He Kaupare. He Manaaki. He Whakaora.
Prevention. Care. Recovery.

20 February 2025

[redacted]

Kia ora [redacted]

Your Official Information Act request, reference: GOV-037664
Thank you for your email of 22 January 2025, asking for the following information under the Official Information Act 1982:

1. *Please provide a monthly breakdown into the number of people who applied to the Accident Compensation Corporation after an accident whilst having an operation during the period 1st of January 2019 to 31st of December 2024.*
2. *Please provide a monthly breakdown into the gender, age, ethnicity and location of the patients who applied to ACC because of their accident during an operation in the time period stated above.*
3. *Please provide whether the patient was in public or private care at the time of their operation.*
4. *Please provide a breakdown of the different accidents that occurred during a patients operation in the period stated above.*
5. *Please provide the number of ACC claims for accidents during an operation that were both accepted and declined during the time period stated above.*
6. *Please provide the reasons why a claim was declined in that time period.*
7. *Please provide the average wait time for patients before they received their compensation during the time period stated above.*
8. *Please provide details into the shortest and longest wait time a patient had while waiting for their compensation in the period stated above.*

And I ask anything within the spirit of the request be included in the response.

Please find attached the data requested
For background information about treatment injuries, please refer to the *Context* tab.

Further treatment injury information
As you asked for information in the spirit of the request, we note that you may find useful information in the Supporting Treatment Safety 2021 report. This provides summarized data on claims to ACC for treatment injuries and provides information about treatment injury claims made in public and private hospitals. You can access the report at https://www.acc.co.nz/im-injured/preventing-injury/making-treatment-safer/

ACC's operational policies about treatment injuries are attached
Please note staff names have been removed from the attached documents as they are out of scope of your request.

- *Causal Link Policy*
- *Context of Treatment Policy*
- *Cover criteria for treatment injury Policy*
- *Necessary Part or Ordinary Consequence of Treatment Policy*
- *Treatment Injury Exclusions from Cover Policy*

As this information may be of interest to other members of the public
ACC may publish a copy of this response on ACC's website. All requester data, including your name and contact details, will be removed prior to release. The released response will be made available www.acc.co.nz/resources/#/category/12. Please also view this page about making requests and our published responses https://www.acc.co.nz/contact/official-information-act-requests.

If you have any questions about this response, please get in touch
You can email me at GovernmentServices@acc.co.nz.

Ngā mihi

Christopher Johnston
Manager Official Information Act Services
Government Engagement

Background information about treatment injury data

Before responding to your request, we would first like to provide you with some background information about treatment injuries.

A treatment injury is a personal injury caused as a result of seeking or receiving medical treatment from a registered health professional. In order to fulfil the criteria for cover, the person must have suffered a personal injury and there must be a clear causal link between the treatment and the injury, and the injury must not be a necessary part or ordinary consequence of the treatment.

When considering treatment injury data, it is important to note that the number of claims lodged with ACC cannot be taken as an accurate indication of the occurrence of injury during treatment or the quality of care. This is because, among other reasons, not all occurrences of injury during treatment are lodged with ACC.

Claim lodgement rates are dependent on several factors. They can be influenced by:

- population demography i.e. the characteristics of the resident population, visitors and referred patients
- health status of the population treated
- what level of facility the organisation provides i.e. tertiary versus secondary
- familiarity of health providers or clients in recognising and/or lodging treatment injury claims

Privacy

Some of the values in the tables only indicate that the number is less than 4 (denoted as <4). In other instances, values are supressed and notated as (--) to limit the potential for particular individuals or matters specific to certain individuals from being identified.

Withholding in this way is necessary to protect the privacy of these individuals under section 9(2)(a) of the Act. In doing so, we have considered the public interest in making the information available and have determined that it does not outweigh the need to protect th privacy of these persons.

Ethnicity

The ethnicity data provided is based on ACC's 'prioritised ethnicity' data field. This method reduces the six ethnic responses to a single response where: Māori regardless of other ethnicities listed is classified as Māori; Pacific peoples with any other response other than Māori is classified as Pacific; Asian peoples with any other response other than Māori and Pacific are classified as Asian; Other ethnicity regardless of any other response other than Māori, Asian or Pacific is classified as Other. Those that listed European and did not list Māori, Pacific, Asian or Other are classified as European.

ACC reports ethnicity using a different method to Statistics New Zealand. Care must be taken when comparing ACC's ethnicity data with other Government agencies or census data.

Data

The treatment injury data provided below was extracted on 4 February 2025 and includes claims lodged between 1 January 2019 and 31 December 2024.

As the data is extracted from a live system, figures may differ if rerun in the future.

Claim Volume

There were 53,070 decided surgery related treatment injury claims that were lodged between 1 January 2019 and 31 December 2024. Of these, 42,251 have been accepted for cover, 10,819 have been declined.

Table 1: Number of decided surgery related treatment injury claims lodged between 1 January 2019 and 31 December 2024, by claim lodgement month and treatment injury cover decisio

Claim Lodgement Month	Accepted	Declined	Total
2019-Jan	435	138	573
2019-Feb	497	167	664
2019-Mar	569	168	737
2019-Apr	493	147	640
2019-May	601	168	769
2019-Jun	463	176	639
2019-Jul	604	183	787
2019-Aug	613	184	797
2019-Sep	570	151	721
2019-Oct	570	189	759
2019-Nov	535	153	688
2019-Dec	539	147	686
2020-Jan	442	143	585
2020-Feb	551	166	717
2020-Mar	531	132	663
2020-Apr	292	54	346
2020-May	425	139	564
2020-Jun	570	151	721
2020-Jul	569	175	744
2020-Aug	585	178	763
2020-Sep	551	143	694
2020-Oct	547	142	689
2020-Nov	567	129	696
2020-Dec	579	141	720
2021-Jan	429	112	541
2021-Feb	505	130	635
2021-Mar	599	168	767
2021-Apr	537	144	681
2021-May	610	148	758
2021-Jun	643	183	826
2021-Jul	564	162	726
2021-Aug	486	134	620
2021-Sep	437	106	543
2021-Oct	440	146	586
2021-Nov	566	159	725
2021-Dec	526	166	692
2022-Jan	355	83	438
2022-Feb	452	131	583
2022-Mar	599	129	728
2022-Apr	443	102	545
2022-May	605	151	756
2022-Jun	569	131	700
2022-Jul	554	144	698
2022-Aug	697	155	852
2022-Sep	606	129	735
2022-Oct	613	116	729
2022-Nov	643	148	791
2022-Dec	597	146	743
2023-Jan	480	104	584
2023-Feb	535	127	662
2023-Mar	732	151	883
2023-Apr	553	138	691
2023-May	785	163	948
2023-Jun	649	155	804
2023-Jul	661	148	809
2023-Aug	785	173	958
2023-Sep	675	177	852
2023-Oct	652	194	846
2023-Nov	724	172	896
2023-Dec	712	162	874
2024-Jan	531	149	680
2024-Feb	626	159	785
2024-Mar	738	171	909
2024-Apr	799	184	983
2024-May	797	206	1,003
2024-Jun	685	149	834
2024-Jul	854	174	1,028
2024-Aug	792	170	962
2024-Sep	746	190	936
2024-Oct	785	180	965
2024-Nov	675	142	817
2024-Dec	507	94	601
Total	**42,251**	**10,819**	**53,070**

Table 2: Number of accepted surgery related treatment injury claims lodged between 1 January 2019 and 31 December 2024, by claim lodgement month and client gende

