

What is medical treatment?

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Introduction

When determining liability for medical treatment under section 16 of the SRC Act, you must be satisfied the treatment is:

- medical treatment as defined in the SRC Act
- obtained in relation to the compensable condition
- reasonable for the employee to obtain in the circumstances, and
- appropriate in cost.

How is a recommendation for medical treatment received?

A recommendation for medical treatment is usually received from a legally qualified medical practitioner (LQMP), or registered treating practitioner, via a:

- medical certificate
- medical report
- letter, or
- provider treatment plan.

You will need to review the medical evidence, consider whether the treatment is in relation to the compensable condition, whether it is reasonable, and then issues a determination to accept or reject liability for the medical treatment.

If you require further clarification before issuing a determination, you can phone or write to the employee's treating doctor and request a report.

What is medical treatment?

The SRC Act defines medical treatment as:

a) Medical or surgical treatment by, or under the supervision of, a LQMP. A LQMP is a general practitioner or specialist registered to practice under the Australian Health Practitioner Regulation Agency.

A LQMP must have control of the relevant treatment. The LQMP provides or supervises a recommended treatment and decides on the frequency and duration of the treatment.

Examples of medical or surgical treatment include:

- consultations
- drug treatment programs
- surgical procedures
- anaesthetist services
- treatment for broken or torn limbs, dressings for abrasions, stress and allergic reactions etc.

b) Therapeutic treatment at the direction of a LQMP. The SRC Act defines 'therapeutic' as including an examination, test or analysis for the purpose of diagnosing, or treatment given for the purpose of alleviating, an injury.

This would require all of the following:

- a diagnosis
- a referral
- a directive that a certain therapeutic treatment be undertaken. The directive should set out the form, frequency and duration of the treatment, and
- a follow up by the LQMP.

c) **Dental treatment by, or under the supervision of, a legally qualified dentist.** A legally qualified dentist (LQD) must have control of the relevant treatment. The LQD provides or supervises a recommended treatment and decides on the frequency and duration of the treatment.

d) **Therapeutic treatment by an allied health provider.** Referrals are not needed for therapeutic treatment by, or under the supervision of, a physiotherapist, osteopath, masseur or chiropractor but the provider must be a registered health practitioner in the State or Territory where the treatment is provided.

Treatments in the nature of those listed above but referred to as a different name must be provided by a registered provider of the 'recognised' treatment, for example, feldenkrais (a form of physiotherapy) must be provided by a registered physiotherapist.

e) **Examination, test or analysis.** An examination, test or analysis carried out on, or in relation to, an employee at the request or direction of a LQMP or LQD and the provision of a report in respect of such an examination, test or analysis, such as:

- x-rays
- blood tests
- lung function tests, and
- pathology tests.

Important: A discogram (or discography) is an X-ray procedure used to determine if a particular disc in the spine is the source of pain. Normally magnetic resonance imaging (MRI) or computer tomography (CT) scans are used for investigatory purposes.

If a claim for a discogram is received by Comcare, you should refer the claim to the Clinical Panel for their opinion on the reasonableness of this particular procedure in the relevant case.

f) **Supply, replacement or repair of an artificial limb, or aid or appliance.** Examples include:

- hearing aids
- crutches, and
- consultations and fittings.

The cost of repair or replacement of the aids or appliances due to loss, damage or expiry is also compensable.

An aid or appliance under section 4 of the SRC Act must be similar in nature to a medical or surgical aid or appliance. A motor vehicle, even with modifications, is not similar in nature to a medical or surgical aid or appliance [*Heffernan v Comcare* (2014)].

Note: If an aid or appliance does not meet the criteria under section 16 for medical treatment it may also be considered under section 39 for rehabilitation aids and appliances.

g) Treatment and maintenance as a patient at a hospital. Treatment and maintenance as a patient at a hospital includes:

- operative treatment
- room charges, and
- meals.

Rooms upgrades or extras such as television hire or telephone calls are not compensable.

h) Nursing care, and the provision of medicines, medical and surgical supplies and curative apparatus. Some examples of the types of items/treatment covered by part (h) include:

- pharmaceuticals (whether in a hospital or otherwise), and
- nursing care outside of hospital (such as attendance of a nurse at home).

Personal care (attendant care) is not nursing care and should be considered under section 29 of the SRC Act.

Please also see the list of the Top 10 most common conditions at Comcare [here](#). The Clinical Panel, along with the Injury Management Team, may also be able to help with decision making and treatment planning for these conditions.

Medicines

Medicines include prescription pharmaceuticals, non-prescription pharmaceuticals such as analgesics, supplements and topical creams.

Packaged dietary foods, recommended by a medical practitioner for weight loss and the relief of pain, are considered 'medicines'. This is in terms of the definition of medical treatment in section 4(1), paragraph (h), of the SRC Act. The clinical panel should be engaged to assess and approve any recommendation for packaged dietary foods. For further information, see [Management of weight loss](#)

Compensation is only payable for vitamins and supplements as 'medicines' where they are required as a result of an employee's compensable condition. This will generally only be the case where the compensable condition has caused a deficiency in the employee that cannot be otherwise rectified by normal lifestyle and dietary improvements. For example, an employee who has suffered blood loss may be required to take iron supplements for a limited period of time to rectify an iron deficiency. Clinical justification supporting the requirement of the vitamins or supplements should be obtained from the recommending doctor.

Curative apparatus

Medical treatment or the curative process is aimed at:

- curing or treating a medical condition, or
- slowing down or preventing the deterioration of a medical condition.

It is not aimed at:

- providing enjoyment, such as via recreational or leisure activity, or
- aiding general health and wellbeing (as opposed to curing a specific medical condition).

Examples of what would not be considered a curative apparatus:

- a modified motor vehicle [*Heffernan v Comcare* (2014)]
- home gymnasium equipment [*Collins and Comcare* (1995)]
- wheelchairs (more likely considered an aid under section 39 of the SRC Act).

Example of what may be considered a curative apparatus:

- cushioning runners which were medically recommended to use for the purpose of maximising the efficacy of orthotic inserts fell within the description of 'curative apparatus' and are therefore medical treatment for the purposes of section 16 [Comcare v Dalgleish (2018)].

Note: Claims for shoes must be assessed on the individual merits of the case and the medical evidence provided. There must be consideration regarding whether the claimed shoes fall within the definition of medical treatment (section 4(1)) in order for compensation to be payable under section 16 of the SRC Act.

Therapeutic treatment

Regulation 17(1) of the *Safety, Rehabilitation and Compensation Regulations 2002* allows for therapeutic treatment by, or under the supervision of, any of the following persons:

- an occupational therapist
- an optometrist
- a podiatrist
- a psychologist, and
- a speech therapist.

Section 17(2) provides that the person must be:

- registered under the law of a State or Territory providing for the registration of persons of that kind, or
- if there is no such law, a member of a relevant professional association.

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