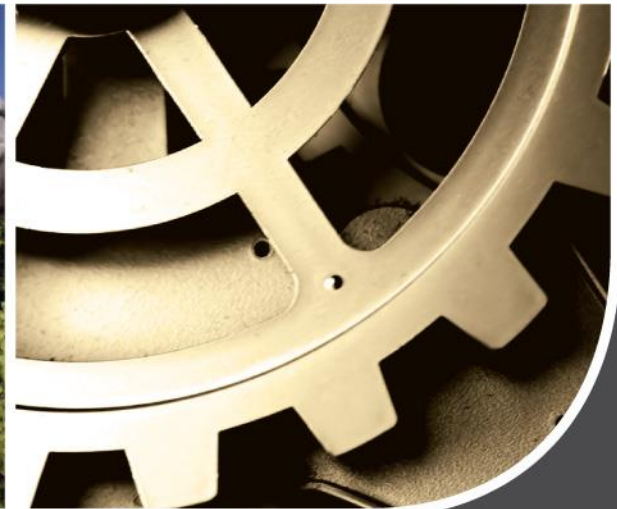


# THE COMPENSATION FUND

## DEPARTMENT OF EMPLOYMENT AND LABOUR RESPONSE TO ORAL REPRESENTATION ON THE COIDA AMENDMENT BILL

01 JUNE 2021



**employment & labour**  
Department:  
Employment and Labour  
REPUBLIC OF SOUTH AFRICA



# CONTENTS

- Socio Economic Impact Assessment Study and Consultation
- Performance of the Fund in fulfilment of its mandate
- CompEasy: Breakingdown myths and misconceptions
- Response to Section 73(4) Inputs
- Response on Proposals for inclusions/amendments



**SOCIO ECONOMIC IMPACT  
ASSESSMENT STUDY AND  
CONSULTATIONS ON THE COIDA  
AMENDMENT BILL**



# SOCIO-ECONOMIC IMPACT ASSESSMENT (SEIA) ON COIDA AMENDMENT BILL

- SEIA on any Government proposed Bill , Amendment Bill or Policy is an internal Government process conducted by Department of Planning, Monitoring and Evaluation (DPME) before the Bill can be tabled in any DGs cluster; and before the Cabinet can approve the Bill to be published for public comment or for tabling in Parliament.
- DPME has a Standard Template for SEIA, which each Department must complete on each Bill to enable the assessment and certification of the Bill by DPME.
- SEIA report/ certification is then included together with the Bill for tabling in both the relevant DGs Cluster and also in Cabinet before any approvals can be granted. There is **no legal requirement** to publish the SEIA report for public comment.
- In relation to the COIDA Amendment Bill – **SEIA was conducted twice:**
  - ✓ before the Bill was published for public comment in **September 2018**; and
  - ✓ Again, after incorporating in the Bill the public comments and NEDLAC Social Partners' comments, in **August 2019**.



# CONSULTATION PROCESS ON THE COIDA AMENDMENT BILL

- Consultations on the COIDA Amendment Bill were undertaken at various stages of the development of the Bill:
  - Internal Consultation within government
  - Public Comments after approval of the Bill by Cabinet
  - Consultation with the social partners at the National Economic Labour Council (NEDLAC) where business, organised labour and community is represented
  - Public Consultation in all provinces by the Department of Employment and Labour

# CONSULTATION PROCESS ON THE COIDA AMENDMENT BILL

- The following departments were consulted and their inputs taken into consideration when drafting the final Bill before submission to the Cabinet for the introduction of the Bill to Parliament: Department of Communication; Department of Telecommunications and Postal Services; Department of Traditional Affairs; Department of Woman; Department of Transport; Department of Employment and Labour; Department of Environmental Affairs; Department of Mineral Resources.
- Furthermore, Public Consultations were done in all Provinces.
- The Bill was debated at NEDLAC.
- The Directors- General Economic Cluster was also consulted on the final draft of the Bill which incorporates public comments.
- The Bill was submitted to the Office of the Chief State Law Adviser in keeping with the Cabinet decision of 18 March 2009.



**PERFORMANCE OF THE  
COMPENSATION FUND IN  
FULFILMENT OF IT MANDATE**

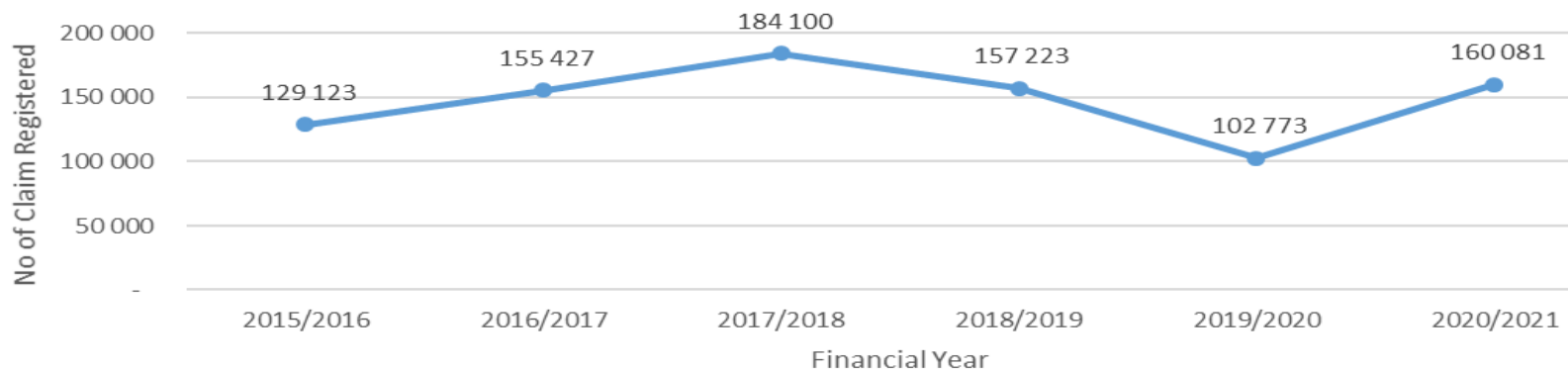


**A FIVE YEAR HISTORY**

# REGISTERED CLAIMS NUMBERS HISTORY

Province	2015/2016	2016/2017	2017/2018	2018/2019	2019/2020	2020/2021
Eastern Cape	3 781	7 119	8 275	10 153	8 008	7 848
Free State	4 698	4 398	3 689	3 399	2 356	4 113
Gauteng	80 026	64 805	74 185	42 383	25 557	74 824
KwaZulu Natal	10 477	15 955	12 711	18 203	13 778	23 334
Limpopo	5 891	17 402	19 993	23 584	8 419	2 915
Mpumalanga	3 816	3 801	3 742	5 836	7 896	6 660
Northern Cape	2 885	2 795	2 662	1 839	4 771	1 654
North West	2 844	4 154	6 248	6 389	1 701	3 272
Western Cape	14 705	34 998	52 595	45 437	30 249	35 214
Head Office	-	-	-	-	38	247
	<b>129 123</b>	<b>155 427</b>	<b>184 100</b>	<b>157 223</b>	<b>102 773</b>	<b>160 081</b>