Claim Lodgement Month	Female	Male	Another Gender	Unknown
2019-Jan	249	186	0	0
2019-Feb	248	249	0	0
2019-Mar	281	288	0	0
2019-Apr	262	231	0	0
2019-May	307	294	0	0
2019-Jun	233	230	0	0
2019-Jul	316	288	0	0
2019-Aug	339	274	0	0
2019-Sep	285	285	0	0
2019-Oct	286	284	0	0
2019-Nov	287	248	0	0
2019-Dec	270	269	0	0
2020-Jan	241	201	0	0
2020-Feb	286	265	0	0
2020-Mar	263	268	0	0
2020-Apr	150	142	0	0
2020-May	225	200	0	0
2020-Jun	304	266	0	0
2020-Jul	283	286	0	0
2020-Aug	314	271	0	0
2020-Sep	286	--	<4	0
2020-Oct	291	256	0	0
2020-Nov	271	296	0	0
2020-Dec	--	291	<4	0
2021-Jan	234	195	0	0
2021-Feb	253	252	0	0
2021-Mar	329	270	0	0
2021-Apr	278	259	0	0
2021-May	319	291	0	0
2021-Jun	325	318	0	0
2021-Jul	299	265	0	0
2021-Aug	236	250	0	0
2021-Sep	242	195	0	0
2021-Oct	241	--	<4	0
2021-Nov	--	267	<4	0
2021-Dec	275	251	0	0
2022-Jan	200	155	0	0
2022-Feb	249	203	0	0
2022-Mar	305	294	0	0
2022-Apr	252	191	0	0
2022-May	307	298	0	0
2022-Jun	312	257	0	0
2022-Jul	305	249	0	0
2022-Aug	365	332	0	0
2022-Sep	316	290	0	0
2022-Oct	332	281	0	0
2022-Nov	--	293	<4	0
2022-Dec	318	279	0	0
2023-Jan	247	233	0	0
2023-Feb	277	258	0	0
2023-Mar	383	--	<4	0
2023-Apr	287	266	0	0
2023-May	411	374	0	0
2023-Jun	338	311	0	0
2023-Jul	347	314	0	0
2023-Aug	421	--	0	<4
2023-Sep	345	330	0	0
2023-Oct	342	310	0	0
2023-Nov	356	368	0	0
2023-Dec	375	337	0	0
2024-Jan	288	243	0	0
2024-Feb	339	287	0	0
2024-Mar	391	347	0	0
2024-Apr	442	357	0	0
2024-May	395	402	0	0
2024-Jun	365	--	<4	0
2024-Jul	441	413	0	0
2024-Aug	436	356	0	0
2024-Sep	385	361	0	0
2024-Oct	--	401	<4	0
2024-Nov	368	307	0	0
2024-Dec	259	248	0	0
Total Accepted Claims	**22,124**	**20,117**	**--**	**<4**

Table 3: Number of accepted surgery related treatment injury claims lodged between 1 January 2019 and 31 December 2024, by claim lodgement month and client age ban

Claim Lodgement Month	00-04 Years	05-09 Years	10-14 Years	15-19 Years	20-24 Years	25-29 Years	30-34 Years	35-39 Years	40-44 Years	45-49 Years	50-54 Years	55-59 Years	60-64 Years	65-69 Years	70-74 Years	75-79 Years	80-84 Years	85 Years and over	Unknown
2019-Jan	6	<4	<4	6	13	23	20	16	24	38	36	50	38	40	45	33	17	26	0
2019-Feb	--	0	<4	6	13	28	17	27	28	46	41	44	57	52	57	38	23	13	0
2019-Mar	<4	<4	<4	9	15	21	27	33	40	44	44	57	57	60	60	41	32	22	0
2019-Apr	5	<4	--	8	15	18	27	16	18	36	37	61	50	60	58	32	28	17	0
2019-May	<4	--	7	6	9	25	36	46	30	35	57	50	57	65	65	51	25	27	0
2019-Jun	<4	<4	4	5	13	20	29	22	30	30	28	40	59	53	53	30	26	17	0
2019-Jul	<4	0	<4	8	13	25	38	29	44	41	40	53	55	72	64	57	32	27	0
2019-Aug	4	<4	<4	10	21	30	32	18	40	49	47	56	62	71	48	67	25	29	0
2019-Sep	<4	4	--	10	14	28	30	39	34	31	40	67	63	62	53	40	26	21	0
2019-Oct	5	<4	0	--	20	21	39	32	32	45	41	61	61	56	58	44	23	24	0

2019-Nov	<4	<4	6	8	17	20	25	24	40	42	44	62	41	52	42	52	33	23	0
2019-Dec	<4	<4	<4	4	12	12	49	35	19	30	36	62	60	74	57	43	20	21	0
2020-Jan	<4	<4	4	6	10	13	20	30	26	34	35	29	54	48	48	42	20	20	0
2020-Feb	4	4	5	6	15	24	34	37	24	29	42	56	57	62	62	39	24	27	0
2020-Mar	7	0	--	<4	14	24	21	18	26	32	39	47	60	66	71	36	39	23	0
2020-Apr	6	0	<4	<4	7	12	14	15	15	15	22	33	24	35	29	28	20	12	0
2020-May	<4	0	<4	6	14	19	22	28	16	28	35	39	39	50	48	30	23	24	0
2020-Jun	5	5	4	7	23	21	39	25	35	33	42	49	62	64	76	40	19	21	0
2020-Jul	5	<4	<4	19	10	20	27	27	33	39	49	59	75	70	53	26	31	23	0
2020-Aug	<4	<4	4	10	14	24	37	35	30	41	44	58	61	48	71	53	28	22	0
2020-Sep	--	0	<4	13	21	18	33	26	28	40	48	51	60	70	60	37	21	18	0
2020-Oct	<4	<4	6	7	11	25	43	32	30	33	39	55	67	49	55	34	26	30	0
2020-Nov	7	5	6	12	18	14	36	32	30	41	46	58	56	49	60	42	35	20	0
2020-Dec	<4	--	4	9	23	21	29	30	43	40	43	66	60	56	53	44	30	22	0
2021-Jan	5	<4	<4	6	20	20	21	18	22	34	40	42	37	48	46	30	19	19	0
2021-Feb	6	<4	--	7	17	24	23	25	32	33	34	50	49	49	58	40	31	21	0
2021-Mar	<4	<4	4	10	18	30	27	30	27	60	49	56	64	47	59	56	32	25	0
2021-Apr	4	0	<4	--	12	26	28	32	39	35	36	43	46	49	57	53	40	29	0
2021-May	12	<4	--	14	17	30	37	39	40	43	41	51	63	56	63	48	31	17	0
2021-Jun	10	--	<4	10	8	48	39	37	35	36	53	54	69	68	53	49	39	25	0
2021-Jul	<4	<4	5	15	21	24	29	31	28	43	41	53	57	72	49	43	27	21	0
2021-Aug	--	<4	6	11	14	24	41	23	17	33	45	45	43	50	40	30	31	25	0
2021-Sep	<4	<4	0	10	20	20	22	25	28	24	39	32	42	52	50	34	22	14	0
2021-Oct	<4	<4	4	10	12	27	32	26	22	30	32	49	43	38	47	27	23	13	0
2021-Nov	<4	<4	4	6	13	31	23	32	35	44	40	49	68	58	63	42	31	24	0
2021-Dec	6	<4	--	10	11	23	35	31	34	42	36	49	42	48	61	43	27	18	0
2022-Jan	<4	<4	<4	10	12	21	21	18	13	25	29	28	31	50	34	22	20	17	0
2022-Feb	7	<4	--	6	9	21	28	27	29	30	37	42	44	40	42	34	29	20	0
2022-Mar	5	<4	<4	7	12	37	32	32	34	32	34	54	65	66	65	60	33	27	0
2022-Apr	4	<4	<4	4	7	19	25	33	31	32	27	47	43	53	44	30	21	19	0
2022-May	10	<4	--	6	19	32	33	29	32	43	47	66	65	56	62	49	24	27	0
2022-Jun	7	<4	<4	9	19	24	28	31	26	44	53	51	72	69	57	39	20	17	0
2022-Jul	--	<4	8	10	21	21	39	41	30	32	41	41	60	53	51	46	32	20	0
2022-Aug	6	4	7	8	23	38	38	37	29	48	44	49	63	80	86	61	49	27	0
2022-Sep	7	<4	--	12	16	28	27	25	28	33	53	56	65	55	73	55	41	23	0
2022-Oct	8	<4	--	15	22	29	40	33	30	39	49	53	65	64	60	46	31	22	0
2022-Nov	--	<4	9	11	15	31	38	45	26	36	57	54	78	53	68	54	30	28	0
2022-Dec	5	5	4	10	15	25	33	40	36	33	41	64	79	62	47	36	31	31	0
2023-Jan	--	<4	0	10	16	19	15	28	30	23	42	50	41	62	45	43	23	24	0
2023-Feb	<4	<4	6	7	13	26	22	34	25	37	37	33	65	65	46	61	34	20	0
2023-Mar	7	<4	--	12	19	27	43	35	39	51	56	62	73	82	66	66	53	34	0
2023-Apr	<4	5	<4	13	14	26	27	37	25	34	47	50	62	48	67	39	33	21	0
2023-May	--	<4	5	12	28	34	57	50	37	39	67	62	74	90	73	73	41	36	0
2023-Jun	8	4	5	13	17	22	38	47	24	21	44	56	88	69	68	65	36	24	0
2023-Jul	<4	<4	<4	12	20	25	36	44	34	44	66	60	66	61	61	59	44	20	<4
2023-Aug	8	4	6	13	14	30	52	48	45	44	51	76	81	89	74	76	50	24	0
2023-Sep	7	5	7	15	21	24	33	37	42	37	55	57	81	75	64	48	45	22	0
2023-Oct	11	0	<4	13	26	35	41	38	46	41	44	49	62	68	61	49	35	29	<4
2023-Nov	10	--	<4	13	13	31	38	35	29	37	47	70	87	79	86	62	52	28	0
2023-Dec	8	--	<4	9	23	25	48	32	40	38	54	63	67	96	74	49	42	36	0
2024-Jan	7	4	7	8	6	22	33	38	26	27	35	36	52	61	61	55	31	22	0
2024-Feb	<4	<4	<4	14	16	21	33	44	36	36	52	56	73	58	66	56	28	31	0
2024-Mar	8	<4	--	12	25	22	39	58	35	45	52	64	80	73	88	55	33	39	0
2024-Apr	6	6	8	16	23	28	41	42	35	41	62	59	91	84	85	88	48	36	0
2024-May	7	7	4	15	18	39	42	32	37	47	49	64	93	108	74	80	44	37	0
2024-Jun	6	4	6	9	11	28	42	33	44	44	40	66	73	83	63	60	43	30	0
2024-Jul	9	10	8	12	17	27	54	51	44	40	59	66	99	93	88	90	57	30	0
2024-Aug	<4	--	5	16	25	26	50	53	46	38	63	69	76	84	87	73	47	27	0
2024-Sep	5	<4	--	10	22	28	39	56	48	36	61	58	84	83	73	70	40	25	0
2024-Oct	10	4	9	6	15	29	50	46	40	45	62	67	64	73	85	92	48	40	0
2024-Nov	<4	5	<4	10	20	20	36	36	31	42	57	60	54	90	66	67	49	30	0
2024-Dec	8	0	6	8	11	16	17	25	26	31	48	27	56	47	57	62	34	28	0
Total Accepted Claims	**377**	**190**	**313**	**684**	**1,161**	**1,789**	**2,389**	**2,391**	**2,282**	**2,674**	**3,223**	**3,821**	**4,430**	**4,541**	**4,359**	**3,544**	**2,330**	**1,751**	**<4**

