Motor Accident Injuries Scheme

Information Booklet – Defined Benefits

ACT Government

Motor Accident Injuries Commission

Acknowledgement of Country

The MAI Commission acknowledges the Ngunnawal people as traditional custodians of the ACT and recognise any other people or families with connection to the lands of the ACT and region.

We respect the Aboriginal and Torres Strait Islander people, particularly our Aboriginal and Torres Strait Islander staff, and their continuing culture and contribution they make to the Canberra region and the life of our city.

Produced by the MAI Commission. Enquiries about this publication should be directed to the MAI Commission

GPO Box 158, Canberra City 2601
act.gov.au
Telephone: Access Canberra – 13 22 81 or MAI Commission 6207 8876.

The ACT is a diverse community, enriched by people from a wide range of cultural, linguistic and social backgrounds, including people living with disability. This diversity is recognised as a strength.

The ACT Government is committed to making its information, services, events and venues as accessible as possible.

If you are deaf, or have a hearing or speech impairment, and need the telephone typewriter (TTY) service, please phone 13 36 77 and ask for 13 22 81.

For speak and listen users, please phone 1300 555 727.

For more information on these services, contact us through the National Relay Service: www.accesshub.gov.au.

If English is not your first language and you require a translating and interpreting service, please telephone Access Canberra on 13 22 81.

Feedback on the booklet

The MAI Commission welcomes feedback on the booklet. You can email us at maic@act.gov.au or call 6207 8876.

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Introduction

The Motor Accident Injuries Scheme

The Motor Accident Injuries (MAI) Scheme supports people injured in a motor accident in the ACT. Support is available no matter who is at fault. The MAI Scheme is part of registering your car in the ACT. This means all registered vehicles have MAI insurance. The MAI Commission is the government body that oversees the MAI Scheme.

The MAI Scheme is privately underwritten. Insurance companies use the funds from premiums to pay for supports. The ACT Government has approved four insurers– AAMI, APIA, GIO and NRMA. They are known as an "MAI insurer".

You need to make an application to an MAI insurer for support. This is usually the insurer of the vehicle that is at fault. Insurers give support when they accept an application, as required by law. A default insurer, the Nominal Defendant, provides support if there is no MAI insurance on the vehicle.

About the Information Booklet

This booklet gives you and your family information about the MAI Scheme. It explains how to apply and what supports are available. It also gives tips for managing your application. MAI Scheme supports are called Defined Benefits. The supports explained in this booklet are Treatment and Care Benefits, Income Replacement Benefits and Quality of Life Benefits.

Treatment and Care Benefits

Income Replacement Benefits

Quality of Life Benefits

The MAI Scheme also provides support if a loved one dies from a motor accident and a way to take legal action in some situations (called a 'common law claim' or 'motor accident claim'). There is a separate booklet for this information.

Funeral or Dependant Benefits

Common Law Claims

You can find more resources, application forms, and contact information for insurers on the MAI Commissioner's website: www.treasury.act.gov.au/maic.

Defined Benefits Information Service (DBIS)

The Defined Benefits Information Service (DBIS) is a free service. They give information, some legal advice and support to people about the MAI Scheme. This includes access to a social worker.

The DBIS cannot represent you in the ACT Civil and Administrative Tribunal (ACAT) or the Court. There are limitations on advice they can give about workers compensation, employment law, income protection, and common law claims. However, they can refer you to the right services and supports.

