

SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION  
LEGISLATION COMMITTEE

2005-06 ADDITIONAL BUDGET ESTIMATES HEARING  
16 FEBRUARY 2006

EMPLOYMENT AND WORKPLACE RELATIONS PORTFOLIO

QUESTIONS ON NOTICE

COMCARE

**Question Number:** W795-06

**Question:**

Senator Marshall and Senator Wong raised a number of matters at pages 84 to 87 in relation to the *Guide to the Assessment of the Degree of Permanent Impairment – 2<sup>nd</sup> Edition* which have been interpreted as the following question on notice:-

*Can you outline how the new Comcare Guide to the Assessment of the Degree of Permanent Impairment will change entitlements and indicate what cost savings are anticipated?*

**Answer:**

The 10 percent whole person impairment (WPI) threshold required under section 24 of the *Safety, Rehabilitation and Compensation Act 1988* (SRC Act) for access to a permanent impairment lump sum payment has not changed with the introduction of Comcare's *Guide to the Assessment of the Degree of Permanent Impairment – 2<sup>nd</sup> Edition* (new *Guide*), nor does the new *Guide* change eligibility for other workers' compensation benefits.

Sub-section 24(5) of the SRC Act provides:

Comcare shall determine the degree of permanent impairment of the employee resulting from an injury under the provisions of the approved Guide.

The new *Guide* was prepared, based on the 5<sup>th</sup> edition of the American Medical Association (AMA) *Guides to the Evaluation of Permanent Impairment* and adapted to Australian clinical practice. The new *Guide* provides a clear and objective system for measuring impairments likely to result from work-related conditions.

A document summarising the changes and comparing the percentage ratings achievable for each impairment type between the old and new *Guides* is presented at **Attachment A**. However, specific comparisons can only be performed on actual cases.

There has been no estimate undertaken of cost savings resulting from the changes made to the *Guide* which came into effect on 1 March 2006. The changes were not made as a cost savings exercise but rather were based on the best current medical information available.

## Summary of changes - Old *Guide* to New *Guide*

Before looking at each chapter, there are a number of general changes to note. The most obvious is that the new *Guide* is substantially more comprehensive and complex than the old *Guide*. The new *Guide* requires assessors to use more specific measurements of impairment and has more comprehensive instructions about which measurements are required and how ratings may at times be combined. There was confusion in parts of the old *Guide* as to what measurements should be used.

The new *Guide* also has more detailed instructions for assessors and decision makers regarding the use of other relevant tables and when assessments should or should not be combined.

The separate tables in the old *Guide* dealing with intermittent conditions and malignancies are not included in the new *Guide*. Impairments relating to those conditions will be assessed under the relevant functional loss chapters. This is appropriate in a *Guide* dealing with permanent impairments and is in line with Comcare's aim to have consistent levels of impairment assessments.

While a number of chapters still use 'activities of daily living' (ADL) to assist assessment of whole person impairment (WPI), those activities are listed within the relevant chapters, rather than in the general glossary. They have been tailored to suit the specific systems which require a consideration of the effect of impairment on ADLs.

The following comparison of the chapters in the old and new *Guide* is designed to be a general overview.

Details of changes to individual chapters

### *Chapter 1 Cardiovascular system.*

The basis for assessing coronary artery disease is still the symptomatic level of activity in METS (metabolic cost of activities). The new *Guide* has been expanded to include separate tables for systolic hypertension, arrhythmias and Raynaud's disease. The maximum WPI for coronary artery disease has been increased to 95%. This is a more appropriate measurement of severe impairment of the cardiovascular system.

### *Chapter 2 Respiratory System*

The new *Guide* has extended the methods permitted to measure respiratory impairment. The old *Guide* restricted assessments to the ventilatory function or respiratory test. The new *Guide* extends this to include a number of other measurements to assess incapacity, for example, lung volumes, total lung capacity and residual volume.

The maximum WPI for respiratory function is 80%, compared to 70% under the old table 2.1. This is in line with medical advice that the higher level is more appropriate and consistent with maximum rates in other chapters. The threshold 10% is achieved at the same measurement as in the old table, i.e. 85% respiratory function value.

However, the old table had specified values at intervals of 5% while the new table uses intervals of 10%. This results in some changes of WPI. For example, a person with a respiratory function value of 45 would have a WPI of 50% under the old *Guide*, and 60% under the new *Guide*.

