



13 November 2023

[REDACTED]

Kia ora [REDACTED]

Your Official Information Act request, reference: GOV-028376

Thank you for your emails of 9 and 31 October 2023, asking for official information. You made your requests to the Ministry of Justice, who transferred them to ACC for response under section 14 of the Official Information Act 1982 (the Act). We have recorded your request as seeking the following information:

9 October request

I am request the following information regarding the difference in ACC entitlement, to pay cover for Mental Injury, and for two or more Mental Injury concurring from the same event?

1. *The client is accepted for cover. The client meets the criteria for assessment. Client is over 16 years of age, and Whole Person Impairment rating is over 10% for each mental injury.*
2. *A) This is for cover of mental injuries, covered under legislation on both Lump Sum payment 2001 Accident Compensation Act, (Date of injury after 1 April 2002)*
3. *B) - and Independent Allowance for Permanent Injury Compensation under legislation 1999 Accident Compensation Act. For date of injury between [REDACTED]*

31 October request

How do my currently covered [REDACTED] from earlier claim date [REDACTED] get reassessed to include the trauma reoccurring impacting my Whole Impairment rating overall, get included with this pending assessment?

...

Please advise instructions and protocol for ACC for assessment to include subsequent injury for my claims?

Our response

Please find attached the following policies:

- Lump Sum Eligibility Criteria Policy
- Independence Allowance Eligibility Criteria Policy
- Mental Injury Policy
- Accident Compensation Act 2001, Date on which person is to be regarded as suffering mental injury
- Lump Sum Reassessment Policy

As names were not requested, we have deemed them out of scope and removed them from the documents attached.

Further information on financial support for permanent injuries

If your impairment has increased, you can apply to be reassessed. You can find information and advice on financial support for permanent injuries on our website at the following link:

<https://www.acc.co.nz/im-injured/financial-support/financial-support-permanent-injury/>

As this information may be of interest to other members of the public

ACC may decide to release 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.

If you have any questions about this response, please get in touch

You can email me at GovernmentServices@acc.co.nz.

Ngā mihi



Sara Freitag

Acting Manager Official Information Act Services
Government Engagement

Summary

Objective

When a client submits an application for a lump sum assessment or reassessment we must check their eligibility.

Owner

[Out of Scope]

Expert


[Out of Scope]

Policy

1.0 Eligibility to a lump sum entitlement

- a** Clients may be eligible for a lump sum if their claim has all of the following:
- an accepted cover decision
 - a whole person impairment rating of over 10%
 - a date of injury (or date of last event where relevant) is on or after 1 April 2002

NOTE What if the injury was willfully self-inflicted?
Refer to the 'Ineligibility if Suicide or Wilfully Self-inflicted Injury' Policy. The claim will need to be considered for disentitlement. If the injury meets the criteria in the policy and disentitlement hasn't previously been considered - guidance should be sought from Technical Services.

 **PROCESS** Ineligibility if Suicide or Wilfully Self-inflicted Injury

NOTE What if the injury was sustained while committing a crime?
Refer to the 'Injured Committing Crime Policy'. The claim will need to be considered for disentitlement. If the injury meets the criteria in the policy and disentitlement hasn't previously been considered - guidance should be sought from Technical Services.

 **PROCESS** Injured Committing Crime Policy

NOTE What if I need to seek guidance from Technical Services on disentitlement?

Refer to the 'Seek Internal Guidance' process


 **PROCESS** Seek Internal Guidance


- b** See the full list of lump sum eligibility criteria in the business rule below.

 Lump sum eligibility requirements


- c** See also the transitional provisions for impairment entitlements in the AC Act 2001, Schedule 1, part 3, clauses 54 and 55.

2.0 Impairment assessment and whole person impairment rating

- a** To determine the whole person impairment rating of a client, the client must have an impairment assessment.
- b** To be eligible for an initial impairment assessment, the client must meet the criteria listed in the following business rule, which includes having medical certification of a permanent and stable impairment.
-  Eligibility to an initial impairment assessment
- c** An impairment assessment can only be completed by an impairment assessor who meets the criteria in the business rule below.


 Requirements for an assessor to perform an impairment assessment

- d** In some situations the whole person impairment rating must take into account any previous whole person impairment ratings. See the following business rule.

 Determining the whole person impairment rating by taking into account a previous rating

3.0 Medical certification of permanent and stable impairment

- a** A person must be considered to have medical certification of a permanent impairment for a lump sum entitlement if a medical practitioner supplies the relevant information to ACC. The relevant information is listed in the business rule below.

