



AUSTRALIAN MEDICAL ASSOCIATION
(SOUTH AUSTRALIA) INC.
ABN 91 028 693 268

05 March 2021

Ms Kim Birch
MAIAS Administrator
GPO Box 1095
ADELAIDE SA 5001

c/o Policy Manager Ms Joan Miller
E: Joan.Miller@sa.gov.au

Dear Ms Birch

Re: Proposed changes to the Motor Accident Injury Accreditation Scheme rules

The Australian Medical Association (SA) (AMA(SA)), welcomes the opportunity to provide feedback on the proposed changes to the Motor Accident Injury Accreditation Scheme (MAIAS) rules.

AMA(SA) members and, in particular, the AMA(SA) RTWSA Reference Group, have contributed to this feedback and the attached email is indicative of some of the concerns that have been raised about the proposed changes and the operation of the Compulsory Third Party (CTP) Scheme in general. Central to this is the need to ensure recognition of the highly skilled clinical medical judgements medical practitioners provide and the concern that, in respect of the care of patients under the CTP Scheme, this is often dismissed in favour of care which is merely predetermined. This professional advice is provided in a highly contested and complex context and therefore, we would argue that it should not be treated as a transactional service which this benchmarking process implies. The following issues (discussed in detail in Attachment A) have been raised by members.

Privacy

Concerns remain that privacy may be breached in providing copies of medical reports to the MAIAS Administrator and/or peer reviewers. The AMA(SA) seeks an assurance that there are measures in place to ensure that the administrator's staff do not handle sensitive material from a member of their own family or someone they know for example.

Timeframe

The requirement to respond to what might be quite complex requests within 10 days may be too difficult given other clinical commitments – especially where the requests imply criticism of the assessor and may require medical defence advice.

Costs

The costs to doctors in terms of time spent being monitored and time spent being trained and reviewed are significant.

Independence and capability of the monitoring process

Members question the independence of the monitoring, especially if it is undertaken by an assessor appointed by the MAIAS administration. They note that the scope of the audit is ambiguous, and they question the capacity of MAIAS-appointed experts to appropriately assess medical consistency and sound reasoning. Members are also concerned about the perceived threat to require medical practitioners to pay for their own remediation where their advice is disputed.

In light of the broad concerns raised by AMA members about the CTP and Injury Scale Value scheme, we would like to arrange a meeting for our Reference Group to discuss these matters with you in greater detail. In the meantime, if I can help further with this consultation, please contact me via my Executive Assistant, Mrs Claudia Baccanello, on 8361 0109 or at claudia@amasa.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Moy', with a stylized flourish underneath.

Dr Chris Moy
MB BS, FRACGP, FAMA, AMA(M)
President

Attachment A –

Email from Dr Graham Wright about the proposed changes to MAIAS Rules

I have discussed the proposed changes with several occupational physicians who are involved in providing assessments under the MAIAS rules. There is dissatisfaction with the proposed changes, against a background of dissatisfaction generally with MAIAS. In this letter, I put together ideas put to me, together with my comments. I describe two background issues (the relationship between MAIAS and individual doctors, and the ISV system itself), and seven process issues.

As I see it, the doctors' position in the CTP system is to provide a service that requires a professional medical background, but a service that is essentially part of the apparatus of bureaucracy. When a doctor agrees to be part of that system, the doctor has agreed to be part of the control system of the organisation. My personal response has been not to participate, but I acknowledge those who are prepared to engage with regard to bureaucratic requirements. This discussion about rules and how they might be applied goes to the personal relationship between doctors and those who administer the scheme. The scheme needs doctors to willingly participate, so a relevant question is: What can be done to make things more acceptable for doctors who choose to participate in this assessment scheme?

Background issue 1.

