



COVERSHEET

Minister	Hon Matt Doocey	Portfolio	ACC
Title of Cabinet paper	Accident Compensation Cost of Treatment Amendment Regulations 2024	Date to be published	16 April 2024

List of documents that have been proactively released		
Date	Title	Author
21 March 2024	Accident Compensation Cost of Treatment Amendment Regulations 2024	<i>Office of Minister for ACC</i>
28 March 2024	<i>LEG-24-MIN-0050</i> Minute	<i>Cabinet Office</i>

Information redacted

YES / **NO** (please select)

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Office of the Minister for ACC
Chair, Cabinet Legislation Committee

Accident Compensation Cost of Treatment Amendment Regulations 2024

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the *Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Amendment Regulations 2024* and the *Accident Compensation (Apportioning Entitlements for Hearing Loss) Amendment Regulations 2024*.

Executive Summary

- 2 The Cost of Treatment Regulations specify the payments rates for non-contracted treatment providers treating ACC claimants.
- 3 Under section 324A of the *Accident Compensation Act 2001*, ACC is required to undertake a biennial review of the payment rates to assess whether any changes are required to account for changes in the costs of rehabilitation. The most recent review was provided to the Minister for ACC in November 2022 (the 2022 review).
- 4 In August 2023, Cabinet agreed to implement ACC's final recommendations from the 2022 review [CAB-23-MIN-0374 refers], which were to:
 - 4.1 implement bespoke payment rate increases for treatment providers ranging from 3.56 percent to 7.90 percent based on Multi-Employer Collective Agreement (MECA) increases since July 2021 and other additional employer costs; and
 - 4.2 introduce a new rate for internal examinations for maternal birth injuries at \$41.34 for a 20-minute (or less) consultation and consumables.
- 5 I have reviewed these previous Cabinet decisions and recommend these changes are progressed on the same basis.
- 6 Costs associated with the uplifts to the Cost of Treatment Regulations are expected to increase ACC spending by \$17.4 million annually. However, these costs have been factored into ACC's levy, appropriation, and Outstanding Claims Liability (OCL) and will result in a negligible impact on

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- levies, appropriations and the OCL.
- 7 Implementing the recommendations from the 2022 review will address some of the ongoing cost pressures in the health sector. This will assist in keeping treatment accessible for ACC claimants by keeping co-payments affordable.
- 8 To abide by the 28-day rule and provide ACC with sufficient time to operationalise and implement the uplifts by 1 June 2024, the amendments should be published by Gazette notice before 2 May 2024.

Policy

- 9 The Amendment Regulations will update the rates the Accident Compensation Corporation (ACC) is liable to pay for the costs of treatment as set out in the *Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Regulations 2003* and the *Accident Compensation (Apportioning Entitlements for Hearing Loss) Regulations 2010* (together these are the Cost of Treatment Regulations).
- 10 The Cost of Treatment Regulations specify the payments that ACC can make towards the cost of treatment for claimants and specify the costs ACC are liable to pay for entitlements for covered hearing loss respectively.¹
- 11 ACC is required to undertake a biennial review of regulated treatment costs and assess whether adjustments to regulated payments are required given changes in the costs of rehabilitation. ACC reported its final recommendations to my predecessor on 27 November 2022.
- 12 ACC then undertook targeted consultation on these recommendations on behalf of my predecessor from 3 April to 1 May 2023. No changes were proposed as a result of the consultation.
- 13 On 21 August 2023, Cabinet agreed to implement the recommendations from the 2022 review of the Cost of Treatment Regulations [CAB-23-MIN-0374 refers]. These were to:
- 13.1 implement bespoke payment increases ranging from 3.56 percent to 7.90 percent based on Multi Employer Collective Agreement (MECA) increases since July 2021 and other additional employer costs; and
 - 13.2 introduce a new rate for internal examinations for maternal birth injuries at \$41.34 for a 20-minute (or less) consultation and consumables.

¹ Where no applicable contract with treatment providers applies.

Bespoke payment increases

14 Table 1 below sets out the proposed increases.

Table 1: Proposed payment increases

Treatment provider type	Proposed increase to treatment rate
Audiology	4.89%
Counsellors	4.89%
Dentists	3.56%
Hyperbaric Oxygen Treatment	4.36%
Medical Practitioners	3.56%
Nurses	7.90%
Nurse Practitioners	7.90%
Combined Nurse and Nurse Practitioner	7.90%
Radiologists	4.36%
Specialists	3.56%
Specified treatment providers	4.89%

- 15 The main driver of cost increases for treatment funded by ACC is increases in the cost of labour of those workers involved in providing ACC treatment. ACC, therefore looked at wage increases in the relevant occupational groups within the health sector and based their calculations on the MECA increases in the year to July 2022, and other additional employer costs.²
- 16 The relevant MECA's were those for Medical Specialists, Registered Nurses, and Allied Health. The calculations led to ACC's bespoke payment increases for individual professions, ranging from 3.56 percent for Medical Practitioners, Specialists and Dentists, to 7.90 percent for Nurses and Nurse Practitioners.
- 17 As an example, with the proposed changes, Nurse Practitioner consultation payment rates would increase by 7.90 percent from \$57.64 to \$62.19 an hour for claimants under the age of 14 years old when the visit takes place.

² Other additional employer costs include the new public holiday (Matariki) and new sick leave requirements (an increase from five to ten days each year per the *Holidays (Increasing Sick Leave) Amendment Act 2021*).