The new *Guide* has been expanded and has new tables for asthma, lung cancer and sleep apnoea.

### *Chapter 3 Endocrine System*

The single table in the old *Guide* has been broken down to three tables in the new. They deal with the thyroid and parathyroid glands, adrenal cortex and medulla and the pancreas (diabetes mellitus). There are detailed notes to assist the medical assessor in rating %WPI and whether the %WPI ratings from these tables can be combined with assessments under other chapters.

The maximum WPI in the old *Guide* for these impairments was 20%. This is increased in each of the new tables, 30% for severe hyperparathyroidism, 70% for severe pheochromocytoma and 50% for symptomatic hypoglycaemia.

There is a new table assessing impairment affecting the mammary glands, where the condition accompanies an endocrine system condition. It provides a higher WPI (up to 10%) than what was provided in the old *Guide* in chapter 12 (reproductive system). The %WPI can be combined with the value derived from table 4.3 (bodily disfigurement).

### *Chapter 4 Skin*

The old *Guide* had two tables, one dealing with unspecified skin disorders and the other with facial disfigurement. The new *Guide* has an extra table for bodily disfigurement. Activities of daily living as applicable to this chapter are defined within the chapter.

Bodily disfigurement was not assessed specifically in the old *Guide* and its inclusion recognises that there may be a WPI for those conditions, even if there is no impairment of other systems.

The new table on skin disorders gives more instructions regarding signs and symptoms of conditions and requirement for treatment to assist in the assessment of WPI.

The old maximum WPI for skin disorders in table 4.1 was in the range of 75 to 100%. The new table has a maximum of 30%. This is in line with specialist medical opinion to the effect that the values in the new *Guide* are appropriate for the assessment of contact induced eczema, psoriasis or other inflammatory diseases.

The old *Guide* had a maximum WPI of 35% for facial disfigurement. The new *Guide* has a maximum WPI of 20% for facial disfigurement and 25% for bodily disfigurement. However the new *Guide* does allow these impairments to be combined with values for psychiatric impairment.

### *Chapter 5 Psychiatric Conditions*

The old chapter was retained without change, other than the inclusion of definitions of some terms used in Table 5.1.

### *Chapter 6 Visual System*

The old *Guide* referred assessors to “the current edition of the American Medical Association’s *Guides to the Evaluation of Permanent Impairment*” (AMA *Guides*). This referred to the 3<sup>rd</sup> edition of the AMA *Guides*, which was current at the time the Comcare old *Guide* was approved.

This chapter of the new *Guide* is based on the 4<sup>th</sup> edition of the AMA *Guides* and contains information from that edition. The 5<sup>th</sup> edition of the AMA *Guides* has a revised method of measuring visual acuity. However the instruments required to assess impairment according to this edition are not widely used by Australian specialists.

The maximum WPI impairment, 85%, is the same in the old and new *Guide*. The chapter on the visual system in the 4<sup>th</sup> edition of the AMA’s *Guide* is very similar to the corresponding chapter in the 3<sup>rd</sup> edition and has the same impairment ratings.

### *Chapter 7 Ear, Nose and Throat Disorders*

The method of assessing hearing loss in table 7.1 has not been changed, nor has the maximum WPI impairment, 50%.

Table 7.2 in the old *Guide* which covered miscellaneous ear, nose and throat disorders has been broken down into a number of tables in the new *Guide*. These tables assess tinnitus (same maximum), olfaction and taste (increased WPI from 5% each to 10% each), speech (new table, maximum WPI impairment 30%), air passage defects (new table, maximum WPI impairment 90%) and nasal passage defects (new table, maximum WPI impairment 3%).

In the new *Guide*, vertigo is assessed in chapter 12 (Neurological system).

The old *Guide* rated permanent otalgia (earache) as 10% WPI and permanent otorrhoea (discharge) as 5% WPI. Specialist medical opinion is that these conditions cannot be measured independently and therefore they have not been included.

### *Chapter 8 Digestive System*

The old chapter 8 had three tables. The first one dealt with disorders of the oesophagus, duodenum, stomach, small intestine, pancreas, colon, rectum and anus (maximum %WPI 55-75), the second with the liver and biliary tract (maximum %WPI 95) and the third with fistulae and herniae (maximum %WPI 20). There were no instructions about combining tables, no definition of “desirable weight” and no specifications about dietary restrictions and types of drugs.