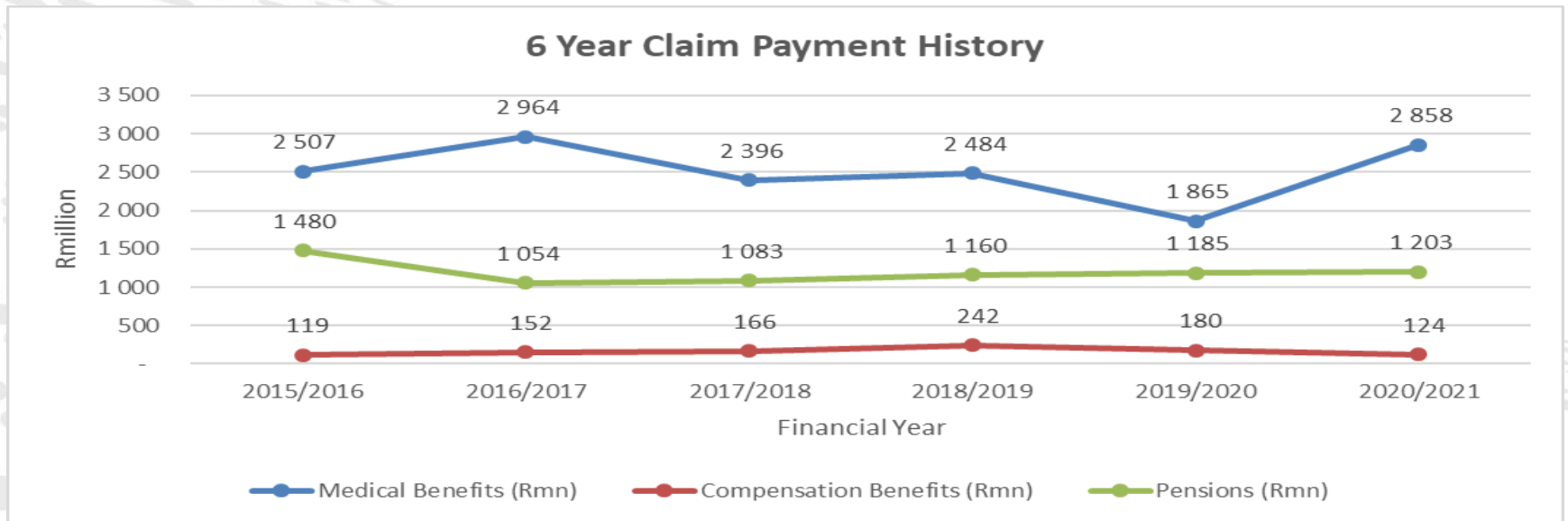
Six Year Claims History





# CLAIMS PAYMENT HISTORY

Financial Year	Medical Benefits	Compensation Benefits	Pensions	Total
2015/2016	2 507 144 019	119 073 439	1 479 941 770	4 106 159 228
2016/2017	2 963 696 340	152 134 199	1 054 340 153	4 170 170 692
2017/2018	2 395 539 222	165 546 356	1 083 086 813	3 644 172 391
2018/2019	2 483 935 445	241 968 776	1 159 701 933	3 885 606 154
2019/2020	1 865 406 282	180 105 137	1 185 297 355	3 230 808 774
2020/2021	2 858 334 484	124 431 854	1 202 501 730	4 185 268 068



# COMPEASY

## **BREAKINGDOWN THE MYTHS AND MISCONCEPTIONS**

# COMPEASY INTRODUCTION

- CompEasy system went live in October 2019 with a gradual release of the different functionality:
  - User Registration: October 2019
  - Claims Registration and Adjudication: October 2019
  - Medical Invoice Submission and processing: November 2019 (electronic switching)
  - Online Medical Invoice Submission February 2020
  - Online Medical Report Submission February 2020
  - Online Pre-Authorisation Request February 2020
- CompEasy user requirements are different from all other systems used by the Fund in the past
- New and additions controls introduced in CompEasy which has resulted in users having to comply in order to utilise the system and/or submit claims

# REGISTERING AS A COMPEASY USER

- Step 1: Registration on the Department of Employment Labour website as a user is not sufficient.
- Step 2: Once Registered as a user on the departments website, a separate registration using the same ID number needs to be completed on the COMPEASY link found on Online Service tab of the departments website
- Step 3: There are required documents to support registration on COMPEASY depending on whether you are an employer, medical service provider or an intermediary representing either the employer or the medical service provider

In uMehluko (previous system) only Step 1 and modified Step 2 was required.

# REGISTERING AS A COMPEASY USER

## 1. Employer

- Complete the External User registration tab on COMPEASY
- Proof of Residence/ Proof of business address
- User Access form filled and Signed by the owner
- Certified ID copy of the owner of the company
- CIPC Documents of the business
- Valid CF Reference number 9900 or Practice number for medical service providers

## 2. Medical Service Provider

- Above in 1 plus:
- Health Practice Certificate (BHF)



# REGISTERING AS A COMPEASY USER

## 3. Intermediary (Thirdparty)

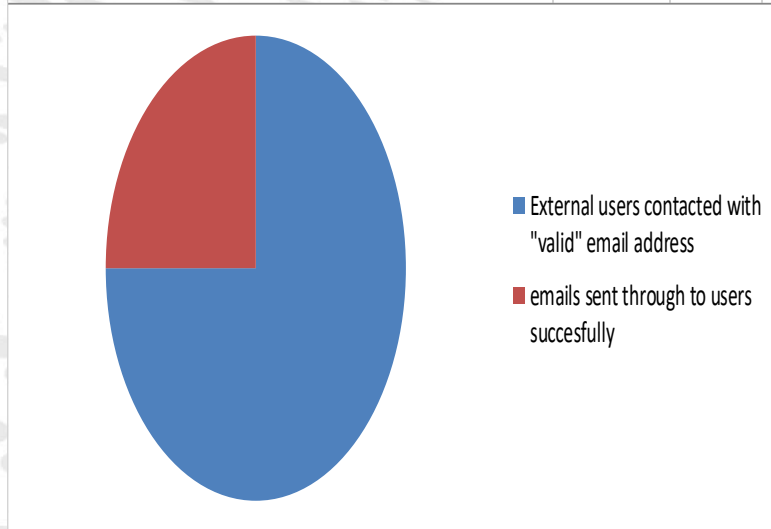
- Above in 1 plus:
- Certified ID copy of the owner of the company
- Certified copy of ID if you are a third party representing the above
- Power of Attorney on a company letter head signed and dated by the director

In uMehluko none of these documents were required except for the CF Number and practice number for the healthcare provider. So anyone could register as anything and submit claims to the Fund

# REGISTERING AS A COMPEASY USER

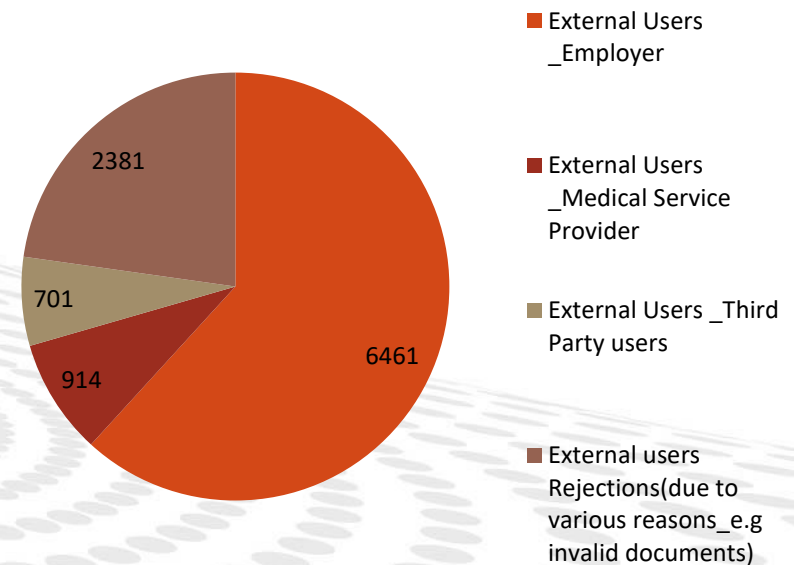
## uMehluko User Statistics

uMehluko External Users	No.
External users contacted with "valid" email address	45 336
emails sent through to users successfully	15 115



## CompEasy User Statistics

External users granted access on the system	No.
External Users _Employer	6461
External Users _Medical Service Provider	914
External Users _Third Party users	701
External users Rejections(due to various reasons_e.g invalid documents)	2381



# REGISTERING A CLAIM ON COMPEASY

- Claims can be registered externally using an application tab once successfully logged in on COMPEASY if you are an employer or an intermediary(third) party with the relevant authorisation to submit claims on behalf of an employer
- Claims can be registered internally by the claims handlers of the Compensation Fund, manual forms have been fully completed.
- Claims can be adjudicated and authorised for payment for the different types of benefits (TTD,PD, TPD and Pensions)
- Only a user authorised by an employer and authenticated by the Fund can register a claim. If a user cant produce proof of authorisation they are not able to register a claim
- **Required Information in support of a claim**
  - A **FULLY** completed **EMPLOYERS REPORT ON AN ACCIDENT** (W.CL2 or W.CL1) which can be captured on COMPEASY
  - Valid Identity Document (certified) – ID or Drivers License or Passport or Birth Certificate
  - **FULLY** completed relevant Questionnaires related to the specific incident
  - Notice of An Accident and Claim for Compensation (W.CL14) must be completed