Introduce a new internal examination rate for maternal birth injuries

18 Table 2 below sets out the proposed new rates for internal examinations for maternal birth injuries.

Table 2: Internal examination rate for maternal birth injuries

Description	Details	Price
Internal Exam Procedure	Up to 20 minutes plus consumables	\$41.34

19 Following implementation of the *Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Act 2022* (the Maternal Birth Injury Amendment Act) in October 2022, ACC made several operational and contractual changes to enable payment for a wider range of health and rehabilitation services for maternal birth injury claimants.

20 While many of the services required to support maternal birth injury claimants can be provided either under a contract or under existing rates in regulations, ACC identified the need for the addition of this new rate in regulations to cover materials and time requirements (where appropriate).

21 The cost of this additional rate has already been factored into the overall cost associated with the Maternal Birth Injury Amendment Act and the service is currently being made available through a non-regulated fee. Formalising this rate allows for it to be included in the biennial review process and provides certainty that providers will be appropriately reimbursed for consultations. This ensures that access to maternal injury treatment remains accessible.

22 This change will mean the Cost of Treatment Regulations will provide for both the claimant’s consultation (with the GP, Nurse, or Nurse Practitioner) and the internal examination. In most cases, the new internal examination rate will be in addition to the consultation rate.

Implementation

23 Actioning the 2022 review is occurring soon after completion of the 2020 review due to the latter being significantly delayed by the Covid-19 pandemic.

24 These new changes will take effect from 1 June 2024, just over a year after the last increases were implemented on 1 April 2023.

25 The sectors are expecting payment rate increases to address increased labour costs. Not implementing these increases risks of treatment providers passing on increased labour costs to ACC claimants through higher co-payments.

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- 26 Given the current cost-of-living pressures, higher co-payments could force claimants to exit their rehabilitation plans early due to untenable costs. Implementing these increases maintains access to treatment for all New Zealanders.

Financial Implications

- 27 The proposed increases in payment rates will increase spending by ACC by approximately \$17.4 million annually.
- 28 However, an estimate of inflation in treatment costs has already been factored into ACC's levy, appropriation, and Outstanding Claims Liability (OCL). The additional cost associated with this proposal will result in a negligible impact on levies, appropriations and the OCL.

Timing and 28-day rule

- 29 The Amendment Regulations are planned to come into force on 1 June 2024. In order to comply with the 28-day rule, the Amendment Regulations should be notified in the New Zealand Gazette no later than 2 May 2024.
- 30 However, an earlier notification is desirable to provide certainty for treatment providers who will need to update their systems and processes to align with the new rates.

Compliance

- 31 The Amendment Regulations comply with each of the following:
- 31.1 the principles of the Treaty of Waitangi;
 - 31.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 31.3 the principles and guidelines set out in the Privacy Act 2020 (if the regulations raise privacy issues, indicate whether the Privacy Commissioner agrees that they comply with all relevant principles);
 - 31.4 relevant international standards and obligations;
 - 31.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 32 Section 324(2) of the *Accident Compensation Act 2001* sets out requirements for recommending, and consulting on, any changes to the Cost of Treatment Regulations. These requirements were complied with in the 2022 review of the Cost of Treatment Regulations. This included ACC making recommendations from its review and also undertaking targeted consultation on the proposed changes on behalf of my predecessor. I am satisfied that the consultation undertaken met the requirements of section 324(2).

Regulations Review Committee

- 33 There are no grounds for the Regulations Review Committee to draw the Regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 34 The draft Amendment Regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

Impact Analysis

- 35 A Regulatory Impact Assessment was prepared in accordance with the necessary requirements and was submitted at the time of Cabinet's August 2023 decision.

Publicity

- 36 ACC, as the operational agency, will communicate with treatment providers on the changes to the regulated payments for treatment.

Proactive release

- 37 MBIE will proactively release this Cabinet paper and accompanying Cabinet minute. No redactions are proposed.

Consultation

- 38 The Department of the Prime Minister and Cabinet and Te Puni Kōkiri have been informed about the 2022 review proposals in this paper. The following agencies and Crown entities have been consulted on the 2022 review proposals: ACC, the Treasury, the Ministry of Social Development, Manatū Hauora, Te Whatu Ora, Whaikaha - Ministry of Disabled People, the Ministry for Women, and the Ministry for Pacific Peoples.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **Note** that on 21 August 2023 Cabinet agreed [CAB-23-MIN-0374] to:
 - 1.1 implement bespoke payment increases for treatment providers ranging from 3.56 percent to 7.90 percent based on Multi Employer Collective Agreement (MECA) increases since July 2021 and other additional employer costs; and
 - 1.2 introduce a new rate for internal examinations for maternal birth injuries at \$41.34 for a <20 minute consultation and consumables;
- 2 **Note** that the *Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Amendment Regulations 2024* and the *Accident Compensation*

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(Apportioning Entitlements for Hearing Loss) Amendment Regulations 2024 will give effect to the decision referred to in recommendation 1 above;

- 3 **Authorise** the submission to the Executive Council the *Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Amendment Regulations 2024* and the *Accident Compensation (Apportioning Entitlements for Hearing Loss) Amendment Regulations 2024*;
- 4 **Note** that the *Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Amendment Regulations 2024* and the *Accident Compensation (Apportioning Entitlements for Hearing Loss) Amendment Regulations 2024* will come into force on 1 June 2024;
- 5 **Note** that section 324(2) of the *Accident Compensation Act 2001* required that the responsible Minister receive a recommendation from ACC and be satisfied that consultation with the persons and organisations of the Minister considers appropriate has occurred before recommending the making of an Order in Council under section 324;
- 6 **Note** that the requirements of section 324(2) have been met.

Authorised for lodgement

Hon Matt Dooney

Minister for ACC