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MEDIA RELEASE

NSW Legislative Council Standing Committee on Law and Justice

Proposed changes to liability and entitlements for psychological injury in New South Wales.

Commencing 8 May 2025, the proposed changes to liability for psychological injury in the New South Wales Workers compensation scheme is now for consideration within the NSW Legislative Council and the Standing Committee on Law and Justice.

The press release dated 18 March 2025 from NSW Treasurer Daniel Mookhey has warned the State's workers compensation system is unsustainable without reform, particularly in how it deals with workplace psychological injury.

The Workers Health Centre appreciates the fiscal challenges for government and the existing workers compensation scheme. However, any reform to address fiscal challenges must not negatively impact or exacerbate the psychological safety of injured workers within the New South Wales workers compensation scheme.

SIRA's accountability and transparency regarding Return to Work (RTW) rates

The Workers Health Centre takes this opportunity to respond to the Sydney Morning Herald's article of 16 May 2025 penned by Michael McGowan which has highlighted a secretive inquiry into the NSW insurance regulator, namely the State Insurance Regulatory Authority (SIRA), recommending financial payouts and personal apologies to a group of injured workers after finding SIRA had apparently "*seriously mishandled their cases and added to their trauma*". Based on the SMH media report today, SIRA has apparently admitted to contributing to psychological injuries of injured workers. If indeed this is true, it is unacceptable and requires swift change on the part of SIRA.

SIRA is charged with the responsibility of regulating the State's insurance scheme. This includes the regulation of SIRA-approved workplace rehabilitation providers (WRPs) that act to assist injured workers' return to gainful and meaningful work within the NSW workers compensation framework.

The Workers Health Centre is a SIRA-approved WRP. As part of the *Conditions of Consent* to act as a WRP, the WHC is expected to meet SIRA-imposed *Return to Work* (RTW) conditions. Unreasonable RTW rates are likely to contribute to, and exacerbate, the increase of workplace-derived psychological injuries as WRPs are compelled to meet unreasonable RTW conditions to maintain SIRA-regulated RTW performance statistics as part of their conditions of approval to act as a WRP.

The Workers Health Centre has expressed formally and informally to SIRA its concerns regarding SIRA's RTW targets imposed on WRP Conditions of Approval.

On 9 May 2025 the Workers Health Centre formally requested in writing that SIRA respond to concerns and questions regarding RTW benchmarks by close of business 16 May 2025. We are yet to receive an adequate response.

The Workers Health Centre continues to raise concerns about the feasibility of the 80% RTW rate for *Same Employer* matters and 50% RTW rate for *New Employer*. Although SIRA has undertaken to maintain current benchmarks, it has

provided no evidence-based research to the WHC, or other publicly available information to all WRPs within the SIRA Framework, to demonstrate and objectively support the continuing reasonableness of the applied RTW benchmarks.

The Workers Health Centre has requested SIRA's response to the following questions in the interests of transparency and accountability on the part of the regulator as to the following:

1. Exactly how many WRP are currently meeting the RTW rates, and how has SIRA verified the reporting requirements in this regard?
2. Exactly how many WRP are not presently meeting the RTW rates and for what specific reasons?
3. What evidence-based research and review of RTW benchmarking has SIRA undertaken over the course of the last seven (7) years to determine the appropriateness of maintaining 80% RTW for SE?
4. Assuming SIRA has engaged evidence-based research and review of RTW benchmarking for SE, when was this research undertaken and by whom? When was it last reviewed by SIRA to determine relevance and appropriateness to hold as a quantitative Condition of Approval standard for WRPs with SE functions? Will SIRA release this research to all WRPs?
5. What evidence-based research and review of RTW benchmarking has SIRA undertaken over the course of the last seven (7) years to determine the appropriateness of 50% RTW for NE?
6. Assuming SIRA has engaged evidence-based research and review of RTW benchmarking for NE, when was this research undertaken and by whom? When was it last reviewed by SIRA to determine relevance and appropriateness to hold as a quantitative Condition of Approval standard for WRPs with SE functions? Will SIRA release this research to all WRPs?
7. What review action is SIRA currently undertaking with respect to all WRPs that presently do not adhere to the RTW quantitative benchmarks?
8. What adjustment/allowance, if any, has SIRA factored into RTW Benchmarks having regard to the varying ratio of physical/psychological claims that will occur across all SIRA-regulated WRPs based on their file load and mix between physical/psychological claims matters. In other words, what qualitative insights and determinations are factored into the consideration of determining quantitative benchmarking for all WRPs?
9. What qualitative insights and determinations are factored into the consideration of determining quantitative benchmarking for individual WRP, if any?
10. How does SIRA approach WRP assessments/audits with respect to the ratio of variations between psychological/physical claims that WRP are responsible for?
11. Will SIRA's release its existing POLICY and PROCEDURE(S) with respect to:
 - (1) WRP benchmarking requirements,
 - (2) supervision of WRPs,
 - (3) auditing approaches for WRP providers, and
 - (4) Benchmarking RTW rates analysis and approaches to setting these for SIRA-regulated WRPs for both NE and SE functions?
12. To what extent is SIRA currently reviewing RTW benchmarking rates for the purposes of reviewing and changing these to reflect the difficulties that WRP have in this area, particularly given the post-pandemic increase in psychological claims management, significant rise in reported psychological claims management generally, workers compensation realities and workers compensation changing statistics and particularly with respect to the management of psychological claims?

We are hopeful that SIRA will address these concerns with the view to assuring its current approach to benchmarking is reasonable, transparent and does not further negatively contribute to psychological injuries to workers.

Released by the Workers Health Centre

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