Abdominal wall incisional hernias as treatment injuries

A guide to ACC cover

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Te Kaporeihana Āwhina Hunga Whara

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This document identifies factors relevant to whether incisional hernia claims are likely to be accepted by ACC as treatment injuries under the Accident Compensation Act 2001. It reflects the consensus view of the Expert Advisory Group representing ACC and the Royal Australasian College of Surgeons.

What is an incisional hernia?

An incisional hernia occurs because of incomplete healing of musculofascial layers of the abdominal wall. Incomplete healing leaves a defect in the abdominal wall incision through which the underlying viscera and/or other tissues protrude. The healing process is influenced by a combination of surgery-related and patient-specific factors.

For the purposes of this document, poorly defined or diffuse bulging of the abdominal wall is not regarded as an incisional hernia.

Incisional hernia as a treatment injury

There are two pathways to claim cover for an incisional hernia:

1. The incisional hernia is caused by surgery, and the hernia is not an ordinary consequence of the treatment, taking into account all the circumstances of the case.
2. The hernia is caused by surgery for a previously covered injury. These injuries are referred to as consequential injuries. For a consequential injury, there is no need to consider whether the incisional hernia is an ordinary consequence of treatment.

Example of a consequential injury

A patient had a splenic injury following a motor-vehicle accident. A hernia develops at the site of the surgical incision used for the splenic repair.

Did the treatment cause the hernia?

For a claim to be granted cover under the Accident Compensation Act, the treatment must be the cause of the incisional hernia.

If it is established that an incisional hernia is caused by treatment, the next step is to assess whether the hernia is an ordinary consequence of the treatment.

Ordinary consequence

ACC cannot cover the hernia if it is an **ordinary consequence** of treatment, taking into account all the circumstances, including the patient's underlying conditions, and the clinical knowledge at the time of treatment.

Small port-site incisions rarely lead to incisional hernias, so are unlikely to be considered an ordinary consequence of surgery. By contrast, it is very common for a patient to develop an incisional hernia after an emergency midline laparotomy for repair of a ruptured abdominal aortic aneurysm, and that is likely to be considered an ordinary consequence of the surgery.

When considering ordinary consequence, ACC considers a range of patient-specific and surgery-specific factors.

Surgery-specific risk factors

- Stoma formation – parastomal hernias are common following colostomy, ileostomy, urostomy and stoma reconstruction. Prophylactic mesh may reduce the risk of parastomal hernias, but there is still uncertainty in the literature as to the best position and technique for mesh placement, and several studies are in progress. These hernias may be considered an ordinary consequence of the surgical procedure.
- Length of surgical incision – in general, smaller incisions are less prone to result in hernias subsequently.
- Location of surgical incision – low midline incisions are more prone to subsequent herniation than upper midline incisions.
- Prophylactic mesh placement for midline laparotomy reduces the incidence of incisional hernias for some patients; however, the rates of incisional hernia remain high when patients have one or more risk factors (see below).

Patient-related risk factors

Research shows that the presence of certain patient-related risk factors is associated with an increased likelihood of subsequent development of an incisional hernia.

Some factors that increase the likelihood of an incisional hernia are listed in the table below. The presence of one or more of these may increase the chance that the development of an incisional hernia could be regarded as an ordinary consequence of treatment.

Factors that increase the likelihood of incisional hernia are:

- clean-contaminated (Class 2), contaminated (Class 3) and dirty-infected (Class 4) wounds
- smoking
- obesity
- underlying collagen disorders (eg abdominal aortic aneurysm, Marfan syndrome)
- medical co-morbidities (eg cirrhosis, chronic obstructive pulmonary disease, end-stage renal failure)
- poor nutritional status
- previous abdominal incisions (eg multiple incisions through the same site and intersecting incisions)
- previous incisional hernia
- medication or other treatment that compromises wound healing (eg chemotherapy, radiotherapy, immunosuppressants, long-standing steroid use).

Key points:

- ACC considers cover for incisional hernia claims under the treatment injury provisions of the Accident Compensation Act.
- To attract cover, an incisional hernia must be caused by treatment.
- If an incisional hernia is a result of treatment for an injury that is covered by ACC, then the hernia will not be considered as a treatment injury but as a consequence of the covered injury.
- Hernias that are not a consequence of treatment for a covered injury must not be an ordinary consequence of the treatment, taking into account all the circumstances of the treatment, including the patient's underlying health condition(s) and the clinical knowledge at the time of treatment.
- Research shows that the presence of significant risk or multiple risk factors, both surgery- and patient-related, makes it more likely for incisional hernias to develop.

Guideline development

This guide was developed by the Expert Advisory Group representing ACC, the New Zealand National Board of the Royal Australasian College of Surgeons (RACS) and the New Zealand Association of General Surgeons.

The guide is based on an evidence-based review of research and reflects the consensus view of the Expert Advisory Group. A copy of this guide and the evidence scan are available on ACC website *acc.co.nz*.

Treating clinicians, District Health Boards and private insurers can use this document as a guide on when to lodge treatment injury claims for patients with incisional hernias.

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Disclaimer

All information in this publication was correct at the time of printing. This information is intended to serve only as a general guide to arrangements under the Accident Compensation Act 2001 and regulations. For any legal or financial purposes this Act takes precedence over the contents of this guide.