The new *Guide* has seven tables in this chapter. They are

- upper digestive tract
- lower gastrointestinal tract (colon and rectum)
- lower gastrointestinal tract (anus)
- surgically created stomas
- liver
- biliary tract and
- hernias of the abdominal wall.

There are detailed notes regarding treatment, diets, activities of daily living and a body mass index chart.

As the new *Guide* has more tables, the impairments affecting different organs are more detailed and relate to the impairment specifically affecting that part of the digestive system. The %WPIs have been updated in line with specialist medical advice and the maximum percentages are similar with one exception. In the old *Guide* the maximum WPI for liver disease was 95%. The maximum in the new *Guide* for liver diseases is 75%. This was set on the basis of specialist medical advice that it is an appropriate maximum, given that a person with severe liver disease would have impairments involving other body systems and organs that would be combined with 75% to provide a higher rating.

### *Chapter 9 Musculoskeletal System*

This chapter in the new *Guide* has been substantially expanded. It is divided into three sections, dealing with the lower extremities, upper extremities and the spine.

In the new *Guide*, the maximum WPI for a single lower extremity is 40%, the same as in the old *Guide*, and the maximum % for loss of overall lower extremity function (rather than of individual extremities) is 64%, little changed from the old *Guide* percentage of 65%.

The maximum WPI for loss of a single upper extremity is 60% and for loss of upper extremity function is 80%. This represents a significant increase in the maximum impairment ratings from the old *Guide* of 40% and 40% respectively.

The maximum WPI for lower and upper extremity amputations remains the same at 50% and 70% respectively.

In the tables assessing impairment of the spine, the old *Guide* had a maximum WPI of 20% for the cervical spine and the new *Guide* has 38%; the old *Guide* had 30% for the thoraco-lumbar spine while the new *Guide* has 28% for the thoracic spine, and 28% for the lumbar spine.

In assessing spinal impairments, the new *Guide* uses the Diagnosis Related Estimates model (DRE) as introduced in the 4<sup>th</sup> Edition of the *AMA Guide*.

The new *Guide* also provides for the assessment of Chronic Regional Pain Syndrome (CRPS) in the extremities. The old *Guide* did not provide for a specific assessment of this condition.

The major point of departure between the old and the new *Guides* in assessing musculoskeletal impairments is contained in the method of assessment of WPI percentage ratings for upper and lower limbs (extremities). While both the old and the new *Guides* allow for assessments based on the Range of Motion (ROM) model which uses objective and clinically observable criteria (eg restriction in degrees of flexion or degrees of malrotation in a knee joint), the new *Guide* contains alternative tables (eg Table 9.7 for lower extremity function). These tables assess subjective mobility restrictions, but can only be used to assess impairments resulting from demonstrable and objective orthopaedic/neurological conditions. They cannot be used to assess impairments from conditions manifesting principally as pain with no demonstrable pathology.

In the old *Guide* similar tables to 9.7 (containing subjective descriptors) were also able to be used, but more liberally (eg ‘where the joint operates normally but is restricted for other reasons’).

This chapter of the new *Guide* is more comprehensive and allows for the assessment of different percentages of impairment according to the severity of the impairment, not just based on the existence of the condition. In general, the impairment ratings closely follow the equivalent conditions and levels of impairment in the 5<sup>th</sup> edition of the AMA’s *Guide*.

### *Chapter 10 Urinary System*

The old *Guide* contained 2 tables, one for upper urinary tract and the other for lower urinary tract. The new *Guide* has 3 tables, the additional one for urinary diversion. Values from that table can be combined with the %WPI from the table on the upper urinary tract.

The new *Guide* expresses creatinine clearance limits as millilitres per minute rather than litres per day. This is in line with current medical practice and does not change the impairment ratings.

The maximum WPI in the new *Guide* for impairment of the upper urinary tract has been increased from 85% under the old *Guide* to 95%.

On medical advice, the ratings have varied in the new *Guide* when assessing impairment of the lower urinary tract. The range of impairments has been expanded and some percentages slightly raised or lowered. There are instructions about when chapter 12 (neurological system) should be used to assess impairments in the lower urinary tract and how impairments may be combined.