# REGISTERING A CLAIM ON COMPEASY

Compensation Benefits statistic of claims from 01 October 2019 to 31 March 2021

Description	Total
Refund of TTD - Employee	23 033 071,19
Refund of TTD - Employer	22 925 076,45
<b>TOTAL - TTD</b>	<b>45 958 147,64</b>
Permanent Disability Lump Sum	88 689 297,90
<b>TOTAL - PD Lumpsum</b>	<b>88 689 297,90</b>
Permanent Disability Pension	120 742 085,21
Constant Attendance	3 449 230,37
Partial Commutation of Pension	6 668 283,96
Full Commutation of Pension	0,00
<b>TOTAL - Permanent Disability Pension</b>	<b>124 191 315,58</b>
Pension Payment due to Death, to Widow/er	78 091 716,06
Pension Payment due to Death, to Child Dependants	1 125 204,41
Pension Payment due to Death, to Other Dependants	23 622,02
Partial Commutation of Fatal Pension	367 674,00
Full Commutation of Fatal Pension	2 832 482,00
Lump sum payment due to Death, to Widow/er	2 115 481,10
Increase in PD Pension (Lump sum amount)	3 241,00
Lump Sum Payment due to Death, to Other Dependants	1 453 368,27
Increase in Fatal Pension (Lump sum amount)	0,00
Funeral Expenses	1 376 028,00
<b>TOTAL - Fatal Pension</b>	<b>87 388 816,86</b>

# REGISTERING A CLAIM ON COMPEASY

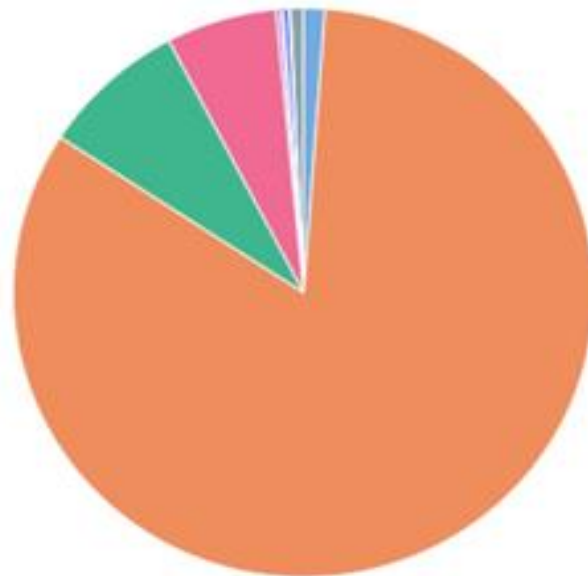


Department:  
Employment and Labour  
REPUBLIC OF SOUTH AFRICA

5/17/2021 5:23:50 AM

## Performance Dashboard

Claim Count by Claim Status



- In adjudication
- Liability Accepted
- New Claim
- Waiting on Information
- No Status
- Liability repudiated
- Under investigation
- Claim closed
- Claim rejected
- Closed
- Reopened

In adjudication	17,831
Liability Accepted	1,250,656
New Claim	122,476
Waiting on Information	92,706
No Status	3,799
Liability repudiated	2,135
Under investigation	4,917
Claim closed	1,351
Claim rejected	10,654
Closed	252



# MEDICAL CLAIMS ON COMPEASY

- Medical Invoices can be captured internally by the claims handlers of the Compensation Fund (Since 01 November 2019)
- Medical Invoices can be submitted externally using FTP processed called switching if you are a medical service provider or an intermediary(third) party who complies with requirements Gazetted by the Fund in July 2019. (Since 07 November 2019)
- Medical Invoices can be submitted externally using an application tab once successfully logged in on COMPEASY if you are a medical service provider or an intermediary(third) party with the relevant authorisation to submit claims on behalf of a medical service provider (Since 7 February 2020)
- CompEasy has built-in clinical rules and codes which assist in identifying invalid medical claims, over servicing, non compliant claims and invalid medical service providers

# MEDICAL CLAIMS ON COMPEASY

- Breakdown of medical invoices received in Compeasy from 01.10.2019 till 30.04.2021 as at 30 April 2021:

Invoice Status	Number of Invoices	Total Amount
Total invoices received	897 183	R 3 776 068 569,71
Invoices Processed	833 024	R 3 470 202 856, 96
Invoices Paid	743 063	R 2 940 542 094,00
Outstanding Invoices	64 159	R 245 084 470,09

- Breakdown of medical invoices received in Compeasy from 01.03.2020 till 30.04.2021 as at 30 April:

Invoice Status	Number of Invoices	Total Amount
Total invoices received	764 813	R 3 415 884 299,00
Invoices Processed	722 001	R 2 679 373 497,72
Invoices Paid	648 503	R 2 652 606 263,00
Outstanding Invoices	42 812	R 216 749 701,23

# **RESPONSE ON SECTION 73(4)**

**WHAT EVIL IS THE AMENDMENT  
ATTEMPTING TO ADDRESS**

# PROBLEM STATEMENT

Third parties purport to represent both employers and Medical Service Providers (hospitals and clinics) thereby claiming to assist the Fund to carry out its mandate.

To enable the Portfolio Committee to make informed decisions, we need to first:

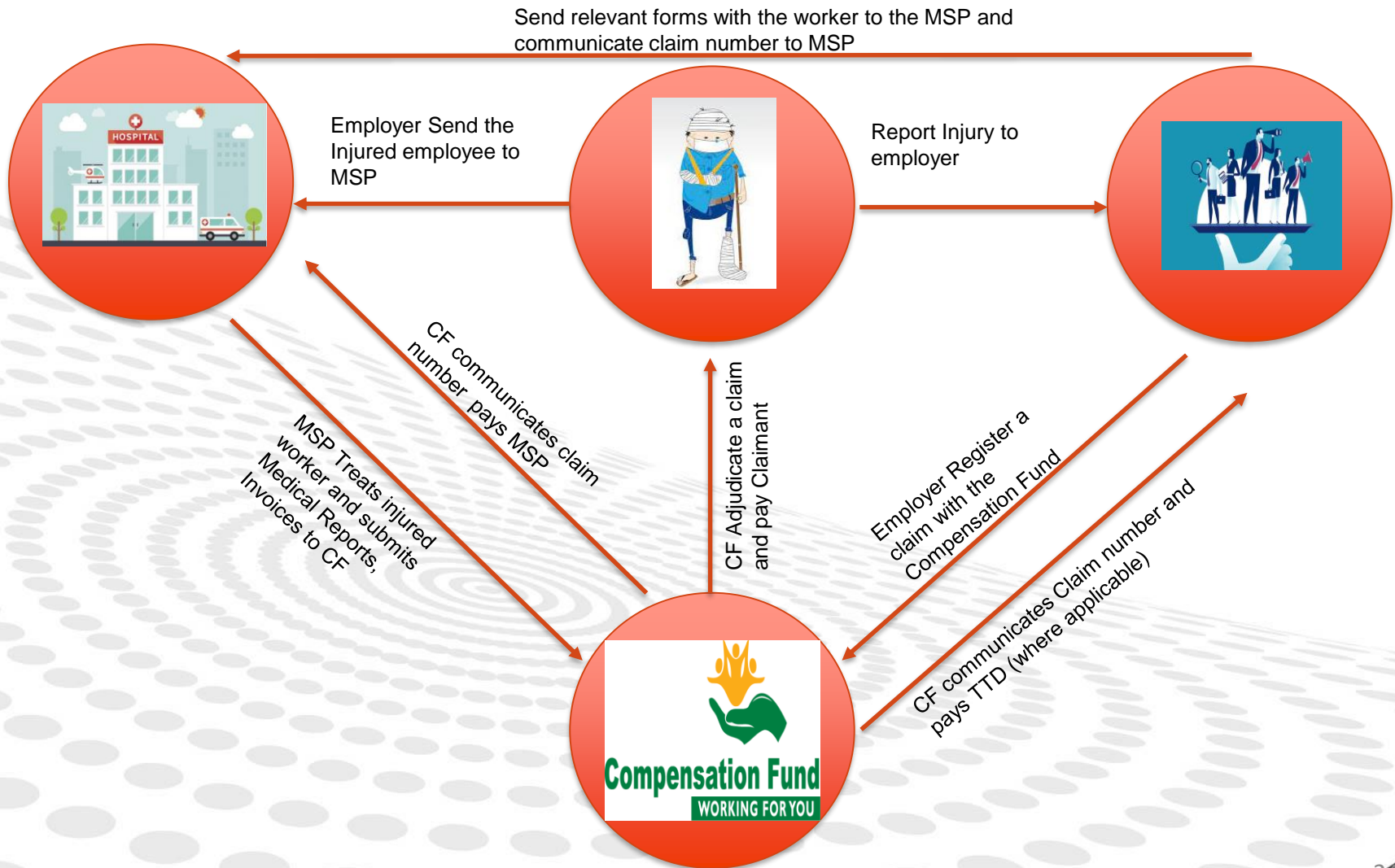
- (a) Establish the underlying legal basis, the 'legal framework', under which the third parties operate and fully grasp. the legal framework in which the Fund operates; and
- (b) How does it benefit the Fund or contribute towards the Fund executing its mandate. This will also entail the interoperability of the third parties systems? Can we quantify the risks including the risk losses and benefits?
- (c) Material factors that will influence the Portfolio Committee's decision.
- (d) Lastly, the recommendations for short, medium and long term strategies.

