

Media Release

MHV CALLS FOR EQUITY FOR MENTAL INJURY IN WORKCOVER SCHEME MODERNISATION

Mental Health Victoria is concerned at proposed changes to legislation currently before Parliament to alter the WorkCover scheme in circumstances of workplace mental injury which may create inequities in the support and management available to people with mental injury as opposed to physical injury.

The new *Workplace Injury Rehabilitation and Compensation Amendment (WorkCover Scheme Modernisation) Bill 2023* was introduced to Parliament by the Minister for WorkSafe and the TAC Danny Pearson MP on 31 October 2023. The Bill seeks to amend the existing WorkCover scheme to change eligibility requirements, including through limiting eligibility for mental injury claims, in a number of ways.

Pleasingly, the Government retains eligibility for injuries caused by bullying and harassment within scope for WorkCover claims, recognising the significance of these injuries to Victorian workers and the responsibility that workplaces have in providing a psychologically safe working environment. MHV CEO Marcelle Mogg joined with other sector leaders in calling for this inclusion earlier this year.

However, MHV is concerned that proposed limitations to the scheme may lead to negative outcomes, such as excluding entitlement for claims “in respect of a mental injury that is a recurrence, aggravation, acceleration, exacerbation, or deterioration of any pre-existing mental injury unless the worker’s employment was the predominant cause”, as well as excluding stress and burnout related mental injuries for eligibility altogether.

This change to the scheme may lead to poorer outcomes for workers managing existing mental health conditions, particularly given that “predominant cause” takes its ordinary meaning and may be subject to future litigation to determine its appropriate legal interpretation. MHV calls on the Government to seek appropriate mental health sector expertise in advising WorkCover staff on how to assess these claims and in the drafting of regulations and guidance which will be used in these assessments.

Against the backdrop of the Royal Commission into Victoria’s Mental Health System, which included Recommendation 16, “Establishing Mentally Healthy Workplaces”, it is concerning to see decisions by government which may limit or curtail access to support and care for Victorians living with mental health challenges. We know that the national cost of lower economic participation and lost productivity due to mental ill-health can be as high as \$39 billion per annum (*Productivity Commission Inquiry Report on Mental Health, 30 June 2020*). All efforts must be made to help Victorians recover from these setbacks and stay engaged in the workplace.

MHV welcomes the decision of the Victorian Government to retain access to thirteen (13) weeks of provisional payments for workers experiencing stress and burnout. This enables workers experiencing stress and burnout-related mental injury to access support and care and encourages employers to create more psychologically healthy practices.

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