MINISTRY OF BUSINESS, INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

REGULATORY IMPACT STATEMENT FOR ACCIDENT COMPENSATION REGULATED PAYMENTS FOR TREATMENT

Annual Review of the Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Regulations 2003

New Zealand Government

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AGENCY DISCLOSURE STATEMENT

1. This Regulatory Impact Statement has been prepared by the Ministry of Business, Innovation and Employment (MBIE).

2. It provides an analysis of options to update the regulated payments for treatment providers (e.g. GPs, physiotherapists, nurses) for treatment set in the Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Regulations 2003 (the treatment regulations). Under the Accident Compensation Act 2001, these regulated payments must be reviewed annually.

3. Analysis of options is limited by the lack of information available about:
    - the extent to which current prices of treatment services are a barrier to claimants' access to treatment; and
    - the relationship between changes in regulated payments and the end price of treatment services (co-payment) i.e., the extent to which an increase in regulated payments lessens the growth of co-payments.

4. ACC has indicated that work is in progress to improve the information available about co-payments and the extent to which price affects claimants' access to treatment. For example, considering integrating collection of ACC data into the Annual Health survey. This information is expected to improve analysis of how the options achieve the objective of enabling ACC claimant's access to timely treatment by ensuring co-payment rates are affordable in future annual reviews of the regulated payments.

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EXECUTIVE SUMMARY

5. The Accident Compensation Corporation (ACC) pays treatment providers (e.g. GPs, physiotherapists, nurses) for providing rehabilitation, including treatment, to ACC claimants.

6. Payments are made to treatment providers through individually negotiated contracts between the provider and ACC. For example, rural GPs and accident and emergency services are covered under contracts.

7. Treatment providers that do not enter into a contract with ACC are paid a standard rate (dependent on the service provided). These rates are specified in the Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Regulations 2003 (the treatment regulations) and are the subject of this RIS.

8. ACC is required under the *Accident Compensation Act 2001* (the Act) to review the rates in the treatment regulations annually, taking into account cost increases for rehabilitation.

9. There is some evidence that because there has been no consistent increase in the payments in the treatment regulations, co-payments (the amount a provider charges over and above the ACC contribution) are increasing and reducing a claimant's access to treatment. Both the evidence available and submitters' comments suggest that there is an increasing disparity between the treatment providers on contracts and those paid under the treatment regulations and that ACC payments under the treatment regulations are not consistent with health sector cost increases or payments made by the Ministry of Health to District Health Boards (DHBs).

10. The overarching objective for the annual review of the treatment regulations is to enable ACC claimants access to timely treatment by ensuring co-payment rates are affordable.

11. In order to achieve this objective, options to the regulated payment rates will be assessed against the following criteria to recognise the trade-offs at stake. These criteria are weighted below in order of significance:
    - to ensure that co-payments are affordable for claimants and ensure access to treatment
    - to ensure costs to ACC are sustainable and affordable, and
    - to ensure an increase would not cause pressure for the Ministry of Health to increase their payments to DHBs.

12. The options for addressing this situation are:
    - The status quo: no increase
    - Option One: a 0.94 per cent increase for all treatment providers
    - Option Two: a 2.22 per cent increase for all treatment providers, or
    - Option Three: a 4.03 per cent increase for all treatment providers

13. All options (except for the status quo) would go some way to meeting the objectives. Option Three of a 4.03 per cent increase is preferred as it would meet the overall objective most effectively with limited negative effect on costs to ACC and pressure on Ministry of Health payments. The cost of the preferred option is manageable within current estimates of ACC's outstanding claims liability, levies and appropriations.

14. Increases in payments under the treatment regulations will not be passed on to claimants in all circumstances. The relative competiveness of local treatment provider markets and claimants' price sensitivity are both relevant to this.

15. Implementation of the chosen option will be carried out by ACC. Providers will be notified of increased payments and the increased rates will be paid from the in-force date which is expected to be on 1 December 2016.

STATUS QUO AND PROBLEM DEFINITION

Background

16. Under the Act, ACC must pay or contribute to the cost of treatment for injured people. ACC services are funded by levy payers and the Crown[1].