# LEGAL FRAMEWORK

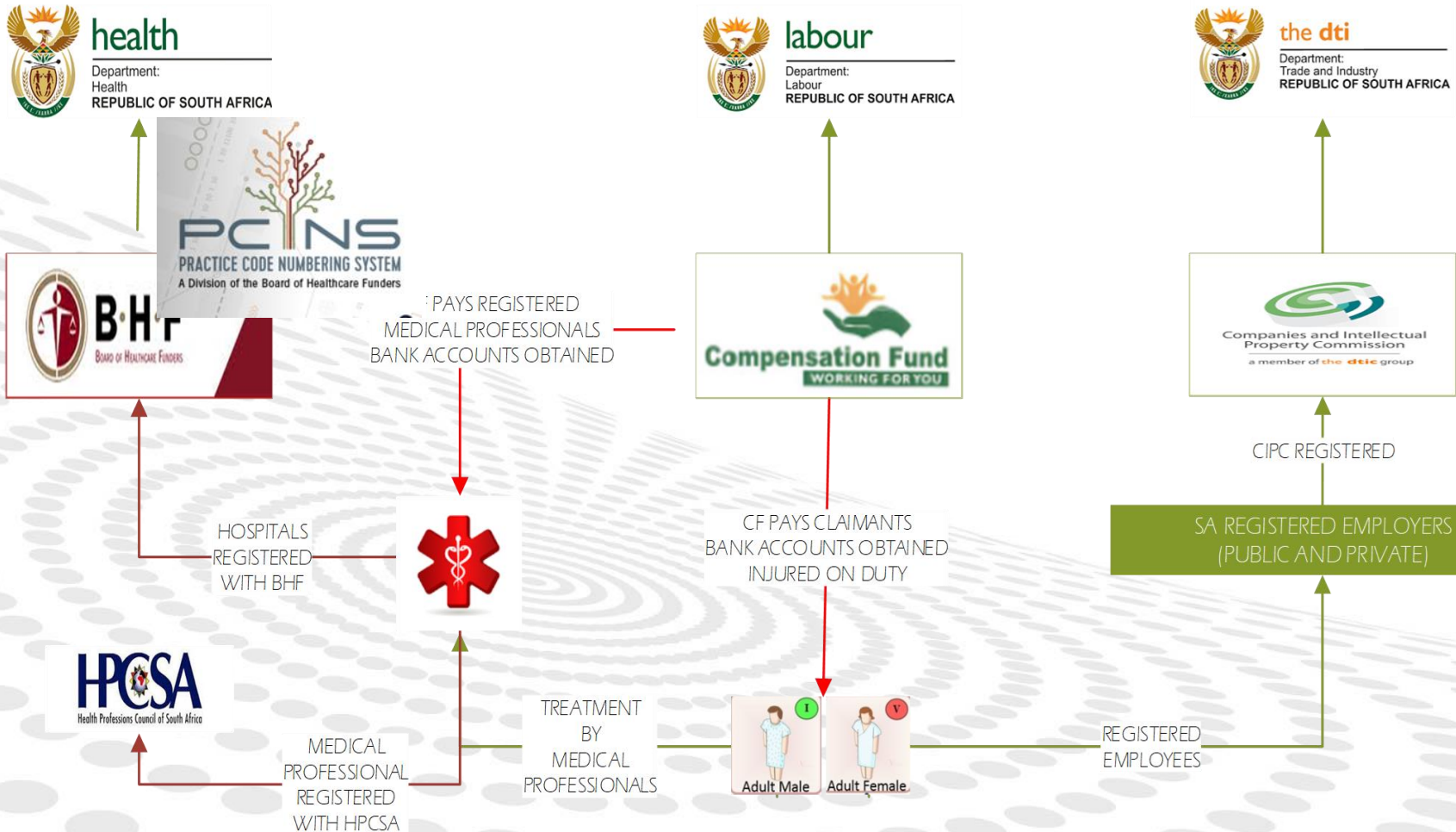
- The Fund derives its mandate from the COIDA Act and established as a Schedule 3A public entity and thus required to comply with the Constitution, the Public Finance Management Act, etc.
- It also operates in a highly complex regulatory environment which requires collaborative effort with:
  - a) *Other public bodies* such as Department of Labour, Department of Home Affairs, CIPC, Department of Health, SARS, Board of Health Care Funders, Health Professional Council of South Africa, etc
  - b) Public and Private Sector Hospitals, Clinics, medical professionals.
  - c) Public and Private Sector Employers and Employees (claimants or patients)
- The National Health Act (2003), section 14, 15 and 16, as well as the POPI Act (2002) also places a legal onus on the Fund to ensure patient confidentiality.



# ROLE PLAYERS IN COID CLAIM



# ROLE PLAYERS IN COID CLAIM



# TYPES OF THIRD PARTIES IN COID ENVIRONMENT

## Switching Houses

- A vendor appointed by a medical service provider to use its technology to submit a medical claim on behalf of medical providers to a healthcare funder (such as Compensation Fund) based on the rules of the healthcare funder. The Healthcare funder pays the claim directly to medical service provider

## Practice Managers

- A vendor appointed by a medical service provider to manage the administration of their practice/facility and may submit directly or the services of a switching house to submit a medical claim on behalf of medical providers to a healthcare funder (such as Compensation Fund) based on the rules of the healthcare funder. The Healthcare funder pays the claim directly to medical service provider

## Third Parties Agents

- A vendor appointed by a medical service provider to manage the submission of their medical claims to a healthcare funder (such as Compensation Fund) based on the rules of the healthcare funder. The Healthcare funder pays the claim directly to medical service provider

# TYPES OF THIRD PARTIES IN COID ENVIRONMENT

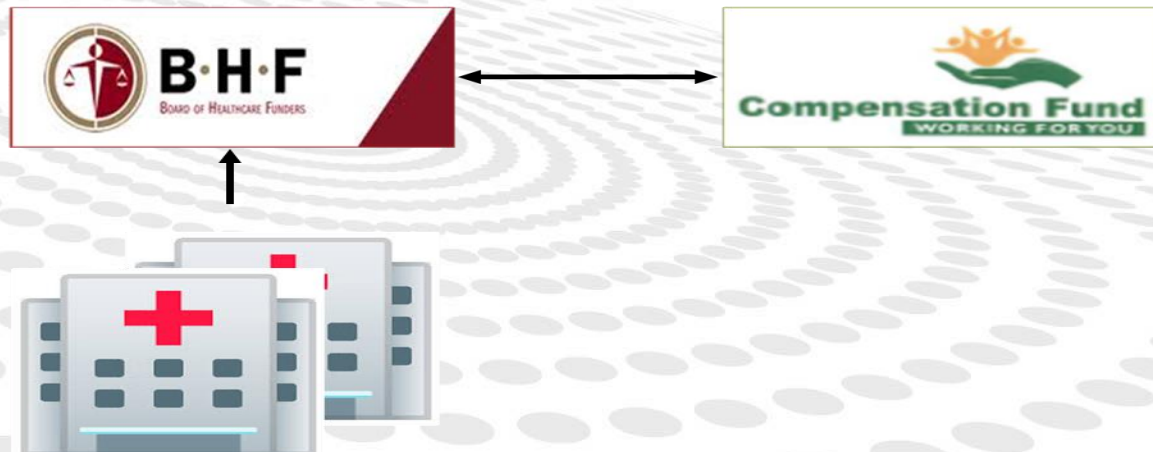
## Third Parties Agents (Pre-funders)

- A vendor who pre-funds/procures a medical claim from a medical service provider and submits the claim to the Compensation Fund based on the rules of the Compensation Fund. The Compensation Fund pays the claim directly to the third party.
- The same vendor would in most instances register the claim against which their medical claim is to be paid without the authorisation of the employer
- Amendment of section 73 by inclusion of subsection 4 is to correct this anomaly which will be further expanded on in subsequent slides

# LEGAL CHALLENGE

## Overview of MSP Compliance Requirements

- Both public and private hospitals and clinics are regulated by the National Health Act (2003), its regulations,
- In order to claim from a healthcare funder , no medical practitioner can claim if not registered on the Practice Conde Numbering System managed by the Board of Health Care Funders (BHF).
- The National Health Act defines (a) an authorised institution, (b) health care personnel (c) health care provider (d) private health establishment and (e) public health establishment and the legal responsibilities.





# LEGAL CHALLENGE

- Third parties:
  - fall outside of the ambit of National Health Act and Council for Medical Schemes; there is no regulatory oversight.
  - Do not qualify as authorised institutions or health care provider or personnel in terms of the National Health Act
  - Do not qualify as mutual associations as per the COID Act.