Contact the Free DBIS

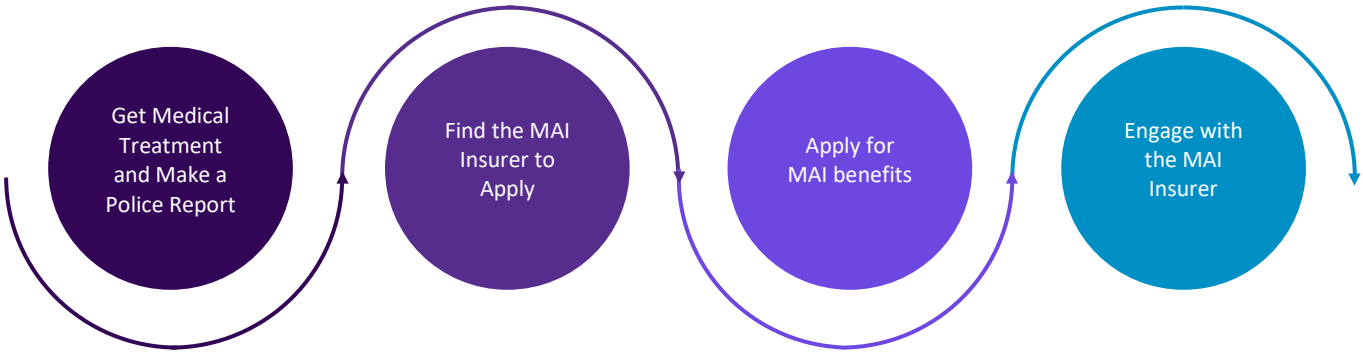
Available 9am – 5pm weekdays

Phone number:
1300 209 642

Email address:
DBIS@carefcs.org

Applying for Defined Benefits

Applying for benefits is how you get MAI support.



Accessing medical treatment

If you are injured, it is important to look after yourself. Get medical treatment early. If you need to see treatment providers such as a physiotherapist, do so. There will be a cost involved but you can seek money back from the insurer.

If you can't afford to pay upfront for your treatment, talk to your treatment provider. You can also talk to the MAI insurer about options.

The insurer may ask you to put in an application even if you do not have all the information ready. This is so they can help you more. They will explain any limits to the number of treatments you can have while the paperwork is being assessed.

Make a Police Report

You must report the motor accident to the Police. You can do this online. See police.act.gov.au.

Record the police online reference or keep the police incident number if the police attended. You give this to the insurer on the application form.

Finding the correct MAI insurer

If you know the number plate of the vehicle that caused the accident, you apply to their MAI insurer. You can search for the insurer.

The Nominal Defendant will help if the motor accident happened in the ACT but the vehicle is unknown or the vehicle was unregistered.

How to search?

For an accident in the ACT with an ACT number plate – search for the MAI insurer on the Access Canberra website or call Access Canberra on 13 22 81.

Non-ACT number plate – visit the road transport website for the place the vehicle came from to find the insurer. For NSW vehicles, you can look up the insurer on the Service NSW website.

If you need help, contact the free Defined Benefit Information Service.

Find the details of ACT MAI insurers and the Nominal Defendant at: www.act.gov.au/maic.

If the accident happened on a road outside of the ACT, you need to apply for support in the place where the accident happened. For a NSW accident, contact the State Insurance Regulatory Authority for more information.

How to apply

To apply for support, you need to complete the Personal Injuries Application form and have your doctor complete the Medical Report form. You can find these forms on our website.

Together, these forms allow an insurer to progress your application. The insurer will contact you to let you know if anything is missing. You can include initial medical receipts with the forms.

If you were injured while on work related trip, you may be able to make a workers compensation claim. Let the insurer know if you plan to lodge a workers compensation claim for your motor accident. You cannot be paid by two schemes at the same time. You will need to decide which scheme to receive payment from within 13 weeks of the accident.

Insurer processes

Once the insurer has everything they need, they will acknowledge receipt of the complete application within 5 business days. The receipt notice is not an acceptance of your application.

The insurer has 28 days after they send you the receipt notice to tell you whether your application has been accepted or denied.

The insurer needs time to make sure they are the correct insurer and that the injuries are because of the motor accident. They will use this time to assess your application.

If the insurer thinks they are not the correct insurer, they will continue to manage your application until it is transferred. They will let you know of the new insurer's details once this happens.

It is rare for an insurer to deny an application. An insurer must tell you in writing why they are not accepting your application. This can include the injuries were not from the motor accident.

You can ask for their decision to be reviewed if you do not agree. More information is provided later in the booklet, *Disagreeing with an insurer's decision*.

On accepting your application, the insurer will let you know about available support and how they will manage your application.

What if I have missed work?

More information is provided later in this booklet, *Income Support*.

If you want to read more:

Motor Accident Injuries (Defined Benefits Application) Guidelines

Defined Benefits Forms

Your Responsibilities

You should:

- ✓ Get medical treatment as soon as possible.
- ✓ Report the motor accident to the police.
- ✓ Find the correct MAI Insurer.
- ✓ Complete the Personal Injuries Application form and have your doctor complete the medical report form.
- ✓ Lodge the MAI application.

