



CONVENOR'S DIRECTIONS
AS TO THE
ARRANGEMENT OF BUSINESS AND AS TO
THE PROCEDURES OF MEDICAL PANELS

*Workers Rehabilitation and
Compensation Act 1986 ('the Act')*

July 2009



Introduction

1. These are directions as to the arrangement of the business, and as to the procedures, of Medical Panels established under Part 6C of the *Workers Rehabilitation and Compensation Act 1986* ('the Act'). They are given under section 98B(4) and section 98B(7) of the Act.
2. Sub-sections (4), (5), (6) & (7) of section 98B provide as follows:

"98B. Procedures

- (4) The Convenor may give directions as to the arrangement of the business of the Panels.
 - (5) The Minister may for the purposes of-
 - (a) ensuring procedural fairness in the procedures of the Medical Panels; and
 - (b) facilitating the proper administration of the Medical Panels issue guidelines as to the procedures of Medical Panels.
 - (6) The Minister must consult with the Attorney-General and the Convenor before issuing any guidelines under this section.
 - (7) The Convenor may give directions as to the procedures of the Panels but may not give directions inconsistent with any guidelines issued by the Minister."
3. At the date of these directions, no guidelines have been issued by the Minister under section 98B(6).

Purpose and Objectives

4. The purpose of these directions is to define the procedures to ensure Medical Panels provide opinions on medical questions that are of assistance in the resolution of medical questions arising in relation to claims for compensation under the Act.
5. To fulfill this purpose, these directions aim to facilitate:-
 - (a) referrals on questions that are clear "medical questions" as defined in section 98E of the Act;
 - (b) opinions of Medical Panels that are responsive and pertinent as answers to the questions referred; and
 - (c) a process by which opinions are produced in a manner that is efficient and transparently thorough and fair.



Convenor and Convenor's Office

6. Sub-sections (2) & (8) of section 98 provide:-

"98. Establishment

- (2) For the purpose of constituting Medical Panels, there is to be a list of legally qualified medical practitioners appointed by the Governor on the recommendation of the Minister.
- (8) From the list of medical practitioners under sub-section(2), the Minister must appoint (on terms and conditions determined by the Minister)-
 - (a) a Convenor; and
 - (b) a Deputy Convenor."

Receipt of Referrals

7. The Convenor will accept referrals that comply with the following procedures:
- a) a completed certificate of referral including valid medical questions;
 - b) accompanying documents indexed and paginated in accordance with Schedule 3 of these Directions;
 - c) four loose leaf bound and paginated copies of all documents that the referrer wishes the Panel to consider.
8. All documents are to be delivered by courier or hand delivered to Reception on Level 1 at 44 Currie Street Adelaide to ensure the security and confidentiality of the information. Referrals from country areas will be accepted by registered post.
9. The Convenor will examine each referral and if a question is not clear in its meaning or is not a statutory medical question appropriate to be determined by a Medical Panel, the Convenor will not convene a Panel to address the question, until he or she consults the referrer with a view to the referrer clarifying or amending the question/s that satisfy the legislative standard.
10. The Convenor will take all reasonable steps to ensure that all parties concerned have been or will be provided with a copy of the referral and all supporting documents received from the referrer.
11. Unless the Convenor directs otherwise, copies of the referral and all supporting documents shall be posted to the postal addresses as they appear on the referral form and this will be taken to be effective service on the parties.
12. Once a Medical Panel is seized of a referral, the referral cannot be withdrawn or discontinued unless the parties provide evidence of settlement of the dispute and/or medical question(s) to the Convenor.



Information and Documents Relating to the Medical Question

13. Sub-sections (2) & (3) of section 98G provide:-

" 98G Powers and procedures on a referral

- (2) A person or body referring a medical question to a Medical Panel must submit a document to the Medical Panel specifying –
 - (a) the disability or alleged disability to, or in respect of, which the medical question relates;
 - (b) the facts or questions of fact relevant to the medical question which the person or body is satisfied have been agreed and those facts or questions that are in dispute.
- (3) A person or body referring a medical question to a Medical Panel must submit copies of all documents relating to the medical question in the possession of that person or body to the Medical Panel."

14. If the documents referred to in section 98G(2) are not received with the referral the Convenor will request the document from the referrer and will not convene a Medical Panel until the documents are received.

Further Information

- 15. The Convenor may, before convening a Panel in relation to a particular referral, seek such further information and/or advice that the Convenor considers necessary or desirable for the proper consideration of the medical question(s) by a Medical Panel.
- 16. The Convenor will advise all parties in writing of the further information and/or advice that he receives in relation to that particular referral.
- 17. If a worker or referrer contends that there is further documentation or other evidentiary material that is relevant to the referral that has not been supplied the worker or the referrer shall advise the Convenor who shall take such action as he or she considers appropriate. This may include issuing a direction that the documents or evidentiary material be supplied to the Convenor promptly and within a specified time.
- 18. Any further documents or evidentiary material obtained shall be copied and forwarded by post upon receipt to the worker and the referrer.