**THIRD PARTIES**





# LEGAL CHALLENGE

## National Health Act

### Section 14 : Confidentiality

- (1) All information concerning a user, including information relating to his or her health status, treatment or stay in a health establishment is confidential
- (2) Subject to section 15, no person may disclose any information contemplated in subsection 1 unless:
  - (a) the user consents to that disclosure in writing;
  - (b) a court order or any law requires that disclosure; or
  - (c) non-disclosure of the information represents a serious threat to public health.

### Section 15: Access to health records

- (1) A health worker or any health care provider that has access to the health records of a user may disclose such personal information to any other person, healthcare provider or health establishment as is necessary for any legitimate purpose within the ordinary course and scope of his or her duties where such access or disclosure is in the interests of the user.
- (2) For the purpose of this section, “personal information” means personal information as defined in section 1 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

# LEGAL CHALLENGE

A medical invoice in the Fund contains some of the personal information as prescribed in the Medical Schemes Act of 1998 and its Regulations

**5. Accounts by suppliers of services.**—The account or statement contemplated in section 59 (1) of the Act must contain the following—

- (a) The surname and initials of the member;
- (b) the surname, first name and other initials, if any, of the patient;
- (c) the name of the medical scheme concerned;
- (d) the membership number of the member;
- (e) the practice code number, group practice number and individual provider registration number issued by the registering authorities for providers, if applicable, of the supplier of service and, in the case of a group practice, the name of the practitioner who provided the service;
- (f) the relevant diagnostic and such other item code numbers that relate to such relevant health service;
- (g) the date on which each relevant health service was rendered;
- (h) the nature and cost of each relevant health service rendered, including the supply of medicine to the member concerned or to a dependant of that member; and the name, quantity and dosage of and net amount payable by the member in respect of the medicine;
- (i) where a pharmacist supplies medicine according to a prescription to a member or to a dependant of a member of a medical scheme, a copy of the original prescription or a certified copy of such prescription, if the scheme requires it;
- (j) where mention is made in such account or statement of the use of a theatre—
  - (i) the name and relevant practice number and provider number contemplated in paragraph (e) of the medical practitioner or dentist who performed the operation;
  - (ii) the name or names and the relevant practice number and provider number contemplated in paragraph (e) of every medical practitioner or dentist who assisted in the performance of the operation; and
  - (iii) all procedures carried out together with the relevant item code number contemplated in paragraph (f); and
- (k) in the case of a first account or statement in respect of orthodontic treatment or other advanced dentistry, a treatment plan indicating—
  - (i) the expected total amount in respect of the treatment;
  - (ii) the expected duration of the treatment;
  - (iii) the initial amount payable; and

# LEGAL CHALLENGE

## Medical Invoice Submitted to the Compensation Fund

The screenshot displays a SAP web browser interface for a medical claim. The browser address bar shows the URL: <https://zadoldccpf01.resource.labour.net:44326/fiori/#InsuranceClaim-displayExpertMode?sap-ui-tech-hint=GUI>. The page title is "Display Claim 11524028 / ZSC1 KAYLAN SWARTZ (Open): Items".

The main content area shows a "Payment Proposal" form with the following details:

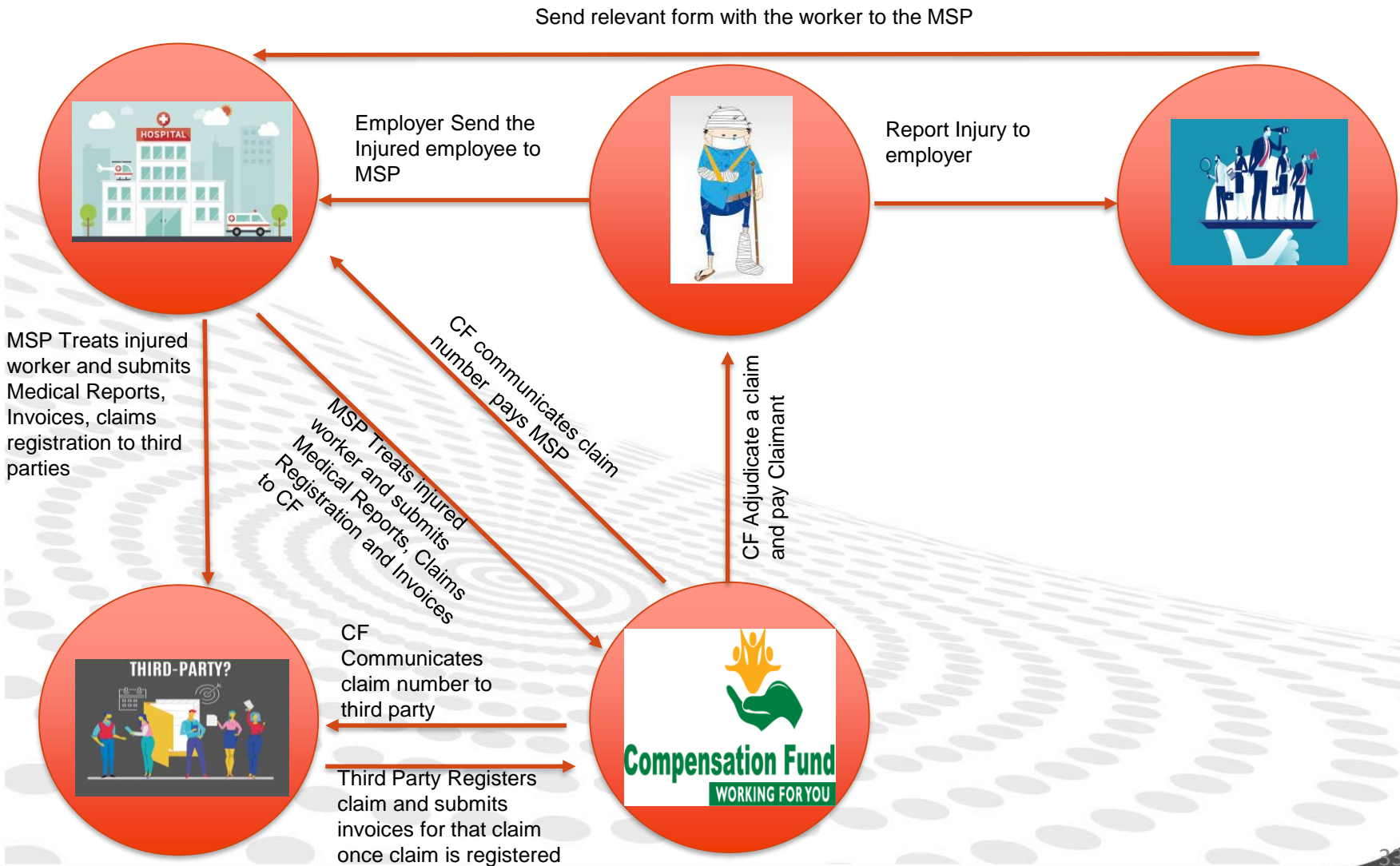
- Claim Item Cat.: Claim Item: Item
- Benef.Catalog: ZCF1B (General Practitioner)
- BenCtg Variant: ZSTD (Standard Variant)
- BenCtg Item: 0186 (Follow-up visit for the evaluation and management of a patient)
- Time/Kms: 0,000
- BMI Index: [Empty]
- Diagnosis: S82.00 V49.82 (highlighted with a red oval)
- Benefit Type: CF2000 (Medical Costs)

The left navigation menu includes the following items:

- Incident
- Medical
  - [Red oval]
  - Invoice Entry (5)
  - Payment Proposal (7)
  - Payments & Res. in Sul
  - Payments
- Medical Reports
  - [Red oval]
  - Medical Report (4)
- Rehabilitation

The Windows taskbar at the bottom shows the system time as 09:52 on 2021/04/29.