17. Payments are made to treatment providers through individually negotiated contracts between treatment providers and ACC[2]. For example, rural GPs and accident and emergency services are covered under contracts. Treatment providers that do not enter into a contract with ACC are paid a standard rate (dependent on the service provided), specified in regulations.

18. Treatment regulations[3], made under section 324 of the Act, specify:
    - the amounts ACC must pay for rehabilitation, including treatment (the subject of this RIS)
    - who the costs are to be paid to; and
    - how costs are to be paid (payments are made directly to the treatment provider for ease of administration).

19. Table 1 shows ACC's expenditure under the treatment regulations compared to expenditure under contracts.

[1] Employers fund the Work Account, workers fund the Earners' Account, motor vehicle owners fund the Motor Vehicle Account, the Crown funds the Non-Earners' Account, and the Treatment Injury Account is funded by contributions from the Earners' and Non-Earners' Accounts.
[2] Contracts also cover services for social rehabilitation (e.g. home help, attendant care) and vocational rehabilitation (return to work programmes).
[3] Regulations under Section 324 of the AC Act include:
- Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Regulations 2003
- Accident Compensation (Apportioning Entitlements for Hearing Loss) Regulations 2010.

Table 1: ACC expenditure on rehabilitation services

	2011/12 $m	2012/13 $m	2013/14 $m	2014/15 $m	2015/16 $m
Regulations	$172.5	$180.4	$193.6	$213.0	$232.6
Contracts	$918.3	$919.9	$952.3	$1,052.8	$1,166.9

20. Section 324A of the Act requires ACC to undertake an annual review of regulated treatment costs and make a recommendation to the Minister of ACC, taking into account cost increases for rehabilitation.

21. The payments in the treatment regulations are not intended to cover the full cost of treatment. Claimants generally need to "top up" the ACC payment to cover the full cost of their treatment. This is the amount a provider charges over and above the ACC contribution (called a co-payment).

Status Quo

22. Regulated payments last increased by 1.78 per cent in 2014, in response to the 2012 review. More recent reviews recommended increases that were not implemented.

Problem Definition

The lack of increases in regulated payments over recent years may be causing increases in co-payments and deterring claimants from accessing treatment

23. There is some evidence that since 2011 co-payments have increased. As Table 2 shows, from 2010/11 to 24/15 GP co-payments consultations have increased from $27.15 to $29.00. ACC's highest expenditure under the treatment regulations is for GPs and physiotherapists.

Table 2: Co-payment increases

		2010/11	2011/12	2012/13	2013/14	2014/15[4]	2015/16
GPs[5]	Co-payment	$27.15	$27.95	$28.29	No co-payment data available	$29.00	No co-payment data available
	Annual increase of co-payment (percentage)	-	2.9%	1.2%		2.5%	
	Annual increase of regulated payments to GPs(percentage)	2%	1.9%	1.78%	Nil	Nil	Nil
Physio-therapists	Co-payment	$20.29	$21.65	$22.78	No co-payment data available	$23.25	No co-payment data available
	Annual increase of co-payment (percentage)	-	6.7%	5.2%		2.1%	
	Annual increase of regulated payments to physiotherapists (percentage)	-	1.9%	1.78%	Nil	Nil	Nil

[4] Co-payment data for 2014 was calculated by checking websites rather than a survey (as done in previous years).

[5] Data does not include accident and medical services or rural GPs who do not charge through regulations

24. Throughout public consultation, submitters indicated that rising co-payments are reducing claimants' ability to access necessary treatment.

25. ACC contributions to the cost of treatment alleviate pressure on treatment prices charged to claimants. This encourages claimants to seek treatment for their injuries in a timely manner. Delayed treatment can exacerbate and prolong the effects from an injury. This can worsen long-term outcomes for injured individuals and result in higher overall costs to ACC and to the economy.

26. Table 3 shows the increases in ACC payments for treatment compared with payments made by the Ministry of Health to DHBs since 2008.

