IMPAIRMENT INSIDER

ISSUE 13
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Introduction

Welcome to the 13th edition of the Impairment Insider.

My name is Jodie Yorke and I joined the team as the Manager, Provider Programs a little over 12 months ago. I've worked in the worker's compensation industry for close to 17 years, having worked at ReturnToWorkSA for 10 years, and prior to that in the vocational rehabilitation industry.

Some of you already know me and for those that don't, I look forward to meeting and working more closely with you in the future.

Since the last edition, Sue, Cass and Scott have been joined by Lizzie Parr. Lizzie comes to us with a great deal of experience in whole person impairment, having previously worked at Gallagher Bassett.

We hope you enjoy reading this edition, and as always, please feel free to email your feedback or topics of interest to **wpi@rtwsa.com**

Jodie Yorke
Manager, Provider Programs

This issue

Permanent impairment assessment fees are changing

On 1st July 2024, a new Permanent Impairment Assessment Services Fee Schedule and Policy will take effect. The new fee schedule includes:

- 39% increase to assessment report fees;
- 4.9% increase to all other permanent impairment fees;
- new reading time fee that moves away from a per page fee;
- updates to fee descriptors and notes to improve clarity; and
- an updated service and payment policy.

Fee increase

All impairment assessment report fees will be increased by 39%. This is a considerable increase that recognises the complexity, expertise and effort involved in completing an impairment assessment. All other impairment assessment fees (e.g. cancellation, supplementary report, travel, etc.) will be increased by 4.9%, consistent with the increase applied to all other medical fees.

New additional reading time fee

The first 100 pages of reading will be included in the report fee. If more than 100 pages are supplied by the requestor, assessors can charge an hourly rate of $584.20 for additional reading time, capped at 2 hours using newly created fee item numbers PIA29 (GP) and PIA79 (Specialists). Items PIA18, PIA19, PIA39, PIA38, PIA39 will expire on 30 June in preparation for the new reading fee items to take effect from 1 July.

This means assessors will be remunerated for their time rather than the number of pages supplied, removing the need to count and combine half pages for invoicing purposes. The total number of pages supplied must still be stated on the invoice to validate the time spent. ReturnToWorkSA will be monitoring additional reading time invoices and may contact assessors when the time spent is inconsistent with expectations of a maximum of 200 pages per hour.

The total fee package remunerates for reading up to a maximum of 500 pages. ReturnToWorkSA continues to work with our Claims Agents to ensure only necessary reading material is supplied. With that in mind, assessors should refer reading material that exceeds 500 pages back to the requestor to confirm it is necessary and relevant. If confirmed that greater than 500 pages are necessary, assessors will need to contact the Impairment Assessment Services team by email **wpi@rtwsa.com** for approval of any additional reading fees, along with any communication from the requestor.

Updated descriptors and notes

Assessors are encouraged to familiarise themselves with the changes to fee codes and notes for each fee item, as these specify the conditions and rules that apply to that fee. The notes for report fees have been updated to provide greater clarity around the difference between a request for clarification and a supplementary request.

Service and payment policy

The new service and payment policy outlines ReturnToWorkSA's expectations for the provision of permanent impairment assessments, including the conditions which must be met for payment of services. It should be read in conjunction with the Impairment Assessor Accreditation Scheme (IAAS) and the Impairment Assessment Guidelines (IAGs).

Further information

All assessors should have received written correspondence detailing the changes to the fee schedule prior to 1 July. If you have not received this, please check that your contact preferences are up to date.

Understanding the Fee Schedule - Supplementary Reports v Clarifications

The Fee Schedule provides guidance on what can be charged for services associated with permanent impairment, the appropriate fee, and the appropriate item code to support payment.

One of the common misunderstandings within the fee schedule, is whether there is an ability to charge a fee where requests for clarification on permanent impairment assessments have been sought, and whether these requests are considered a request for a supplementary report. The fee schedule indicates that requests for clarification should be considered differently to requests for supplementary reports.

What is a clarification?

In accord with paragraph 1.51 of the Impairment Assessment Guidelines (IAGs), reports provided under the registered scheme are reviewed by ReturnToWorkSA to ensure they have been completed in accordance with the IAG. At times, requests for clarification may be sought before compliance can be determined. This may be due to various reasons such as apparent calculation errors, methodological errors, further clarification or rationale being required.

It is stipulated in the fee schedule that "Corrections and amendments to a report after initial submission are covered in the fee above, and do not attract an additional fee."

