

Australian Capital Territory

Motor Accident Injuries (Significant Occupational Impact Assessment Referral) Guidelines 2023

Disallowable instrument DI2023–313

made under the

Motor Accident Injuries Act 2019, section 487 (MAI guidelines)

1 Name of the instrument

This instrument is the *Motor Accident Injuries (Significant Occupational Impact Assessment Referral) Guidelines 2023*.

2 Commencement

This instrument commences on the day after its notification.

3 Guidelines

I make the guidelines attached to this instrument.

Nicola Clark

MAI Commissioner
MAI Commission

15 December 2023

Significant Occupational Impact Assessment Referral Guidelines

Contents

1. INTRODUCTION	1
2. STATUTORY FRAMEWORK	1
3. GUIDELINES – Arranging an assessment (subsection 210 (3))	1
4. INFORMATION AND SUPPORT	5
APPENDIX 1 - Information to be provided for a SOI Assessment	6

1. INTRODUCTION

- 1.1 The Significant Occupational Impact (SOI) referral guidelines are part of the Motor Accident Injuries (MAI) Guidelines made under section 487 of the *Motor Accident Injuries Act 2019* (MAI Act). The purpose of the guidelines is to make provision for the procedures to be adopted by relevant insurers in arranging a SOI assessment of an injured person and providing information to a person with an injury with a significant occupational impairment.
- 1.2 Specifically, the guidelines set out an insurer's obligations in obtaining consent and providing information and support to an injured person when referring them for a SOI assessment, the procedures to be followed when arranging a referral for a SOI assessment, and the information that should accompany a SOI assessment referral.

2. STATUTORY FRAMEWORK

- 2.2 Part 3.2 of the MAI Act requires an insurer to refer a person injured in a motor accident to an authorised Independent Medical Examiner (IME) provider for a SOI assessment if conditions set out in section 209(1) of the MAI Act apply. These are:
- a) the person is receiving income replacement benefits or because of circumstances prescribed by regulation would have been eligible to receive income replacement benefits; and
 - b) the person has made a quality of life benefits application and their Whole Person Impairment (WPI) has been assessed as less than 10 per cent.; and
 - c) the person has not been previously referred for a SOI assessment; and
 - d) 4 years and six months has passed since the motor accident; and
 - e) the person consents to the referral.
- 2.3 An IME provider must arrange for a SOI assessment to be carried out by one or more suitably qualified and experienced assessors who are trained as required and in accordance with the SOI Assessment Guidelines. Section 210(3) of the MAI Act enables the MAI guidelines to make provision in relation to the procedure for arranging the SOI assessment including:
- a) selecting an IME provider;
 - b) the time within which the assessment must be arranged; and
 - c) arrangements for the payment of the assessment.

3. GUIDELINES – Arranging an assessment (subsection 210 (3))

These guidelines make provision for the procedures to be adopted in arranging a SOI assessment for an injured person for the purposes of subsection 210(3) of the MAI Act.

3.1 Information required to make a referral

- 3.1.1 An insurer must provide an information pack about a SOI assessment to an injured person who is likely to meet the conditions for a referral for a SOI assessment under section 209 of the MAI Act if the person was not at fault in the motor accident and not involved in a blameless motor accident and 4 years has passed since the date of the motor accident.
- 3.1.2 The information pack is to explain the purpose and eligibility requirements for the SOI assessment referral, how the assessment is to be carried out, and information regarding supporting documentation that the injured person will need to provide for an assessment. The pack must also include a consent form for a referral for a SOI assessment. The written consent may be given from 4 years after the motor accident.

3.2. Time frames for assessments

- 3.2.1 An insurer must make a referral to an authorised IME provider as soon as practicable once 4 years and 6 months has passed since the date of the motor accident. The insurer should be satisfied the person meets the conditions for a SOI assessment under section 209(1) of the MAI Act, and that the person has given their written consent to the insurer for the referral to be made. The insurer may delay making a referral until they have information relevant to the assessment in their possession including updated information about an injured person's education, training, and vocational and other claims history. Appendix 1 includes a list of information to be provided for a SOI assessment.
- 3.2.2 Insurers should proactively gather information that will assist with the assessment and not wait until 4 years and 6 months has passed since the date of the accident prior to commencing gathering relevant reports and information. Preparation for a SOI assessment should run parallel to other claims management activities. This may necessitate updating or organising any missing supporting reports that are required for the SOI process. For example, an insurer may need to obtain a functional assessment of an injured person's work capacity prior to making a referral for an assessment.

3.3. Selecting an Independent Medical Examination (IME) provider

- 3.3.1 If the MAI Commission has authorised more than one IME provider to arrange Significant Occupational Impact assessments, the MAI insurer must put procedures in place to ensure that all authorised IME providers are allocated referrals from an insurer on an equal and sequential basis. For example, if there are two authorised IME providers an insurer should alternate referrals for any given injured person between the two providers. The exception to this is where the alternative approved IME provider operates in a location closer to where the injured person resides. An

insurer must keep a register of all referrals to authorised IME providers for SOI assessments.