 Information needed to confirm medical certification of a permanent impairment for a lump sum entitlement


- b** The ACC554 Application medical certificate form is used to capture the relevant information needed.

 ACC554 LSIA Medical certificate

 ACC554 required method for supplying medical information for an impairment assessment

- c** You must decline the client's application if the information provided on the ACC554 does not meet the criteria for assessment.

See AC Act 2001, Schedule 1, part 3, clause 57.


 AC Act 2001, Schedule 1, part 3, clause 57.
<https://www.legislation.govt.nz/act/public/2001/0049/lr>

4.0 Client under 16 with a mental injury

- a** If a client is under 16 years of age and has cover for personal injury that is a mental injury, we must not assess their eligibility for lump sum compensation for the mental injury until the client turns 16, unless we are satisfied that there are compelling reasons for assessing eligibility earlier.

5.0 Reassessment

- a** See Lump sum reassessment.


 Lump sum reassessment Policy
<https://go.promapp.com/accnz/Process/e38cf259-ba3>

6.0 Overseas clients

- a** Clients based overseas are eligible to have their impairment assessed or reassessed for a lump sum if:
- they meet the standard eligibility criteria
 - the medical practitioner completing the ACC554 medical certificate meets both the following criteria:


- holds registration in the country in which they practise
- holds a medical degree from a medical school approved by the New Zealand Medical Council. This includes universities listed in the WHO World Directory of Medical Schools.

- b** Financial help for an impairment assessment overseas or for travel to New Zealand for an impairment assessment must be approved by the Technical Services team and must be cost effective. See the following business rule.

 Impairment assessment extended discretion request

7.0 Deceased clients

- a** Estates may be eligible to receive payments for deceased clients. Different rules apply depending on when a client has died, the type of support applied for, and the stage in the request process. Information is available at: lump sum deceased clients

 Deceased client Policy
[https://go.promapp.com/accnz/Process/ceda722c-75:](https://go.promapp.com/accnz/Process/ceda722c-75)

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

Summary

Objective

When a client submits an application for an independence allowance (IA) assessment or reassessment, you must check their eligibility.

Owner [Out of Scope]

Expert [Out of Scope]


Policy

1.0 Eligibility for an independence allowance

- a** Clients may be eligible for an independence allowance if their claim has all of the following:
- an accepted cover decision
 - a whole person impairment rating of over 10%
 - either:
 - a date of injury before 1 April 2002
 - a date of last event (where relevant) prior to 1 April 2002

NOTE What if the injury was willfully self-inflicted?

Refer to the 'Ineligibility if Suicide or Wilfully Self-inflicted Injury' Policy. The claim will need to be considered for disentanglement. If the injury meets the criteria in the policy and disentanglement hasn't previously been considered - guidance should be sought from Technical Services.

 **PROCESS** Ineligibility if Suicide or Wilfully Self-inflicted Injury

NOTE What if the injury was sustained while committing a crime?

Refer to the 'Injured Committing Crime Policy'. The claim will need to be considered for disentanglement. If the injury meets the criteria in the policy and disentanglement hasn't previously been considered - guidance should be sought from Technical Services.


 **PROCESS** Injured Committing Crime Policy

NOTE What if I need to seek guidance from Technical Services on disentanglement?


Refer to the 'Seek Internal Guidance' process


 **PROCESS** Seek Internal Guidance


- b** See the full list of independence allowance eligibility criteria in the business rule below.

 Single independence allowance eligibility requirement





- c** See also the transitional provisions for lump sum entitlements in the AC Act 2001, Schedule 1, part 3, clauses 55 and 55a.

 AC Act 2001, Schedule 1, Part 3, Clause 55
<https://www.legislation.govt.nz/act/public/2001/0049/l/>




 AC Act 2001, Schedule 1, Part 3, Clause 55a
<https://www.legislation.govt.nz/act/public/2001/0049/l/>

 Lump sum checklist.doc

2.0 Impairment assessment and whole person impairment rating


- a** To determine the whole person impairment rating of a client, the client must have an impairment assessment.
-  Types of impairment assessment
- b** To be eligible for an initial impairment assessment, the client must meet the criteria listed in the following business rule, which includes having medical certification of a permanent an impairment.
-  Eligibility to an initial impairment assessment
- c** An impairment assessment can only be completed by an impairment assessor who meets the criteria in the business rule below.
-  Requirements for an assessor to perform an impairment assessment
- d** In some situations the whole person impairment rating must take into account any previous whole person impairment ratings. See the following business rule.
-  Determining the whole person impairment rating by taking into account a previous rating