It is further noted within the fee schedule that "***Supplementary report fees are not payable if additional work is required as a result of an error or omission on the part of the assessor."***

Therefore, it is considered that responses to compliance enquiries are included in the already agreed fee as opposed to a supplementary fee being applied.

What is a supplementary report?

A supplementary report is provided where you have been specifically asked to consider matters in addition to the original report request by the requestor or where you have been supplied additional information to consider. An example of this may be where it has been indicated that a worker requires further testing (e.g. nerve conduction studies) before you are able to complete your assessment and those results supplied. Most commonly, a supplementary report will be requested by the managing claims agent, as opposed to ReturnToWorkSA and a supplementary report fee would likely be appropriate with regards to your further opinion.

CASE STUDIES

Rating Muscle Atrophy

Muscle atrophy is one of 13 assessment methods of whole person impairment assessment in the lower extremity Chapter 3, Impairment Assessment Guidelines (IAGs) and Chapter 17, pp530-531 AMA5.

Definition: Atrophy of muscle is a reduction in muscle mass due to wasting or thinning of muscle tissue.

Causes: Injury and disuse; remember the saying 'if you don't use it you'll lose it!'.

Think of body builders, gym workouts and training programs that build up muscle mass by repeatedly and consistently working against a resistance. Elite athletes, sports people who stop regular training or sustain an injury will experience a reduction in muscle mass.

The methodology for using 'muscle atrophy' as the assessment method is provided in the IAGs, 3.14 – 3.15, Table 17-6 and is based on Section 17.2d Muscle Atrophy (Unilateral) AMA5 page 530, which the IAG's modifies.

Because loss of muscle tissue is associated with disuse due to other conditions that may occur in the lower extremity, Table 17-2, p526 provides a reference to the appropriate combination of evaluation methods in the lower extremity to avoid double rating the same impairment twice. For example, impairment assessments based on, diagnosis-based estimates, range of movement, arthritis, amputations, muscle strength (i.e. weakness), peripheral nerve injuries and complex regional pain syndrome cannot be combined with muscle atrophy.

When using muscle atrophy as an assessment method it is important to establish.

1. The atrophy is unilateral and a direct consequence of the work injury being assessed in the lower extremity.
2. Ensure that there is no other condition or injury affecting either the injured lower extremity (ipsilateral) and /or the opposite (comparison) lower extremity. The presence of varicose veins, swelling due to cardiovascular conditions, non-work-related muscle wasting due to neurological conditions in either extremity negates the use of muscle atrophy.
3. If 1 & 2 are satisfied, standardised circumference measurements of the thigh and calf are taken. Landmarks used to measure thigh and calf circumference are detailed in the report. For the thigh this is usually 10 cms above the superior pole of the patella, and for the calf at its widest point measured at a point equidistant on both legs from an anatomical landmark such as the lower pole of the patella or tibial tubercle.
4. Atrophy of the thigh and calf are evaluated separately and combined.
5. Refer to Table 17-2, p526 AMA5 for allowable combinations.
6. Where there are several evaluation methods possible for a particular work injury and muscle atrophy is one method, the method resulting in the highest value is used (3.15, p25 IAGs).

Consider this…

You are providing an assessment for a right knee injury which has been diagnosed as a "strain" with no surgery undertaken as a result. The worker has a history of a prior injury to the right knee because of a sporting injury some 5 years earlier, for which arthroscopy surgery with partial meniscectomy was undertaken. The information provided suggests the worker was absent from work for a period of 6 months because of the earlier injury and during that time was unable to participate in workplace activities. Upon examination you identify 1.5 cm of thigh muscle atrophy.

Would you consider atrophy to be valid?

In this instance, atrophy would not be a valid method of assessment as any identified atrophy cannot be isolated to the workplace injury.

Assessing ADL impact due to spinal injuries

Where you are asked to provide an assessment for a spinal injury where there has been a prior assessment under the current IAGs (or previous Guidelines) for a prior spinal injury, the assessor needs to be cognisant of the direction in paragraph 4.27 of the IAGs.

Paragraph 4.27 of the IAGs directs that the maximum assessment for impact on activities of daily living (ADL) related to spinal injuries is 3%WPI regardless of whether there has been one spinal injury, multiple injuries to the same spinal region or multiple injuries to different regions of the spine.

