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Senate Economics Committee
Department of the Senate
Parliament House
Canberra ACT 2600
Australia

Attention: Secretariat

FaHCSIA Amendment Bill 2011, Schedule 4: Notice of payments of recompense for personal injuries

I write in regard to the *Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Further Election Commitments and Other Measures) Bill 2011* referred to the Senate Economics Committee (the Committee) on 15 June 2011.

WorkCover WA is the statutory authority responsible for the administration and regulation of the workers' compensation system in Western Australia.

In Western Australia workers' compensation is underwritten in a private insurance market. There are eight insurers approved by WorkCover WA to issue workers' compensation policies, twenty seven 'self insurers' and the Insurance Commission of Western Australia. All of these entities make payments to injured workers. WorkCover WA regulates the workers' compensation scheme but does not underwrite insurance and does not generally make payments to injured workers (other than in very specific circumstances where an employer is not insured).

WorkCover WA was first informed of the Bill following its introduction into the Commonwealth Parliament in March 2011. By this time, I understand, there had been substantial system implementation development within Centrelink. However there had been no opportunity to directly present issues regarding the specific circumstances of workers' compensation in this State and the concerns of implementing the proposed arrangements in a privately underwritten jurisdiction.

As a consequence I am concerned the processes developed to implement the measure may not lead to a seamless implementation in this State.

I take this opportunity to draw to the Committee's attention the following specific issues:

1. The Bill places an onus of responsibility upon payers of compensation to notify Centrelink before payments are made to an individual. Notifications must be made regarding every person who is to receive a payment, regardless of whether they are in receipt of Centrelink benefits. There are approximately 77,000 income payments made per year in the Western Australian workers' compensation scheme, each of which would be captured by the notification process. This is a significant amount of data.

The volume of notifications (together with the absence of a comprehensive data matching system through a unique number) has the potential for error and may result in the unintended cancellation of social security benefits. It is understood the data matching system under development by Centrelink may identify workers' compensation claimants by name (rather than a unique number). This may be an insufficient and unreliable indicator to match welfare recipients and workers' compensation claimants.

2. Insurers (and possibly employers) will need to make IT and other process changes to enable provision of the data. Such changes require a lead-time and significant expenditure. WorkCover WA usually allows insurers a twelve month lead time if an initiative requires redesign of IT systems. The measure contained within this Bill is intended to be operational from 1 October 2011. If system changes are not made, the data will need to be manually provided to Centrelink. Either way there is a significant administrative burden placed upon insurers (and possibly employers) with very little notice.
3. I understand that Centrelink has not developed a capacity to provide an automated response to those providing data that the information has been received. At this point I understand this is to be done by letter. This is a high risk arrangement in an environment where there is a significant volume of transactions, and businesses will be subject to significant penalties for failure to notify Centrelink of intended payments.
4. There is a lack of clarity in the amendment Bill as to whether it is the employer or insurer who is responsible for notifying Centrelink. In Western Australia, workers' compensation income payments are usually made by an employer, in the ordinary wages and salary cycle. The employer then seeks a reimbursement from their insurer, often some time (months) after the payment is made to the injured worker.

Proposed section 1167D of the amendment Bill appears to leave open the question as to whether it is the employer or insurer who is ultimately responsible for the notification.

5. Employers, insurers and self insurers will have difficulty in meeting the 14 day advance notification requirement set out in the amendment Bill whilst also meeting statutory timeframes under the *Workers' Compensation and Injury Management Act 1981* for payments to workers. Payments are to be made

'as soon as practicable' (and no later than 14 days) in the WA workers' compensation scheme.

6. I understand an amendment to the Bill allowing for individual agreements with compensation payers has been designed to address the issue at (5) above. However in Western Australia this would require notification agreements with the Insurance Commission of WA, all eight approved insurers, twenty seven self insurers and potentially any employer, if their insurer does not assume responsibility for the notification.

This arrangement may provide greater flexibility, but it is an arbitrary method of addressing the problem. As yet there is no detail on how these agreements will be applied in practice. In any event, the requirement to negotiate agreements with a large number of compensation payers has the potential for high administrative overheads and may erode the projected cost savings to Centrelink.

Yours sincerely

Michelle Reynolds
CHIEF EXECUTIVE OFFICER

20 June 2011