# OPERATIONAL CHALLENGES



# OPERATIONAL CHALLENGES

- Required Information in support of a claim
  - A **FULLY** completed **EMPLOYERS REPORT ON AN ACCIDENT** (W.CL2 or W.CL1) which can be captured on COMPEASY
  - Valid Identity Document (certified) – ID or Drivers License or Passport or Birth Certificate
  - **FULLY** completed relevant Questionnaires related to the specific incident
  - Notice of An Accident and Claim for Compensation (W.CL14) must be completed
  - In order to adjudicate on the claim once liability has been accepted:
- Acceptance of liability for a claim requires:
  - Notice of an Accident and Employers Accident report



# OPERATIONAL CHALLENGES

- In order to finalise a claim to payment, all the above information needs to be submitted including relevant medical reports (progress and final)
- Once liability has been accepted, the medical aid for the worker is accessible and the Fund can pay for the medical costs related to the injury
- As indicated in the graph above, the Fund currently has large number of unfinalised claims because information obtained via third parties (i.e. not directly from employers) often contain minimal information to make final decisions on claims
- Despite follow ups, once medical costs are paid, there is little incentive for those who submitted the claim, to obtain the additional information



# OPERATIONAL CHALLENGES

- The impact of these is that the client has to wait for months/years to get a final award which would determine the pay-out and often
- These claim can be categorised as follows:
  - Awaiting Information
  - No status
  - Under investigation
- Currently there are 101 422 claims in the above categories
- Claims who liability has been accepted also include those that could not be finalised by the Fund as they contained sufficient information just to accept liability

# OPERATIONAL CHALLENGES

WC.2



labour  
Department:  
labour  
REPUBLIC OF SOUTH AFRICA

COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 1993 Section 30(1) - Annexure 10 (For official use only)

**EMPLOYER'S REPORT OF AN ACCIDENT**

Office No. \_\_\_\_\_  
Postnatal Office \_\_\_\_\_  
Date \_\_\_\_\_

**DIRECTIONS FOR COMPLETING OF FORM BY EMPLOYER**

This form must be completed:

- Whenever an employee events with an accident arising out of and in the course of his/her employment resulting a personal injury for which medical treatment is required, or death.
- Whenever an employee reports any personal injury to his/her employer, it making the report the employee alleges that such injury arose out of and in the course of his/her employment.

(Where the accident has caused death, serious disease or amputation or where the injured employee is pronounced unable to work for a period of at least 14 days, the Provincial Executive Manager of labour must also be notified by telephone or by e-mail, without delay.)

- Complete "Part A", page 1 of the form by giving full details, sign and date from where indicated.
- Detach "Part B" (see additional copy of "Part A" page 1) the heading of it "Part A" page 1) to the employees and request number to hand it to the Provincial Executive Manager of labour (as indicated) in the section cover. "Part B" must be returned to the Provincial Executive Manager of labour without delay.
- Complete "Part A", page 2 of the form by giving full details.
- Forward the completed report of an accident together with a certified copy of the employer's ID and the First Medical Report (WC.2) if available to:

THE COMPENSATION COMMISSIONER  
COMPENSATION HOUSE  
Cnr. SOUTHWESTERS AND HAMILTON ROAD  
P.O. BOX 164  
PRETORIA  
1001

Call Centre: 081 815 3550 email: cch@labour.gov.za  
Fax: (012) 325-6867 Website: help@compensation.gov.za  
Phone: (012) 325-6866  
(012) 325-7884  
(012) 323-4866

**N.B.:**

- Complete a separate form in respect of each injured employee.
- This form must be obtained in reproduction of the employer resuming employment or awaiting medical reports.
- An employer who fails to report any accident within 7 days to the Compensation Commissioner or the fact, shall be guilty of an offence in terms of the Compensation for Occupational Injuries and Diseases Act, 1993 and may be liable for the full amount of compensation payable in respect of such accident.
- An employer who fails to report accidents that have caused death, serious disease or amputation or cases where the injured employee is pronounced unable to work for a period of at least fourteen days to the Provincial Executive Manager of labour by telephone or fax, shall be guilty of an offence in terms of the Occupational Health and Safety Act, 1993.
- Use the appropriate form for occupational diseases (WC.2.1).
- If an injured employee should leave your employ, please keep record of the address where he/she can be reached so that notices which might be payable to him/her from the Compensation Fund, can be served together with your assistance.
- Minor injuries where no medical attention was required should not be reported, however a record should be kept of such injuries.

PART A PAGE 1 WC.2

**EMPLOYER'S REPORT OF AN ACCIDENT**  
COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 1993  
Section 30(1) - Annexure 10  
Individual: \_\_\_\_\_  
Complete the form in block letters and mark appropriate areas (X)

Claim No. \_\_\_\_\_  
Postnatal Office \_\_\_\_\_  
Date \_\_\_\_\_

**DECLARATION BY EMPLOYER OR AUTHORISED PERSON**  
I hereby declare that the particulars shown in items 1 to 15 of the report of an alleged injury on duty, are to the best of my knowledge and belief true and accurate.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_ year. **Signature** \_\_\_\_\_

**EMPLOYER**

- Registered name with the Compensation Commissioner \_\_\_\_\_
- Registered number of this business with the Compensation Commissioner \_\_\_\_\_
- Contact person \_\_\_\_\_
- Street address \_\_\_\_\_ 5. Postal code \_\_\_\_\_
- Postal address \_\_\_\_\_ 7. Postal code \_\_\_\_\_ 8. Tel. no. (\_\_\_\_\_) \_\_\_\_\_
- Fax no. (\_\_\_\_\_) \_\_\_\_\_ 10. Situation of business/farm \_\_\_\_\_
- E-mail address \_\_\_\_\_
- Nature of business, trade or industry \_\_\_\_\_

**EMPLOYEE (CERTIFIED COPY OF IDENTITY DOCUMENT TO BE ATTACHED)**

- Is the injured person a  working director  working member of a CC  owner of partner in the business?  Not applicable
- Surname \_\_\_\_\_ 14. First name \_\_\_\_\_
- ID no. \_\_\_\_\_ 16. Date of birth \_\_\_\_\_ 17. Sex  Male  Female
- Marital status  Married  Single 19. Citizen of \_\_\_\_\_
- Personnel no. \_\_\_\_\_ 21. Occupation \_\_\_\_\_
- Street address \_\_\_\_\_ 23. Postal code \_\_\_\_\_
- Postal address \_\_\_\_\_ 25. Postal code \_\_\_\_\_
- Tel. No. (\_\_\_\_\_) \_\_\_\_\_ 26. Period in your employ (years/months) \_\_\_\_\_ 28. Expected period of disablement (days)  0-13 days  14 & more

**ACCIDENT**

- Date of accident \_\_\_\_\_ 30. Time \_\_\_\_\_
- Place of accident \_\_\_\_\_ 32. District \_\_\_\_\_
- 28.2 Previous \_\_\_\_\_
- Date employee reported accident \_\_\_\_\_ 34. Time \_\_\_\_\_
- What task was the employee performing at the time of the accident? \_\_\_\_\_
- Period of experience in the task performed (years/months) \_\_\_\_\_
- Was his action at the time of the accident in connection with your trade or business?  YES  NO
- Short description of how the accident occurred. (ALSO mark the applicable items on the reverse side of Part A Page 3 and use same for a full description) \_\_\_\_\_
- Was the accident a traffic accident on a public road?  YES  NO
- Nature of injury sustained (e.g. broken finger or right hand crushed) \_\_\_\_\_
- Mark any of the following where applicable:  Killed  Amputation  Unconsciousness
- Has any of the following been satisfied that the employee was injured in the manner alleged by him?  YES  NO If not, give reasons. \_\_\_\_\_

PART A PAGE 2 MUST ALSO BE COMPLETED

Please complete in detail to ensure early finalisation.

PART A PAGE 2 WC.2

**(COMPULSORY TO COMPLETE)**

Employee: \_\_\_\_\_ Date of accident: \_\_\_\_\_  
Employee: \_\_\_\_\_ Employee's ID No: \_\_\_\_\_

**FURTHER PARTICULARS OF EMPLOYEE**

	R/Week	R/Month
Gross cash earnings (including average payments for overtime and/or commission of a constant character) _____		
Absences of an insured nature: _____		
a) Sickness (i.e. 13th chapter) _____		
b) Other absences (specify nature) _____		
Cash value of _____		
Free quarters _____		
Other payment in kind (specify nature) _____		

- In terms of section 47 of the Act an employer is obliged to pay an employee full compensation for the first three months of absence. \_\_\_\_\_
- Are you prepared to make further compensation payments after the first three months from the date of the accident?  YES  NO
- If you have already paid cash earnings to the employee, state the total amount R: \_\_\_\_\_
- For what period were such payments made? From \_\_\_\_\_ To \_\_\_\_\_
- Number of days per week worked by the employee \_\_\_\_\_
- Date on which the employee ceased work due to accident \_\_\_\_\_ 48. Time \_\_\_\_\_
- Did the employee complete his action on the day that he ceased work?  YES  NO
- Date on which the employee resumed work \_\_\_\_\_ 52. Time \_\_\_\_\_
- If the employee will be off duty for an extended period, an Interim Resumption Report (WC CL 6) must be submitted monthly.
- If the employee was killed in the accident, state name and address of dependant of the employee. \_\_\_\_\_