Table 3: Comparison of payment increases for treatment between ACC and the Ministry of Health

Year	ACC	Ministry of Health
2008	-	3.3%
2009	-	3.11%
2010	2% to GPs and nurses	1.7%
2011	1.9%	1.9%
2012	1.78% (implemented in 2014)	1.49%
2013	-	0.89%
2014	-	0.83%
2015	***4.03% (proposed increase)***	0.58%

27. The cost of providing treatment has also increased since 2012 when the last payment increase was made. Labour costs are the main cost driver in the health sector.

28. Table 4 shows the increases in labour costs in the health sector since 2012.

Table 4: Increase in labour costs since 2012/13

Index	2013	2014	2015	Total
Labour Cost Index – Health - % increase June year	1.8%	1.2%	0.8%	**3.84%**[6]

29. In addition to providing treatment, ACC is expecting treatment providers to provide further services, such as return to work services, but the regulated payments have not kept pace with inflation and do not reflect the additional services provided.

30. The government has a policy of providing free GP visits for under 13 year olds. Access to free ACC visits for children under 13 is estimated at 94 per cent (based on 2014/15 claims data). Maintaining regulated payments at current levels may compromise the intended effect of this policy.

[6] This figure is the total percentage increase in the Labour Cost Index – Health from June 2013 until June 2015.

31. There is some evidence that regulated payments are falling behind the payment levels provided to treatment providers under contracts. For example, the 40 per cent of physiotherapists paid under the treatment regulations will not receive increases in their payments in 2015 or 2016, whereas the 60 per cent of physiotherapists paid under contracts received increases in 2014 and 2015.

32. Submitters raised concerns about this disparity, specifically in situations where providers performing similar services receive different payments. Submitters also raised concern that this disparity restricts a claimant's choice about where they seek treatment, for example, by encouraging the use of accident and medical clinics instead of GPs for the same services because of lower co-payments.

33. Nonetheless, payments for treatment providers under contracts should generally be higher to recognise the additional requirements placed on the provider in the contract.

Scale of the problem

34. There is limited evidence to quantify the scale of the problem. Anecdotal evidence suggests that current payment levels are a barrier for some claimants to access treatment. This is reflected in the submissions received during public consultation.

35. The annual Health Survey[7] , which looks at co-payments for public health services, rather than specifically the co-payments for treatment covered by ACC, shows that 13.7 per cent of adults were unable to go to the GP because of cost. Māori and Pacific people were over-represented here (about 20 per cent). For children this figure was 6.1 per cent. This suggests that some people with low incomes may be finding it difficult to pay the ACC co-payment for treatment.

OBJECTIVES OF THE COST OF TREATMENT REVIEW

36. The overarching objective for the annual review of the treatment regulations is to enable ACC claimants access to timely treatment by ensuring co-payment rates are affordable.

37. In order to achieve this objective, options to the regulated payment rates will be assessed against the following criteria to recognise the trade-offs at stake. These criteria are listed below in order of significance:
    - to ensure that co-payments are affordable for claimants and ensure access to treatment
    - to ensure costs to ACC are sustainable and affordable, and
    - to ensure an increase would not cause pressure for the Ministry of Health to increase their payments to DHBs.

[7] Ministry of Health. 2015. *Annual Update of Key Results 2014/15: New Zealand Health Survey.* Wellington: Ministry of Health.

38. Further criteria below is important but is not considered in the options analysis because at the margin, options do not differ in meeting these criteria. These are:
    - Transparency and certainty of regulated rates: the treatment regulations provide a legal basis for the rates, allowing the regulated rates to be understood by both providers and claimants.
    - Minimal compliance costs in implementing regulated rates: there will be a one-off cost to providers to alter the payment amounts in invoicing systems. This cost does not vary with the options (but does arise out of a change in the regulated rates, i.e., would not arise if status quo was maintained).
    - Flexibility and durability of regulated rates: regulated rates are required to be reviewed annually, providing opportunity to accommodate changes in the regulated rates over time.

REGULATORY IMPACT ANALYSIS

39. Options considered include:
    - **Status Quo:** No increase
    - **Option One:** 0.94 per cent increase across all treatment providers
    - **Option Two:** 2.22 per cent increase across all treatment providers
    - **Option Three:** 4.03 per cent increase across all treatment providers (preferred option)
40. All options were developed by ACC using the 'weighted average method', consistent with price adjustments awarded through ACC contracts. This method applies adjustments based on the cost pressures facing providers primarily based on changes in salary and wage rates in the health sector as reflected in the Labour Cost Index – Health.

