

Ref: 0050867

16 November 2017

Mr David Lawson
fyi-request-6744-0ad5535a@requests.fyi.org.nz

Dear Mr Lawson

Official Information Act request

Thank you for your request of 23 October 2017 asking for the following information under the Official Information Act 1982 (the Act):

Under section 48 of the Accident Compensation Act 2001, any person eligible to lodge a claim under Act is legally entitled to lodge a claim for cover/s and entitlement/s on their own accord directly, and independent of a treatment provider, with ACC/the Corporation. Section 48 is quoted below.

48 Person to lodge claim for cover and entitlement A person who wishes to claim under this Act must lodge a claim with the Corporation for—

- (a) cover for his or her personal injury; or*
- (b) cover, and a specified entitlement, for his or her personal injury; or*
- (c) a specified entitlement for his or her personal injury, once the Corporation has accepted the person has cover for the personal injury.*

I welcome your provision of the Corporation's official written policy and procedure that an ACC claimants/client's case manager is expected to undertake/comply with when the ACC claimant/client lodges formal and written claim/s for cover and entitlements with their case manager at ACC, to enable the client to remain fully informed with respect to the client/claimant receiving from the Corporation;

- 1. ACC's written acknowledgement of the clients/claimants section 48 lodgment of claim for the cover and entitlements and the specified time frame in days the Corporation have to provide written confirmation to the client/claimant ACC acknowledges the claim has been registered with ACC.*
- 2. All other ongoing written communication that the Corporation is required to provide to keep the person informed of claims progress through to the provision of ACC's decision letter of claim acceptance/declinature to the person and the time frames provided under ACC policy/Procedure/Act.*
- 3. What will occur should the Corporation exceed their permitted time frame for making a decision, or informing a client that a decision has not yet been made under section 56 or 56 of the ACC Act 2001.*

Our response

Questions 1 and 2

We would like to clarify section 48 of the Accident Compensation Act 2001. It does not mean that a person can lodge a claim directly with ACC independent of a treatment provider. It means that a person who wishes to claim under the Accident Compensation Act 2001, must first lodge a claim. In all cases, section 49 also applies. All claims must be lodged with ACC through a registered treatment provider. This is usually the first treatment provider a person sees following their injury and could be a doctor, physiotherapist, local medical centre or emergency department.

Your requests are declined because the document alleged to contain the information does not exist, or cannot be found. This decision complies with section 18(e) of the Act.

Further information on what to do if you're injured, including how to lodge a claim, is available on ACC's website www.acc.co.nz.

Question 3

Section 58 of the Accident Compensation Act 2001 sets out what happens when ACC fails to comply with a time limit under section 56 or 57. In this situation a client is deemed to have cover.

Enclosed is a document outlining the procedure ACC staff follow once there is a deemed cover decision.

As this information comes from ACC's staff intranet, staff contact names have been removed, in accordance with section 9(2)(a) of the Act, in order to protect their privacy. ACC does not believe there to be any public interest considerations that outweigh this need for protection.

Questions or concerns

If you have any questions about this response, we will be happy to work with you to resolve these. We can be contacted via email at GovernmentServices@acc.co.nz.

You have the right to complain to the Office of the Ombudsman about our decision to decline part of your request. You can call them on 0800 802 602 between 9am and 5pm on weekdays, or write to *The Office of the Ombudsman, PO Box 10152, Wellington 6143*.

Yours sincerely

Government Engagement and Support

Encl: Deemed cover decisions when timeframes not met

Deemed cover decisions when timeframes not met

Contact [REDACTED]

Last review 12 Feb 2016

Next review 12 Feb 2017

Introduction

If ACC fails to meet the agreed timeframes on a cover decision, a client is deemed to have cover for their injury under the AC Act 2001. Section 58. Once there is a deemed cover decision, the client will also be eligible for entitlements.

Rules

We treat claims that have deemed cover decisions differently to those whose cover decisions were made within the statutory timeframes.

We:

- must continue to investigate the substantive claim for cover on an urgent basis
- are able to revoke deemed cover decisions where it is established that the client should not have cover on the substantive merits of the case. See AC Act 2001, Section 65(2).
Note: Revoking cover decisions that haven't been deemed due to exceeding statutory timeframes need to follow different rules. See Reasons to revoke cover.
- will pay for entitlements on deemed decision claims so long as the entitlement meets eligibility criteria
- will pay some entitlements from the date cover is deemed until the deemed decision is revoked
- will not make any payments of lump sums for impairment or converted weekly compensation on deemed cover decisions
- must notify the branch group manager or centre manager of the deemed cover decision.

Informing the client

We must inform the client in writing of any deemed decisions and entitlements.

If at the time of writing the letter there is... then advise the client...

not enough information to make a decision on the substantive merits of the claim

- that because the timeframes were exceeded, cover is granted while we continue to investigate their claim
- of any entitlements on the basis of the deemed decision, and that these entitlements are only payable from the date the timeframes were exceeded

enough information to make a decision on the substantive merits of the claim for cover, and the client **does not** meet the criteria for cover

- that the timeframes were exceeded and they have a deemed cover decision in their favour
- that the claim is not supported by evidence, therefore the deemed decision is revoked and the claim for cover is declined on its substantive merits
- that only entitlements for the period from the date of deemed cover until the date cover was revoked will be provided

enough information to make a decision on the substantive merits of the claim for cover, and the client meets the criteria for cover

- that cover is granted and we'll consider entitlements in the usual manner

Confirm or revoke a cover decision after further investigation

Continue to investigate the claim until you can confirm or revoke the deemed decision.

If the decision is... then...

to accept cover

- confirm cover on the substantial merits of the claim investigation
- pay any entitlement arrears due for periods before the date that cover was deemed

| If the decision is... | then... |
|--|--|
| the claim does not meet the criteria for cover | <ul style="list-style-type: none">• revoke the deemed cover decision and decline the claim for cover on the substantive merits of the claim investigation• make any final entitlement payments for the period from the date of deemed cover until the cover was revoked |