Table 4: Number of accepted surgery related treatment injury claims lodged between 1 January 2019 and 31 December 2024, by claim lodgement month and prioritised ethnicit

Claim Lodgement Month	Māori	Pacific Peoples	Asian	European	Other Ethnicity	Unknown
2019-Jan	34	21	19	338	12	11
2019-Feb	58	17	17	373	15	17
2019-Mar	51	11	23	446	21	17
2019-Apr	34	24	19	383	18	15
2019-May	43	17	19	474	26	22
2019-Jun	48	16	14	363	8	14
2019-Jul	49	19	25	466	22	23
2019-Aug	68	18	24	455	26	22
2019-Sep	55	19	24	428	18	26
2019-Oct	54	12	17	449	19	19
2019-Nov	55	15	18	409	16	22
2019-Dec	51	12	23	408	20	25
2020-Jan	44	22	18	329	15	14
2020-Feb	53	15	14	426	20	23
2020-Mar	47	15	16	421	14	18
2020-Apr	28	11	13	218	7	15
2020-May	50	11	13	323	9	19
2020-Jun	69	13	16	437	13	22
2020-Jul	69	20	12	427	19	22
2020-Aug	46	20	26	454	17	22
2020-Sep	43	10	23	437	20	18

2020-Oct	53	19	23	407	21	24
2020-Nov	63	18	21	414	23	28
2020-Dec	51	24	26	443	14	21
2021-Jan	46	17	21	311	11	23
2021-Feb	62	19	23	363	18	20
2021-Mar	49	25	29	463	15	18
2021-Apr	40	10	24	425	21	17
2021-May	59	33	27	443	20	28
2021-Jun	68	20	26	467	30	32
2021-Jul	70	17	14	419	24	20
2021-Aug	62	21	21	348	15	19
2021-Sep	40	18	15	332	21	11
2021-Oct	58	13	16	320	15	18
2021-Nov	51	14	21	448	18	14
2021-Dec	49	18	20	403	22	14
2022-Jan	38	17	13	256	10	21
2022-Feb	45	16	17	324	33	17
2022-Mar	61	14	29	462	21	12
2022-Apr	43	16	15	347	10	12
2022-May	59	15	22	460	29	20
2022-Jun	59	16	27	431	19	17
2022-Jul	57	18	25	405	20	29
2022-Aug	74	20	22	533	26	22
2022-Sep	57	18	34	458	23	16
2022-Oct	59	17	22	463	27	25
2022-Nov	69	14	32	479	30	19
2022-Dec	63	23	31	450	19	11
2023-Jan	61	13	19	346	21	20
2023-Feb	55	8	27	404	21	20
2023-Mar	74	24	35	539	32	28
2023-Apr	59	20	22	410	20	22
2023-May	91	26	30	579	33	26
2023-Jun	71	15	31	473	29	30
2023-Jul	78	26	26	472	27	32
2023-Aug	91	22	41	584	24	23
2023-Sep	80	19	23	489	32	32
2023-Oct	80	26	38	443	33	32
2023-Nov	76	23	31	529	26	39
2023-Dec	64	22	40	534	24	28
2024-Jan	51	19	23	404	17	17
2024-Feb	74	9	21	470	24	28
2024-Mar	80	19	23	556	29	31
2024-Apr	80	19	32	615	28	25
2024-May	80	14	31	610	36	26
2024-Jun	73	18	39	507	19	29
2024-Jul	90	24	42	625	26	47
2024-Aug	73	24	34	608	27	26
2024-Sep	80	20	32	557	29	28
2024-Oct	82	25	31	593	29	25
2024-Nov	86	19	25	501	24	20
2024-Dec	53	13	20	386	18	17
Total Accepted Claims	**4,336**	**1,295**	**1,725**	**31,772**	**1,538**	**1,585**

Table 5: Number of accepted surgery related treatment injury claims lodged between 1 January 2019 and 31 December 2024, by claim lodgement month and Te Whatu Ora Region of Residenc

