EXERCISE & SPORTS SCIENCE AUSTRALIA

DRAFT GUIDELINES FOR THE PROVISION OF RELEVANT SERVICES (HEALTH AND RELATED SERVICES)

STATE INSURANCE REGULATORY AUTHORITY NSW GOVERNMENT

3 MARCH 2023

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EXERCISE & SPORTS SCIENCE AUSTRALIA (ESSA) SUBMISSION

RE: DRAFT GUIDELINES FOR THE PROVISION OF RELEVANT SERVICES (HEALTH AND RELATED SERVICES)

State Insurance Regulatory Authority

Dear Sir/Madam,

Thank you for the opportunity to provide feedback in relation to the Draft Guidelines for the Provision of Relevant Services (Health and Related Services).

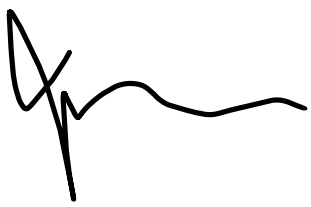
Exercise & Sports Science Australia (ESSA) is the peak professional association for exercise and sports science professionals in Australia, representing more than 11,000 members comprising university qualified Accredited Exercise Physiologists, Accredited Sports Scientists, Accredited High-Performance Managers and Accredited Exercise Scientists.

ESSA is pleased that the consultation in 2022 on the regulation resulted in changes to Clause 4C, removing reference to clinical matters and ensuring the engagement of professional or accreditation bodies in the investigation of providers.

ESSA has consulted with members on the draft guidelines connected with the regulation and clarification is sought on aspects of alignment with the current fees order, ambiguity in language as well ongoing challenges in relation to peer review and barriers to delivering services, particularly in regional, rural and remote communities. This submission will highlight relevant areas of the guidelines and make recommendations to create workable solutions.

We welcome the opportunity to provide further detail at our regular stakeholder engagement meetings. Please contact ESSA Senior Policy & Advocacy Advisor, Judy Powell on 07 3171 9688 or at judy.powell@essa.org.au for further information or questions arising from the following submission.

Yours sincerely



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1.0 ABOUT EXERCISE PHYSIOLOGY

Accredited Exercise Physiologists (AEPs) at minimum, are four-year university degree qualified allied health professionals. They provide services to people across the full health spectrum, from the healthy population through to those at risk of developing a health condition, and people with health conditions, a disability, and aged related illnesses and conditions, including chronic, complex conditions [1]. Exercise physiology services are recognised by Australian compensable schemes including Medicare, the National Disability Insurance Scheme (NDIS), Department of Veteran Affairs (DVA), workers' compensation schemes and most private health insurers. In New South Wales there are approximately 1,740 Accredited Exercise Physiologists registered to deliver services in the workers compensation scheme.

2.0 SUMMARY OF RECOMMENDATIONS

Recommendation 1: ESSA recommends that SIRA specify in the definition of overservicing the sources of evidence-based healthcare outcomes data being utilised to assess benchmarking of services delivered for categories of injuries.

Recommendation 2: ESSA recommends that the code of conduct include an over-arching principle stating that Relevant Services Providers (RSPs) are to act in the best interest of the injured person.

Recommendation 3: ESSA recommends that guidance be provided on conflict of interest (CoI) to RSPs and that any identified CoI be disclosed to injured persons and agents.

Recommendation 4: ESSA recommends that 26.iv. be expanded to state, 'implement goals focused on optimising function, participation and/or return to work.

Recommendation 5: ESSA recommends that SIRA appoint exercise physiologists to be Independent Consultants to ensure that peer review is provided in the scheme.

Recommendation 6: ESSA recommends that in the interim to the appointment of Independent Exercise Physiology Consultants that SIRA implement an auditing system for Independent Physiotherapy Consultants to ensure they use the latest evidence and refer to the correct scope of practice.

Recommendation 7: ESSA recommends that the example in Part 30.c) be removed from the guidelines.

Recommendation 8: ESSA recommends that SIRA publish the outcomes of the consultation on the Allied Health Treatment Request (AHTR) form along with templates and guidelines for use of this new resource, plus the provision of communications for use by professional associations. To ensure alignment the timing of publication of the AHTR resources should be undertaken prior to the publication of the guideline for the provision of relevant services (health and related services).

Recommendation 9: ESSA recommends that SIRA make provision in the guidelines to reduce the financial burden on RSPs of short notice cancellation or non-attendance to allow for a maximum limit of two claims for each injured person.

Recommendation 10: ESSA recommends that remuneration for short notice cancellation or non-attendance to allow for a maximum limit of two claims for each injured person be built into fees orders.