If you are asked to provide an assessment for a spinal injury, but there is a history of another spinal injury (not necessarily in the same spinal region) for which an impairment assessment has previously been obtained, your assessment is only to include an assessment for ADL impact where there is a worsening in ADL and can only be for the value of the difference in assessments.

For example:

If the prior assessment included an assessment of 2%WPI for the impact on ADL and you consider there to be no change in the ADL impact (i.e. still 2%), then your assessment would not include an assessment for ADL impact as this has already been assessed and this would be explained in the report.

If the prior assessment included an assessment of 2%WPI for the impact on ADL, but you consider the current spinal injury impacts on self-care (i.e. now 3%), then your assessment for ADL impact would only be for 1%WPI being the difference between what was assessed previously and now and this would be explained in the report.

Rejected and Pending Injuries

You may have noted that over time there has been an increase in requests for impairment assessments for injuries or conditions for which compensability is not yet accepted or the injuries are subject to disputation before the SAET. This understandably adds a layer of complexity to your role as assessors, which is to determine the impairment due to the "work injury".

Whilst you may have been asked to provide assessments for injuries which may fall into these difficult categories, it is still important to ensure that the requirements of the IAGs and AMA5 are adhered to.

Whilst you are not being asked to provide opinion on compensability of the requested injuries/conditions, your assessment reports should be clear in relation to the following:

- the history of the injury/condition as reported to you by the worker, and any documentation provided to you, including onset of symptoms, investigations, and treatment
- reported symptoms.
- examination findings
- current clinical status and diagnosis, including the basis and evidence used to determine maximum medical improvement
- the degree of impairment that results from the work injury
- the portion of whole person impairment due to any previous or subsequent injury or unrelated cause, pre-existing condition, or abnormality, if any, related to the injury being assessed
- detailed rationale should be provided to support your clinical opinion.

If there are any specific requirements that need to be fulfilled for your assessment to proceed, then these must be considered accordingly. A common example of this is a spinal injury, where the criteria for a DREII assessment includes the need for a clinical history and examination findings compatible with a specific injury. The nature of the specific injury, as opposed to reports of pain, needs to be provided in the report to support the assessment. Assessors should also be cognisant of timeframes, such as for peripheral nerve injuries and CRPS, which have specific minimum timeframes in the IAGs to qualify for assessment.

Manage your referrals and documents in Online Services

Online Services is a secure and efficient way to do business with ReturnToWorkSA.

In Online Services you can:

- securely and efficiently receive and submit documents
- manage referrals and all documentation associated with them in one place
- see each referral and the worker's claim details.

How to set up referrals (if you have an online services account)

To set up referrals, all you need to do is update your notification preferences so that you get an email notification when you receive a referral. This will only take a few minutes. Follow the steps on this guide on our website.

How to register to receive referrals online (if you don't have an Online Services account)

To start receiving referrals and documents online, register for an online services account now.

1. Go to www.rtwsa.com and click the red 'login' button
2. From the login page, click 'register here for Online Services'
3. Complete your details and submit
4. You will be prompted to login and select your organisation
5. Your registration will now go through a verification process and will be activated.

Once your account has been activated, you will need to update your notification preferences to receive email notifications when you receive a referral. For more information on how to set up email notifications, follow this guide on our website.

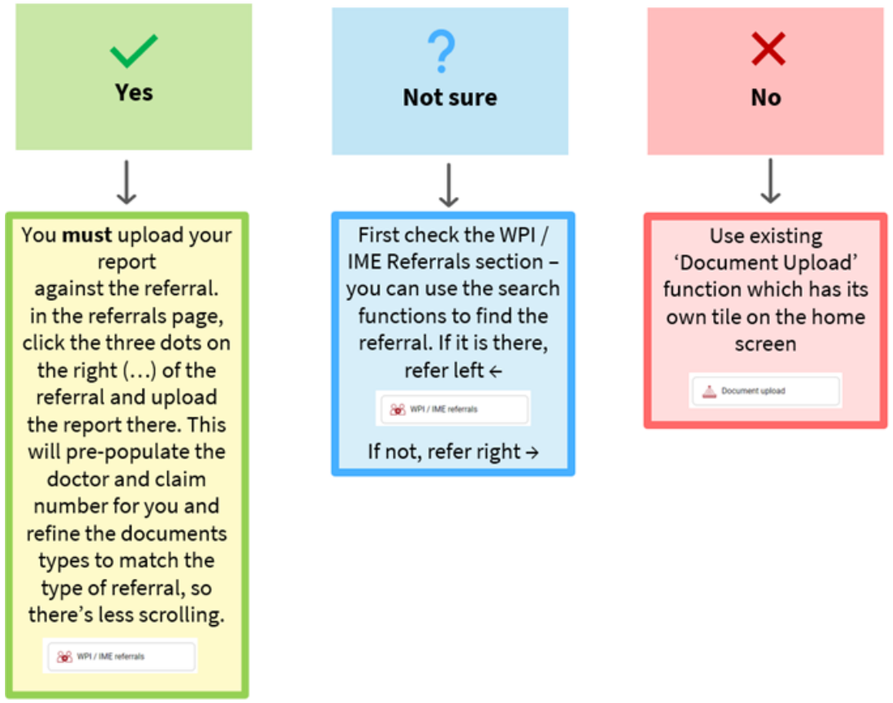
What are the benefits of uploading against the referral?

