

Queensland compulsory third party insurance claimant experience: Guiding principles



Introduction

The 2021 Motor Accident Insurance Commission (MAIC) claimant survey results identified two desired areas for improvement for claimants: the ease and speed of the claims process, as well as improving accessibility to treatment and rehabilitation.

The CTP Claimant Experience: Guiding Principles (the Principles) have been developed through collaboration with each CTP insurer, MAIC, and industry bodies including the Australian Lawyers Alliance (ALA) and the Queensland Law Society (QLS).

The Principles aim to provide a framework for best practice claims management and ensure a more certain and efficient claimant experience that places the claimant at the centre of their claim journey.

NB. These Principles are a guide only and are designed to co-exist with legislation and existing MAIC guidelines.

Objectives

The overarching intent of the Principles is to achieve the following:

1

Compliance is to be treated with priority by all parties

2

Claimant solicitors are clear about rehabilitation requests and insurers are to be efficient in response

3

Both parties are to be proactive - communicate/ pick up the phone/utilise the provisions in the MAIA to progress the matter

4

Both parties are to seek efficient practices for independent medico-legal examinations (IMEs) and communicate those early

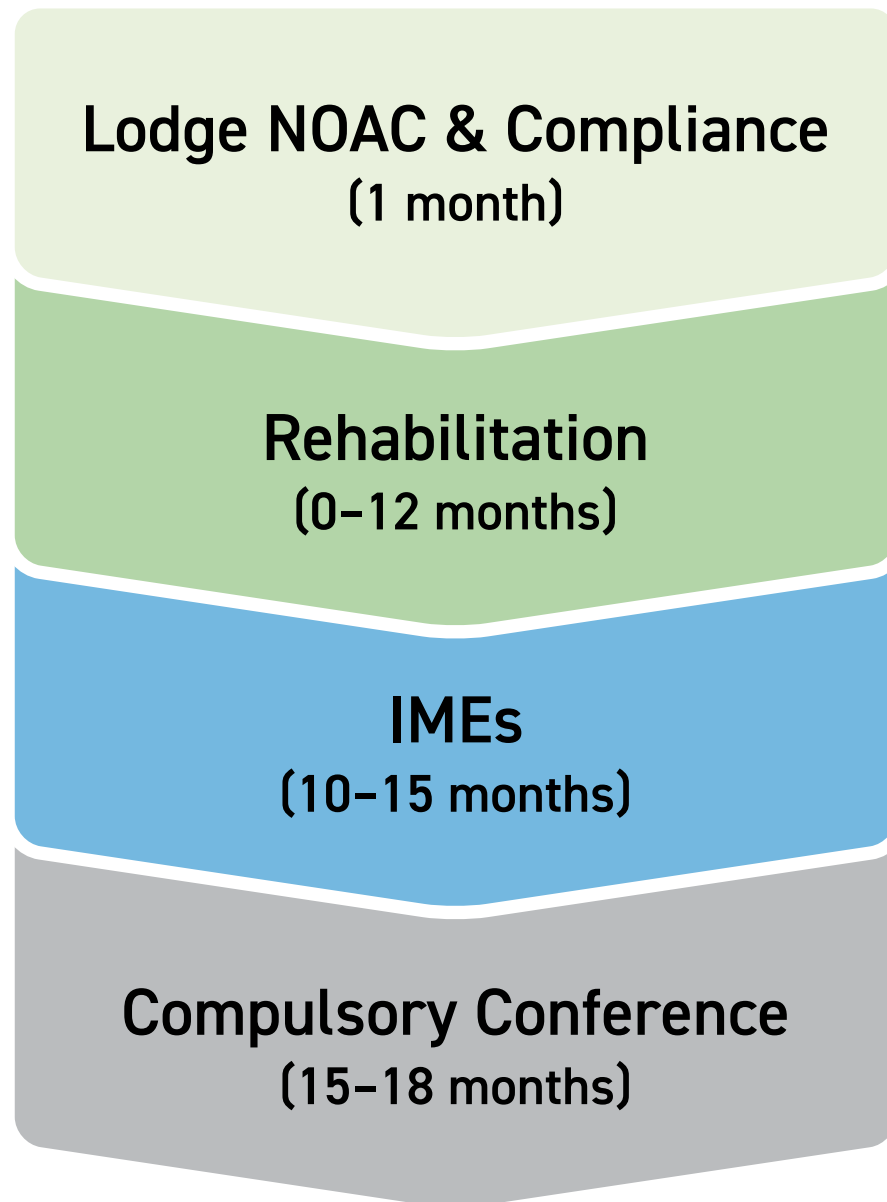
5

Claimant solicitors aim to provide a schedule of damages (SLD) at least 2 weeks prior to a compulsory conference (CC)

6

Both parties agree on a timeline to CC from the outset – which for the most part should be about 15 months to 18 months post-accident.

Timeline



Compliance

Claimant solicitors should treat lodging a complying Notice of Accident Claim (NOAC) as a priority. Insurers will endeavour to provide a compliance response as early as possible and take a reasonable and proactive approach to waiving non-compliance where appropriate, in order to progress a claim.

It is acknowledged that MAIC requires important data to be provided by insurers at certain points of the claim and insurers may therefore be unable to waive some areas of compliance.

Rehabilitation

In order to ensure the claimant is provided with early access to treatment and rehabilitation, claimant solicitors are encouraged to provide requests for treatment and rehabilitation early and clearly. Insurers are able to streamline the assessment of rehabilitation and treatment requests more effectively if the following phrase appears in the email subject line as well as any correspondence itself:

[Claim Number] | [Claimants Name] | Rehabilitation Request
Eg CTP123ABC | John Smith | Rehabilitation Request
pursuant to s.51 of the MAI Act.

