

Summary

Objective

A treatment injury is a personal injury arising from treatment that meets ACC's Cover criteria for treatment injury.

Owner Name withheld

Expert Name withheld

Policy

1.0 Treatment injury claim identification

- a** A treatment injury claim may be identified by any of the following:
- text on the ACC45 ACC Injury claim form (ACC45) stating the client has an existing physical injury claim, and while receiving treatment for this injury, incurred a further injury
 - the key words 'treatment', 'medical', 'hospital', 'surgery', 'physiotherapy', 'chiropractor' or 'doctor' appearing on the ACC45
 - a tick in the 'Is this claim for treatment injury?' box on the ACC45 or the 'Medical misadventure' box on older ACC45s
 - material accompanying the ACC45, eg the ACC2152 Treatment Injury Claim (123K) form and any medical notes.

 ACC2152 Treatment Injury Claim

2.0 The difference between consequential injury and treatment injury

- a** The key point in the difference between a treatment injury and a consequential injury is understanding what the treatment is provided for, that gives rise to the claimed new injury:
- if the treatment is for an underlying condition and the person suffers new injury from the treatment provided by a registered health professional, it is considered under the treatment injury provisions (s32 of the AC Act 2001)
 - if the treatment is for a covered ACC injury and the person suffers new injury from the treatment, it is considered under the consequential injury criteria (s20(2)(d) & (h)) – TI delegation to determine cover
 - if the person has a covered ACC injury and that injury through gradual process, disease or infection develops into another injury, this is a consequential injury that the branch has delegation to determine cover [as there is no intervening treatment that gives rise to the additional injury] (s20(2)(g)).

3.0 Lodgement date

- a** A claim for treatment injury must be lodged within 12 months of the later of:
- the date the registered health professional (RHP) first considered the personal injury to be a treatment injury
 - the date the client suffered the injury as determined under the AC Act 2001, Section 38.

4.0 Late lodgement

- a** ACC must not decline a claim on the grounds that it was lodged late, unless the claim's lateness prejudices the ability of ACC to determine cover. See Eligibility of late claims.

 Eligibility of late claims Policy

5.0 Transitional claims

- a** If a client lodges a claim for the first time on or after 1 July 2005, apply the treatment injury rules. The rules for medical misadventure apply to claims lodged before 1 July 2005.

 Cover criteria for medical misadventure Policy

6.0 Exception

- a** We can consider a claim under the treatment injury provisions if it was lodged on or after 1 July 2005 and previously declined under the medical misadventure rules if no personal injury was established at the time, but a personal injury arises after the claim was declined from that past incident. The personal injury could arise before or after 1 July 2005.

NOTE Example

After a period of hospitalisation before 1 July 2005, a client is diagnosed with Methicillin Resistant Staphylococcus Aureus (MRSA) but they have no symptoms at the time. Some time after 1 July 2005 they develop a serious infection. A personal injury becomes present so their claim can be considered under the treatment injury provisions.

7.0 Forwarding treatment injury claims

- a When you receive a treatment injury claim, you must capture the details as a new claim and forward any hard copy materials to the Treatment Injury Centre. This includes any material accompanying the ACC45, eg the ACC2152 Treatment Injury Claim (123K) form and any medical notes.

Specialist staff in the Treatment Injury Centre assess the claim and make the cover decision.

You must:

- refer any enquiries about treatment injury claims to the Treatment Injury Centre
- ensure any material that accompanied the ACC45, eg the ACC2152 and clinical notes, is clearly marked with the claim number or ACC45 number.

See Receiving and streaming treatment injury claim for further information.

 Receiving and streaming treatment injury claim Policy

8.0 The Accident Compensation (Definitions) Regulations 2019 and determining treatment injury cover

- a The Accident Compensation (Definitions) Regulations 2019 moved the key definitions of 'registered health professional' and 'treatment provider' and associated definitions from the Accident Compensation Act 2001 to standalone regulations.
- b The Accident Compensation (Definitions) Regulations 2019 took effect on 01/10/2019.
- c When assessing cover for Treatment Injury, we need to determine the date of injury based on when a person first seeks treatment for the signs or symptoms of their injury. So a claim may be lodged after 1/10/2019, but have an earlier date of injury.
- d The relevant date to consider whether someone was an RHP is the date of the treatment. If a client claims after 01/10/2019 for an event occurring earlier the amendment does not apply. The changes are not retrospective.