- The referral will move to the 'Report uploaded tab' for ten days before it moves into the History tab. This frees up your 'new' referrals list, making the ones you haven't actioned easier to find.
- The referral already has your details and the claim number so you don't need to key these in.
- The referral knows what the referral type is, meaning only a short list of relevant document types will be displayed for you to choose from.
- The referral will automatically update in the Claims Agent's system to show that your report has been received, meaning they won't be calling to ask where it is.

Uploading reports

The way to upload your completed report depends on the way you received your referral.
It is recommended that your report is uploaded as a PDF document and is combined with any attachments, worksheets or supporting information which you have utilized to complete your assessment.

Do you have an Online Services referral for the injured worker?



Are you using the most current assessment report template?

The assessment report templates were updated in January 2024. While you won't notice any differences, the templates had minor changes to their metadata which is used for handling your reports. To ensure successful transmission of your report to ReturnToWorkSA's Online Services, the most current version of the assessment report template must be used. You can find all the templates on our Impairment Assessor News and Resources web page.

Support

If you experience any issues with registration or enabling notifications, send your IME or WPI Provider details to **prov.main@rtwsa.com** for support.

If you require support in using Online Services, please contact **wpi@rtwsa.com.au** or call 8238 5960.
A helpful user guide is also available on our website under Online Services.

What if I have uploaded something incorrectly?

If you believe you may have uploaded a report to the incorrect claim, please contact the requestor or Impairment Assessment Services as soon as practicable to advise of the error and discuss how to remedy the problem.

An update on the review of the Impairment Assessment Guidelines

Formal consultation on the draft Impairment Assessment Guidelines Third Edition has now opened.

All impairment assessors, relevant medical colleges and the SRCG medical sub committees should now have received an email with the consultation documents. Please check your inboxes.

This consultation is being run by an independent project team at KPMG (not by ReturnToWorkSA), and feedback should be provided as per the instructions in the consultation materials.

We encourage you to provide feedback during the consultation phase, whether you support (or not) some or all of the proposed changes. It is important that the SRCG (the review committee) and the Minister hear from impairment assessors on the proposed Guidelines.

Impairment Assessor Accreditation Scheme - Review update

Thank you to those who provided feedback on the proposed first draft of the Impairment Assessor Accreditation Scheme.

The consultation period for the review of this draft has now closed and we are currently in the processing of reviewing and considering all of the feedback provided.

A proposed second draft of the Impairment Assessor Accreditation Scheme will be released for consultation later in the 2024 calendar year and we will be seeking further feedback at that time.

If you have any questions in relation to the review, please contact Simon Hynes, Project Manager, Impairment Assessor Accreditation Scheme Review on 0448 511 774.

Significant case update

Perez v Return to Work Corporation of South Australia [2023] SAET 9:

Deduction for a pre-existing impairment (a bilateral pars defect leading to spondylolisthesis) that was either a congenital or developmental variation

The recent decision of ***Perez v Return to Work Corporation of South Australia and WALGA Mining and Services Pty Ltd [2024]*** SAET 9 (26 February 2024), has clarified whether, in completing an assessment for the spine, there is a requirement to deduct a % WPI for a pre-existing impairment, which was either a congenital or developmental variation.

By way of background, Mr Perez sought a review of a decision by ReturnToWorkSA not to treat him, on an interim basis, as a seriously injured worker following an injury to his lumbar spine on 17 October 2020. To be so treated, Mr Perez was required to persuade the Tribunal that his degree of whole person impairment (WPI) was likely to be 35% or more.

