

1 May 2023

The Manager  
Accident Compensation Policy  
Ministry of Business, Innovation, and Employment  
PO Box 1473  
Wellington 6140  
By email: [cotr@acc.co.nz](mailto:cotr@acc.co.nz)

## **Consultation on ACC regulated payments for treatment – targeted engagement on further changes**

Dear Sir/Madam

Physiotherapy New Zealand (PNZ) is providing feedback on the current consultation on targeted engagement on further changes, that are to increase the amounts ACC pays towards the cost of rehabilitation as prescribed in regulations, to offset the ongoing inflationary pressures on the physiotherapy and wider health sector. This further increase to the recent 1 April 2023 increase, needs to occur as soon as possible given the significant financial pressures physiotherapy practices remain under to maintain services and with co-payment rates that are affordable for all ACC clients, and particularly those on low incomes, Māori and Pacifica and clients in rural areas.

As per the October 2022 submission<sup>1</sup>, PNZ members have been raising issues for many years and increasingly so now that the amount ACC pays towards the cost of rehabilitation has not keep pace with the rising costs of wages and living resulting in physiotherapy businesses struggling to attract and retain staff.

### **Summary**

A large number of ACC clients have their physiotherapy delivered by physiotherapists working under the Cost of Treatment Regulations, making this a significant point of access for New Zealanders who have been injured, to treatment and rehabilitation.

This submission responds to all the questions posed in the consultation document and raises other issues that should be included.

Whilst PNZ supports an uplift in regulation fees for physiotherapists which aligns with Step 12 of the MECA, we have a strong view that the proposed rate increase does not fully compensate the cost pressures experienced by providers over the past two years, nor does it recognise the likely cost pressures that are predicted before the next review. Also the use of the MECA to determine the pricing for primary care physiotherapy services does not account for the difference in service provision to that in Te Whatu Ora setting. PNZ is therefore calling for a full review of the Cost of Treatment Regulation Model, including the proportion of the actual cost that is covered by ACC.

We remain astounded that ACC can deliver provisions for some providers, namely GPs and nurses, that cannot be provided to other providers delivering treatments under the same regulations. We can see no rationale that does not contribute to ongoing health inequities and call on ACC to immediately rectify these by delivering a community service card rate for people seeking treatment for injuries and a rate across maternal birth injuries that is consistent for all providers.

PNZ notes that in this consultation document ACC and MBIE have signaled they are interested in exploring broader sector concerns about COTR not all directly related to payment rates. PNZ

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<sup>1</sup> 2022-10-18 PNZ Submission to MBIE re ACC cost of treatment regulations.pdf

reiterates its October 2022<sup>2</sup> submission which called for a review of the Regulations payment scheme that engages the professions prior to the next review. PNZ believes that the proportion of the cost of physiotherapy treatment borne by ACC has reduced over the time since Cost of Treatment Regulations was introduced, with the current fees covering 40% of the cost to the client. ACC pays a greater proportion of the cost to clients for GPs under this scheme. The cost of treatment provision, the definition of “direct treatment” and the proportion of the cost that is the ACC contribution should all be included in this review.

PNZ asks ACC and MBIE to provide feedback on this request and confirmation that PNZ will be asked to contribute to this review.

### About Physiotherapy New Zealand

PNZ is the professional membership organisation for registered physiotherapists in New Zealand with over 4,700 members. Of our members working in private practice a significant group provide services for clients with an injury covered by ACC under Cost of Treatment Regulations. Other providers are working under the Allied Health contract, or various secondary care contracts. Around 25% of people claiming ACC payments in primary care make their claim through a physiotherapist, with a significant proportion of those claims lodged under the Cost of Treatment Regulations.

PNZ has responded to the following consultation questions:

1. the proposed increases in payments by adopting the tailored payment increases outlined;
2. the appropriateness of the methodology and information sources informing the proposed tailored treatment payment increases
3. Cost of treatment regulation payments for physiotherapists providing internal examinations for Maternal Birth Injuries under Cost of Treatment Regulations
4. We have added considerations we believe require urgent attention that were not included in the consultation – being a Community Service Card Holder rate for people on low incomes accessing ACC treatment and the need to allow providers to charge for the work on service coordination that provides benefits for clients and ACC in better outcomes for injured New Zealanders.

### Consultation question responses

- 1. Do you agree that adopting the tailored payment increases outlined in the table above, reflecting labour cost increases in the main occupational groups best meets the objectives set? If not, why not? Please provide reasons for your view.**

Agree in part.