Convening a Medical Panel

- 19. On receipt of a valid referral pursuant to clause 7 & 9, the Convenor shall convene a Medical Panel that he or she considers appropriate in specialty and number of members for the consideration of the worker's alleged disability and the nature of the medical issues raised by the referral and he or she will nominate a presiding member.



20. The Convenor shall endeavour to ensure that any medical practitioner selected to comprise of a particular Panel shall bring and be seen to bring an impartial mind to the resolution of the referral. In undertaking this exercise the Convenor shall take into account any prior association or relationship between the medical practitioner and the worker, the referrer and the parties to any proceedings (if applicable), the legal advisors or representatives of the worker and referrer and any witnesses known to be involved.
21. Upon convening the Panel the Convenor shall forward to each proposed member written confirmation of his or her appointment, a copy of the referral and all documents and evidentiary material that has been supplied or obtained. Proposed members will be required to complete a Statement of Interest/No Interest before they are confirmed as a member of a Medical Panel.
22. If a proposed member discloses an interest, the Convenor may in his or her discretion, immediately replace the proposed member or alternatively communicate the nature of the disclosed interest to the worker and the referrer as to whether or not the interest is one which should preclude the proposed member from sitting on that Medical Panel or whether the proposed member remains on the Panel with the consent of the worker and the referrer.
23. Upon convening a Medical Panel the worker and the referrer shall be informed of the identity, and appropriate specialty of the medical practitioners and if applicable, any statement of interest referred to in clause 21. If a worker or referrer contends that a member of a Panel should not sit, the worker or referrer shall advise the Convenor in writing within 7 days. That advice must include the grounds upon which the disqualification is sought. The Convenor shall consult with the medical practitioner and determine in his or her discretion whether the medical practitioner should be replaced.

Medical Panel Procedures

24. The Act provides –

- a) that a Medical Panel must act informally and may inform itself on any relevant matter in any way it thinks fit; see s98B(1)(2);
- b) that a Medical Panel may ask the worker to meet with the Panel in order to submit to an examination and/or a medical examination/s to answer questions, and to supply copies of all relevant documents in the worker's possession; see s98G(1); and
- c) that a Medical Panel may, if the worker consents, request any "medical expert " who has examined the worker to meet with the Panel to answer questions, and to supply relevant documents to the Panel (see s98G(4)). However, the worker must be advised that he/she is not obliged to consent;

"Medical expert" is defined in the Act, and includes services by a medical practitioner, dentist, psychologist, optician, physiotherapist, chiropractor, podiatrist, occupational therapist, speech pathologist and osteopath, see s3(1);

- d) that a Medical Panel must act as speedily as a proper consideration of the matter allows and that a Medical Panel must form its opinion within 60 days of the referral, unless an extension of time is agreed by the referrer(see s98H(1)).



25. The presiding member of a nominated Medical Panel will facilitate consultation between the members with a view to establishing:-
 - a) the number of examinations that are necessary, and which members of the Panel should be present;
 - b) whether or not the Panel needs any clarification, or further clarification, of the meaning of a medical question contained in the referral;
 - c) generally whether any further information, or advice, is needed; and
 - d) when, and by what means, the Panel will confer to form its opinion and the presiding member shall advise the Convenor of the outcome.
26. The Convenor shall, at the request of the Medical Panel, arrange such examinations as are considered appropriate by the Panel. The Convenor shall also arrange for professional interpreter services when required or requested by the worker.
27. The Convenor shall notify the worker of the examination appointments, and will ensure that the notification is accompanied by:-
 - a) printed information relating to Medical Panels (which explains, amongst other things, the procedures of Medical Panels and the legal status of opinions);
 - b) copies of all relevant documents in the Panel's possession;
 - c) a request that the worker supply to the Convenor, for distribution to the Medical Panel, copies of any additional documents in the worker's possession (including documents in the possession of the worker's legal representative) that relate to the medical question(s) referred; and
 - d) advice as to the possible implications of a failure to attend a Medical Panel appointment, hindering an examination or a failure to supply documents or answer questions.
28. The Convenor shall advise the referrer and the worker of the examination appointment and send confirmation of all appointments to each member of the Medical Panel.
29. The Act provides that a worker's attendance for examination must be in private, unless the Panel considers that it is necessary for another person to be present (see s98G(6)). However, a Panel may in its absolute discretion allow a support person to attend but any such person will not be allowed to speak on the worker's behalf, add comments of their own or act as an interpreter. The Panel can require that person to leave the examination if the Panel considers he/she is intruding into the examination.
30. If a surveillance video or DVD purporting to depict the worker's activities has been supplied the Panel may deal with the material as it sees fit. It may, for example, direct the referrer to convert it into a short passage of edited highlights to be shown to the worker in the presence of the Panel after the Panel has taken a history from the worker and completed the examination. The worker will be advised that he or she does not have to answer question(s) if he/she would incriminate himself or herself by so answering the question(s).