**FURTHER PARTICULARS**

- Should the employee have any physical defect, have suffered from any serious disease prior to the accident or has previously received compensation for permanent disablement, give full particulars. \_\_\_\_\_
- Was first aid given in the case?  YES  NO
- State the name of the medical practitioner/doctor who treated the employee. \_\_\_\_\_
- If the employee received treatment at a hospital, state name of hospital. \_\_\_\_\_
- Was the accident caused by the employee's: a) Deliberate non-compliance with directions?  YES  NO
- Reckless disregard of the terms of any law or statutory regulation designed to ensure the safety or health of employees or the prevention of accidents?  YES  NO
- Acted while under the influence of liquor or drugs?  YES  NO
- Was the accident caused by the employee's: a) Deliberate non-compliance with directions?  YES  NO
- Reckless disregard of the terms of any law or statutory regulation designed to ensure the safety or health of employees or the prevention of accidents?  YES  NO
- Name and address of anybody (a) Who witnessed the accident. \_\_\_\_\_
- Who was aware of the accident at the time. \_\_\_\_\_
- How many other employees were injured in the same accident? \_\_\_\_\_
- If the accident was investigated by the SA Police, state name of Police Station and docket number applicable. \_\_\_\_\_
- If motor vehicles were involved, furnish registration numbers. \_\_\_\_\_

# OPERATIONAL CHALLENGES

WCL 2

PART A PAGE 1

Employee: \_\_\_\_\_ Date of accident: \_\_\_\_\_  
 Employee: \_\_\_\_\_ Employee's ID No: \_\_\_\_\_

36. Continuation of part 36 of the previous page. (Continuing handwritten applications. Mark the appropriate boxes in A and B.)

A)		B)	
Selection method	Electric	Building work	Roading machine
Operational conditions of work	Electricity	Power tools	Power tools
Fault of employee	Chemicals	Maintaining machine	
Fault of injured employee	Flammable	Lifting machine	
Fault of supervisor	Blows	Hand tools	

Other machinery (Specify): \_\_\_\_\_  
 Any other contributing factors, not recorded above (Specify): \_\_\_\_\_

The rest of this page may be used for any additional details or comments regarding the accident.

PART B PAGE 1 WCL 2

**EMPLOYER'S REPORT OF AN ACCIDENT**  
 COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT, 1993

Section 10(1) - Annexure 13  
 Instructions: Complete this form in block letters and mark appropriate areas (X)

**DECLARATION BY EMPLOYER OR AUTHORISED PERSON**  
 I hereby declare that the particulars, shown in items 1 to 62 of this report, of an alleged injury on duty, are to the best of my knowledge and belief true and accurate.

Signed on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ Signature \_\_\_\_\_

**EMPLOYER**

- Registered name with the Compensation Commissioner \_\_\_\_\_
- Registered number of this business with the Compensation Commissioner \_\_\_\_\_
- Contact person \_\_\_\_\_
- Street address \_\_\_\_\_ 5. Postal code \_\_\_\_\_
- Postal address \_\_\_\_\_ 7. Postal code \_\_\_\_\_
- Facsimile (Fax) No. (\_\_\_\_\_) \_\_\_\_\_ 10. Situation of business/farm \_\_\_\_\_
- Tel. no. (\_\_\_\_\_) \_\_\_\_\_
- E-mail address \_\_\_\_\_
- Nature of business, trade or industry \_\_\_\_\_

**EMPLOYEE (CERTIFIED COPY OF IDENTITY DOCUMENT TO BE ATTACHED)**

- In the injured person a  working director  working member of a CC  owner of partner in the business?  Not applicable
- Surname \_\_\_\_\_ 14. First names \_\_\_\_\_
- ID no. \_\_\_\_\_ 16. Date of birth \_\_\_\_\_ 17. Sex  Male  Female
- Marital status  Married  Single \_\_\_\_\_ 18. Citizen of \_\_\_\_\_
- Permanent no. \_\_\_\_\_ 20. Occupation \_\_\_\_\_
- Street address \_\_\_\_\_ 23. Postal code \_\_\_\_\_
- Postal address \_\_\_\_\_ 25. Postal code \_\_\_\_\_
- Tel. No. (\_\_\_\_\_) \_\_\_\_\_
- Period in your employ (years/months) \_\_\_\_\_ 28. Expected period of disablement (days)  0-13 days  14-8 months

**ACCIDENT**

- Date of accident \_\_\_\_\_ 30. Time \_\_\_\_\_
- Place of accident \_\_\_\_\_ 32. Disaster \_\_\_\_\_
- Position \_\_\_\_\_
- Date employee reported accident \_\_\_\_\_ 34. Time \_\_\_\_\_
- What task was the employee performing at the time of the accident? \_\_\_\_\_
- Period of experience in the task performed (years/months) \_\_\_\_\_
- Was he action at the time of the accident in connection with your trade or business?  YES  NO  
(If "No" state reasons on reverse side Part A Page 1)
- Short description of how the accident occurred. (ALSO mark the appropriate items on the reverse side of Part A Page 3 and use same for a full description) \_\_\_\_\_
- Was the accident a traffic accident on a public road?  YES  NO  
(If "No" state reasons on reverse side Part A Page 3)
- Nature of injury sustained (e.g. strain, laceration, fracture, etc.) \_\_\_\_\_  
 Mark any of the following when applicable:  Hand  Arm/leg  Neck/back  Other
- Any you satisfied that the employee was injured in the manner alleged by him?  YES  NO If not, give reasons. (If "No" state reasons on reverse side Part A Page 3)

Please complete in detail to ensure early finalisation.

PART B PAGE 2 WCL 2

**DIRECTIONS TO MEDICAL PRACTITIONER/CHIROPRACTOR/HOSPITAL**

- Only the Compensation Commissioner shall decide whether liability in respect of an accident should be accepted in terms of the provisions of the Act.
- If liability is not accepted by the Compensation Commissioner medical expenses cannot be paid from the Compensation Fund.
- The FIRST MEDICAL REPORT (WCL 4) must be completed in duplicate and care must be taken to ensure that the full names of the employee and employer and the employee's ID number as shown on this form, appear thereon. The original must be sent to the employer as soon as possible while the duplicate must be kept by the medical practitioner/chiropactor or hospital together with this form.
- The medical practitioner/chiropactor or hospital must send a specified amount to the employer (the amount is set unpaid after 3 months this form together with the duplicate FIRST MEDICAL REPORT (WCL 4) and specified account must be sent under cover of an Enquiry Regarding Unpaid Account (WCL 20) to:

THE COMPENSATION COMMISSIONER  
 COMPENSATION HOUSE  
 ONE, SOUTHAMBERG AND HAMILTON ROAD  
 P.O. BOX 968  
 PRETORIA 0001

Call Centre 086 010 5300  
 Fax 012 325 4627  
 012 325 4666  
 012 325 7659  
 012 325 4866

e-mail: [info@labour.gov.za](mailto:info@labour.gov.za)  
 Website: <http://www.labour.gov.za>

TOWN	POSTAL ADDRESS	STREET ADDRESS	TELEPHONE	FAX
Durban	PO Box 940	Salmon Grove Chambers 607 Smith Street	031-366 219100 031-366 200708	031-305 7500
Cape Town	PO Box 872	4th Floor Westbank House Chr. Riebeck and Long Street	021-441 8000	021-441 8048
Bloemfontein	PO Box 522	Laboria House 43 Mallard Street	051-505 6248 051-505 6200	051-447 9363
Kimberley	PI/Bag X012	Laboria House No. 43 Chr. Compound & Pheal Roads	053-838 1500 053-838 1616	053-832 8167
Pretoria	PO Box 389	Concilium Building 238 Skinner Street	012-309 5262	012-300 5142
Johannesburg	PO Box 4560	Annalia House 18 Risak Street	011-497 3096 011-497 3283 011-497 3136	011-497 3293
Mmabatho	PI/Bag X2040	President House, 2nd Floor University Drive	018-387 8100	018-384 2297
Witbank	PI/Bag X7263	Labour Building Chr Hoffmeyer & Bastia Avenue	013-855 8700	013-690 2622
Potkwaane (Pretaburg)	PI/Bag X3068	Boand Bank Building 42a Shoeman Street	015-290 1740	015-290 1692
East London	PI/Bag X3005	Laboria Building Chr Church & Oxford Streets	043-701 3297 043-701 3000	043-743 2047

- Above is the WCL 2 form which is completed by the employer and provided to the worker when seeking medical treatment for further completion by the treating practitioner
- Workers are meant to take the form back to the employer however practice has been that the treating practitioner submits these through their third parties.
- Below is guide to the form

# OPERATIONAL CHALLENGES

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## DIRECTIONS FOR COMPLETING OF FORM BY EMPLOYER

*This form must be completed:*

- (1) Whenever an employee meets with an accident arising out of and in the course of his/her employment resulting a personal injury for which medical treatment is required, or death.
- (2) Whenever an employee reports any personal injury to his/her employer, if in making the report the employee alleges that such injury arose out of land in the course of his/her employment.