You do **not**:

- × Need to see a lawyer or sue anyone to get support for your injuries.

Need Help?

Contact the free Defined Benefit Information Service if you need help on 1300 209 642 or by email DBIS@carefcs.org.

Treatment and Care

Helping you recover from your injuries is the focus of the MAI Scheme.

To make this happen as early as possible, the MAI insurer will pay for treatment and care that is reasonable and necessary for recovery.

Treatment and Care defined benefits are available for up to five years.

Types of treatment and care

Your treatment and care needs are specific to your injuries from the motor accident. Usually, your doctor or treating team recommend something they think will help you recover.

Common types of treatment and care include:

- medical treatment (GPs and specialists)
- medicines and pharmaceuticals
- rehabilitation services
- aids and appliances (for example walking sticks, crutches, or wheelchairs)
- respite care
- travel expenses for getting treatment and care
- dental treatment
- paid attendant care services (for example home help, domestic services, and nursing)
- home and transport modifications
- treatment for mental health needs.

If you were caring for someone (e.g. you are a parent or carer), the MAI insurer may also pay for their care.

'Reasonable and necessary' treatment and care

To approve treatment and care an MAI insurer will decide whether it is reasonable and necessary. Part of this is whether it is helpful for you or provided by a person with the right training.

The insurer must consider what will give you the best outcome. For treatment and care to be reasonable and necessary, it should:

- help you recover
- be effective or of benefit to your recovery
- be related to your motor accident injuries
- help you reach your recovery plan goals
- be good value for money.

The insurer has 10 business days to consider a request. If you need an earlier decision, tell the insurer.

Sometimes the insurer may reject a treatment and care request. They must give you reasons when they reject a request.

The insurer may question costs if there is not enough information in the request. Ask your doctor to explain how the request relates to your injuries and will help you recover.

The insurer may ask about other supports you have. This is to make sure what they are approving is right for you.

On-going treatment and care requests will be considered when they help your recovery. There should be evidence that the request is relevant and helping you improve.

Recovery Plans

You may need a recovery plan. The MAI insurer must give you a recovery plan if you still need treatment 28 days after your motor accident.

A recovery plan documents your approved treatment, recovery goals, and the support you need to achieve your goals.

You can have treatment approved outside of a recovery plan.

The insurer will use your Medical Report to write a draft plan. They may also use a hospital discharge report or other sources.

The insurer will send the draft plan to you and your doctor. Read the plan carefully and discuss it with your doctor. By sharing your comments with the insurer, you can make sure the recovery plan meets your needs.

If you agree with the plan, tell the insurer that you accept the plan. If you don't agree or think there is something missing, raise this with the insurer.

The insurer will consider your comments and provide you with an updated plan. They must explain why something you told them is not in the plan.

The recovery plan must be reviewed by the insurer every 13 weeks. This is so they can assess your recovery. The insurer does not have to change the plan. If there are changes, they will send you a new draft plan.

Decisions by the insurer

The insurer must tell you why they will not accept a treatment and care request in writing. You can ask for the decision to be reviewed if you do not agree.

More information is provided in the booklet, *Disagreeing with an insurer's decision*.

If you want to read more:

Motor Accident Injuries (Treatment and Care) Guidelines

Your Responsibilities

- ✓ Go to medical appointments and follow doctor advice.
- ✓ Ask your doctor to include details about how requests relate to your injuries and will help recovery.
- ✓ Talk to your doctor about your recovery plan and raise any concerns with the MAI insurer.
- ✓ Engage with the MAI insurer.

Need Help?

Contact the free Defined Benefit Information Service if you need help on 1300 209 642 or by email DBIS@carefcs.org.

Income Support

You may not be able to work at your full capacity right away after an accident. Income support helps you focus on recovery.

Income support is called *Income Replacement Benefit*. The payment is based on your ability to work. It can be paid for up to five years after the accident, if needed.

Eligibility for income support

If you miss paid work because of your injuries, including if you are self-employed, you can apply for income support.

You may be eligible if you were capable of being in paid work at the time of the accident.

The insurer will consider your recent work history, new work or business arrangements, expected return to work dates for unpaid leave or workers compensation, and prospective work arrangements.