3.0 Medical certification of permanent and stable impairment

- a** A person must be considered to have medical certification of a permanent impairment for an independence allowance entitlement if a medical practitioner supplies the relevant information to ACC. The relevant information is listed in the business rule below.
-  Information needed to confirm medical certification of a permanent impairment for an independence allowance
- b** The ACC554 Application medical certificate form is used to capture the relevant information needed.
-  ACC554 LSIA Medical certificate
-  ACC554 required method for supplying medical information for an impairment assessment
- c** You must decline the client's application if the information provided on the ACC554 Application medical certificate does not meet the criteria for assessment.


See Accident Insurance Act 1998, Schedule 1, part 4, clause 59.

4.0 Reassessment

- a** See the 'Independence Allowance Reassessment Policy'
-  Independence Allowance Reassessment Policy


5.0 Overseas clients

- a** Clients based overseas are eligible to have their impairment assessed or reassessed for an IA if:
- they meet the standard eligibility criteria
 - the medical practitioner completing the ACC554 medical certificate meets both the following criteria:
 - holds registration in the country in which they are practising
 - holds a medical degree from a medical school approved by the New Zealand Medical Council. This includes universities listed in the WHO World Directory of Medical Schools.
- b** Financial help for an impairment assessment overseas or for travel to New Zealand for an impairment assessment must be approved by the Technical Services team and must be cost effective. See the following business rule.



 Impairment assessment extended discretion request

6.0 Deceased clients

- a** Estates may be eligible to receive payments for deceased clients. Different rules apply depending on when a client has died, the support applied for, and the stage in the support process. Refer to IA deceased clients.

 Deceased Client Policy

7.0 Functional limitations profile (FLP) IA

- a** When American Medical Association (AMA) assessments were introduced in 1997, clients receiving FLP IA were required to be reassessed under AMA. Prior to the FLP payments being stopped, ACC was obliged to both ask the client to submit an application to be assessed under AMA (an ACC554 Medical Certificate) and subsequently warn the client that if they did not comply to this request, their independence allowance would be stopped. When the payment was stopped, a final letter should have been issued informing the client of this.
- b** If the above steps were not followed at the time of the suspension, the client may be eligible to receive arrears of the FLP IA. To determine if arrears should be paid and from what date, a referral must be made to technical services via the 'Seek Internal Guidance' process.
-  Seek Internal Guidance
- c** If technical services recommend that FLP IA arrears be paid, an impairment assessment must be completed to determine the client's eligibility for AMA IA, and the client warned that if they do not comply with the reassessment, their FLP entitlement will be suspended. See the 'Make Functional Limitations Profile Independence Allowance Payments' process for instructions.
-  Make Functional Limitations Profile Independence Allowance Payments
- d** Alternatively, the FLP IA arrears may be paid following an impairment assessment, at the time of the AMA IA eligibility decision. This presents a simpler pathway - both paying the FLP IA arrears and moving to AMA IA in one go - but it also may not be appropriate to delay payment of the FLP arrears depending on the client's financial circumstances. Either pathway can be chosen as is seen fit - use discretion.

Summary

Objective

To be covered under the Accident Compensation Act 2001 (AC Act) a mental injury must be both:

- a personal injury. See the AC Act 2001, Section 26
- a clinically significant behavioural, cognitive or psychological dysfunction. See the AC Act 2001, Section 27.

Owner [Out of Scope]


Expert [Out of Scope]

Policy

1.0 Personal injury

- a** The following types of mental injury fall within the definition of a personal injury:
- mental injury caused by physical injury
 - mental injury caused by certain criminal acts
 - work-related mental injury.