Claim Lodgement Month	Auckland	Bay of Plenty	Canterbury	Capital and Coast	Counties Manukau	Hawke's Bay	Hutt Valley	Lakes	MidCentral	Nelson Marlborough	Northland	South Canterbury	Southern	Tairawhiti	Taranaki	Waikato	Wairarapa	Waitemata	West Coast	Whanganui	Unknown
2019-Jan	19	12	35	30	34	9	13	8	16	19	15	7	20	--	20	38	6	44	<4	24	57
2019-Feb	24	20	33	26	27	13	18	9	17	26	21	6	22	10	20	66	--	61	<4	18	51
2019-Mar	22	24	41	49	35	11	15	19	19	30	23	7	24	9	17	55	11	74	5	17	62
2019-Apr	27	18	48	34	42	12	8	7	19	15	24	9	26	<4	24	43	<4	49	<4	17	63
2019-May	28	29	53	32	41	20	14	13	27	17	38	8	21	7	23	67	<4	74	<4	25	60
2019-Jun	27	18	43	36	28	13	13	10	18	17	16	7	32	10	15	36	<4	52	<4	17	50
2019-Jul	30	33	49	38	45	11	10	17	27	23	25	12	28	13	25	68	<4	72	--	12	57
2019-Aug	28	20	53	41	51	12	11	17	27	24	34	11	33	5	31	54	11	52	6	21	71
2019-Sep	27	20	58	34	37	15	12	12	21	25	30	5	26	14	18	57	11	54	4	31	59
2019-Oct	32	23	46	32	48	20	18	11	13	20	30	10	27	13	20	66	12	51	4	23	51
2019-Nov	35	20	45	27	41	20	14	12	18	20	23	7	18	9	25	51	11	53	4	24	58
2019-Dec	24	28	40	32	39	20	7	16	16	22	30	9	33	<4	32	58	7	51	<4	17	52
2020-Jan	27	17	37	26	28	14	9	7	22	18	27	6	19	9	11	40	<4	47	<4	18	55
2020-Feb	19	23	46	29	35	12	12	9	27	17	24	6	29	13	25	85	--	67	<4	13	54
2020-Mar	20	30	34	35	39	11	16	17	11	23	40	5	15	12	21	62	--	52	<4	22	59
2020-Apr	10	11	36	14	20	4	8	<4	5	12	17	5	14	6	12	27	<4	36	<4	19	29
2020-May	20	17	32	24	26	7	5	12	14	16	32	4	20	7	27	71	<4	39	<4	12	35
2020-Jun	32	23	64	39	44	6	10	16	18	14	30	10	27	9	36	69	--	39	<4	24	51
2020-Jul	31	25	60	33	45	14	8	14	16	26	25	10	36	10	24	53	--	63	<4	19	47
2020-Aug	32	21	50	33	33	20	15	13	17	24	46	7	33	6	22	63	7	59	4	18	62
2020-Sep	24	19	55	37	40	16	13	--	11	21	27	9	27	12	33	54	7	64	<4	23	48
2020-Oct	33	27	47	33	28	17	13	16	20	21	32	7	25	7	28	61	10	49	5	6	62
2020-Nov	29	25	52	46	43	13	7	18	15	32	36	12	25	16	24	38	--	75	<4	7	45
2020-Dec	28	23	61	36	39	26	17	--	19	32	37	6	37	10	21	63	8	49	<4	10	39
2021-Jan	25	10	34	32	30	11	7	13	15	12	28	13	20	8	33	35	<4	39	--	11	48
2021-Feb	28	11	41	29	40	13	9	11	20	15	33	12	25	11	35	37	--	58	<4	15	46
2021-Mar	30	24	57	36	46	12	16	--	34	27	30	10	24	11	35	57	9	63	<4	14	52
2021-Apr	18	19	45	39	43	17	12	11	31	23	32	6	23	9	22	61	--	54	<4	11	48
2021-May	29	20	65	26	38	16	15	19	25	27	26	8	45	9	24	54	5	64	4	23	68
2021-Jun	23	23	40	37	50	24	14	12	25	24	36	10	39	10	24	111	--	61	<4	13	55
2021-Jul	19	25	52	32	39	18	9	15	19	23	41	6	33	13	29	53	4	68	6	24	36
2021-Aug	27	23	39	27	32	17	9	9	17	21	27	7	24	12	27	40	4	63	5	14	42

2021-Sep	12	17	49	30	18	27	10	11	15	17	20	8	30	9	26	44	5	40	4	8	37
2021-Oct	29	19	48	27	23	17	15	11	19	16	21	5	27	7	20	47	--	32	<4	15	34
2021-Nov	43	23	38	29	34	19	18	12	23	21	30	8	50	15	26	44	11	49	5	22	46
2021-Dec	30	13	55	28	38	15	10	12	24	23	32	10	29	8	40	41	--	54	<4	8	49
2022-Jan	22	18	31	22	24	11	12	--	9	16	25	0	22	5	15	35	4	24	<4	13	38
2022-Feb	16	19	36	29	41	18	11	11	17	14	18	8	27	4	25	33	9	58	7	14	37
2022-Mar	24	16	61	39	44	21	9	15	28	24	37	7	38	7	24	50	8	55	4	25	63
2022-Apr	23	21	38	25	28	20	9	<4	16	18	23	10	26	6	30	40	--	47	5	8	40
2022-May	32	25	62	33	43	16	13	16	22	21	40	6	39	6	41	41	<4	69	--	18	55
2022-Jun	23	23	48	38	35	25	18	12	23	23	34	6	39	11	26	51	--	63	<4	16	48
2022-Jul	32	22	50	26	34	21	11	15	17	17	40	8	30	8	33	57	5	55	4	17	52
2022-Aug	38	30	66	27	39	25	8	--	21	29	49	12	41	10	44	44	15	94	<4	19	68
2022-Sep	32	28	50	37	37	18	13	12	16	24	43	6	31	9	39	59	6	77	6	14	49
2022-Oct	28	30	58	36	39	23	10	12	30	20	49	11	40	7	39	43	6	63	4	12	53
2022-Nov	29	35	48	57	40	16	17	--	23	35	35	4	38	5	39	54	10	64	<4	14	69
2022-Dec	21	33	45	34	40	17	24	10	23	25	38	12	30	9	34	52	4	63	6	14	63
2023-Jan	23	31	51	17	24	16	7	9	18	21	30	4	39	10	25	48	6	37	6	13	45
2023-Feb	27	25	50	28	37	10	12	16	15	24	38	7	27	5	28	54	--	57	<4	14	53
2023-Mar	34	37	52	41	42	28	14	14	27	46	53	13	49	13	37	64	6	83	4	20	55
2023-Apr	24	29	41	35	45	12	13	11	25	17	44	8	33	<4	26	71	<4	43	6	11	53
2023-May	44	40	61	35	47	21	10	20	33	29	45	9	55	9	41	96	6	77	7	21	79
2023-Jun	33	34	53	34	56	27	13	19	34	19	42	14	30	10	30	56	7	53	5	15	65
2023-Jul	34	35	58	38	56	15	15	15	30	33	32	7	39	12	42	61	13	58	5	16	47
2023-Aug	45	46	64	45	38	19	10	12	36	27	46	13	38	5	52	107	8	55	16	17	86
2023-Sep	41	30	54	31	43	20	22	12	36	29	58	9	46	9	25	63	13	55	4	16	59
2023-Oct	30	33	52	34	50	10	13	12	29	31	57	9	50	4	36	76	<4	47	--	12	60
2023-Nov	24	43	59	38	53	24	16	18	29	34	43	11	53	8	36	68	8	64	4	28	63
2023-Dec	30	28	64	38	47	17	9	27	36	35	50	12	51	8	46	66	8	60	6	19	55
2024-Jan	28	18	44	20	27	19	12	--	26	38	41	8	27	6	28	57	<4	41	8	11	54
2024-Feb	31	34	48	34	42	12	6	12	35	31	43	6	44	9	38	61	<4	52	--	13	65
2024-Mar	38	38	55	39	56	25	17	18	32	31	55	14	32	15	41	74	6	54	10	17	71
2024-Apr	41	31	68	40	38	12	23	19	41	38	49	9	49	10	57	96	11	60	14	14	79
2024-May	35	50	70	50	40	26	12	22	34	41	44	11	42	16	26	97	<4	81	--	21	67
2024-Jun	25	39	63	31	32	22	11	11	27	34	48	6	52	11	39	91	9	60	9	10	55
2024-Jul	37	47	84	50	46	15	11	26	52	40	41	12	67	--	67	72	<4	82	8	10	68
2024-Aug	40	30	91	33	38	36	11	17	31	30	47	11	51	16	42	76	14	85	8	26	59
2024-Sep	37	35	79	41	44	26	14	16	29	32	46	9	46	13	53	66	7	67	4	16	66
2024-Oct	46	45	79	36	40	21	11	11	39	40	46	16	41	10	50	89	4	65	4	24	68
2024-Nov	33	35	53	33	42	17	12	26	33	35	43	10	40	13	36	79	6	69	4	10	46
2024-Dec	28	28	38	19	22	15	9	10	22	27	34	5	37	9	32	53	4	41	6	18	50
Total Accepted Claims	**2,069**	**1,894**	**3,705**	**2,411**	**2,768**	**1,238**	**888**	**972**	**1,694**	**1,791**	**2,544**	**611**	**2,425**	**668**	**2,217**	**4,269**	**481**	**4,149**	**325**	**1,191**	**3,941**