You may need to show you worked at least 260 hours in the 52 weeks before the motor accident. This includes casual work with more than one employer.

Sick leave

If you cannot work, tell your employer so they can support you. If you can, apply for sick and carers leave from your employer.

You can ask your insurer to pay your employer back for your paid leave. You need to make this choice before getting income support.

> Asking the insurer to pay your employer for your leave is your choice. Your employer **cannot** ask you to do this.

You may not get all your income replaced or sick leave paid back through the MAI Scheme.

How to apply

You apply for income support through the Personal Injuries Application form. You can find this form on our website.

You will also need to give the insurer on an ongoing basis:

- a fitness for work certificate from your doctor and
- a work declaration.

Your doctor completes the first fitness for work certificate with the Medical Report form.

The insurer may ask you for more information to confirm your work and pay arrangements before the accident.

If you work as an employee (including casuals) this could include:

- a PAYG summary
- recent payslips or
- an employment contract.

You can give authority to the insurer to contact your employer.

If you are self-employed, you will usually need the last tax return for your business. The insurer will work out the income you may lose through not being able to work.

Tell the insurer if your work or pay changed a lot in the last 52 weeks, so it can be considered.

How you will be paid

Income support is paid fortnightly. It may not line up with your usual pay day. Payments are worked out from the accident date, even if this was not the first day you missed work.

If you apply within 13 weeks of the motor accident, you can be back paid to the date of the accident.

If you apply after 13 weeks, talk to the insurer about your situation. The insurer can back pay up to four weeks, or longer in exceptional circumstances.

The insurer may offer you an interim payment while they work out how much you should be paid. The interim payment is paid at a set amount. Once the insurer works out your total pay, they may backpay any extra outstanding amounts. You can ask for a lower amount, if appropriate.

Amount of pay

Calculating income support is complex. Some payments are not included in calculations, such as superannuation, redundancy, and some irregular contracted tasks.

This is general information. If you want to understand your payments, you should ask the insurer or reach out to the free Defined Benefit Information Service.

The payments you get are a percentage of your weekly income. You will get a different percentage based on how much you earn.

Weekly pay thresholds	First 13 weeks from date of accident	14 weeks up to 5 years
Below $100 (AWE indexed)	100%	100%
$100 - $800 (AWE indexed)	100% plus SG	100% plus SG
$800 - $1,000 (AWE indexed)	95%	95%
$1,000 and above up to $2,250 cap (AWE indexed)	95%	80%

SG – Superannuation Guarantee percentage at time of the accident.

Weekly thresholds are adjusted on 1 April and 1 October each year based on Average Weekly Earnings (AWE) indexation. Information about AWE indexation can be found on our website. The insurer may wait until the first day of the next week to apply an adjustment.

Most people will get 95 per cent of their pay replaced for the first 13 weeks after an accident, then 80 per cent afterwards.

A low-income earner will receive 100% of their pay plus an extra amount that reflects the Superannuation Guarantee.

There is a cap on the amount of pay which can be considered. This cap applies weekly and may affect your payments.

If you can do some work, the pay you get from that work will be considered when calculating your payments.

Calculation of payment amounts

The MAI insurer works out payments each week using a formula.

The formula is: (P-A) x N.

Where: P is pay before the accident.

A is pay from any work after the accident.

N is the proportion of pay to be replaced.

Return to work

If your ability to work changes, let the insurer know. You will need to give them a new fitness for work certificate. You may be asked to give a log of any hours you work.

If you return to work, or have capacity to work, your payments may be lowered or stopped. Appointments at this point cannot be covered by income support. You may need to rely on sick leave to cover work absences.

The insurer will work with you when making decisions about your capacity to work. They can take into account whether paid work is possible. For example, paid work which you are reasonably suited to because of your training and education.

The paid work does not need to be the same job you were in before the accident.

Example 1 – Low-income Earner – Casual Employee

Jack is a full-time university student. He works as a casual retail assistant most weekends. He is injured in a motor accident on Wednesday, 18 March 2020. His doctor gives him a fitness for work certificate the following day saying he is unfit for work or study from 19/3/2020 until 22/3/2020.

Jack's payslips show his pay before the accident was $420 per week. The payslips also show his employer was paying him superannuation before the accident. The SG charge rate for the 2019-20 financial year was 9.5 per cent.