31. Where a member/s of a Medical Panel examining a worker is aware or becomes aware of any information, circumstance or consideration, that is contrary to anything the worker says to the member/s, the member/s shall inform the worker and referrer of the matter and invite the worker and referrer to make written submissions on it within 14 days or a specified time. The Medical Panel's opinion should not be concluded until such comment has been received or the specified time has expired, as the case may be. The written submissions should be taken into consideration by the Panel.
32. Each member of the Medical Panel shall make and retain their own personal notes of the history taken from the worker, of the findings on clinical examination and of any test results obtained that he or she, in consultation with any other Panel members, considers desirable for the purpose of addressing the medical question.
33. If the Medical Panel considers a worksite inspection is necessary, it shall only be undertaken with the consent of the employer. The Panel shall invite the worker to attend. The Panel may proceed with the inspection whether or not the worker attends but if the worker declines that invitation the inspection may proceed in the worker's absence. The Convenor shall take all reasonable steps to arrange for the inspection to take place at a time that is convenient for all parties.
34. During a worksite inspection, the Panel shall not converse with any person other than the worker, save and except for matters relevant to the inspection. The Panel shall endeavour to conduct such conversations in the presence of the worker.
35. Where the worker does not attend the inspection or declines to be present for any relevant conversation and where any statement or information adverse to the worker's position relevant to the medical question(s) is made or provided to the Panel in the course of the worksite inspection, the Panel shall communicate the statement or information to the worker and referrer and the worker and referrer should be invited to make any written submissions on it within 14 days or a specified time. The Medical Panel's opinion should not be concluded until such comment has been received or the specified time has expired, as the case may be.
36. If a referrer or a worker submits copies of a written submission and/or further documents after receipt of the initial referral, the Panel will record receipt of those documents and provide copies to the other party.
37. If a written submission is received from the referrer or a worker after receipt of the initial referral, the Panel will request the Convenor to forward a copy to the other party requesting any comment or submission in response be provided to the Panel within 14 days or such time as may be allowed by the Convenor in his or her discretion.
38. The Medical Panel may, where necessary, obtain advice from a suitably qualified and experienced person who is engaged as a consultant –(for example: from a further medical practitioner, where the Panel already consists of the statutory maximum number of members; or, in an appropriate case, from another medical expert).
39. If the Panel considers a consultant should examine the worker, then the Panel shall arrange for the consultant to examine the worker with a Panel member, where possible. Consultants shall be subject to the same provisions as in Clause 21 and 22 of these Directions.
40. Advice received from a consultant shall be considered by the Panel, in reaching its opinion and noted in the Reasons for Opinion.



41. If, during the course of its examination/s, the Panel becomes aware of a matter which has not been canvassed in the referral documents or submissions the Medical Panel must decide whether such documents are necessary for its deliberations and if so the Panel shall inform the worker of this fact and give the referrer an opportunity to comment and respond within a specified time limit. The Medical Panel's opinion should not be concluded until all responses have been received or the time limit has expired.
42. Where a worker unreasonably does not attend an examination by the Medical Panel or a medical examination by a member/s of the Panel, or hinders an examination or refuses to answer questions, the presiding member will notify the Convenor. The Convenor shall write to the worker seeking an explanation of his/her actions and give him/her the opportunity to rectify his/her failure to attend and/or answer questions or of his/her hindrance to the Panel's examination (see s98G(5)). If the worker continues to unreasonably fail to attend and/or answer questions and/or hinder the Panel's examination, the Panel may issue a Certificate of Opinion that it is unable to give an opinion in answer to the medical question(s).
43. The Convenor may in his or her discretion, upon application by a worker, consider and make payment by way of reimbursement for travel costs incidental to the attendance by the worker at a Medical Panel examination or workplace inspection.