Table 6: Number of decided surgery related treatment injury claims lodged between 1 January 2019 and 31 December 2024, by treatment facility categor

Treatment Facility Category	Accepted	Declined	Total
Public	22,903	6,104	29,007
Private	13,907	3,050	16,957
Unknown	5,441	1,665	7,106
Total	**42,251**	**10,819**	**53,070**

Table 7: Number of accepted surgery related treatment injury claims lodged between 1 January 2019 and 31 December 2024, by primary injur

Primary Injury	Accepted Claims
Wound Infection	11,206
Wound Dehiscence	2,631
Infection	2,473
Nerve Damage	1,637
Haematoma - other	1,239
Hernia - Incisional	1,164
Tooth - Chipped/Damaged	1,037
Haematoma - Bruising	952
Foreign Body	669
Perforation - Bowel	502
Haematoma - Infected	496
Cellulitis	443
Stricture - Urethral	412
Fracture - Leg/Foot	394
Haemorrhage - Other	393
Abscess	381
Seroma	370
Deep Vein Thrombosis (DVT)	369
Anastomotic Failure	369
Urinary sphincter damage	334
Bladder Damage/Injury	332
Prosthetic Failure	324
Eye injury - internal	292
Scarring	288
Tooth - removed/dislodged	274
Strain/Sprain - Other	274
Laceration/tear	269
Urethral injury	261
Cerebrovascular Accident (CVA)	258
Tissue injury / damage	256
Hernia - Other	243
Ulcer - Pressure Area/Decubitus	235
Stenosis	223
Mesh erosion	219

Nerve Damage - Compression	210
Oroantral Fistula	200
Perforation - Other	196
Perforation - Bladder	193
Dural tear/puncture	192
Embolism - Pulmonary (PE)	192
Perforation - Uterus	189
Non union/Malunion	188
Dislocation	178
Ureter Damage/Injury	165
Skin Damage/Injury/Tear	163
Arterial Dissection/Damage	154
Bleeding	149
Perforation - Root Canal	147
Necrosis - Other	143
Nerve Damage - Laryngeal	142
Tendon Damage/Injury/Rupture	142
Fistula - Other	139
Contusion	138
Pneumothorax	126
Perforation - Blood Vessel	125
Bile Duct Damage/Injury	119
Vocal cord	104
Strain/Sprain - Neck	104
Fracture - Pelvis	104
Bowel Obstruction	103
Allergic Reaction	102
Temporomandibular Joint (TMJ) Dysfunction	101
Tooth - concussion	99
Pseudoaneurysm	98
Nerve Damage - Sciatic	92
Intra Ocular Lens Dislocation	90
Corneal Damage/Injury	88
Stricture - other	87
Rupture - Other	87
Strain/Sprain - Back	86
Pancreatitis	83
Mesh migration	82
Urinary Incontinence	79
Thrombosis - Other	78
Regional Pain Syndrome	77
Contracture	76
Leg length discrepancy	74
Anaphylactic Reaction	67
Perforation - Arterial	67
Corneal Abrasion	66
Arthritis - Septic	65
Burn - Other	64
Cerebral Spinal Fluid (CSF) Leak	63
Equipment - Retained	63
Granuloma	58
Prosthetic Damage	58
Joint instability	58
Repeat treatment / surgery	58
Pain - Chronic	57
Burn - Diathermy	56
Perforation - Oesophageal	56
Implants Misplaced	55
Osteomyelitis	55
Thrombophlebitis	53
Perforation - Nasal Septum	52
Dislodgement/displacement	51
Fracture - Spinal	50
Adhesions	50
Aspiration Pneumonia	49
Failure internal staples / sutures	49
Fluid Collection	47
Eye injury - external	47
Deformity	47
Fracture - Facial	46
Brain Damage/Injury	46
Perineal Damage/Injury/Tear	46
Fracture - Arm/Hand	45
Ulcer - Other	45
Ligament injury	45
Urethral obstruction	44
Venous Dissection/Damage	44
Sinus Damage/Injury	44
Brachial Plexus Damage/Injury	44
Malalignment	43
Pseudotumour	43
Unknown/lack of information	42
Nasal injury	42
Ischaemia	41
Inflammation	41
Muscle Injury/Rupture/Damage	39
Neuropathy	38
Mental Injury - Other	37
Deafness/Tinnitus/Hearing Loss	37

Septicaemia	37
Wrong Site Surgery	37
Mesh infection	36
Frozen Shoulder	36
Bowel Ischaemia	35
Metallosis	35
Tendonitis/Tendinopathy	34
Fat Necrosis	33
Perforation - Stomach	33
Liver Damage/Injury/Failure	33
Neuroma	32
Pleural effusion	31
Skin Abrasion	31
Abrasion - Other	31
Impingement	30
Hernia - Para Stomal	29
Renal Injury	29
Cyst	29
Vaginal Damage/Injury/Tear	29
Rectal Damage/Injury/Tear	28
Hydrocoele	28
Cardiac Tamponade	27
Blister/boils	27
Osteolysis	27
Lymphoedema	27
Haemarthrosis	27
Shoulder Damage/Injury	26
Bursitis	26
Embolism	25
Surgical Emphysema	25
Compartment syndrome	24
Ruptured Implant	23
Denture/Plate Damage	23
Spinal injury - lumbar	23
Unnecessary Surgery	23
Spinal cord infarction	22
Wrong Surgery	22
Amputation	22
Perforation - Cardiac Muscle	22
Peritonitis	22
Puncture	21
Cardiac Arrest	21
Pneumonia	21
Neutropaenic Sepsis	21
Pain - Acute	21
Retinal Detachment	21
Lumbar Spine Damage/Injury	21
Fracture - Thoracic/Rib/Clavicle	20
Blindness/Visual Disturbance	20
Lung injury	20
Haemothorax	20
Cardiac injury	20
Graft Occlusion	19
Pancreatic injury	19
Avascular Necrosis	19
Extravasation	19
Arthritis - Other	19
Joint malfunction	19
Prolapse - Disc	19
Perforation - Gall Bladder	18
Cerebral Haemorrhage	18
Aortic Dissection/Damage	18
Mesh contraction	18
Ectropion	18
Osteo - other	18
Dermatitis	17
Incorrect size	16
Perforation - Eardrum	16
Fibrosis	16
Infarction - Myocardial	16
Splenic Rupture	16
Testicular Atrophy/Removal/Pain	16
Urinary retention	16
Spinal injury - thoracic	15
Avulsion	15
Prolapse - Iris	15
Duct injury	14
Oesophageal obstruction	14
Hypoxic Brain Injury - not Birth Related	14
Inflammation - joint	13
Coronary Artery Rupture	13
Toe/Finger Nail Damage/Injury	13
Femoral Artery Thrombosis	13
Perianal Fistula	13
Endocarditis - Bacterial	13
Fracture - Skull	13
Epididymitis	12
Anal Fissure	12
Cervical Spine Damage/Injury	12

