



Patron: His Excellency General the Honourable
Sir Peter Cosgrove AK MC (Retd)

4 May 2018

Committee Secretary
Parliamentary Joint Committee on Corporations and Financial Services
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Parliament House
CANBERRA ACT 2600

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Dear Secretary,

Thank you for the opportunity to contribute to the Committee's current inquiry examining *Options for greater involvement by private sector life insurers in worker rehabilitation*.

beyondblue does not have the technical or legal expertise to comment on the interactions between Income Protection insurance and Total and Permanent Disability insurance with existing legal frameworks; or potential legal impediments to providing rehabilitation services and assistance to return to work through these insurance schemes.

beyondblue advocates for systems and structures that support people to be well at work, stay connected to good work when they experience mental health challenges, and get back to work quickly if they need to take time off work because of mental illness. Our contribution to this inquiry therefore focuses on the benefits of obtaining and maintaining employment for good mental health, and the importance of providing strong consumer protection across insurance products.

beyondblue recognises the importance of employment and financial security in supporting good mental health and wellbeing. Evidence shows that good quality employment can improve mental health and reduce the risk of depression.¹ There is also strong evidence that being out of work negatively impacts on health. People who are unemployed for more than 12 weeks are between four and ten more times likely to experience depression or anxiety, and unemployment is also linked with increased rates of suicide.²

It is critical that people who are experiencing poor mental health have timely access to suitable, effective and evidenced-based supports and treatment that enable recovery and maintenance of health and wellbeing. It is well recognised that early intervention promotes better mental health outcomes, and early intervention is therefore a core feature of national mental health policy. However, in Australia several

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barriers exist to accessing effective early intervention services and supports, which include financial barriers, as well as stigma, and the distribution and affordability of services.

If an individual who is unable to work due to illness or injury can overcome some these barriers, by their insurer paying for medical treatment and rehabilitation under their disability insurance policy, this may support an individual's recovery and facilitate earlier return to work, where appropriate. Good mental health outcomes could be achieved not only for people who are absent from work due to a mental health condition, but also for people who have a physical health condition and are at risk of developing a secondary mental health condition due to being unable to participate in work.

Despite the clear potential benefits, there are also several key factors which require careful consideration within legal and policy reform. Firstly, there is a clear power imbalance between an individual and insurer, which is exacerbated by the fact that an individual who is ill or injured and unable to work is particularly vulnerable.

A conflict of interest also arises when the person who is funding medical treatment or rehabilitation (the insurer) has a vested interest in returning a policy holder to work, potentially before they are medically and psychologically fit to do so. If this is not managed carefully, an individual could feel pressured to undertake a particular course of rehabilitation or treatment if they believe their claim benefits depend on this. They could also feel pressured to return to work earlier than is appropriate.

The following principles must underpin any legal or other reforms in this area:

- **A person-centred approach** – It is critical that individuals have choice over their treatment. *beyondblue* believes that any approach should be person-led, not insurer-led. Although the Financial Services Council's proposed policy framework indicates that the person receiving treatment and their physician must provide consent, *beyondblue* believes that this is fundamentally a clinical decision which must be initiated by a person in consultation with their general practitioner or medical specialist. Once the appropriate treatment, psychosocial support or rehabilitation is identified, the doctor and/or person can then apply to the insurer for the appropriate payment. Reforms must also preserve individual financial autonomy of the policy holder, to use benefits as they see fit. Therefore, medical, psychosocial and rehabilitation benefits must be in addition to existing claim benefits, rather than simply being carved out or deducted to go towards medical treatment.
- **Non-coercion** – An individual must never feel pressured to undertake particular treatment or rehabilitation therapy recommended by an insurer, due to fear of risking their disability insurance claim payments. Furthermore, an individual must not feel pressured to return to work earlier than is appropriate for their recovery.
- **Privacy and confidentiality of clinical records** – An individual's privacy must be respected, and their personal health information must be kept confidential. This means that the only information that should be shared between a clinician and the insurer is specific, targeted information relevant to assessing a claim.
- **Defined scope of insurer involvement** – If amendment of existing laws had the effect of not only allowing insurers to fund medical treatment and rehabilitation, but also become a provider of medical, psychosocial support and rehabilitation services, this could cause even greater conflict of interest, and further compromise privacy and confidentiality of clinical records. Any legal reform that would allow for an extension of the role of a life insurer into medical treatment and rehabilitation *service provision* would be concerning.
- **Effective, evidenced-based treatment and support** – For reforms to be successful in supporting people to recover from their illness and injury and return to work, the benefits provided by life insurers must support access to safe, effective, evidenced-based rehabilitation, psychosocial

support and medical treatment. Life insurers could look to the approaches taken under workers compensation schemes and adopt these for a life insurance context. For example, WorkCover Victoria and the Transport Accident Commission have worked with clinical and academic experts to develop a Clinical Framework with guiding principles to ensure the right care is delivered at the right time to individuals with a compensable injury.³ If the benefits that are payable by life insurers are expanded to include rehabilitation, psychosocial and medical treatment, this will require life insurers to ensure that claims management staff have appropriate skills and experience to support this expanded role.

Although the Financial Services Council have acknowledged some of the above principles in their proposed policy framework, they are only mentioned briefly and it is not clear how these will be implemented and enforced in practice.

The Committee's recent inquiry into the life insurance industry highlighted many issues, including grossly inadequate consumer protections, insufficient self-regulation, overly broad access to policy-holders' medical information and poor claims handling practices. These areas will be fundamental components of the successful implementation of an expanded role of life insurers in funding rehabilitation, psychosocial support and medical treatment. Therefore, *beyondblue* is not confident that the current culture, practices and regulation of the life insurance industry support robust consumer protection to ensure that the potential benefits are realised without inflicting harm.

beyondblue is willing to work with the Committee, government and industry to ensure that these fundamental components can be established as soon as possible, to deliver reform which benefits all Australians.

Yours sincerely

Georgie Harman
Chief Executive Officer

¹ The Australian Faculty of Occupational and Environmental Medicine (2015). *Realising the health benefits of work – an evidence update*. Accessed online 28 April 2018: <https://www.racp.edu.au/docs/default-source/advocacy-library/pa-health-benefits-of-work-evidence-update.pdf?sfvrsn=4>

² The Royal College of Psychiatrists. *Is work good for your mental health?* Accessed online 28 April 2018: <https://www.rcpsych.ac.uk/usefulresources/workandmentalhealth/worker/isworkgoodforyou.aspx>

³ Transport Accident Commission and WorkSafe Victoria (2012). *Clinical Framework for the Delivery of Health Services*. Accessed online 29 April 2018: https://www.tac.vic.gov.au/_data/assets/pdf_file/0010/27595/clinical-framework-single.pdf