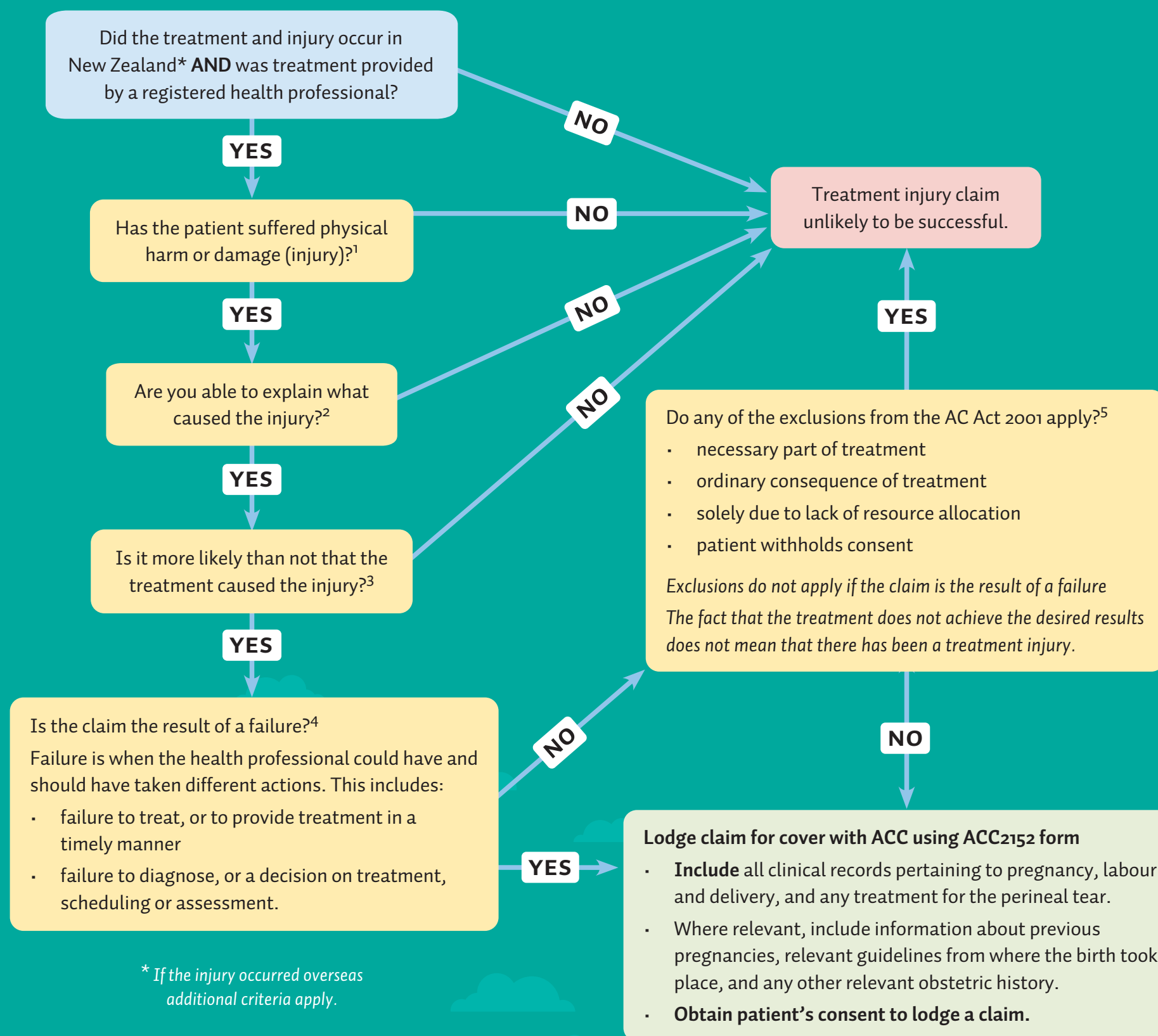


Perineal Tear Treatment Injury

Deciding when to lodge an ACC claim for a perineal tear



* If the injury occurred overseas additional criteria apply.

Visit www.acc.co.nz/lodgementguide
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Appendix

Perineal tear treatment injury

- 1 There must be evidence of physical harm or damage to the patient. An isolated symptom is not a physical injury. Common physical injuries include wounds, lacerations and contusions, fractures, and dislocations.

Example: A perineal tear is a physical injury.

- 2 To be covered, the personal injury must be caused by treatment. You will need to provide an explanation for how the injury was caused by treatment. Note: giving birth is not a treatment.

Example: A tear occurs in a case when forceps are used and an episiotomy is indicated but not performed. The failure to undertake an episiotomy in this situation has resulted in the tear.

Aside from a tear caused by failure/omission, it is unlikely that any treatment causes a perineal tear.

- 3 Causation is considered on the balance of probability (not possibility).
- 4 Claim based on failure: the health professional could have and should have taken different actions. This includes: *Failure to treat, or to provide treatment in a timely manner.*

Example: An episiotomy is clearly indicated given the circumstances for that person, e.g. during a forceps delivery, and should have been performed, but is not. The resulting tear is caused by a failure to provide treatment.

ACC seeks external peer expert report where the claim involves failure.

- 5 The following **exclusions** apply when treatment (but not failure) has caused a tear. These are based on the clinical knowledge and the patients underlying health condition at the time of the treatment.

Necessary part of treatment

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

Example: When a mediolateral episiotomy is performed to assist the vaginal delivery, the incision is a necessary part of treatment.

Ordinary consequence of treatment

Whether an injury will be an ordinary consequence of treatment will depend on all the circumstances, including the condition of the person giving birth and the baby, where and when any treatment is given, and the skill set of the treatment provider.

Solely due to lack of resource allocation

Injuries that occur solely due to resource allocation are not covered. 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, e.g. not seeking additional funding for a type of treatment.

The patient withholds consent

Example: The person declined to have an episiotomy during an instrumental delivery resulting in a 3rd degree tear. Evidence of the advice provided and the person's decision is recorded.

Treatment did not achieve the desired result

The fact that the treatment 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.

Example: Episiotomy performed with consent and the perineum is repaired following evidence-based practice. Uneven scarring is present after healing. The uneven scarring was not a failure but was an undesired outcome.