Ulcer - Mouth	11
Macular Hole/Degeneration	11
Prostate Damage/Injury	11
Vitreous Haemorrhage	11
Death	10
Tympanic Membrane Damage/Injury	10
Phimosis	10
Tissue Loss	10
Prolapse - Other	10
Cardiac Valve Leakage	10
Swelling	10
Penis Damage/Injury	9
Prolapse - Vaginal	9
Cartilage injury	9
Calcification	9
Adverse Drug Reaction	9
Spinal injury - cervical	9
Undesired outcome	9
Compression injury	9
Stricture - Oesophageal	9
Treatment Induced Disease	8
Maternal Mental Injury	8
Necrotising Fasciitis	8
Carpal Tunnel Syndrome	8
Cataracts	8
Dissection	7
Bone reabsorption	7
Ear injury – inner	7
Subarachnoid Haemorrhage	7
Aneurysm	7
Infarction - Bowel	7
Equipment - Damaged	6
Atrial injury	6
Venous Phlebitis	6
Paralytic Ileus	6
Infertility	6
Pregnancy	6
Ileostomy	6
Tissue or Muscle Atrophy	6
Paraesthesia	6
Asherman's Syndrome	5
Hysterectomy	5
Dysphagia	5
Osteonecrosis	5
Ear injury – outer	5
Arthrosis	5
Disease Progression	5
Anal Sphincter Damage/Injury	5
Anal Damage/Tear	5
Paraplegia	5
Tumour/growth	5
Hypoxic Ischaemic Encephalopathy	5
Tooth - staining/discolouration	5
Thoracic Spine Damage/Injury	4
Gastric band erosion	4
Vaginal Wall Incision	4
Glandular injury	4
Equipment - Lost/Separated	4
Pelvic Inflammatory Disease	4
Labial Damage/Injury/Tear	4
Occlusion of conduits	4
Facial Palsy	4
Ulcer - Gastric	4
Ulcer - Ischaemic	4
Incontinence	4
Deviated Septum	4
Other	817
Total	**42,251**

Table 8: Number of declined surgery related treatment injury claims lodged between 1 January 2019 and 31 December 2024, by decline reaso

Reason of Declined Claim	Declined Claims
No Injury	4,820
No Causal Link	2,281
Ordinary Consequence of Treatment	1,367
Withdrawn	837
Lack of Information	471
Underlying Health Condition	310
Necessary Part of Treatment	232
Declined TI Consequential Claim	168
Desired Results not Achieved	97
No Registered Health Professional Involved	62
Declined TI Mental injury	58
Declined - Accepted as PICBA	40
Consent Withheld/Delay	17
Declined - PICBA Reassigned	10
Previously Declined Medical Misadventure	<4
Resource Allocation	<4

Unknown	44
Total	**10,819**

Time Waiting for Compensastion

For this response, we have interpreted 'Wait time' as the time between claim lodgement and the first weekly compensastion payment date for accepted claims.

For accepted claims, the average time between claim lodgement and the first weekly compensation payment date is 136 days; the longest wait time is over 1,800 days, and the shortest wait time is 1 day

Causal Link Policy [Historical] v11.1

Summary

Objective
Use this guidance to help you establish a causal link between the treatment and the injury.

Background
For a claim to have cover for a treatment injury there must be a causal link between the treatment and the injury. See Scenarios for treatment injury and the Accident Compensation Act 2001, Section 33.

Owner [redacted]

Expert

Policy

1.0 Determining the link between the cause and effect

a When determining a causal link you must consider the following questions using your clinical knowledge and all available case information:

• Did the cause precede the effect? How long did it take for the effect to appear?
• Is there a strong relationship between the cause and effect?
• Has the relationship between cause and effect been observed repeatedly, by different people and in different times and places?
• Does a variation in cause produce a variation in effect?
• Is the relationship between cause and effect consistent with clinical knowledge?
• Does the removal of the cause result in a decreased risk?
• Does one cause produce one effect?

Causal link cannot be established where:

• the personal injury is wholly or substantially caused by an underlying health condition
• the personal injury is the result of unreasonably withholding or delaying consent to undergo treatment.

2.0 Unreasonably withholding or delaying consent to undergo treatment

a A person can only make a reasonable decision not to consent to the recommended treatment when they have enough information to make an informed decision. Before declining cover under this provision, check that the client had enough information at the time they withheld their consent.

You must fully examine the client's reasons for withholding or delaying their consent. In some situations the decision may have been reasonable, given all the circumstances of the treatment.

3.0 Failure to provide treatment, or to provide treatment in a timely manner

a To determine cover for a personal injury due to failure to provide treatment, or failure to provide treatment in a timely manner, the injury must meet the following criteria:

• there has been a failure to provide treatment or to provide treatment in a timely manner

• there is a personal injury, over and above the natural consequences of the underlying condition for which the treatment was sought

• had the condition been diagnosed or treatment received earlier, the personal injury would have been prevented or lessened.

See Accident Compensation Act 2001, Section 33(1)(d).

To assess whether there has been a failure to provide treatment, or a delay to treat or diagnose in a timely manner, you must consider the following factors:

• based on the client's presentation, including complexity of presentation and any co-morbidities present, and clinical knowledge at the time of treatment, should a different diagnosis reasonably have been made, or a different treatment path reasonably have been undertaken, at an earlier point in time in the case of delay?

• if a different diagnosis or treatment path was indicated, and if it had been followed, would this, on the balance of probabilities, have led to a different outcome, i.e. would it have prevented or altered the progression of the injury?

Accident Compensation Act 2001, Section 33, Treatment
http://www.legislation.govt.nz/act/public/2001/0049/la

4.0 Do not apply hindsight

a You must investigate what treatment was actually required, based on the client's presentation at the time rather than on what was subsequently proved to be the case with the benefit of hindsight.

NOTE **Example**
In the case of Baker 70/2009, Mrs Baker presented to her General Practitioner (GP) with flu-like illness including headache and vomiting. Her GP provided treatment according to her presentation. Her health deteriorated over several weeks and she was eventually diagnosed with herpes simplex encephalitis (HSE), which resulted in Mrs Baker suffering from right visual field defect and right-sided hyperaesthesia. Treatment for HSE was not required for Mrs Baker's original presentation, as this diagnosis was only discovered after the drastic step of a brain biopsy

b In summary, just because a client goes on to have a more severe diagnosis confirmed at a later date, this does not automatically mean that there was a delay or failure to treat the client for that diagnosis at the time of the original presentation, if there were no indications pointing to the more severe condition at that time.

Timeframes

None Noted

Context of Treatment Policy [Historical] v14.2

Summary

Objective
Refer to this guidance to help you determine whether a client is eligible for treatment injury cover because their injury occurred in the context of treatment and they sought or received treatment from, or at the direction of, one or more registered health professionals (RHP).

Owner [redacted]

Expert

Policy

1.0 Seeking treatment

a A client is considered to have been seeking treatment when:

• there is a direct interaction between the client and an RHP, including telephone advice
• the RHP is acting in their professional capacity.

This does not include:

• informal advice given in a social situation
• treating family members or friends outside of the usual clinical setting, eg while tramping or travelling.

2.0 Receiving treatment

a A client is considered to have received treatment when:

• they underwent treatment, or there was an exchange of clinical advice between the client and one or more RHP

• a non-RHP provides treatment at the direction of an RHP.

3.0 At the direction of an RHP

a Treatment is considered to have been given by a non-RHP under an RHP's supervision or guidance when:

• it forms part of a treatment plan set by an RHP and supports the ongoing treatment provided by the RHP

• the RHP retains responsibility for the specific intervention and the patient

• the specific intervention is within the RHP's scope of practice

• the RHP exercises clinical judgment that directs the specific intervention by the non-RHP, including the way it's administered.

Supervision or guidance does not include formal or informal referrals to non-RHPs.

Registered health professional list applicable on or after 01 October 2019

Registered health professional list applicable before 01 October 2019

NOTE **Example**
A trainee physiotherapist causes an injury while manipulating a patient's limb. If the trainee is being supervised by a qualified physiotherapist this is considered to be working at the direction of an RHP

4.0 Treatment received overseas

a In cases where the treatment received overseas the provider of the treatment needs to meet he equivalent standards to that of an RHP in New Zealand ('equivalency standards').
• If treatment is from a country WITH a comparable healthcare system, then this will only require a copy of their practicing certificate.
• If treatment is provided by country that is NOT considered a comparable healthcare system, this will require further investigation to determine if the provider meets the equivalency standards

Comparable country for overseas claim

Determining overseas equivalent of Registered Health Professional

5.0 The Accident Compensation (Definitions) Regulations 2019 and determining treatment injury cover

a The Accident Compensation (Definitions) Regulations 2019 moved the key definitions of 'registered health professional' and 'treatment provider' and associated definitions from the Accident Compensation Act 2001 to standalone regulations.

