

Challenging decisions made by the TAC

By Jeremy King and Harry Gill

In the past, it was often difficult for claimants to challenge decisions made by the TAC regarding entitlements to loss of earnings and medical and other like expenses. A claimant has 12 months to challenge any decision of the TAC. This period is non-extendable. You will need to obtain legal advice as soon as possible after TAC makes a decision.

Some examples of frequently challenged decisions of the TAC include:

1. Decisions regarding the amount of weekly compensation Claimants are entitled to.
2. Decisions regarding the amount of medical treatment the TAC will pay for. This includes a wide range of areas including dental treatment, osteopathic treatment, chiropractic treatment and in some cases, home and/or car modification.
3. Decisions regarding the amount of funding the TAC will contribute towards home help and other expenses.

The TAC often refuses to cover the entire cost of a claimant's medical treatment. The TAC has a schedule of fees which it uses to justify how much it will contribute towards a claimant's medical treatment. However, the TAC is not legally entitled to limit funding to its schedule. The law states that the TAC has to cover medical treatment which is "reasonable". Provided a claimant's medical practitioner states the cost of the treatment is "reasonable", the claimant should be entitled to have the complete amount of that medical treatment covered by the TAC.

Claimants will usually require legal assistance to ensure that entitlements are maximized. The TAC is required to pay some or all of the claimant's legal costs if the TAC decision is successfully challenged. Consequently, it has become economically viable for claimants to utilise legal services to challenge decisions, a course which would have been too expensive in the past. This applies especially to decisions of small financial significance which may have a significant impact on a claimant's life. For example, many clients of ours require physiotherapy services. When these services are terminated by the TAC, the claimant will often cease obtaining physiotherapy as they cannot afford the relatively small financial commitment.

This article contains general information only and is not provided as legal advice. Professional advice should be taken before any course of action is pursued, or any information here is relied upon. For advice about challenging decisions of the TAC contact our Injury Law Team comprising Harry Gill, Jodie Gerritsen, Henri Kauthen, Danielle Meyer or Nadia Fabris on 9890 3321.