Week Commencing	A	P*	P-A	N**	Payment
18-Mar	0	420	420	1.095	459.9

*Jack's weekly pay before the accident (P) is more that than $100 AWE indexed but less than $800 AWE indexed. He can get an extra amount for superannuation.
**N includes the SG charge rate of 9.5% for the 2019-20 year. This means Jack gets all his pay replaced plus the extra superannuation amount.

Example 2 – High Income Earner – Phased return to Work

Stella is a Computer Systems Analyst. She is injured in a motor accident on her way to work on Monday the 24 February 2020. Her pay before the accident was $3,000 per week. Stella usually works Monday to Friday for 37.5 hours per week. Stella provides her insurer with four fitness for work certificates from her doctor as follows:

- Stella is unfit for work from 24/2/2020 until 1/3/2020.
- Stella is fit to work for 15 hours per week, from 2/3/2020 to 8/3/2020.
- Stella is fit to work for 25 hours per week, from 9/3/2020 to 17/3/2020.
- Stella is fit to work from 18/3/2020.

Week Commencing	Hours worked	Hourly rate*	A	P	P-A	N	Payment
24-Feb	0	80	0	2250	2250	0.95	2137.5
02-Mar	15	80	1200	2250	1050	0.95	997.5
09-Mar	25	80	2000	2250	250	0.95	237.5
16-Mar	32.5**	80	2600	2250	0***	0.95	0

* Stella's hourly rate is based on her actual weekly pay before the accident rather than the capped amount of (P) $2,250 AWE indexed.
** This is based on Stella working 5 hours on the 16th and 17th of March then 7.5 hours per day on the 18th, 19thand 20th of March.
*** If A is greater than or equal to P then the payment amount is zero

Taxation

The insurer may ask you to complete a Tax File Number (TFN) Declaration.

Giving a TFN is optional. If you do not give a TFN, insurer must calculate and withhold the top tax rate when making payments. This will mean you will receive less in the payment. You may be able to claim some tax back at tax time.

As a Payer, the insurer must submit all payment information to the Australian Taxation Office. You will generally get an Income Statement or Payment Summary by mid-July each year. The insurer will tell you their process for this.

This is general information. If you need more information, talk with your accountant or contact the Australian Taxation Office.

Decisions by Insurers

An insurer must write to you and tell you:

- the amount of income support you will receive
- any changes relating to your support
- decisions about your capacity to work.

You can ask for a decision to be reviewed if you do not agree. More information is provided later in the booklet, *Disagreeing with an insurer's decision*.

If you want to read more:

Motor Accident Injuries (Income Replacement Benefit) Guidelines

Your Responsibilities

- ✓ It's okay to apply for sick leave from your employer.
- ✓ Give the insurer a fitness for work certificate.
- ✓ Give the insurer a work declaration.
- ✓ Confirm your work and pay arrangements with the insurer.
- ✓ Update the insurer if anything changes.

Need Help?

Contact the free Defined Benefit Information Service if you need help on 1300 209 642 or by email DBIS@carefcs.org.

Quality of Life

The Quality of Life (QoL) benefit is a one-off payment for permanent impairment caused by a motor accident.

Not everyone with a permanent impairment will get a QoL payment. If you get a QoL payment, it will **not** affect your access to other supports.

Permanent Impairment

Injuries that have resulted in a loss of function that may continue long-term. Permanent impairment severity is shown as a percentage of Whole Person Impairment (WPI).

Whole Person Impairment (WPI) assessment

The assessment that decides the amount of permanent impairment from your motor accident injuries.

Independent Medical Examiner (IME) Provider

Providers appointed by the MAI Commission to select the independent medical examiners that do WPI assessments.

How to apply for QoL Benefit

You apply using the Quality of Life Benefit Application form. You can find this form on our website. You must wait 26 weeks before applying. This is to make sure you have the most opportunity for treatment.

You can apply when your injuries have stabilised (need little to no treatment). You must be likely to have a permanent impairment.

The MAI insurer will assess if you are likely to qualify for a QoL payment. They will give you information when the minimum period is approaching. Not everyone who applies will receive a payment.

You must apply for the payment before 4 years and 6 months after the accident.