3.4 Arranging appointments with an Independent Medical Examination (IME) provider

- 3.4.1 An insurer must prepare a written referral to an authorised IME provider. The referral is to detail the injury or injuries sustained from the motor accident that are to be considered for the purposes of the SOI assessment. If any primary or secondary psychological injury is to be considered the referral is to also include a diagnosis from a psychiatrist or clinical psychologist, and a history of mental health treatment for the injury.
- 3.4.2 The referral should indicate when an injured person is likely to be available for a clinical appointment and include details of any special needs, such as an interpreter service or access requirements, that need to be accommodated for the appointment. If the injured person has requested an accompanying person be present at the assessment the referral should include the name and role of this person and their relationship to the injured person in the referral. The insurer may arrange for the IME provider or assessor to consult directly with the injured person before confirming any appointment.
- 3.4.3 SOI Assessments should be conducted in person. The outcomes of a SOI assessment can be influenced by an assessors observations of a person's functional status and their aptitude for alternative work or training. For this reason, having the injured person present to be fully involved in the process is highly desirable. In exceptional circumstances and with the agreement of both parties this may be waived. For example, if an injured person with caring responsibilities would need to be away from their home for more than a day to attend the SOI assessment.
- 3.4.4 To meet the requirements in section 211(3) of the MAI Act, an insurer must give the authorised IME provider all information in their possession relevant to the assessment at least 10 business days before an appointment with an Independent Assessor. To streamline the assessment process this information should be given to the IME provider with the referral letter/form, at the time the referral is made. All documents should be appropriately indexed and organised in a manner to minimise file review times by the assessor. Reports and/or information to be provided for the SOI assessment where relevant are listed at Appendix 1.
- 3.4.5 An insurer must provide a copy of the referral letter/form including a list of all documents and other information relevant to the assessment they have given to the IME provider with the referral, to the injured person. This must occur at least five business days prior to the referral being sent to the IME provider. This will assist the injured person in meeting their obligations under section 211(2) of the MAI Act, to provide any other information they may have in their possession that is relevant to the assessment to the IME provider.
- 3.4.6 An injured person must be given at least 10 business days written notice of any clinical appointment with an assessor. This notice period may be reduced or waived

on agreement from the injured person and provided the insurer and injured person have already given the IME provider all information necessary to undertake the assessment.

- 3.4.7 The insurer is responsible for ensuring the appointment notice is given to the injured person and may make arrangements for the notice to be sent out by the IME provider on their behalf. The notice may be given by post or by electronic means. An assessor may contact the injured person prior to the appointment to discuss the nature of the assessment procedure and what the injured person could reasonably be expected to experience on the day.
- 3.4.8 The appointment notice must include the following information about a given appointment:
- a) the name, and qualifications of the assessor
 - b) the injury or injuries covered by the referral noting the appointment is for the purposes of assessing whether the injury/injuries have had a significant occupational impact on the person's ability to undertake employment and not for medical treatment
 - c) the date, time, and location of the appointment, contact details for the assessor's offices and appropriate travel directions or arrangements
 - d) the likely duration of the appointment
 - e) how to cancel the appointment
 - f) Information the injured person should bring to the appointment or give to the assessor prior to the appointment
 - g) arrangements for an accompanying person to be present during an appointment.
 - h) arrangements for paying travel expenses
 - i) how complaints can be made and how they will be handled.

3.5 Payment for the Significant Occupational Injury assessment

- 3.5.1 An insurer will be responsible for paying the IME provider for the cost of the SOI assessment. The IME provider will invoice in accordance with the fee schedule agreed by the Motor Accident Injuries Commission. The IME provider must be paid within 10 business days of the insurer receiving a properly completed SOI assessment report and invoice. An insurer must also pay the reasonable and necessary travel expenses for a person to attend the SOI assessment in accordance with the Treatment and Care Guidelines.
- 3.5.2 If an application for review of a SOI assessment report is made by an injured person with the ACT Civil and Administrative Tribunal (ACAT) to affirm or set aside the determination that the person's injuries do not have a SOI, the insurer must indemnify the IME provider for all costs incurred in relation to the review of the SOI assessment report.

4. INFORMATION AND SUPPORT

- 4.1.1 These guidelines make provision for the information and support an insurer is obliged to give a person that receives a notice under section 213 of the MAI Act (SOI report- injury has significant occupational impact) about making a motor accident claim for the purposes of paragraph 52(2)(h) of the MAI Act.
- 4.1.2 An insurer must include with a written notice given to an injured person under section 213 of the MAI Act the time frames for the injured person to lodge a notice of claim, and advice informing the injured person that they may also wish to seek legal advice as to whether to make a claim for damages.

APPENDIX 1 - Information to be provided for a SOI Assessment

Indicator	Documentation/information to be provided for a SOI Assessment	Check
Medical	Reports from treating doctors and specialists, IMEs, psychologists. Medical history, treatment, prognosis Other medical conditions impacting work capacity. Diagnosis and treatment history for any psychological injury A copy of any WPI reports in the insurer's possession.	
Functional	Most recent functional restrictions and capacity reports/certificates from treating doctor, specialist, IME, physiotherapist, occupational therapist, exercise physiologist. Recent reports or return-to-work plans/certificates from other schemes (income protection, WPI, workers compensation, NDIS, Centrelink)	
Occupation	Title, job description, location, and employer details of most recent work role prior to accident Type of work, duties performed, duration of any suitable duties program or unpaid work attempted during rehabilitation phase.	
Education	Educational history (year, institution, location) starting from secondary school to highest secondary/tertiary qualification.	
Training	Training history (year, institution, course name, location), mode of training (classroom, online, in-house, part-time, full-time) and qualifications gained. Details of licences or trade tickets relating to present and prior jobs - with a photo of each if possible. Note any post-accident training undertaken.	
Work History	Most recent Résumé and dates of each job, title, employer, location, tasks performed, type of work (paid, unpaid, full-time, part-time, casual, work experience, internship, self-employment, gig, freelance, online), and reason for leaving.	
Hobbies	Details of avocational hobbies and interests, such as memberships of clubs, organisations, church, sporting groups, online gaming, the arts.	
Transferable Skills	Information on retained skills relating to possible job options, such as customer service, process work, driving, IT skills.	
Other claims	Any past/current workers' compensation, motor vehicle accident claims/litigation, or current legal involvement. Any Centrelink benefits being paid. Any rehabilitation involvement in the past, including prior vocational assessment.	