Recommendation 11: ESSA recommends that the description for titrating Consultation C be the same as that stated in the current exercise physiology fees order, i.e. it is expected there will be a reduction in Consultation C duration time, or transition to a subsequent consultation.

Recommendation 12: ESSA recommends that SIRA remove the words pertaining to the same geographical area on the same day and that this wording also be removed in fees orders. Alternatively, the words 'same day' be replaced with 'same visit' as per the wording in previous fees orders.

Recommendation 13: ESSA recommends that SIRA remove item 39.l)iv. from the guidelines and the same wording from relevant fees orders.

3.0 DRAFT GUIDELINES

3.1 Part One: About the Guidelines

Definitions, item 15 – Overservicing is noted in the guidelines as 'a pattern of service provision that varies significantly from the provider's peers (i.e. practitioners of the same profession), taking into account factors such as the complexity/severity of injuries being treated.' There is no publicly available benchmarks and evidence/data for the delivery of exercise physiology services in workers compensation schemes, that deliver on SIRA's Value-Based Healthcare Outcomes Framework [2]. ESSA is aware of other settings where variations in care and public data is available in relation to services delivered such as the work of the Australian Commission on Safety and Quality in Health Care, Healthcare variation [3]. It is therefore difficult to understand how overservicing could be applied objectively through the current scheme and additional wording should be included to specify sources of evidence for benchmarking of overservicing.

In this context, there are currently no mechanisms in place for insurers to objectively assess with benchmarking data. This means that the use of overservicing in relation to exercise physiology services lacks valid and reliable criteria and has the potential to result in sub-optimal treatment, thus delaying rehabilitation for injured persons.

Recommendation 1: ESSA recommends that SIRA specify in the definition of overservicing the sources of evidence-based healthcare outcomes data being utilised to assess benchmarking of services delivered for categories of injuries.

3.2 Part Two: Code of conduct for Relevant Service Providers (RSPs) delivering relevant services

A general principle and over-arching code of conduct are absent from this section and that is that RSPs are to act in the best interest of the injured person.

Item 'e' highlights the need to manage conflicts of interest. Concern has been expressed that this can be left to subjective assessment of conflicts of interest and potential non-disclosure. For transparency the guideline should include advice and examples of conflicts of interest and these should be disclosed to injured persons and agents.

Recommendation 2: ESSA recommends that the code of conduct include an over-arching principle stating that Relevant Services Providers (RSPs) are to act in the best interest of the injured person.

Recommendation 3: ESSA recommends that guidance be provided on conflict of interest (CoI) to RSPs and that any identified CoI be disclosed to injured persons and agents.

3.3 Part Four: Requirements for the delivery of relevant services

ESSA notes that some of the injured persons with complex and/or psychological conditions require treatment that is focused on increasing function and participation. This may not immediately be centred on a return to work with improving activities of daily living as an interim step. To this end, point 26. a) iv. should be expanded to be inclusive rather than restricted to only return to work.

Recommendation 4: ESSA recommends that 26.iv. be expanded to state, 'implement goals focused on optimising function, participation and/or return to work.

Item 28 states that 'RSPs must fully cooperate with reviews by injury management consultants, or any other independent review of relevant services arranged by insurers, in the form, timeframes and manner required by SIRA from time to time.'

ESSA agrees that a review of relevant services is sometimes necessary, however, ESSA believes the current number of reviews of exercise physiology services, is excessive. ESSA's members have witnessed a steep increase in the engagement of Independent Physiotherapy Consultants (IPC) by insurers to assess Allied Health Recovery Request (AHRR) Forms lodged by exercise physiologists, especially when requesting the use of Consultation C. A punitive approach has been taken which is leading to increased costs for insurers engaging more time from IPCs and greater administrative burden for RSPs who give up considerable time to comply with these requests for review. The result is that AEPs are spending less time treating injured persons.

ESSA's view is that the increase in the level of reviews being undertaken in the last 6 months demonstrates a lack of knowledge of the role of exercise physiologists in delivering services for injured persons that are complex (including psychological injury) and this is exacerbated by a lack benchmarking data to assist insurers in identifying the appropriate level of services. As noted in previous submissions IPCs should not provide peer review for exercise physiologists as they represent an entirely different profession with a different scope of practice. ESSA members continue to advise on unsatisfactory reviews from IPCs citing examples of where:

- inappropriate material in reports with out-of-date evidence in relation to clinical exercise treatment and/or psychological injury has been used.
- irrelevant reference to areas of practice which are not the domain of AEPs is discussed such as diagnosis. Injured persons already present to AEPs with a diagnosis and therefore this element shouldn't form any part of a review.
- reviews have been implemented before any treatment has even taken place and this does not meet any definition for overservicing.
- Reports provided by IPCs don't reflect the interview with the RSPs and references to areas of practice.