2.0 Clinically significant

- a** For ACC to accept that a mental injury is “clinically significant” it will usually:
- b** be diagnosed using one or more of the following standardised systems:
- Diagnostic and statistical manual of mental disorders - fourth edition - text revision (DSM-IV-TR)
 - Diagnostic and statistical manual of mental disorders - fifth edition (DSM-5)
 - See DSM-IV-TR to DSM-5 for a summary of the differences between the two editions
 - International classification of diseases - 10th Revision (ICD-10)
 - Psychodynamic diagnostic manual (PDM)
 - Diagnostic classification of mental health and developmental disorders of infancy and early childhood – Revised (DC:0-3R)
-  Mental health definitions - DSM-IV-TR to DSM-5
- c** be diagnosed by a mental injury assessor who has:
- a qualification which meets at least level 8 (post-graduate) of a New Zealand Qualifications Authority (NZQA) recognised course or its equivalent, with a focus on:
 - assessment, classification and formulation in psychopathology
 - abnormal psychology
 - skills in using two or more models of therapeutic intervention
 - the consequences of: sexual abuse/assault; and/or physical injury; and/or workplace trauma
 - the use of psychometric tools (if using psychometrics)
 - a minimum of two years' full-time equivalent post-graduate supervised clinical experience in one or more of the areas of mental injury covered by ACC
 - met the supervision requirements of the professional bodies to which they belong
 - met the cultural competency requirements of the professional bodies to which they belong.

- d** There are some circumstances under which a mental injury will not be diagnosed using one of the above standardised systems. In these circumstances, the assessor must evidence that the mental injury is nevertheless a 'clinically significant behavioural, cognitive or psychological dysfunction'.


3.0 Mental consequences

- a** Under the 1972 and 1982 AC Acts, ACC provided cover for the physical and mental consequences of an injury or the accident.

See:


- AC Act 1972, Section 2
- AC Act 1982, Section 2.

(If a person has cover for physical injuries under the 1972/82 Acts, it's not always clear whether ACC should treat a subsequent claim as one for 'mental injury' under the AC Act 2001, or for 'mental consequences' under the 1972/1982 Acts. If clarification is needed, contact Legal Services.)

 Legal Services

 AC Act 1972, Section 2

<https://www.westlaw.co.nz/maf/wlnz/app/document?d>

 AC Act 1982, Section 2

<https://www.westlaw.co.nz/maf/wlnz/app/document?d>

4.0 Mental injuries to clients under 16

- a** Children under the age of 16 are not eligible to have the impairment effects of a mental injury assessed, for lump sum only, unless there are compelling reasons. This is because long-term mental impairment effects cannot be accurately established.

See the AC Act 2001 Schedule 1, Part 3, Clause 57.

 AC Act 2001 Schedule 1, Part 3, Clause 57

<https://www.westlaw.co.nz/maf/wlnz/app/document?d>

5.0 Mental injury assessments

- a** A mental injury assessment must be carried out by a qualified assessor. See the AC Act 2001 Schedule 1, Part 3, Clause 58. ACC can ask clients to undergo assessments.

 AC Act 2001 Schedule 1, Part 3, Clause 58

<https://www.westlaw.co.nz/maf/wlnz/app/document?d>

6.0 Deciding apportionment for lump sum or independence allowance for mental injury


- a** So that we can determine the amount of a lump sum or independence allowance, we consider the recommendations of a qualified assessor about what proportion of a client's mental injury is:
- related to conditions covered by ACC
 - not related to conditions covered by ACC.

The assessor deducts any impairment that they think has not resulted from the covered injury from the whole of the person's impairment, which leaves the portion that is used to calculate the amount of support. This is known as apportionment.

For a client to be eligible, at least 10% of their impairment must be claim-related.

Resources for determining apportionment are the:

- Operational guidelines for impairment assessments for lump sum compensation and independence allowance
- ACC User Handbook to the AMA Guide to the Evaluation of Permanent Impairment 4th edition.

 [Operational guidelines for impairment assessments for lump sum compensation and independence allowance.pdf](#)



New Zealand Legislation

Accident Compensation Act 2001

If you need more information about this Act, please contact the administering agency: **Ministry of Business, Innovation, and Employment**

- Warning: [Some amendments have not yet been incorporated](#)
- Previous title has changed

Relevant dates of injury

36 Date on which person is to be regarded as suffering mental injury

- (1) The date on which a person suffers mental injury in the circumstances described in [section 21](#) or [21B](#) is the date on which the person first receives treatment for that mental injury as that mental injury.
- (2) The date on which a person suffers mental injury because of physical injuries suffered by the person is the date on which the physical injuries are suffered.
- (3) In subsection (1), **treatment** means treatment of a type that the person is entitled to under this Act or a former Act.
- (4) This section does not apply for the purposes of [clause 55](#) of Schedule 1.

Compare: 1998 No 114 s 44

Section 36(1): amended, on 1 October 2008, by [section 12](#) of the Injury Prevention, Rehabilitation, and Compensation Amendment Act 2008 (2008 No 46).