Certificate of Opinion and Reasons for Opinion

44. Where there is more than one member of the Medical Panel, the members shall confer or consult with each other and endeavour to reach a consensus on each medical question contained in the referral. The presiding member should coordinate the process of conferring or consulting. If consensus cannot be reached on the answer to a medical question, a decision of the majority of members constitutes an act or decision of the Medical Panel (see s 98B(8)).
45. After the Medical Panel has formed its opinion on each medical question, the presiding member shall prepare, and circulate to any other Panel members, a draft certificate of opinion and draft written reasons, in the form similar to that set out in SCHEDULE 1 and SCHEDULE 2 respectively, for settling. Once so settled by the Panel, the Certificate of Opinion and Reasons for Opinion are to be forwarded to the Convenor for sending to the referrer and the worker. The Panel shall also forward to the Convenor copies of any relevant documents obtained or received by the Panel additional to those provided to it by the Convenor.
46. If for any reason the Panel is unable to form an opinion on a medical question within the 60-day time limit, the presiding member shall inform the Convenor and the Convenor shall confer with the referrer and negotiate an extension of time.
47. The Convenor in his or her absolute discretion may dispense with the observance of any of these directions.

**ASSOCIATE PROFESSOR DAVID CHERRY
CONVENOR OF MEDICAL PANELS SA**

Date: July 2009



CERTIFICATE OF OPINION

Re: [Worker's Name]

Medical Panel Ref. No: MPSA /....

The Medical Panel formed its opinion in response to a referral from WorkCover Agent/ WCT / Self-Insurer received on [date], pursuant to s98F(2) of the *Workers Rehabilitation and Compensation Act, 1986*. The Panel comprised the following members:

Dr One, Specialty

Dr Two, Specialty

Dr Three, Specialty

[The Panel consulted with **Dr.....** (specialty) prior to forming its opinion.]

As Presiding Member of this Panel, I have discussed the answers herein with the other Panel Member(s) and this is the opinion of the Panel on the medical questions set out below.

Question 1 **Text of question one**

Answer Answer to question one.

Question 2 **Text of question two**

Answer Answer to question two.

Dr. One (Presiding Member)

Date:

For and on behalf of the Medical Panel

REASONS FOR OPINION

Re: [worker's name]

Medical Panel Ref. No: MPSA /

1. The referral to the Medical Panel was received on [date]. The documents considered by the Panel are described in Enclosure A.
2. The worker was examined by the Panel members [and Consultant/s] on the following dates:

Member, Specialty:

Dr One, Specialty One
Dr Two, Specialty Two
Dr Three, Specialty Three

Consultant, Specialty,

Dr/Mr/Ms Specialty date month year

3. The Panel formed its opinion by reference to –
 - (a) the documents and information referred to in Attachment A; and
 - (b) the history provided by the worker and the examination findings elicited by the Panel at the abovementioned examination(s) of the worker.
 - [(c) the guidance provided by the Consultant(s)]
 - [(d) any other information]

4. The reasons for the Panel's opinion are as follows:

(Reasons should be written succinctly and in plain language. They should clearly reveal the Panel's reasoning. They should include the core clinical and other findings. In the case of a multi-member Panel, the reasons (including the core clinical and other findings) should be those of the Panel as a whole arising from the consultative process.)

Dr. One (Presiding Member)

Date:

For and on behalf of the Medical Panel



Attachment A – Schedule of Attachments

Worker’s name _____

Claim No. _____

MPSA Case No. _____

	<u>Documents</u>	<u>Date</u>	<u>Pages</u>
	Notices and court documents		
1	Worker’s claim form	DD/MM/YY	
2	Determinations	DD/MM/YY	
3	Notices of dispute	DD/MM/YY	
4	Written Submissions	DD/MM/YY	
	Radiological Reports		
7	(Name of Imaging Company) – X ray etc	DD/MM/YY	
8	Hospital – Nerve Conduction Test	DD/MM/YY	
9	(Name of Imaging Company) – MRI scan etc	DD/MM/YY	
	Worker’s Medical Reports		
10	Dr Doctor – GP	DD/MM/YY	
11	Mr Surgeon – Orthopaedic Surgeon	DD/MM/YY	
	Employer’s Medical Reports		
12	Mr Surgeon – Neurosurgeon	DD/MM/YY	
13	Dr Doctor – Psychiatrist	DD/MM/YY	
	Occupational / Rehabilitation Reports		
14	Return to Work Plan	DD/MM/YY	
15	Vocational Assessment Report	DD/MM/YY	
16	Job Seeker Plan	DD/MM/YY	
	Clinical Records		
17	Dr Doctor – GP – Medical Records	Various	
18	Mr Surgeon – Orthopaedic Surgeon – Medical Records	Various	
19	Hospital – Clinical Records	Various	
	Surveillance		
20	PI Investigations – surveillance report		
21	PI Investigations – video XX minutes XX seconds		
	Other		
22	Worker Payslips	Various	
23	Correspondence from X to Y	DD/MM/YY	
24	Prescribed medical certificates	Various	

Notes:

- list any documents relevant to this referral
- if more than one of the same type of document list each in chronological/date order