Registered health professional list applicable on or after 01 October 2019

Registered health professional list applicable before 01 October 2019

b The Accident Compensation (Definitions) Regulations 2019 took effect on 01/10/2019.

c When assessing cover for Treatment Injury, we need to determine the date of injury based on when a person first seeks treatment for the signs or symptoms of their injury. So a claim may be lodged after 1/10/2019, but have an earlier date of injury.

d The relevant date to consider whether someone was an RHP is the date of the treatment. If a client claims after 01/10/2019 for an event occurring earlier the amendment does not apply. The changes are not retrospective.

6.0 Links to legislation and regulation

Accident Compensation Act 2001, section 32, Treatment injury
http://www.legislation.govt.nz/act/public/2001/0049/lat

Accident Compensation (Definitions) Regulations 2019
http://www.legislation.govt.nz/regulation/public/2019/(

Timeframes

None Noted

Cover criteria for treatment injury Policy [Historical] v12.1

Summary

Objective
Use this guidance to determine cover for Treatment Injury claims.

Background
The Accident Compensation Act 2001 was amended replacing the provision for medical misadventure with treatment injury. The treatment injury provisions apply to all claims lodged for the first time on or after 1 July 2005. For claims lodged before this date see Cover criteria for medical misadventure.

A treatment injury occurs when a person suffers a personal injury when undergoing treatment by a registered health professional (RHP). See Scenarios for treatment injury.

Owner [redacted]

Expert

Policy

1.0 Rules

a You must consider all of the following factors when making a treatment injury cover decision:

• the client must have suffered a personal injury
• the injury must have happened in the context of treatment
• there must be a clear causal link between the treatment and the injury
• the injury must not be a necessary part or ordinary consequence of the treatment
• the claim must not fall under any of the treatment injury exclusions from cover.

- Cover criteria for personal injury Policy
- Context of Treatment Policy
- Causal Link Policy
- Necessary Part or Ordinary Consequence of Treatment Policy
- Treatment Injury Exclusions from Cover Policy

2.0 Date of injury

a The date on which a person suffers a treatment injury is the date on which the person first seeks or receives treatment for the symptoms of that personal injury. This date applies, even if it was not known at the time the treatment was first sought or received for the symptoms, that previous treatment was the cause of the symptoms.

We determine the date that a client first sought or received treatment by taking the advice of the treatment provider and any other medical experts who lodged the claim. This date must be supported by clinical records.

See the Accident Compensation Act 2001, Sections 38 and 53.

- Accident Compensation Act 2001, Section 38, Date on which person is to be regarded as suffering treatment injury
  http://www.legislation.govt.nz/act/public/2001/0049/lat
- Accident Compensation Act 2001, Section 53, Time for making claim
  http://www.legislation.govt.nz/act/public/2001/0049/lat

3.0 Clinical trials

a We can accept cover for a treatment injury sustained during a clinical trial under either of these conditions:

• the client did not agree in writing to participate in the trial

• an ethics committee, which was approved by the Heath Research Council of New Zealand or the Director General of Health, approved the trial and was satisfied that is was not to be conducted principally for the benefit of the manufacturer or distributor of the medicine or item being trialled.

4.0 Third party infections

a When an original infection is covered as a treatment injury, we'll also accept cover when a person passes on their infection to anyone else.

See he Accident Compensation Act 2001, Sections 32(7) and 18A.

- Accident Compensation Act 2001, Section 32, Treatment injury
  http://www.legislation.govt.nz/act/public/2001/0049/lat
- Accident Compensation Act 2001, Section 18A, Partner (and partner in relation to deceased claimant)
  http://www.legislation.govt.nz/act/public/2001/0049/lat

5.0 Overseas treatment

a When a client receives treatment overseas and suffers a personal injury irrespective of whether the injury occurs overseas or in NZ (on or after 1/7/05) the client:
• must be ordinarily resident in New Zealand at the date they received their treatment
• must have received treatment that led to the treatment injury from a treatment provider that has the same or equivalent qualifications to that of a registered health professional

Consultation with an External Clinical Advisor may be required to peer review the overseas Registered Health Provider credentials and the treatment that was provided.

- Criteria for a valid overseas practising certificate for providers who caused a treatment injury
- Cover acceptance criteria for a treatment injury claim when the treatment occurred in New Zealand but the resulting treatment injury is identified overseas
- Cover acceptance criteria for a treatment injury claim when the treatment occurred overseas
- List of approved qualifications
  https://www.mcnz.org.nz/assets/Policies/1f8183e705/
- World directory of medical schools
  https://search.wdoms.org/
- Seek External Clinical Advice

b For consequential injuries resulting from treatment received overseas (eg treatment for an already covered injury) the treatment provider does not need to meet the registered health provider equivalent qualifications.

- Cover for injuries suffered outside New Zealand Policy
- Determining overseas equivalent of Registered Health Professional
- Comparable country for overseas claim
- Consequential Injury Claims Policy

Timeframes

None Noted

Necessary Part or Ordinary Consequence of Treatment Policy [Historical] v13.1

Summary

Objective
Use this guidance to help you determine whether the treatment injury suffered by a client was a necessary part or ordinary consequence of the treatment. This will help you determine cover for a Treatment Injury claim.

1) Necessary part of the treatment
2) Ordinary consequence of treatment
3) Likelihood of injury at a population level
4) Client circumstances
5) Clinical knowledge at the time of treatment
6) Changes in clinical knowledge
7) Clinical experience of the treatment provider
8) Questions to consider when determining whether an injury is an ordinary consequence of treatment
9) Links to legislation

Background
There is no cover for a treatment injury if the personal injury suffered was a necessary part or ordinary consequence of the treatment, taking into account all the circumstances of the treatment. See the Accident Compensation Act 2001, Section 32.

Owner [redacted]

Expert

Policy

1.0 Necessary part of the treatment

a An injury that is a necessary part of the treatment is one that is an essential component of the treatment process, e.g. an incision performed as part of an operation.

2.0 Ordinary consequence of treatment

a The Court of Appeal in ACC v Ng & others [2020] NZCA 274 interpreted 'not an ordinary consequence' as being an outcome that is outside of the normal range of outcomes, something out of the ordinary which occasions a measure of surprise.

b This is not a precise test and requires a judgement-based approach to each case based on the specific circumstances of the treatment and the client, such as:

a) the likelihood of injury at a general population level

b) the particular circumstances of the client's case

c) the clinical knowledge at the time of treatment.

NOTE **Example**
Many chemotherapy side effects fall within the expected treatment process and are an established consequence of treatment. However, each case needs to be assessed in light of several factors to determine whether, on balance, the nature and severity of the side effects occasion no surprise.

3.0 The likelihood of injury at a population level

a Data on the risk of a treatment can help identify a baseline probability of injury . This information may come from medical studies, the experience of experts, or other reliable sources..

b It is important to ensure that medical studies and statistics are both reliable and relevant to the circumstances of the client and the treatment. Some studies may lack validity because of their small sample size, for example, or the study group may not be representative of the client's circumstances.

c Factors to consider when referring to studies include:

• The number of cases in the study and whether they are representative of the client's circumstances. For example, a study of risks conducted at a single specialist facility overseas may be of limited relevance to a procedure in New Zealand.

• How authoritative are the studies? Are they endorsed by other experts? Is there a general consensus within that particular field or specialty?

4.0 4.0 Client circumstances

a The likelihood of an injury occurring must be viewed in light of the client's circumstances. Relevant factors are discussed below.

b Duration and severity of the injury

An unusually severe outcome – either in its effect or in its duration – may not be ordinary even though a less significant injury that may commonly occur following that treatment is more likely to be ordinary. In other cases, a severe injury may still be an ordinary consequence of treatment.

NOTE **Example - infections**
A small localised infection at the site of an incision that clears up within a week may be considered an ordinary consequence of treatment for a person with several co-morbidities. Conversely an infected incision that leads to sepsis which has been caused by the treatment may take it beyond what would be considered ordinary.

