

4 May 2018

Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
PO Box 6100
Parliament House
Canberra ACT 2600

Via Email: corporations.joint@aph.gov.au

Re: Involvement by private sector life insurers in worker rehabilitation

AustralianSuper is pleased to make a submission to the inquiry into options for greater involvement by private sector life insurers in worker rehabilitation.

About AustralianSuper

AustralianSuper is Australia's largest superannuation fund and is run only to benefit its members. The fund has over 2.2 million members and manages over \$130 billion of members' assets.

AustralianSuper provides both automatic and voluntary death, TPD and Income Protection insurance for its members, insured by TAL. The Fund has over 1.4 million insured members and pays around 1,600 death claim and 1,500 TPD claims each year. It also starts Income Protection payments in respect of around 2,700 claims each year.

The Fund is passionate about providing rehabilitation assistance to members. As a complying superannuation fund, its core purpose is to provide the best possible retirement outcomes for members. For members who suffer a disability, whilst the fund provides up to 75% of their pre disability income (plus superannuation contributions of up to 10% of pre disability income) as an Income Protection benefit, usually for up to two years, it does not provide full income replacing, particularly if they are disabled for more than two years.

Measures to improve rehabilitation outcomes for members

There is significant evidence¹ to demonstrate the physical and psychological benefits of work and, conversely, the detrimental impact of being out of work due to illness or injury.

We believe that insurance arrangements should be such that members, after sustaining an illness or injury, have access to comprehensive and quality rehabilitation services and to return to suitable and appropriate employment that, as far as possible, is commensurate with the position they held prior to their illness or injury.

¹ For example, the Australian and New Zealand Consensus Statement on the Health Benefits of Work, Position Statement: Realising the Health Benefits of Work, by The Australasian Faculty of Occupational & Environmental Medicine and The Royal Australasian College of Physicians

Overall, retirement outcomes are optimised when disabled members are rehabilitated back to “good work” (work that is a source of productive engagement, economic stability and personal interaction) as quickly as possible.

It is for these reasons that the fund significantly enhanced its Rehabilitation Service in mid-2017, to include:

- Embedding the assessment of suitability for rehabilitation assistance into the claims notification and assessment process
- incorporating rehabilitation plans into the overall strategy for each eligible claim, including rehabilitation goals, timeframes and return to work barriers and opportunities
- As a result, significantly increasing support services acquired to deliver on rehabilitation goals for each participating claimant.

Members are not obliged to take up offers of rehabilitation support. However, the vast majority do². Over the past 12 months, the rehabilitation service has assisted 310 members to return to the workplace.

Despite this success, there are circumstances when the rehabilitation plan is constrained by legislative /regulatory barriers. One example is the inability to fund medical procedures identified as necessary by the member’s treating specialist but for which there is a significant public hospital waiting list.

In the absence of adequate public sector health services funding, there are several barriers which, if they were removed, would enable the trustee and its insurer to provide appropriate rehabilitation services, thus advancing the interests of its members.

These are:

- Lack of clarity in the SIS Act as to whether such benefits would be consistent with the sole purpose test
- The conditions of release set out in the SIS Regulations (Ref. Regulation 4.07D) which, in effect, restrict benefits to being for the direct replacement of earnings
- The Superannuation Industry (Supervision) Regulations 1994 which, for Income Protection, prevent an uneven benefit pattern that would, for example, result from a one-off payment of medical costs.
- The Health Insurance Act which prohibits a person from meeting the cost of medical procedures for which a Medicare benefit is payable.
- The Private Health Insurance (Prudential Supervision) Act 2015 (Cth) (PHI Prudential Supervision Act) which, in effect, prevents anyone except a private health insurer from carrying on a health insurance business, defined to include insurance for hospital treatment or general medical treatment.

The first three points above also act to preclude superannuation funds or their insurers from providing even non-medical assistance, such as home or vehicle modifications.

² Where a member refuses the offer of rehabilitation support it is usually because they are already receiving the service from a Workers Compensation insurer

Conclusions and recommendations for change

In an ideal world, the public health and social services system would provide comprehensive rehabilitation services to assist those with disabilities in returning to good work³, where their health condition permits.

However, in practice, the provision of rehabilitation services to disabled members by superannuation funds (supported by their insurers) complements public services and could be materially improved if appropriate changes can be made to legislation and regulations. Those changes would result in more such members returning to work earlier than is currently the case, thus improving their future earnings and superannuation contributions. That, in turn, would improve retirement outcomes for members, which is the core purpose of superannuation.

It is recommended that the law and regulations (see above) be modified to permit superannuation fund trustees (supported by their life insurers) to provide the full range of rehabilitation services, subject to the existing insurance Covenants in the Section 52(7) of the SIS Act. This will ensure that any benefits provided are consistent with the fund's insurance strategy which, in particular, must include provisions addressing:

- The kinds and levels of insurance to be offered to members
- The cost to members of offering that insurance
- The impact of insurance costs, ensuring that they are not unduly erode retirement incomes.

Existing provisions within the SIS Act and APRA Standard SPS 250 (Insurance in Superannuation) will ensure that the interests of insurance claimant and fund members more broadly are both safeguarded.

Yours sincerely

Head of Insurance
AustralianSuper

³ Work that is a source of productive engagement, economic stability and personal interaction