



Motor Accident Insurance Commission Claims Management Standards

Claims Management Standard 510: Surveillance (CMS 510)

1 February 2021

The Claims Management Standards and Explanatory Notes (**Standards**) apply to current and future claims made under the *Motor Accident Insurance Act 1994 (Qld)* (**MAI Act**) and the *Motor Accident Insurance Regulation 2018 (Qld)* (**MAI Regulation**). The Standards commence from the date of publication and as updated from time to time and do not apply retrospectively to past claims and past claims decisions. They must be read in conjunction with the MAI Act and MAI Regulation.

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General

- 1 Surveillance refers to the covert monitoring and recording of claimant behaviour and activities using photography, video recording and direct observations.
- 2 The insurer may conduct surveillance of a claimant when either of, or all of the following apply:
 - (a) based on available evidence, the insurer reasonably suspects the claimant is exhibiting or providing misleading information or documents in relation to a claim; or
 - (b) based on available evidence, the insurer reasonably suspects that the claim is inconsistent with information or documents in the insurer's possession regarding the circumstances of the accident or medical evidence; or
 - (c) based on available evidence, the insurer has reasonable grounds to suspect a claimant of fraud.
- 3 There must be a clear purpose for obtaining the surveillance and the surveillance is likely to gather the information required. The appointed delegate decision-maker must be satisfied that alternative methods of verifying the relevant information have been considered prior to arranging surveillance.
- 4 The surveillance duration must be proportionate to the purpose, and all requests for, and extensions to, surveillance must be internally reviewed and approved by an appropriately authorised delegate as decision maker prior to arranging the surveillance.
- 5 If the insurer intends to rely upon section 48 of the MAI Act to withhold surveillance from disclosure, this decision must be made by an appropriately authorised delegate of the insurer and this decision is to be reviewed at regular intervals throughout the life of the claim.

Surveillance instructions

- 6 The following requirements must be considered when arranging surveillance and must be communicated to the investigator/surveillance operative when engaging their services:
 - (a) The details of the person to be surveilled and the purpose and duration of the surveillance.
 - (b) The surveillance activity must comply with all applicable laws, rules and regulations and be conducted only by licensed investigators who are required to act within the law as part of their licence conditions.
 - (c) Surveillance is only to be conducted in or from places regarded as public places or where the claimant, whilst on private property can be observed by members of the public going about their ordinary day to day activities.
 - (d) The investigator must not actively interfere with the claimant's activities while under observation or interact with the claimant so as to have an impact on their activities.
 - (e) The investigator must not engage in any acts of inducement or entrapment when carrying out surveillance activities. Inducement or entrapment can include fraudulent impersonation or fraudulent misrepresentation.

- (f) Surveillance must be undertaken in a way that is sensitive to the privacy rights of children, takes reasonable action to avoid video surveillance of children, and where possible does not show images of children in reports and/or recordings. If the capture of a child's image is unavoidable all steps must be taken to obscure the child's identity from reports and/or recordings.
- (g) Where possible, reports and recordings are redacted or censored to protect the identity of other individuals who are not the subject of the surveillance.

Other matters

- 7 Insurers must ensure:
 - (a) secure storage of surveillance materials is in line with the insurer's information security framework;
 - (b) surveillance materials are used only for the purpose for which the approval was given;
 - (c) third parties in receipt of surveillance material are informed of confidentiality and relevant privacy obligations; and
 - (d) insurers' staff receive adequate training on internal processes for requesting, approving, disclosing and storing surveillance materials.