NOTE **Example - heart surgery**
A person having cardiac surgery may be at a high risk of a cerebrovascular event during surgery. It is likely that if a cerebrovascular event occurred it is within the normal range of outcomes, and therefore an ordinary consequence of that treatment.

c Underlying patient health considerations

Some people may be more susceptible to suffering adverse outcomes from treatment than others, due to their health condition. This particular criterion requires the decision maker to take into account the particular person's circumstances at the time of treatment.

While a risk of injury may be unexpected for many people undergoing the treatment, a particular person may possess certain clinical features, such as co-morbidities or a predisposition, which increases their risk to such an extent that the injury becomes an ordinary consequence for them.

Conversely, a person may have a lower risk of injury arising from a particular treatment, compared to other people. As a result, the injury may not be an ordinary consequence for that particular person.

d Circumstances of the treatment

Ordinary consequences will also depend on the particular treatment or procedure. Each examination, treatment, or procedure will have its own profile of ordinary consequences.

The facilities available, the urgency and complexity of the treatment, as well as the experience of the attending health professional(s) may also be relevant when determining whether an outcome was an ordinary consequence.

NOTE **Example - emergency surgery**

An urgent procedure may not be able to implement measures that would otherwise be available and would reduce risk. An injury resulting from treatment might be ordinary even though the treatment could have been provided at another facility where better equipment would have been available that would have reduced the risk.

5.0 Clinical knowledge at the time of treatment

a Whether an outcome is considered 'ordinary' needs to be considered in light of the clinical knowledge that existed at the time of the treatment, as recognised by the relevant profession. This includes accepted practice in New Zealand and international knowledge.

b The focus of the assessment is also not based on whether the risk of the outcome was predicted (or could have been predicted) in advance of treatment in a particular client's case. The assessment can take into account facts discovered after treatment has commenced, including complications that were not known when the procedure started.

NOTE **Example**

A client underwent surgery to treat a brain aneurysm. During the procedure the aneurysm ruptured, and the arteries had to be clipped for 40 minutes to control the bleeding leading to an increased risk of cognitive deficits. Clipping times would not normally exceed 15 minutes in this sort of operation and there would only be a small risk of injury. But in this case, the client suffered cognitive deficits as a result of the prolonged clipping. The outcome could be an ordinary consequence, even though it was not predicted before the surgery how long the clipping would be required for.

6.0 Changes in clinical knowledge

a The prevailing medical and scientific knowledge at the time that treatment is taking place is to be taken into account. Advances in clinical knowledge that are acquired after treatment has finished should not be taken into account when making a decision on whether an injury is an ordinary consequence.

b The following table summarises how this is applied.

Clinical knowledge at the time of treatment	Clinical knowledge today	Likely outcome
The injury was considered to be a necessary part or ordinary consequence	Injury is not a necessary part or ordinary consequence of treatment today. Current clinical approaches are more effective at treating the condition. Access to improved treatment techniques or better drugs minimise the chance of the injury occurring.	Ordinary consequence
The injury was not a known occurrence from the particular treatment	Due to more contemporary research, the injury is now known to result from the treatment	Not an ordinary consequence

Clinical knowledge summary table.jpg

c Cover may not be available where clinical knowledge at the time of treatment has been superseded, making an injury not a necessary par or ordinary consequence of treatment.

Cover may be available where there was no clinical knowledge at the time of treatment that an injury could occur, even though clinical knowledge today would make the injury a necessary part or ordinarily consequence of treatment.

NOTE **Example - radiation treatment in the 1980s to treat a tumour, causing damage to surrounding bone and tissue**

Clinical knowledge at the time of treatment	Clinical knowledge today	Outcome
The injury caused by the radiation treatment was not unexpected at that time.	Today, due to new techniques in the administration of radiation, along with new cancer drugs, damage to surrounding tissue and bones would be minimised or prevented entirely. If a client suffered significant tissue damage due to recent treatment this is likely to be considered to be unexpected.	The injury was an ordinary consequence given the procedures available when the radiation treatment was provided.

Radiation treatment example.jpg

NOTE **Example - lithium drugs prescribed to treat depression, resulting in renal failure**

Clinical knowledge over the time of treatment	Clinical knowledge today	Outcome
At the time lithium was first prescribed for the client in 1987, studies did not show that lithium caused significant renal impairment. Lithium treatment had only been available since the 1960s. There were no studies showing what the long-term side effects could be.	Today, lithium is accepted as a cause of chronic kidney disease. The client was diagnosed with end stage renal failure in 2007. Contemporary studies showed an association between lithium taken over a 20-year period and renal failure.	The outcome depends on when the contemporary knowledge became known over the course of treatment. If it was not known until after kidney disease was diagnosed, it is not an ordinary consequence. This is because during the course of the client's treatment, renal failure was not known to result from long term use of lithium.

Lithium drugs example.jpg

7.0 Clinical experience of the treatment provider

a The clinical experience of the treatment provider may sometimes be relevant. For example, where a procedure might carry a significant risk when competently conducted by a general surgeon, even though an expert specialising in the procedure could have performed the same procedure with a lower risk of the injury occurring. It is the risk associated with procedures performed by that generalist that is relevant, not the risk associated with procedures performed by the specialist.

8.0 Questions to consider when considering a treatment injury claim

a What was the treatment the client received that has given rise to the injury?

What is the nature of the injury that is being claimed for?

Are there any medical studies that provide reliable and relevant statistical analysis about the particular injury?

Are these studies relevant to the client's circumstances?

Is the injury unusually severe or long-lasting compared to the medical studies and analyses that are available?

Were there any circumstances that increased or reduced the risk of the injury occurring? That might include:

• Patient factors (which may include depending on the context such factors as age, smoking status, BMI, other health conditions);
• Circumstances of treatment (urgency, available facilities);

• What happened during treatment – what was found during surgery (eg deteriorated arteries that were not visible pre-surgery).

Have client factors increased or decreased the identified risks of the treatment? If so, by how much?

Was the risk identified before treatment and what was the scope of consent prior to treatment? This may provide evidence to help clarify how significant the risk was believed to be before treatment began, but treatment providers will obtain consent for many unlikely possibilities and things may change in the course of treatment. The question is the objective likelihood of the outcome, not whether it was identified.

Considering all the above factors, was the nature and the severity of the injury within the normal range of outcomes for the treatment provided to this patient?

9.0 Links to legislation

Accident Compensation Act 2001, Section 32, Treatment injury
http://www.legislation.govt.nz/act/public/2001/0049/lat

Timeframes

None Noted

Treatment Injury Exclusions from Cover Policy [Historical] v10.1

Summary

Objective
Use this guidance to help you determine cover for a treatment injury claim.

Background
Treatment injuries are excluded from cover if:

- they are solely attributable to a resource allocation decision
- the treatment simply did not achieve the desired result.

See also Cover criteria for treatment injury.

Owner [redacted]

Expert

Policy

1.0 Solely attributable to a resource allocation decision

a We decline cover when an injury is solely attributable to a resource allocation decision. A resource allocation decision:

- relates to which services to make available to a population or group, not just an individual

- may be an implicit decision, eg not seeking additional funding for a type of treatment

- is not part of the treatment received from an individual provider; it sits outside the specific treatment.

NOTE **Example**
The emergency department at a rural hospital has closed. A patient is unaware of this and turns up for treatment for chest pains. By the time the patient has found the after hours General Practitioner (GP) clinic and been transferred to the proper facility, they've suffered a heart attack. The heart attack is not a treatment injury

2.0 The treatment simply did not achieve the desired result

a The fact that the treatment simply did not achieve the desired result does not, of itself, constitute a treatment injury.

If the only reason for the treatment injury claim is that the client is dissatisfied with the outcome of the treatment, we do not accept the claim.

NOTE **Example**
Mr J's arthritis meant that he required a hip replacement. The hip replacement and subsequent healing was, in the opinion of the surgeon, unremarkable. Mr J expected he would regain the ability to resume tramping and climbing over fences. He did not regain the level of mobility he desired and lodged a claim because the surgery did not achieve the desired result. The claim was declined. It was not a treatment injury as achieving 100% range of movement was the client s desired result, but not meeting a desired result does not constitute a treatment injury

Timeframes

None Noted