



COVERSHEET

Minister	Hon Matt Doocey	Portfolio	ACC
Title of Cabinet paper	Introduction of an Internal Examination Rate in the Accident Compensation Cost of Treatment Regulations	Date to be published	10 July 2024

List of documents that have been proactively released

Date	Title	Author
16 May 2024	Introduction of an Internal Examination Rate in the Accident Compensation Cost of Treatment Regulations	Office of Minister for ACC
23 May 2024	Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Amendment Regulations (No 2) 2024 LEG-24-MIN-0096 Minute	Cabinet Office

Information redacted

YES / NO (please select)

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Office of the Minister for ACC
Chair, Cabinet Legislation Committee

Introduction of an Internal Examination Rate in the Accident Compensation Cost of Treatment Regulations

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 (No 2) 2024* to correct an administrative error which omitted the introduction of a new rate for internal examinations related to maternal birth injuries.

Policy

- 2 The rates ACC is liable to pay for the cost of treatment where there is no applicable contract are set out in the *Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Regulations 2003* (the Cost of Treatment Regulations).
- 3 Per section 324A of the Accident Compensation Act 2001 (AC Act), ACC is required to undertake a biennial review of the rates set out in the Cost of Treatment Regulations and make recommendations to the Minister for ACC on whether adjustments are required to address changes in the costs of rehabilitation.
- 4 On 27 November 2022, ACC reported their final recommendations to my predecessor and on 21 August 2023, Cabinet agreed to the following [CAB-23-MIN-0374 refers]:
 - 4.1 implement bespoke payment increases ranging from 3.56 percent to 7.90 percent; and
 - 4.2 introduce a new rate for internal examinations for maternal birth injuries at \$41.34 for a 20-minute (or less) procedure and consumables.
- 5 To give effect to these recommendations, the Parliamentary Counsel Office (PCO) produced the following sets of Amendment Regulations:
 - 5.1 Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Amendment Regulations 2024; and
 - 5.2 Accident Compensation (Apportioning Entitlements for Hearing Loss) Amendment Regulations 2024.

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- 6 On 28 March 2024, the Cabinet Legislation Committee authorised the submission of the above Amendment Regulations to the Executive Council [LEG-24-MIN-0050 refers].
- 7 Following the making of the Amendment Regulations it was brought to my attention that the new rate for internal examinations for maternal birth injuries, while included in the Cabinet paper, was missing from the Amendment Regulations.
- 8 To correct this administrative error, I am seeking authorisation to submit a further Amendment Regulation to the Executive Council to add this new rate.

Addition of a new internal examination rate for maternal birth injuries

- 9 Table 1 below sets out the proposed new rate for internal examinations for maternal birth injuries.

Table 1: Internal examination rate for maternal birth injuries

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

Financial Implications

- 10 There are no financial implications of this change as the service is already offered and delivered to ACC claimants at the proposed rate through other funding mechanisms.
- 11 The cost of the service is already factored into the overall costs associated with the introduction of maternal birth injuries from 1 October 2022 meaning there is no further impact on levies, appropriations or ACC’s Outstanding Claims Liability.

Timing and 28-day rule

- 12 In order to introduce this new rate at the same time the other uplifts take effect (1 June 2024), I am proposing to waive the 28-day rule on the grounds of correcting an administrative error so that the regulations can come into force on 1 June 2024.

Compliance

- 13 The Amendment Regulations comply with each of the following:
 - 13.1 the principles of the Treaty of Waitangi;
 - 13.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;

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- 13.3 the principles and guidelines set out in the Privacy Act 2020;
 - 13.4 relevant international standards and obligations;
 - 13.5 the Legislation Guidelines (2021 edition).
- 14 Section 324(2) of the AC Act 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

- 15 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

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

Impact Analysis

- 17 A Regulatory Impact Assessment was prepared in accordance with the necessary requirements and was submitted at the time of Cabinet's August 2023 decision [CAB-23-MIN-0374 refers].

Publicity

- 18 ACC, as the operational agency, will inform treatment providers of the new internal examination rate.

Proactive release

- 19 MBIE will proactively release this Cabinet paper and accompanying Cabinet minute.

Consultation

- 20 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.

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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 procedure and consumables.
- 2 **Note** that on 28 March 2024, the Cabinet Legislation Committee authorised the submission of the following Amendment Regulations to the Executive Council [LEG-24-MIN-0050 refers]:
 - 2.1 Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Amendment Regulations 2024.
- 3 **Note** that the new rate for internal examinations was inadvertently not included in the Amendment Regulations authorised by the Cabinet Legislation Committee on 28 March 2024;
- 4 **Note** that the *Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Amendment Regulations (No 2) 2024* will give effect to the decision referred to in paragraph 1.2 above;
- 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** the advice of the Minister for ACC that this requirement has been met;
- 7 **Note** that a waiver of the 28 day rule is sought on the grounds of correcting an administrative error so that the regulations can come into force on 1 June 2024, at the same time as the *Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Amendment Regulations 2024*
- 8 **Agree** to waive the 28-day rule so that the regulations can come into force on 1 June 2024;
- 9 **Authorise** the submission to the Executive Council the *Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Amendment Regulations (No 2) 2024*.

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Authorised for lodgement

Hon Matt Dooney

Minister for ACC

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