There is no opportunity for AEPs to appeal the contents of reports lodged by IPCs nor is there an auditing process in place to assess the quality of these reports. This process is not reasonable.

Recommendation 5: ESSA recommends that SIRA appoint exercise physiologists to be Independent Consultants to ensure that peer review is provided in the scheme.

Recommendation 6: ESSA recommends that in the interim to the appointment of Independent Exercise Physiology Consultants that SIRA implement an auditing system for Independent Physiotherapy Consultants to ensure they use the latest evidence and refer to the correct scope of practice.

Part 30.c) states that 'services are not delivered to an injured person concurrently with another similar relevant service (e.g. an injured person should not be receiving concurrent physiotherapy and exercise physiology services) unless the RSPs have provided a clinical justification to the insurer.' ESSA notes that a clinical justification can be provided in circumstances to ensure that optimal care is provided. In general, physiotherapy involves diagnosis, plus a hands-on treatment session **received by the injured person** whereas exercise physiology is an active treatment session where the **injured person is fully engaged** in clinical exercise. The similarity is in providing home exercise interventions and evidence shows that adherence to physiotherapy is a problem with up to 70% non-adherent or partially adherent [4].

The inclusion of this example lacks an understanding of the delivery of services from these two very different professions. The services are not similar, and ESSA contends that return to work outcomes would be accelerated by concurrent engagement of these professions immediately post-acute stages. The requirement for clinical justification for concurrent treatment is an administrative burden, and therefore not practical resulting in delays to injured persons engaging in active therapy and return to work.

Recommendation 7: ESSA recommends that the example in Part 30.c) be removed from the guidelines.

3.4 Part 7: Requirements for RSPs providing allied health services

Item 36.a) discusses the submission of an Allied Health Treatment Request (AHTR) form and that the form is available on the SIRA website. ESSA acknowledges that there was a consultation in relation to this form in 2022. The results of this consultation have not been made public and at the writing of this submission the form is not available on the website.

Recommendation 8: ESSA recommends that SIRA publish the outcomes of the consultation on the Allied Health Treatment Request (AHTR) form along with templates and guidelines for use of this new resource, plus the provision of communications for use by professional associations. To ensure alignment the timing of publication of the AHTR resources should be undertaken prior to the publication of the guideline for the provision of relevant services (health and related services).

3.5. Part 9: Requirements for billing for relevant services

Item 39.b) states that 'RSPs must not charge a fee for cancellation or non-attendance by an injured person for treatment services'. ESSA notes that there is currently no provision in the fees order to account for the impact on RSPs of short notice cancellation or non-attendance.

ESSA recognises the role of businesses in managing risk and contends that a short notice cancellation or non-attendance fee with a cap of 2 sessions per injured person would be fair and reasonable. This would assist the scheme to attract and retain quality providers, ensuring that financial hardship from short term non-attendance or cancellation is eliminated. After a cap of 2 sessions is exhausted, it would be reasonably expected that individual businesses can then manage the risk of future short-term cancellation or non-attendance. Insurers, employers and injured persons should also be accountable for attendance for treatment.

There are examples in other schemes such as the National Disability Insurance Scheme (NDIS). This scheme has a short notice cancellation (or no show) policy where providers can claim 100% of the agreed fee and this is detailed in the NDIS Pricing Arrangements and Price Limits 2021-22 [5].

Recommendation 9: ESSA recommends that SIRA make provision in the guidelines to reduce the financial burden on RSPs of short notice cancellation or non-attendance to allow for a maximum limit of two claims for each injured person.

Recommendation 10: ESSA recommends that remuneration for short notice cancellation or non-attendance to allow for a maximum limit of two claims for each injured person be built into fees orders.

Item 39.k)ii. states that 'the provider reduces Consultation C duration time over time and transitions to a subsequent consultation as the workers progresses towards self-management and independence.' The wording is inconsistent with the current fees order for exercise physiology which states that 'it is expected there will be a reduction in Consultation C duration time, or transition to a subsequent consultation.'

ESSA members advise that utilisation of subsequent consultations does not provide treatment capacity, especially for injured persons with a psychological injury, those with two or more injuries and during a final discharge session. The process for discharge from care involves a long-term focus on independence, reaffirming and redesigning goals, providing an appropriate program to complete independently, long-term and reassess current outcome measures and functional capacity.

