consider if there is an injury that can be covered.

Example 2: Claim may get a different decision based on new cover guidance

Alex had a mesh repair for pelvic organ prolapse. Then a few years later when Alex was going through menopause, mesh extrusion was found.

Original decision: We declined the claim as an ordinary consequence because Alex was going through menopause and the hormonal effects of menopause were thought to have caused the mesh extrusion.

Now: The evidence reflected in the new cover guidance tells us that age, menopause and/or use of oestrogen therapy aren't relevant to the cause of surgical mesh injuries and claims shouldn't be declined due to these reasons alone. People like Alex may benefit from reassessment based on this new understanding.

Example 3: Claim unlikely to get a different decision based on new cover guidance

Morgan had a mesh procedure to treat an incontinence problem. At the time, Morgan was 53 years old. Following the procedure, Morgan still had the incontinence problem.

Original decision: We declined Morgan's claim because there was no physical injury caused by treatment and therefore, it can't be covered under ACC legislation. The treatment didn't achieve the desired result and is excluded from treatment injury cover.

Now: Situations like Morgan's don't meet the criteria for treatment injury cover as there is no injury caused by the treatment and the requirement for a personal injury is a key part of the cover criteria.

Example 4: Claim unlikely to get a different decision based on new cover guidance

Ashley had a mesh procedure to treat pelvic organ prolapse. Following the surgery, Ashley experienced numbness around the incision that was made, and a claim was lodged.

Original decision: We declined Ashley's claim because the incision was a necessary part of the surgery and was completed correctly, and the damage to superficial nerves around the incision site was necessary.

Now: Claims like Ashley's do not meet the criteria for treatment injury cover, as the only injury identified is a necessary part of the treatment. The exclusions for injuries that are necessary remain a key part of the cover criteria and so, the decision declining the claim would not change.

Example 5: Claim may benefit from more investigation (decision may not change)

Sam had a surgical mesh procedure at 42 years old to repair a hernia in the groin area. Following the surgery Sam was diagnosed with persistent groin pain and applied for treatment injury cover.

Original decision: We declined Sam's claim because there was no evidence provided of nerve damage, and therefore it could not be established that there was a physical injury caused by treatment.

Now: At the time of claim lodgement there was limited clinical information available about the exact nature of Sam's pain and its cause. New information suggests a specific nerve injury may be responsible. Further investigations could benefit this client. If Sam asked for reassessment, we would likely arrange for Sam to have further medical assessment done to see if there is a physical injury that can be covered.

CONTACT US

If you have questions about the reassessment process
please contact our dedicated team.

Call us on 0800 735 566

Email us at surgical-mesh@acc.co.nz

INFORMATION FOR PROVIDERS

Cover guidance and further information for providers
is available at acc.co.nz

Providers can also contact our dedicated team
using the details above.



www.acc.co.nz