## *Chapter 11 Reproductive System*

The new *Guide* has separate tables for the different male and female reproductive organs and there are clear instructions regarding when tables in chapters 4, 9 and 12 should be used. Table 11.3, Mammary Glands, in the old *Guide* is not included in the new chapter 11. Instead there is a table for mammary glands in chapter 3 and the maximum WPI has been increased to 10%.

On medical advice, the maximum WPI for males is still 20% while the maximum WPI for females has been lowered from 35% to 30%. Instructions for combining the tables dealing with the male reproductive system indicate that the total WPI for all conditions affecting the ability to father children does not exceed 20%. Instructions for combining the tables dealing with the female reproductive system indicate that the total WPI for all conditions affecting the ability to conceive and be delivered of children does not exceed 30%.

## *Chapter 12 Neurological System*

The old *Guide* was divided into five tables; cranial nerves, communication (comprehension and expression) and cognitive function (memory and reasoning). The maximum WPI for each table was 85%, 50%, 35%, 70% and 70% respectively.

This chapter of the new *Guide* is much more comprehensive and is based on the 5<sup>th</sup> edition of the AMA's *Guides*. It has been divided into 9 categories of tables, some with a number of sub-tables. They are:

- disturbances of level of consciousness and awareness
- impairment of memory, learning, abstract reasoning and problem solving ability
- communication
- emotional or behavioural impairments
- the cranial nerves
- neurological impairment of the respiratory system
- neurological impairment of the urinary system
- neurological impairment of the anorectal system and
- neurological impairment affecting sexual function.

Activities of daily living are defined in the new *Guide* for use within the chapter as applicable.

There are detailed instructions on which tables can be combined and which are the most appropriate for particular impairments.

The new table on permanent disturbances of levels of consciousness and awareness has a maximum WPI of 95%. The new table on memory and reasoning has the same maximum % WPI, however there is a clinical dementia rating table from the 5<sup>th</sup> edition of the AMA's *Guides* to assist in rating the impairment. The new *Guide* has increased the maximum WPI for comprehension of speech from 50% to 60%, for inability to write from 50% to 60% and for inability to read from 35 % to 60%.

The new *Guide's* ratings of impairments of the cranial nerves have been updated and in general allow for higher maximum %WPI. There are detailed instructions regarding the use of other chapters of the new *Guide* where appropriate. Meniere's disease, which was not mentioned in the old *Guide*, is included in this chapter.

Vertigo is assessed in this chapter in the new *Guide*, rather than in the chapter on ear, nose and throat disorders. The maximum %WPI impairment for vertigo is 80% in both *Guides*, however there are some differences in the lower ratings in line with recent specialist medical opinion.

The new chapter contains a table on epilepsy, seizure and convulsive disorders. In line with specialist medical opinion, the maximum %WPI is 70%. In the old *Guide* epilepsy was included as one of the intermittent conditions in table 13.1, with a possible maximum %WPI of 75-95%.

### *Chapter 13 Haematopoietic System*

Chapter 13 in the old *Guide* dealt with disorders of the haematopoietic system, malignancies and some intermittent disorders such as asthma, migraine, tension headache and epilepsy.

The new *Guide* chapter 13 only deals with the haematopoietic system and activities of daily living as they relate to this chapter are listed within the chapter.

In the new *Guide*, asthma is assessed under chapter 2 and epilepsy in chapter 12. The other conditions are assessed under the functional loss tables as applicable to the approved compensable condition(s). Impairment assessments require specific identification of the affected organ systems, with objective clinical findings. For example, if a neurological or musculoskeletal cause for the headaches is identified, the assessment would be done using the chapter on the relevant organ or system.

This chapter in the new *Guide* has four new tables on anaemia, leukocyte abnormalities or disease, haemorrhagic and platelet disorders and thrombotic disorders. The ratings are specifically tailored to those conditions, rather than in the general table on intermittent conditions in the old *Guide*.

Activities of daily living are included in the new *Guide* as appropriate. There are instructions regarding the interaction between this chapter and chapters 1 and 8.

### *Non-economic loss (NEL)*

NEL ratings remain the same, but there is more information on symptoms to assist in rating the levels of pain and suffering etc. While these assessments will always have an element of subjectivity, the scales should assist in providing a more consistent and equitable way of rating non-economic loss. Comcare has also introduced a requirement that the assessor who examines the employee also evaluates their answers to the NEL questionnaire and provides their own assessment. This will assist the claim manager to make a decision based on the best possible evidence.