It is relevant to note that prior to the work injury, Mr Perez had a pre-existing variation at the L5 level of his lumbar spine by way of bilateral pars defect of the pars interarticularis bone, which had resulted in a Grade 1 spondylolisthesis of L5 upon S1. The radiological films confirmed this and the radiologist had reported, as of 11 April 2019, the narrowing of both L5 neural foramina with probable compromise of both L5 nerve roots, although the radiologist added that correlation with clinical findings would be useful.

Both the doctors involved in the proceedings gave evidence that the bilateral pars defect in this case led to the development of spondylolisthesis and it was accepted that the bilateral pars defect was likely a congenital or developmental variation.

The assessor expressed the opinion that upon a final assessment, Mr Perez was likely to be assessed as having a 38% WPI, but did not take into account of the bilateral pars defect and resulting spondylolisthesis. This was on the basis that an assessment of a vertebral fracture was to be based upon a report of trauma resulting in the acquired injury and not on congenital or developmental changes as paragraph 4.22 of the Impairment Assessment Guidelines (IAGs) was to be read together with the concluding statement in paragraph 4.11. That concluding statement reads: *'The assessment of a vertebral fracture is to be based on a report of trauma resulting in an acquired injury, and not on developmental or degenerative changes'.*

In this case there was a pre-existing impairment. Both doctors involved in the proceedings accepted the bilateral pars defect fractures were either end plate fractures or posterior element fractures within paragraph 4.22 of the IAGs. The bilateral pars defect fractures would bring the worker within DRE Lumbar Category II of Table 15-3 of AMA5, which attracts a 5% to 8% WPI. The independent medical examiner stated, with reference to paragraph 4.22 of the IAGs that this would be assessed as DRE II and, as there were no reported restrictions of activities of daily living, it would equate to a 5% WPI for the pre-existing impairment.

Rossi DPJ considered the various relevant provisions in Chapters 1 and 4 the IAGs and section 22 in the *Return to Work Act 2014* (the Act).

His Honour noted that, whilst in AMA5, Table 15-3, DRE Lumbar Category II, in relation to fractures of vertebral bodies, excludes developmental spondylolysis, paragraph 4.22 of the IAGs states that one or more end plate or posterior element fractures in a single spinal region without measurable compression of the vertebral body are assessed as DRE Category II.

His Honour then commented on paragraph 4.7 of the IAGs. He stated that paragraph 4.7 of the IAGs means that common developmental findings, such as those referred to in the paragraph, do not of themselves mean that there is an impairment due to injury, but there may, however, be a pre-existing impairment.

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Rossi DPJ then considered the operation of paragraphs 1.23, 1.24 and 1.29 and the operation of subsections 22(8)(b) and (g) of the Act. His Honour noted, as was stated in the decision of the Supreme Court of ***Paschalis*** by Livesey and Bleby JJ, that: ***On their face, and when read together, subsections 22(8)(b) and (g) express the same legislative intention: only a work injury, or an impairment to the extent that it is attributable to a work injury, is to be assessed and compensated.*** What is clear is that subsections 22(8)(b) and (g) and the IAGs should be construed as a "complementary suite of provisions". So, in each case, the assessor must first evaluate the extent to which the impairment from the unrelated injury or cause plays a part in the worker's current impairment and ensure that the unrelated impairment is not the subject of assessment.

His Honour then noted the various decisions, such as ***Frkic*** (a decision of the Full Bench of the SAET) and Paschalis, and commented that Chapter 4 of the IAGs is directed to the assessment of impairment for a work-related back injury, whereas paragraph 1.29 of the IAGs operates, along with subsections 22(8)(b) and (g) of the Act, so as to require any pre-existing impairment as a result of a congenital or developmental variation to be deducted from the overall impairment rating.

In ***Frkic*** for example, the Full Bench identified Chapter 4 of the IAGs as having application to the assessment of permanent impairment arising from a work injury and the reference to "an injury" in paragraph 4.13 being primarily concerned with a work injury. A distinction was drawn between altered motion segment integrity as a result of trauma resulting in a work injury, which is compensable, and altered motion segment integrity due to developmental or degenerative changes, which is not compensable.

This is the same as far as paragraph 4.11 of the IAGs is concerned. Paragraph 4.11 is directed to the assessment of impairment for a work injury. It directs that it is only in the circumstances of a fracture following trauma resulting in an acquired injury that a compensable percentage of WPI would follow. The attention of the assessor is drawn to the distinction between such circumstances and a vertebral fracture which is the result of a congenital or developmental change, which would not be compensable.