An important background issue is that practitioners complain that the relationship doctors have with CTP has become entirely transactional. There is no recognition that the work is important to the State, important to Government, important to the ensuring that people get fair compensation in line with the scheme. There is no feedback from the scheme that the work that doctors are doing is a valuable. Doctors are required to take instructions, and they comply, on pain of sanction. The rules, as they are set out, provide for a relationship between the Scheme and doctors based on surveillance, and control. Doctors have ceased to be valued professionals, and instead are "managed" as part of the bureaucratic apparatus.

I can add a personal note, to remember that when the RTWSA legislation was in development, there was a close relationship between the faculty and the government. Dr John Wilson was the chairman of the occupational medicine state committee then, and he came back to us with news from the Minister that the government saw that it was absolutely essential for the profession to be onside with the government instrumentality. Dr John Meegan recently spoke to the Minister on this MAIAS matter, and his report of this meeting included concern expressed by the Minister that widespread refusal to participate in the assessment system would threaten the Scheme.

Notwithstanding this history and report of concern at ministerial level, the interactions that doctors have with the system do not appear to be effective in maintaining doctor confidence that they are valued. This background issue, in my mind, is likely a major issue: that doctors are not respected, the relationship of the scheme to doctors is transactional rather than respectful and professional. It appears that new forms of communication need to be developed between participating doctors and the scheme to allow for identification of problems, and the development of solutions within the legislative boundaries. I have put it to my colleagues that this form of communication already exists through the AMA, but I have been unable to convince them that their interests lie in restoring frayed relationships with the AMA.

Background issue 2.

There is another background issue, that I should mention in passing, and that is dissatisfaction with the ISV system itself. As I see it, the State's decision to use the ISV system is a political decision, and outside the discussions that individual doctors can have with the scheme. The doctor's decision is limited to a decision to participate or not. Maybe there are some internal changes to process and bureaucracy/professional interaction that would make it more

acceptable. Professional associations, such as the AMA and the Law Society are in a position to comment on political issues. Those professional bodies are in a position to comment on the fairness of the system in a way that individual doctors are not. Individual doctors, including some with whom I have spoken, have taken the view in relation to MAIAS, and interactions with RTWSA, that they have been let down by the AMA, through the AMA not "standing up to" the bureaucracy of state authorities. My explanation to individual doctors, that RTWSA is only required to inform the profession about its intentions, with no need to negotiate, has not gone over well.

Against that background, I think the complaints about the proposed revision to the rules are as follows:

1. The requirement to disclose reports to the administrator for the purpose of monitoring. This may cause some privacy concerns. Is there some reassurance that the administrator or the administrator's staff are not handling sensitive material from a member of their own family or someone they know? Privacy is such an old-fashioned concept, but it remains a central value in the practice of medicine.
2. The requirement to respond to what might be quite complex requests within 10 days can be a demanding timeframe in the context of a busy practice. The 10-day rule applies to "any questions asked... pertaining to the... medical assessment reports or the practitioner's compliance..." Conceivably, the questions may go to some criticism of the assessor, to the extent that he or she may want to seek advice from their medical defence organisation.
3. The costs in terms of time spent in being monitored.
4. The costs in terms of time spent in being trained and reviewed.
5. Who does the monitoring? Would it be truly a peer (that would be one of the assessors) or an appointed "expert" deemed to be a peer? Perhaps the rules should be changed to be clearer: monitoring will be done by an expert selected by MAIAS. I scarcely need to emphasise that there are strong views amongst some medical practitioners as to the suitability of various persons to judge the quality of the work of individual assessors.
6. Will the auditors (peers or appointed experts) be auditing the structure of the report, the medical content, or both? I note that the proposed rule eight requires the administrator to monitor assessment reports to assess medical consistency and sound reasoning. Who will do that?
7. The threat to assessors of being required to pay for their own remediation. (Rule 14, already in the old rules and maintained). I suppose that, in practice, invocation of rule 14 would likely result in the resignation of the assessor rather than give rise to self-funded remediation.

There is another matter that has come to my attention, perhaps more relevant to WorkCover, is that local "plaintive" assessors believe that they are being unreasonably picked on by the "peer review" process.

Dr Graham Wright