41. Option One reflects the annual adjustment required to account for changes in costs in 2015/16, Option Two incorporates changes from 2014/15 and 2015/16, and Option Three from 2013/14, 2014/15 and 2015/16.

42. Table 5 gives examples of how each option would affect specific payments in the treatment regulations

Table 5: Increase in payments under the treatment regulations

Service	Current payment (status quo)	Option One: 0.94 per cent increase	Option Two: 2.22 per cent increase	Option Three: 4.03 per cent increase
Medical practitioners consultation for over 13s	$30.85 per visit	$31.14 per visit	$31.53 per visit	$32.09 per visit
Specified treatment providers consultation such as physiotherapists	$22.56 per visit $56.76 per hour	$22.77 per visit $57.29 per hour	$23.06 per visit $58.02 per hour	$23.46 per visit $59.05 per hour

Cost of options

43. ACC has calculated its outstanding claims liability (OCL), levies and appropriations under the assumption that regulated rates will increase over time. All options will have no material impact on levy rates or appropriations for the Non-Earners Account. These costs are not expected to change valuation or pricing.

44. Table 6 below outlines the total expected increase in cash costs under each option.

Table 6: Total cash flow impact on ACC Accounts for 2016/17 – 2020/21

	2016/17 $m	**2017/18 $m**	**2018/19 $m**	**2019/20 $m**	**2020/21 $m**
Option One: a 0.94 per cent increase	$2.2	$3.1	$3.1	$3.1	$3.2
Option Two: a 2.22 per cent increase	$5.2	$7.2	$7.3	$7.4	$7.5
Option Three: 4.03 per cent increase	$9.5	$13.1	$13.3	$13.5	$13.6

45. There will be a one-off cost to providers to alter the payment amounts in invoicing systems. This cost is not significant because most providers use standard practice management systems.

46. Table 7 shows how the options analysis meets the criteria to achieve the overall objective of enabling ACC claimants access to timely treatment by ensuring co-payment rates are affordable.

47. The following scale has been used in assessing the criteria:
    - **XXX** Significant deterioration from the status quo
    - **XX** Deterioration from the status quo
    - **X** Small deterioration from the status quo
    - \- No change from the status quo
    - **√** Small improvement from the status quo
    - **√√** Improvement from status quo
    - **√√√** Significant improvement from status quo

Table 7: Options Analysis

CRITERIA FOR ASSESSMENT OF OPTIONS	STATUS QUO: NO INCREASE	OPTION ONE: 0.94% INCREASE FOR ALL TREATMENT PROVIDERS	OPTION TWO: 2.22% INCREASE FOR ALL TREATMENT PROVIDERS	OPTION THREE: 4.03% INCREASE FOR ALL TREATMENT PROVIDERS (PREFERRED OPTION)
Ensure that co-payments are affordable for claimants and ensure access to treatment	• Based on the information available and submissions received, the current payment amounts in the treatment regulations are no longer covering the cost of treatment for providers. This means that there is a risk that co-payment costs will increase. This is likely to increase the co-payment cost for claimants and reduce access to treatment. • The status quo does not account for payment increases made under contract agreements with treatment providers. This may result in overuse of those services covered by contracts as the co-payments may be lower.	√ • This option will address cost pressures from the 2015/16 financial year. This increase may have some impact on limiting co-payment increases and meets this criterion better than the status quo. • Considering submitters raised concerns that an increase of 2.22 per cent was not a large enough increase and that an increase has not been approved since 2012, this option is considered to not sufficiently meet this criterion.	√√ • This option will address cost pressures from the 2014/15 and 2015/16 financial years. This increase may partially limit co-payment increases and therefore have some impact on maintaining current levels of affordability of treatment for claimants. • Submitters raised concerns that an increase of 2.22 per cent was not a large enough increase. Submitters stated that this was not a true reflection of cost increases in the health sector and did not account for increase in payments made by the Ministry of Health to DHBs.	√√√ • Option Three will address cost pressures from the 2013/14, 2014/15 and 2015/16 financial years. This option would provide the largest increase and should therefore be most likely to limit co-payment increases and have the most impact on maintaining current levels of affordability of treatment for claimants. • This option is most closely aligned with the submissions received during public consultation and would be more consistent with increases in payments made by the Ministry of Health since 2008. • A 4.03 per cent increase would also reduce the disparity between the payments received by contracted treatment providers compared to those paid under the treatment regulations. This would improve equity in the sector (while still recognising the additional requirements for contracts) and limiting the effect of the payment method of the treatment provider on access to treatment for claimants.