Summary

Objective





When we deem a client's request for reassessment eligible, or we request a client is reassessed, a medical practitioner carries out the assessment using the American Medical Association Guides to the Evaluation of Permanent Impairment, Fourth Edition (the AMA Guides), and The ACC User Handbook to AMA4.

Owner [Out of Scope]

Expert

Policy

1.0 Client reassessment requests

- a** A client is eligible for an impairment reassessment for a lump sum if they provide medical certification, eg an ACC554, that states their permanent impairment is likely to have increased since the date of assessment.
 -  Minimum information required for an impairment reassessment for lump sum
 -  Information needed to confirm medical certification of an impairment increasing [for reassessment of a lump sum entitlement]
- b** A client is not eligible to have more than one reassessment in any 12 month period.
 -  Client reassessment request for a lump sum entitlement
- c** However if the ACC554 states that:
 - one or more of the injuries that were certified as unstable are now certified as stable. This is not considered a reassessment and is therefore not subject to the 12 month restriction
 - the client has a new injury that meets the eligibility criteria. This may be assessed within 12 months of the last assessment.
- d** See AC Act 2001, Schedule 1, part 3, clause 61(4).
 -  AC Act 2001, Schedule 1, part 3, clause 61(4)
<https://www.westlaw.co.nz/maf/wlnz/app/document?d>

2.0 Reassessed amount

- a** When a client has been reassessed and is found to have an increased degree of impairment, we use the subtraction method to determine any additional lump sum amount.

The increase in impairment does not have to reach 10% for a further lump sum payment to be made. The total whole person impairment (WPI) percentage, including any impairment from injuries previously assessed, must be greater than 10%.


3.0 Subtraction method

- a** Any AC Act 2001 lump sum payment previously made must be adjusted for indexation before being subtracted from the current lump sum amount payable. This differs from a previous independence allowance (IA), where the percentage impairment on which the compensation was based is subtracted.

NOTE Example: Previous lump sum payment under AC Act 2001

- A client is assessed as having a whole-person impairment percentage (WPI) of 30%. The client has previously received an AC Act lump sum for a 15% impairment. The dollar value relating to the current total WPI of 30% is \$15,492. The current dollar value of the previous 15% impairment is \$5,544. Subtracting \$5,544 from \$15,492 gives \$9,948.

- The client is now eligible for a payment of \$9,948. These figures are based on indexation values at 1 July 2011.

 Amount of lump sum when a previous lump sum payment has been made

4.0 Previous independence allowance and '72/'82 Act lump sum injuries not included in lump sum assessment

- a** Any reassessments for AC Act 2001 lump sum will not include injuries which are already compensated for under the independence allowance, or by lump sums paid for loss of physical function under the Accident Compensation Act 1972 or the Accident Compensation Act 1982.
- b** However, if the AC Act 2001 lump sum assessment covers new injuries with the same body site as an injury compensated for by independence allowance or '72/'82 Act lump sum, the impairment assessor may require information about these injuries to inform apportionment.

NOTE Example: Previous independence allowance and '72/'82 Act lump sum injuries not included in lump sum assessment

- A client injured their shoulder in May 1982. ACC accepted a claim for the injury and in July 1983 the client received a \$4,760 lump sum for the injured shoulder under Section 78 of the AC Act 1982.
 - In January 1997, the client suffered injuries to their back and pelvis. They went on to be assessed for, and receive, an IA for the combined impairment effects of their injuries. The combined WPI was assessed at 38%. ACC subtracted 28% on which the lump sum for the shoulder injury was previously paid, and the client received an IA for 10% impairment.
 - In April 2002, the client was assaulted and lost the vision in one eye. The client applied for a new Act lump sum and was referred for assessment. The client's permanent impairment level from the April 2002 eye injury was assessed as 25%. The client qualified for a lump sum payment for 25% impairment. Please note: If the previous injury involved impairment to the same body site as the current lump sum assessment, then apportionment may have to be applied.
 - No deduction is made of the impairment rating from the old Act lump sum as the shoulder injury occurred before 1 April 2002 and is not included in the lump sum assessment. No deduction is made either for the compensation paid for the 1997 back and pelvis injuries, as again these occurred before 1 April 2002, and so were not included in the lump sum assessment. IA continues to be paid for these other injuries as long as the reassessment shows they are still eligible.
-