Processing the QoL application

The insurer will consider if your injuries are permanent and stable. Keep in mind:

- most injuries get better with treatment
- not all injuries will be assessed as permanent impairments
- not all permanent impairments reach the threshold for payment.

The MAI insurer has 20 business days to consider your application. They will collect information and review the injuries listed on the form.

If you do not meet time restrictions or are not yet stable, the insurer will explain the next steps. You can ask for your application to be reconsidered once you finish more treatment.

If you disagree with the insurer about stability, you can tell them you want to continue. You may need to make a payment for the assessment. This payment will be refunded if you have a permanent impairment of 1 per cent or more.

The MAI insurer cannot process an application:

- if you have been charged with a serious driving offence.
- when a foreign national has left Australia.

For your application to be processed, you will need to complete a WPI assessment. Your eligibility for a QoL payment depends on the outcome of the WPI assessment.

WPI assessments

WPI assessments are done by medical specialists with appropriate expertise. The insurer pays for the assessment.

It is an independent process. Neither you nor the MAI insurer can choose the assessor. The IME Provider chooses the assessor impartially.

The law outlines processes to make the QoL application and WPI assessment independent and fair. This includes guidelines to assess permanent impairments in a consistent way.

You can only get a QoL payment if you meet the legal requirements. An injury may have an impact on your life but not be a permanent impairment or reach the threshold for payment.

Referral for a WPI assessment

The insurer will prepare a WPI Referral Form. This form lists what will be assessed and information that will be given to the IME Provider. This information will also be given to the assessor. It will help them understand your condition and treatment.

Read the referral form carefully. It should list all relevant injuries. If something is missing, let the insurer know.

Once ready the referral will go to the IME Provider to select the assessor.

What to expect from a WPI assessment

The IME Provider will contact you to arrange your assessment. Depending on your injuries, you may need multiple appointments.

There are separate assessments for physical injuries (including secondary psychological injuries) and primary psychological injuries.

The Independent Medical Examiner will give a report to the insurer. If you have multiple injuries there could be multiple reports. When the insurer has all the reports, they will consider a QoL offer if you meet the requirements for payment.

The QoL payment offer is based on the WPI assessment percentage reported. An injury can affect your daily life but still not meet the threshold for a QoL payment.

You must have a WPI of 5 per cent or more to get a QoL payment. The amount offered increases as your WPI percentage increases. The amounts are adjusted each year and can be found on the MAI Commission website.

What if I disagree with the initial QoL offer made by the insurer?

If your WPI is over 10 per cent and you were not at fault for the accident, you can tell the insurer you do not accept the QoL payment.

You can make a common law claim for the QoL instead. You cannot get both a QoL payment and make a common law claim for loss of QoL. Information about common law claims is in a separate booklet (Motor Accident Injuries Scheme Information Booklet – Death Benefits and Common Law Claims).

If your WPI is less than 10 per cent and you think it doesn't reflect your impairment, you can tell the insurer that you do not agree. The offer letter will tell you the next steps.

You can get your own assessment. This is a Second WPI report. A second assessment does not guarantee a higher WPI percentage or different offer. You will need to pay for this assessment. Assessments may cost more than $5,000.00. Confirm the cost before continuing.

You will need to be assessed by an appropriately trained medical examiner. The assessor must use the ACT WPI Guidelines.

The IME Provider can help you find an assessor. However, any appointment booked will be with a Private Medical Examiner.

Make sure the report says how you were assessed and gives a WPI percentage. Send the report to the insurer within the timeframe in their letter (26 weeks from the date of offer).

The insurer will review the report. This includes checking it was validly done. The insurer can give the Second WPI report to the original Independent Medical Examiner for comment.

The original Independent Medical Examiner can respond by either affirming or increasing their assessment if supported by evidence. If they increase the percentage, the insurer must use that to make their Final Offer.

What if I disagree with the Final QoL Offer?

A QoL offer cannot be negotiated by either party. If you disagree with the Final Offer, you can dispute this through the ACT Civil and Administrative Tribunal (ACAT).

Future Medical Treatment payment

If you have a whole person impairment below 10 per cent and were not at fault for the motor accident, you may be eligible for a future medical treatment payment.

To be eligible, you must have had medical treatment at least monthly since year two of your defined benefit application.

You should apply when it is 4 years and 6 months after the accident. You cannot apply later than 5 years after the accident. Write to the insurer to ask for the payment.