CRITERIA FOR ASSESSMENT OF OPTIONS	STATUS QUO: NO INCREASE	OPTION ONE: 0.94% INCREASE FOR ALL TREATMENT PROVIDERS	OPTION TWO: 2.22% INCREASE FOR ALL TREATMENT PROVIDERS	OPTION THREE: 4.03% INCREASE FOR ALL TREATMENT PROVIDERS (PREFERRED OPTION)
Ensure costs to ACC are sustainable and affordable	• No additional cost to ACC.	**X** • The total cash flow impact for ACC will be as follows: ○ $2.2 million in 2016/17 ○ $3.1 million in 2017/18 ○ $3.1 million in 2018/19 ○ $3.1 million in 2019/20 ○ $3.2 million in 2020/21 • ACC have confirmed that a 0.94 per cent increase will have no material impact on levy rates or appropriations for the Non-Earners Account. These costs are not expected to change valuation or pricing.	**X** • The total cash flow impact for ACC will be as follows: ○ $5.2 million in 2016/17 ○ $7.2 million in 2017/18 ○ $7.3 million in 2018/19 ○ $7.4 million in 2019/20 ○ $7.5 million in 2020/21 • ACC have confirmed that a 2.22 per cent increase will have no material impact on levy rates or appropriations for the Non-Earners Account. These costs are not expected to change valuation or pricing.	**X** • The total cash flow impact for ACC will be as follows: ○ $9.5 million in 2016/17 ○ $13.1 million in 2017/18 ○ $13.3 million in 2018/19 ○ $13.5 million in 2019/20 ○ $13.6 million in 2020/21 • ACC have confirmed that a 4.03 per cent increase will have no material impact on levy rates or appropriations for the Non-Earners Account. These costs are not expected to change valuation or pricing. • This option is therefore assessed to be sustainable and affordable for ACC and therefore is not considered to be a significant deterioration from the status quo.

CRITERIA FOR ASSESSMENT OF OPTIONS	STATUS QUO: NO INCREASE	OPTION ONE: 0.94% INCREASE FOR ALL TREATMENT PROVIDERS	OPTION TWO: 2.22% INCREASE FOR ALL TREATMENT PROVIDERS	OPTION THREE: 4.03% INCREASE FOR ALL TREATMENT PROVIDERS (PREFERRED OPTION)
Ensure an increase would not cause pressure for the Ministry of Health to increase their payments to DHBs	• No increase in the treatment regulations will avoid putting pressure on the health sector to raise their payments.	• Based on the information contained in Table 4 it is unlikely that an increase of 0.94 per cent will cause pressure on the Ministry of Health. ACC payments have not had regular increases, but there have been increases to the payments made under the Ministry of Health every year since 2008. The risk that an increase of 0.94 per cent would put pressure on the health sector is considered to be low.	**X** • Based on the information contained in Table 4 it is unlikely that an increase of 2.22 per cent will cause major issues for the Ministry of Health. ACC payments have not had regular increases, but there have been increases to the payments made under the Ministry of Health every year since 2008. The risk that an increase of 2.22 per cent would put pressure on the health sector is considered to be low.	**X** • Based on the information contained in Table 4 it is unlikely that an increase of 4.03 per cent will cause pressure on the Ministry of Health. ACC payments have not increased in the last two years, but there have been increases to the payments made by the Ministry of Health every year since 2008. The risk that an increase of 4.03 per cent would put pressure on the health sector is assessed to be low and therefore is not considered to be a significant deterioration from the status quo.
Net impact	-	**√XX**	**√√XX**	**√√√XX**

Risks

48. There is a risk that an increase in payments under the treatment regulations may not maintain current co-payment rates. There is no mechanism to ensure that providers limit their co-payment charges. Individual contracts would be necessary to implement a restricted co-payment policy. Assuming contributions are passed through to claimants, the proposed increase will provide greatest benefit to low income earners, however the cost effectiveness of this is unclear. This uncertainty holds for all options. Relative to the status quo, this uncertainty is not expected to generate large adverse consequences for ACC, providers, or claimants.