His Honour found that the effect of paragraphs 4.7, 4.11 and 4.15 of the IAGs was that the permanent impairment arising from the bilateral pars defect and spondylolisthesis, which predated the work injury, was not to be included in the assessment of WPI arising from the work injury to the lumbar spine.

His Honour held that the bilateral pars defect, which was either a congenital or developmental variation, is a fracture within the ambit of paragraph 4.22 of the IAGs and is required to be deducted in any assessment of WPI.

If Mr Perez' bilateral pars defect fractures were ignored and not taken into account then Mr Perez would be compensated, not only for the work related component of his impairment, but also for the pre-existing non-work related component of his impairment, which ignores the principle in the Act as set out above, which is to compensate a worker for the impairment to the extent that it is attributable to a work injury.

GENERAL UPDATES

New applications

We are currently accepting applications for the below listed body-systems

- Hematology
- Endocrinology
- Opthalmology
- Cardiovascular
- Gastroenterology
- Urology
- Respiratory

If you have any colleagues interested in applying to become an Accredited Permanent Impairment Assessor in the Accreditation Scheme, please ask them to contact Amara on **(08) 8233 2277** or wpi@rtwsa.com for further discussion.

Did you know you can access previous editions of this newsletter?

Have a question about how to manage a particular assessment? Try looking through some previous editions of the Impairment Assessor Insider in case we have clarified it earlier.

The **Impairment Assessor news and resources page** on the ReturnToWorkSA website contains all previous editions published since the Return to Work scheme came into effect, as well as notices, templates and other resources.

If you have an idea for an article or resource you would like to see on that page, please let us know at wpi@rtwsa.com or call our Impairment hotline on **(08) 8238 5960.**

Preferred communication method

To ensure that you are receiving all relevant information, please advise ReturnToWorkSA of any changes to your preferred private method of communication.

If you have changed your private communication preference, please contact **wpi@rtwsa.com** with your preferred private method of communication (eg. email or phone preferences).

Questions, concerns or content suggestions

The whole person impairment process is extensive, complex and prone to change, in light of significant legal decisions. We aim to make these newsletters engaging and relevant to current topics.

If you have any queries, concerns or content suggestions email us at wpi@rtwsa.com or phone our Impairment hotline on **(08) 8238 5960.**

Invoicing – where to send

Invoices for impairment assessment reports are managed and paid for by the requestor, not by ReturnToWorkSA (except those reports requested by our EnABLE team).

To avoid any delays in processing your invoice, assessors are reminded to forward the invoice directly to the requestor by emailing it separate to the report (in word, PDF or image file format) using the following addresses:

Gallagher Bassett:	invoices@gb.rtwsa.com
EML:	accounts@eml.rtwsa.com
EnABLE:	EnABLE@rtwsa.com

Alternatively, you can upload your invoice via the online services portal.

Please ensure you have the claimant details clearly identified on the invoice. If you have approval for additional costs, this is best attached with your email to ensure prompt payment.

Update your Assessor listing

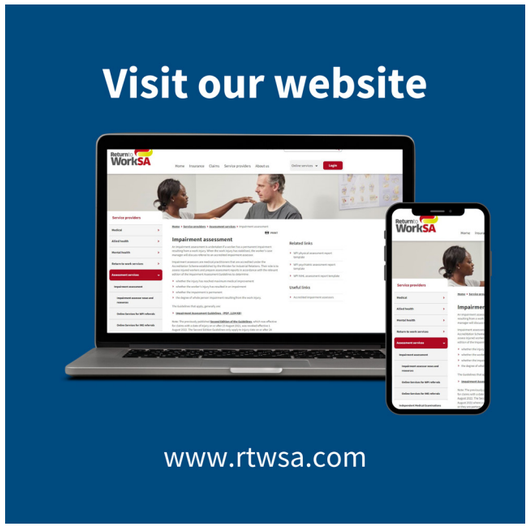
To ensure our **public listings** are current, please notify us if your details require updating.

This may include changes to your address, practice details, COVID-19 vaccination requirements or an update to your referral requirements.

We also publish information about areas of special clinical interest, spoken languages and consultation in rural and remote areas.

Please email us at wpi@rtwsa.com or call our Impairment hotline on **(08) 8238 5960.**

A requirement of your accreditation is to maintain adequate insurance cover. If you have renewed this recently, please provide us with a copy of your certificate of public liability and professional indemnity insurance.



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