The insurer will calculate your payment based on treatment during the 6 months following the four-year anniversary. They must let you know the amount and how it was worked out.

You can agree to the payment or negotiate it. You can give more medical information when negotiating.

If you cannot agree, ACAT can be asked to decide the payment. You or the insurer can apply to ACAT for a decision. See ACAT's website for more information on this process.

The insurer must continue to pay treatment costs until 5 years after the accident.

If you want to read more:

Motor Accident Injuries (Quality of Life Benefit) Guidelines

Motor Accident Injuries (WPI Assessment) Guidelines

Defined Benefits Forms

Your Responsibilities

- ✓ Apply for the QoL payment when your injuries are stable.
- ✓ Apply for QoL no later than 4 years and 6 months after the accident.
- ✓ Apply for the future medical treatment payment between 4 years and 6 months and 5 years after the accident.
- ✓ Make sure all relevant and permanent injuries are listed on the WPI assessment referral form.
- ✓ Engage with the IME provider and attend the WPI assessments.

Need Help?

Contact the free Defined Benefit Information Service if you need help on 1300 209 642 or by email DBIS@carefcs.org.

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Disagreeing with an insurer's decision

If you disagree with an insurer's decision, there are steps you can take.

The insurer must tell you how you can raise concerns about a decision. This may include talking to the claim consultant, making a complaint, or applying for internal review. After an internal review, you can apply for an external review.

If you are unsure, ask the insurer for information or get advice from the free Defined Benefit Information Service (DBIS).

Insurer decisions

The MAI insurer will make decisions about your application. These include accepting your application, approving treatment and care, and calculating your income support.

The insurer must tell you the outcome of any decisions. They can do this verbally or in writing. They must tell you the reasons for the decision and how to ask for a review.

What to do if you disagree

You should first raise your concerns with the insurer. It may be that a simple error has been made, like a piece of information was overlooked. Explain why you do not agree with a decision. Give enough detail for the insurer to understand your concern.

If you cannot contact the insurer by phone, follow up with an email to ask for a call back. The insurer must record your concern.

An insurer may handle your concern as a complaint. Each insurer has their own process for complaints.

You can also ask for a formal review, known as an "internal review". An internal review is free.

You will see some of these terms:

Internally reviewable decision

A decision made by the MAI insurer that you can ask them to review.

Internal Review

A review by a person employed by the MAI insurer who was not involved in the original decision.

Externally reviewable decision

A decision that you can ask to be reviewed by the ACT Civil and Administrative Tribunal (ACAT).

External Review

The process of ACAT reviewing the decision and assessing whether the decision was properly made.

Outcomes used in Internal and External Review decisions

Affirm – no change to the decision.

Amend – a small change to the decision.

Set aside – the decision is no longer valid.

Substitute – puts in place a different decision.

Asking for an internal review

When the insurer makes a decision about your application, they must tell you if the decision is an *internally reviewable decision.*

Most, but not all, decisions made by insurers are *internally reviewable decisions.* Examples include when the insurer has rejected your application or a request for certain benefits.

To ask for a review:

- Write to the insurer within 28 days of the decision
- Explain that you want a review and why.

An insurer can accept a verbal request. They will confirm your request in writing.

Internal review processes

When you request an internal review, the insurer has 10 business days to review their decision.

The reviewer will contact you about your request and explain the process. You can let them know if you want to give more information. They can also ask for more information to help their review.

The insurer can delay the review until they get the information. You will need to agree to the delay and the last day to give the information.

The insurer must give you an internal review notice about the review findings. This notice will tell you the outcome of the review. It may confirm the decision or make a new decision.

If you still do not agree, you can apply for an external review. The reviewer will tell you how to do this.

Applying for an external review

Most, but not all, of the decisions insurers make about your application can be reviewed by ACAT after an internal review.

You will need to explain why you think a different decision should be made. Describe the questions of law or fact that you want ACAT to review.

You must apply for external review within 28 days after:

- the day the internal review notice is given to you, or
- you become aware of the insurer's decision (if no internal review notice is given to you), or

- the date the decision should have been made (if the insurer does not make a decision).

Your application will be managed by ACAT. They will write to you about the process and the dates for you to attend the tribunal.