49. If increases in payments in the treatment regulations continue not to be approved this may place pressure on the need for a large one-off increase in payments. This rate change would have immediate cash impacts for ACC. The extent of these cash impacts would depend on the size of any future increase agreed to by the Government.

CONSULTATION

Public consultation

50. A public consultation took place from 5 April to 6 May 2016. The consultation was limited to seeking feedback on the proposed 2.22 per cent increase. The consultation document was available on the MBIE website and a link was posted on the ACC website. Ten submissions were received from multiple industry bodies and doctors.

51. There were a number of common themes in the consultation. Submitters noted:
    - the lack of increase in the payments in recent years.
    - that an increase was necessary. All submitters suggested that the proposed increase was not sufficient, although one submitter (Physiotherapy NZ) noted fiscal pressures.
    - the increase was not sufficiently accounting for rising costs in treatment services and undervalued treatment providers.
    - the growing disparity between contracted treatment providers and those covered under regulations, which could be encouraging use of accident and medical clinics rather than GPs.
    - the disparity between payment rates for different professions despite them providing similar services (specifically nurse practitioners).
    - the lack of flexibility in the treatment regulations to respond to changing patterns of care.

Departmental consultation

52. ACC assisted with the preparation of this Regulatory Impact Statement. The Treasury, Te Puni Kōkiri, the Ministries of Health and Social Development, the Ministry for Women and Veterans' Affairs were consulted and their views incorporated. The Department of Prime Minister and Cabinet were informed.

IMPLEMENTATION

53. Implementation will be carried out by ACC. Providers will be notified of increased payments through the usual channels, such as practice management systems (PMS) vendors, and professional bodies. The increased rates will be paid from the in-force date which is expected to be on 1 December 2016.

54. Table 8 sets a timeline for implementation.

Table 8: Implementation timeline

Action	Timeframe
Agreement from the Cabinet Social Policy Committee	24 August 2016
Minister for ACC announces increase to treatment payments under regulations	August
ACC advises providers that regulated rates will be increasing, subject to confirmation, and begins work on internal requirements for implementation	31 August 2016 (dependent on Minister's announcement)
Agreement from Cabinet to promulgate regulation changes	17 October 2016
Gazette	20 October 2016
ACC confirms PMS vendors need to update systems with new rates for 1 December 2016	21 October 2016
ACC to update website with changes	21 October 2016
ACC to advertise the rate changes eg paid advertising, press release, emails, message on provider remittance statements, contact with provider professional bodies	21 October - 30 November 2016
28 days end after Gazette	17 November 2016
Regulation changes become effective	1 December 2016
Monitoring the changes is carried out annually (ACC are statutorily required to report the findings to the Minister of ACC)	Annually (1 December)

MONITORING, EVALUATION AND REVIEW

55. The treatment regulations are reviewed annually to check whether ACC's contribution needs to change to meet rehabilitation costs. This may include looking at co-payment surveys to assess the level of contribution being made by claimants.

56. The annual review of treatment regulations would benefit from more evidence to support any conclusions and potential proposed increase. At this stage it is unknown the extent to which current prices of treatment services are a barrier to claimants' access to treatment; and the relationship between changes in regulated payments and the end price of treatment services (co-payment) i.e., the extent to which an increase in regulated payments lessens the growth rate of co-payments.

57. ACC has indicated that work is in progress to improve the information available about co-payments and the extent to which price affects claimants' access to treatment. For example, considering integrating collection of ACC data into the Annual Health survey. This information is expected to improve analysis of how the options achieve the objective of enabling ACC claimant's access to timely treatment by ensuring co-payment rates are affordable in future annual reviews of the regulated payments.