Whilst we agree that this pricing increase better aligns with the MECA, as suggested in the October 2022 submission<sup>3</sup>, it does not consider all the cost pressures that have occurred over the past two years to maintain the provision of physiotherapy services. Treasury forecast Consumer Price Index increases of 6.7% for 2022 and 5.2% for 2023. While we acknowledge that CPI focuses on household spending, this is an accepted measure of the impact of general inflation on service industries, and therefore could be used as a forecast price indicator. While wages and salaries are the single largest cost in delivering a service they are not the only costs.

Physiotherapy businesses report they are increasingly unable to make up the difference by increasing co-payments as clients cannot afford the difference. The 2021 Copayments survey through ACC noted that more than 75% of providers did not change copayments at the time of the previous ACC increase – resulting in an increasing gap between ACC coverage and the cost of treatment provision. PNZ members are reporting that businesses are becoming increasingly unsustainable which is likely to result in delays or loss of access to treatment and rehabilitation for clients, with the unintended consequence of clients being unnecessarily work disabled which impacts on client outcomes and Scheme costs.

Te Whatu Ora services do not require the co-payments for services but given the limited availability of

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<sup>2</sup> 2022-10-18 PNZ Submission to MBIE re ACC cost of treatment regulations.pdf

<sup>3</sup> 2022-10-18 PNZ Submission to MBIE re ACC cost of treatment regulations.pdf

physiotherapy services to outpatients and in the community, for these clients treatment in physiotherapy private practice becomes the only option available.

**2. Do you consider that the proposed tailored payment increases are based on appropriate methodology and information sources? If no, why not? Please provide reasons for your view**

Agree in part

As stated in our response to question one, the MECA provides a useful benchmark, however services provided under MECA in Te Whatu Ora differ from those provided by private practice businesses in the community. Our view is that the ACC payments under Cost of Treatment Regulations over the past decade have not kept pace with the changes in cost of delivering services. Based on the mean rates provided to ACC<sup>4</sup> the proportion of payment being made by ACC to a physiotherapy treatment for an adult is 40%. In comparison the proportion for a medical practitioner is 50%.

The ACC surveys including the co-payment survey<sup>5</sup> note that cost is a significant barrier to treatment access. The ability to cover the required co-payment particularly affects low-income earners and disproportionately impacts Māori (53%) and Pacific peoples (52%). PNZ has repeatedly called for ACC to implement a Community Services Card rate as it does for GPs and Nurses. This would immediately improve access to treatment for a significant group of the population.

As stated in the consultation document this additional increase is to align with the MECA and is not the result of an in-depth review which would take time and require broader consultation with the sector. PNZ reiterates its call in its October 2022<sup>6</sup> submission for a full pricing review.

**3. Do you agree that an additional service item be added to the regulations to support the appropriate provision of services for clients with maternal birth injuries?**

Agree in part.

Agree that there is additional time and consumables required for a qualified practitioner to treat a women presenting with a maternal birth injury (MBI). This is equally true for physiotherapists working under the cost of treatment regulations and should be extended to cover physiotherapists as well as GPs.

Pelvic health physiotherapy is the first line of conservative treatment recommended for women injured during child birth and it has a very high success rate in improving the quality of life for women. This has been recognised by ACC in the development of MBI processes following the passing of the Accident Compensation (Maternal Birth Injury and Other Matters) Amendment Act 2022. As part of the development of the treatment reimbursement for MBI a separate code for physiotherapists for delivering MBI treatment under the allied health contract was added. PNZ was informed that it was not possible to add a separate code under Cost of Treatment Regulations. If it is possible for a code to be added for GPs to provide internal examinations PNZ believes the same provision should be provided for physiotherapists delivering MBI services under Treatment Regulations. Physiotherapists who are currently working only in the defined field of pelvic health are mostly working in smaller practices and are more likely to be delivering services under Treatment Regulations than under the allied health contract.

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<sup>4</sup> Research New Zealand Copayments survey 2021 accessed from [acc.co.nz/assets/provider/co-payments-survey-report.pdf](https://acc.co.nz/assets/provider/co-payments-survey-report.pdf)- Standard consultation times

<sup>5</sup> Ibid – Barriers to Treatment and Comments from Physiotherapists

<sup>6</sup> 2022-10-18 PNZ Submission to MBIE re ACC cost of treatment regulations.pdf

### Additional matters that need to be included in the current review and are not provided in the consultation document.

PNZ calls for an immediate inclusion of a differential rate for Community Service Card holders for all providers to support ACC address the ongoing health inequities, particularly for Māori, Pacific and low income people who have injuries. Cost has been identified as a barrier to treatment for Māori, Pacific and low-income people with injuries for several years<sup>7</sup>.