See ACAT's website for the application form and more information.

Legal advice

ACAT is a tribunal with formal processes. ACAT can answer process questions but cannot give legal advice.

The DBIS can give some legal advice but cannot represent you or help prepare your application.

You can apply for an external review yourself or ask a lawyer for help. The lawyer may represent you before ACAT. You will need to agree on the fees they charge.

Cost of an external review

There is an application fee to apply for an external review. There may also be other fees, such as hearing fees.

You may be able to apply to ACAT for a Costs Order for some legal costs to be paid for by the insurer. There may be limits on the amount and the kind of costs that ACAT can order the insurer to pay.

See ACAT's website for more information on the fees, fee exemptions or waivers for fees.

Making a complaint to the MAI Commission

The MAI Commission can look at the actions of a licensed insurer in relation to the handling of your application, including any complaint you made to them.

More information on making a complaint is on our website.

If you want to read more:

Motor Accident Injuries (Internal Review) Guidelines

Your Responsibilities

- ✓ Raise concerns with your insurer.
- ✓ Give enough information so your insurer can understand your concerns.
- ✓ Engage with internal and external review processes when applicable.
- ✓ Know that external reviews have fees.

Need Help?

Contact the free Defined Benefit Information Service if you need help on 1300 209 642 or by email DBIS@carefcs.org.

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Tips for managing your application

If you have a question, contact the MAI Insurer or the free Defined Benefits Information Service.

Managing your time and papers

The MAI insurer or Nominal Defendant will usually contact you by email or phone.

Think about how you would like the insurer to talk with you. Let them know the best time during business hours to be contacted.

Set up a folder to help you organise your documents and the actions you need to take. This can be electronic or physical.

The front of your folder could have your name, injury date, insurer contact information, and your application number. For privacy, you should not include personal information (date of birth, personal phone number) on the outside.

Correspondence

Keep copies of any letters or notices. These letters might include:

- Copies of your Personal Injuries Application and Medical Report
- Your receipt notice from the insurer, including your application number
- Contact information for the insurer, treatment providers and any other providers
- All correspondence to and from the insurer
- Any other correspondence or notices

Calendar

Use a calendar to keep track of your appointments.

Your medical appointments should be on your calendar. This will help you remember events following your motor accident.

Track dates you agreed to contact the Insurer and dates they agreed to contact you.

Medical Care and Payment

Keep track of your proposed medical diagnoses and treatments.

After accepting your application, the insurer will often arrange to direct bill your treatment providers. Some treatment providers may not want to be paid this way. You may have to seek reimbursement from the insurer for payments you make.

Keep copies of medical bills from hospitals, doctors, therapists, and other medical care providers.

You can use a log sheet to help you track your medical care. For example:

Doctor/Facility	Medical information	Date

You can use this log for accounts you send to the insurer for payment. This may include medicine you pay for or parking fees for medical appointments. Match these records to payments you get back from the insurer.

Medical Records and Reports

Medical records show your injuries and treatment. Your medical records connect your injuries to the motor accident and prove the need for your health care costs.

Keep copies of reports that you or the insurer get about your treatment. This may include Recovery Plans and Independent Medical Examination reports.

Income and Wage

Keep records of the income and wage information you give the insurer. Track time you took off work because of your injuries. Keep copies of doctor's certificates explaining why you couldn't work.

Most people will not get all their income replaced. This information may be useful if you later make a common law claim.

Documents for an employed person:

- Payslips or PAYG summary/tax return

Documents for a self-employed worker:

- Profit and loss statements
- Past year tax returns

Accident Reports and Witnesses

Keep a copy of the report you made to the police about the accident and information from the police. You can also record information on witnesses who may have seen the accident.

Photographs and Video Evidence

Keep any photos or videos from the motor accident or of your injuries. Save digital copies in a safe location. Make sure any hard copies are printed in colour using good quality paper.

Never change or enhance photo and video evidence, even if you're only trying to make it bigger or clearer.

Written Notes

You may want to keep notes about your application.

Good notes remind you what was said during phone calls, track the progress of your application and provide context as you manage treatment for your injuries.

Keep a diary. Include dated entries describing your activities every few days, how things are improving or whether something is holding you back.

You can also make a note each time you speak with the insurer, a medical provider, employer, or anyone else related to the incident.