Recommendation 11: ESSA recommends that the description for titrating Consultation C be the same as that stated in the current exercise physiology fees order, i.e. it is expected there will be a reduction in Consultation C duration time, or transition to a subsequent consultation.

Item 39.l)ii. states that 'RSPs must not bill for travel costs unless the reasonable travel charge has been divided evenly between claims where multiple workers are being treated in the same visit to a facility or in the same geographical area on the same day.'

Remuneration for travel is already inadequate for the cost of travelling to deliver services in the scheme and/or attend case conferences with the Nominating Treating Doctor. As previously stated, the mileage allowance per kilometre of $0.72 / km is well below the Health Professionals and Support Services Award 2020 which requires remuneration for health professionals at $0.92 / km. Additionally, businesses employing AEPs are required to pay a salary for the travel time, this is not reimbursed by the scheme and therefore a considerable expense for delivering services that require travel in the community.

The additional wording of 'the same geographical area on the same day' is ambiguous and unworkable. Firstly, 'geographical area' has not been defined and it is unknown if this is a region or a local government area. Secondly, it is unreasonable to expect that travel on the same day to provide services in the same community for two different persons will always align. For example, an ESSA member explained that they often travel to multiple locations on a particular day starting 10.30am in Penrith, travelling to a clinic in Liverpool and then back to Penrith for a 4pm appointment. The process they describe provides choice and access for injured persons, supporting the health benefits of being at work and is often dictated by a workers' schedule when they are available to be treated. This is more likely to be at the beginning and the end of the day.

Recommendation 12: ESSA recommends that SIRA remove the words pertaining to the same geographical area on the same day and that this wording also be removed in fees orders. Alternatively, the words 'same day' be replaced with 'same visit' as per the wording in previous fees orders.

Item 39.l)iv. states that, 'RSPs must not bill for travel costs if the relevant services are provided by a provider who does not have a commercial place of business for the delivery of treatment services (for example, the provider has a mobile practice).'

The lack of support for travel in the scheme limits choice and creates a barrier for injured persons to access services in their local community, particularly for those living in regional, rural and remote communities. This is out of line with the current evidence supporting community-based intervention and counterproductive to delivering value-based healthcare outcomes. The growing body of evidence reinforces the benefits of accessing treatment services in the community, facilitating connectedness, engagement and participation, and reducing fear or anxiety of attending a gym, thus leading to better outcomes [6-10].

Recommendation 13: ESSA recommends that SIRA remove item 39.l)iv. from the guidelines and the same wording from relevant fees orders.

4.0 CONCLUSION

ESSA is focused on working with SIRA to deliver value-based health outcomes for injured persons receiving services in the NSW workers compensation and Compulsory Third Party Schemes. The solutions presented in this submission will assist in delivering services that matter to patients, improving the experience of receiving care as well as the experience of providing care.

5.0 REFERENCES

1. Exercise & Sports Science Australia, *Accredited Exercise Physiologist Scope of Practice*. 2021.
2. State Insurance Regulatory Authority, *Value-Based Healthcare Outcomes Framework: For the NSW Workers Compensation and Motor Accident Injury/Compulsory Third Party Schemes*. 2021, NSW Government.
3. Australian Commission on Safety and Quality in Health Care. *Healthcare variation*. [cited 2023 27 February]; Available from: https://www.safetyandquality.gov.au/our-work/healthcare-variation.

4. Essery, R., et al., *Predictors of adherence to home-based physical therapies: a systematic review.* Disability and Rehabilitation, 2017. **39**(6): p. 519-534.
5. National Disability Insurance, A., *NDIS Price Guide 2021-22*. 2022.
6. Karos, K., et al., *The social threats of COVID-19 for people with chronic pain.* Pain, 2020. **161**(10): p. 2229.
7. Wright, E., et al., *A clinical evaluation of a community-based rehabilitation and social intervention programme for patients with chronic pain with associated multi-morbidity.* Journal of Pain Management, 2017. **10**(2): p. 149-159.
8. Frih, Z.B.S., et al., *Efficacy and treatment compliance of a home-based rehabilitation programme for chronic low back pain: a randomized, controlled study.* Annals of Physical and Rehabilitation Medicine, 2009. **52**(6): p. 485-496.
9. Malcolm, E., et al., *The impact of exercise projects to promote mental wellbeing.* Journal of Mental Health, 2013. **22**(6): p. 519-527.
10. Rodebaugh, T.L., R.M. Holaway, and R.G. Heimberg, *The treatment of social anxiety disorder.* Clinical Psychology Review, 2004. **24**(7): p. 883-908.