ACC pays a differential rate for GPs and Nurses based on age and Community Service Card Holder<sup>8</sup>. PNZ considers it inequitable that this is provided for injured clients who visit one treatment provider but not for clients who choose to visit a physiotherapist or other allied health service. The difference in payment for GPs and Nurses effectively covers the costs of copayment for this group.

ACC needs to include interdisciplinary liaison within the definition of “direct treatment” either under existing codes or by adding a code that allows for all providers to share information and to work collaboratively towards shared injury rehabilitation goal setting and management to achieve improved patient outcomes. This is consistent with the definition of direct treatment in the legislation being “the time during which a treatment provider is directly applying his or her expertise to a claimant’s treatment”<sup>9</sup>.

### A full pricing review is required to address the policy issues identified.

Cost of Treatment Regulations remains an important access point for treatment for New Zealanders who are injured. The payments made under the Cost of Treatment Regulations is a subsidy towards the cost of treatment. We believe there is a need to be transparent about the proportion of the cost borne by ACC, and the proportion that the government expects claimants to contribute. ACC is now funding less than half of the actual cost of physiotherapy treatment, but a higher proportion of other provider fees.

From the ACC research report and our member feedback we confirm levels of co-payment vary greatly, although Research New Zealand reports “mean charges are relatively consistent across the board”. PNZ submits there is an urgent need for a full review of pricing assumptions made to determine the actual costs of treatment provision. At the point at which the cost of treatment is determined the ACC co-payment proportion needs to be set and should be the same regardless of the type of provider. We would note that our member feedback is the business is carrying the gap between ACC funding, the amount of co-payment a client can afford and the cost of running a business.

The ACC hourly rate would bring the contribution to \$65.77 per hour (GST exclusive), or \$26.14 per session (GST exclusive). We note that there is only a small differentiation in the rates between medical practitioners, and allied health professionals despite there being a significant difference in the length of treatment sessions provided<sup>10</sup>. The reported average session length for a physiotherapist is 46 minutes for initial consultation and 35 minutes for follow up compared to a GP at 17 minutes for initial consultation and 15 minutes for follow-up. We believe that the costs of treatment provision including overheads for a service are not significantly different depending on the type of primary health service provided.

PNZ also notes that the Cost of Treatment Regulation Framework, which is entirely transactional in nature, is no longer meeting the expectations of interdisciplinary health service provision. We believe that the definition of treatment under regulations “**direct treatment** means the time during which a treatment provider is directly applying his or her expertise to a claimant’s treatment”.<sup>11</sup> PNZ calls for MBIE and ACC to recognise that interdisciplinary liaison is directly applying a clinician’s expertise to a claimant’s treatment and add a code that allows for providers to share information and to work

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<sup>7</sup> Research New Zealand copayments survey – p 6 “57% of providers identified cost as a barrier to treatment for Community Service Card Holders

<sup>8</sup> ACC Cost of Treatment Regulations payment schedule accessed from <https://www.acc.co.nz/for-providers/invoicing-us/paying-patient-treatment/#how-much-well-pay-under-the-cost-of-treatment-regulations>

<sup>9</sup> Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Regulations 2003 4 (3)

<sup>10</sup> Research New Zealand Copayments survey 2021 accessed from [acc.co.nz/assets/provider/co-payments-survey-report.pdf](https://www.acc.co.nz/assets/provider/co-payments-survey-report.pdf) Standard consultation times

<sup>11</sup> Accident Compensation (Liability to Pay or Contribute to Cost of Treatment) Regulations 2003 4 (3)

collaboratively towards shared injury rehabilitation goal setting and management to achieve improved patient outcomes.

This is unsustainable.

We see an independent review would:

- Validate the cost assumptions in the Cost of Treatment Regulation model and determine the ACC proportion of costs paid
- Review the definition of “direct treatment”
- Collect data to assess equity issues
- Improve the way ACC payments are adjusted over time

In summary PNZ believes the current system, which has been in place since the inception of ACC lacks the flexibility, quality measures and processes to reduce inequitable access to quality evidence informed services that are inherent in the ACC policy drivers.

Thank you for the opportunity to submit on this matter.

The primary contact for matters relating to this submission is:

Sandra Kirby  
CEO  
Physiotherapy New Zealand  
Ph 021 3971693 email: [Sandra.kirby@physiotherapy.org.nz](mailto:Sandra.kirby@physiotherapy.org.nz)

Yours sincerely,



Sandra Kirby  
CEO