Responses to rehabilitation requests will be managed by the insurer in accordance with existing MAIC guidelines which promotes best practice rehabilitation.

Claimant's solicitors are encouraged to:

- a. permit the CTP insurer to liaise directly with the claimant and/or rehabilitation providers when it is reasonable to do so; and
- b. provide all available documentary evidence to support requests for rehabilitation (such as medical certification, receipts, accounts or medical reports).

Communication

Communication between the insurer and a claimant's solicitor is imperative for the effective and efficient progress of a claim. While written correspondence should ensure the formalities of a claim's progress, the parties are encouraged to "pick up the phone" and talk to each other throughout the claims process to ensure effective and efficient claims management.

Escalation processes

Where disputes arise in a claim process the parties are encouraged to use informal escalation avenues to resolve matters efficiently. Generally, these escalation points will be Team Leaders/Managers at the insurer and Principals/Partners at Law firms.

Independent Medico-Legal Examination (IME)

A claimant solicitor should make a decision regarding IMEs as soon as possible, book those appointments in advance and advise the insurer of those intentions at the earliest possible time. This could be done as early as compliance.

It is recommended that joint IMEs could be considered by the parties where appropriate, and agreed, and is in the best interests of the claimant.

The insurer will consider its medico-legal intentions as early as possible and where appropriate provide a panel of specialists in response to any notification of medico-legal appointment bookings made by a claimant solicitor. The insurer appointment/s should then be booked at the earliest possible time to avoid unnecessary delays.

Formulation of a claim

To ensure that an insurer is best placed to enter into meaningful negotiations at a CC, a Schedule of Damages/ Summary of Loss/ Statement of Loss and Damage ("Claim Summary") should be provided no less than 2 weeks prior to a CC. It is however recommended that formulation of a claim summary is done as early as possible and provided to the insurer as an opening offer of settlement at the earliest possible time.

Timeline to Compulsory Conference

It is recommended that when serving a NOAC, a timeline for a claim's progression is provided to the insurer for the insurer to consider and respond to – this may include items such as IME intentions and an estimated timeframe to CC.

The insurer should then respond to this timeline with an 'in principle' agreement for a claim's progress and timeline. The recommended timeframe to CC will vary depending on the complexity of injury and when the claimant has first sought advice but approximately *15 months to 18 months* from the date of injury is a guide.