**(Where the accident has caused death, unconsciousness or amputation or where the injured employee is presumed unable to work for a period of at least 14 days, the Provincial Executive Manager of Labour must ALSO be notified by telephone or fax, without delay).**

Step 1 Complete "Part A", page 1 of the form by giving full details, sign and date form where indicated.

Step 2 Detach "Part B" (an automatic copy of "Part A", page 1) by tearing it at the perforation, hand "Part B" to the employee and request him/her to hand it to the medical practitioner/chiropractor or the hospital concerned. **In serious cases "Part B" must be forwarded to the medical practitioner/chiropractor or the hospital without delay.**

Step 3 Complete "Part A", page 2 of the form by giving full details.

Step 4 **Forward the completed report of an accident together with a certified copy of the employee's ID and the First Medical Report (W.CI.4) (if available) to:**

THE COMPENSATION COMMISSIONER  
COMPENSATION HOUSE

CNR. SOUTPANSBERG AND HAMILTON ROAD

Call Centre 086 010 5350

e-mail • [cf-info@labour.gov.za](mailto:cf-info@labour.gov.za)

# OPERATIONAL CHALLENGES

- A break in the chain outlined above is what often causes delays in claims finalisation
- Where claims are submitted by people other than the employer or a duly authorised third party, the Fund is unable to get responses on enquiries regarding the claim.
- The form would not be fully completed but not fully to enable conclusion of the claim
- This is largely due to the following issues:
  - Email address used in the forms is not of the employer and often no response once the medical claims have been paid
  - No means of contacting the employer or injured employees
  - Health practitioner who treated the client, who may have more information to contact the client, often do not want to assist in some cases third parties would inform the healthcare practitioners not to engage with the Fund



# OPERATIONAL CHALLENGES

- Situation above results in a large number of ageing claims, despite liability having been accepted.
- Where a claim has not been closed and liability has been accepted, it could be because of the following reasons:
  - No additional information is available to proceed with the claims, these could be medical reports (final or progress), interim resumption reports.
  - Final medical report enables the Fund to finalised the disablement suffered and determine the appropriate compensation for the injured worker
  - It could also mean the worker has resumed work post the injury and permanent disablement has been suffered. In such cases this would be determined from the Final Medical Report or the Resumption Report that needs to be submitted.



# OPERATIONAL CHALLENGES

## Medical Invoices – 2020-2021

Medical Invoices	Total	
	QTY	Value
Automatic Clearing	31	49 311,62
Execute Payment	723	2 783 348,83
Incoming Payment	80	168 781,21
Invoice Pended - Invoice	9 484	39 002 799,96
No Status - Invoice	109	5 061 868,72
Open Assessment	2 834	22 873 074,20
Open Invoice Entry	2 769	6 570 590,38
Paid	565 002	2 366 519 278,39
Parked - Payment	543	3 757 633,91
Rejected	54 717	340 235 764,55
Rejected Authorised	2 066	21 318 854,64
Rejected - Invoice	3 186	27 590 208,09
To be Approved - Payment	3 015	17 133 422,89
<b>Total</b>	<b>644 559</b>	<b>2 853 064 937,39</b>

During the 2020/2021 financial year the Fund registered **160 081** claims and accepted liability for **89 273**.

Only in **43 933** claims and pension payments to claimants or awards were made to the value of **R267 million**.

During the same period, **644 559** medical claims related to these invoices were paid to value of **R2,89 billion**

## Corresponding Benefits Paid

Benefit Type	Description	Total	
		QTY	Value
CF0100	Refund of TTD - Employee	2 076	22 385 616,27
CF1900	Refund of TTD - Employer	5 762	22 041 890,69
	<b>TTD</b>	<b>7 838</b>	<b>44 427 506,96</b>
CF0300	Permanent Disability Lump Sum	1 707	84 109 916,93
	<b>PD Lumpsum</b>	<b>1 707</b>	<b>84 109 916,93</b>
CF0200	Permanent Disability Pension	20 788	80 135 115,07
CF1200	Constant Attendance	1 023	2 209 839,18
CF1100	Partial Commutation of Pension	48	6 668 283,96
CF1101	Full Commutation of Pension	-	0,00
	<b>Permanent Disability Pension</b>	<b>21 859</b>	<b>89 013 238,21</b>
CF0600	Pension Payment due to Death, to Widow/er	11 823	40 311 012,68
CF0700	Pension Payment due to Death, to Child Dependants	562	1 125 204,41
CF0800	Pension Payment due to Death, to Other Dependants	6	11 811,01
CF1110	Partial Commutation of Fatal Pension	3	367 674,00
CF1111	Full Commutation of Fatal Pension	1	2 832 482,00
CF0400	Lump sum payment due to Death, to Widow/er	89	2 115 481,10
CF1000	Increase in PD Pension (Lump sum amount)	1	3 241,00
CF0500	Lump Sum Payment due to Death, to Other Dependants	22	1 381 249,27
CF1010	Increase in Fatal Pension (Lump sum amount)	-	0,00
CF0900	Funeral Expenses	82	1 370 468,00
	<b>Fatal Pension</b>	<b>12 589</b>	<b>49 518 623,47</b>
	<b>Total</b>	<b>43 993</b>	<b>267 069 285,57</b>

# OPERATIONAL CHALLENGES

- The balance of the claims unpaid, join many others who have been waiting for closure if the employee returned to work or finalisation if there was to be permanent disablement award made.

# OPERATIONAL CHALLENGES

- The third parties claim to assist both the claimants and the Fund in executing its mandate for a nominal fee paid by the medical provider. This fee is typically the amount it claims from the MSPs in terms of its commercial arrangements.
- However, the Fund's current business model ensures that:
  - a) It has national geographical footprint and capacity (systems and people). This is demonstrated by its various infrastructures that is meant to provide claim management support (client liaison) coupled with our claim administration services (adjudication).
  - b) It has implemented the new claims management system for quicker turnaround time
- The Fund's performance to ensure a turnaround in terms of the COID Act is actively monitored by its Executive.
- In context of the above, it would be difficult to quantify any perceived value that the third parties claim to be adding when the Fund itself is fully capacitated and functional to provide the required services.



# **RESPONSE ON PROPOSAL FOR INCLUSIONS/AMENDMENTS**



# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

- The significant number of the inputs related to clause 43 of the Amendment Bill which deals with the amendment of section 73 of the Principal Act by the insertion of subsection (4).
- Subsection (4) introduces the prohibition of cession of claims/ personal rights by treating doctors to third parties. The claims or personal rights have been acquired by the doctors against the Fund by virtue of providing medical/healthcare services to COIDA patients.
- All the issues raised on section 73(4) have been dealt with in the previous slides and final comment on the tables below.
- The tables below deals other proposed further amendments to the COIDA Amendment Bill.

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
1	Mr Edwin Choane Solidarity	Section 1	Support with modification. Mr Choane proposes that the definition of “ <b>accident</b> ” should be amended further to change the phrase “ <i>arising out of and in the course of employment</i> ” to “ <i>arising out of or in the course of employment</i> ”.	<p>The Department disagrees with this input. There must be a causal link between the job and the injury or diseases. Removal of the word “<b>and</b>” removes this causal link.</p> <p>The two tests in the definition of the “<b>accident</b>” are distinct from each other and must both be complied with in order to avail the employer with the protection in terms of section 35 of COIDA and the worker to sue the employer in the event that injury is not COIDA related.</p>



# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
2	Minerals Council of South Africa	Clause 1(A)	<p>Clause 1(A) - Definition of "accident" and "occupational disease".</p> <p>The word "disease" in the definition of "accident", be replaced with the words "occupational disease".</p>	The Department agrees with the comment and will effect the necessary changes.
		Clause 1(k) Section 1	<p>Clause 1(k) amending Section 1 It is incorrect to group these two classes of employers together under the banner of Employers "individually liable".</p> <p>By an interpretation of Section 84(3) such employers after they have moved back to the Fund may never again be insured by a mutual association/licensee</p>	<p>The employer organisation in Clause 1(k) amending section1 has nothing do with section 83.</p> <p>Employer organisation contemplated in clause 1(k) is Organised Business such as BUSA</p>

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
2	Minerals Council of South Africa	Section 1	<p>Definition of “employee” to accommodate novice workers from mines and works.</p> <p>The definition of "employee" in COIDA be amplified by adding a paragraph (e) to the definition, which reads as follows: "(e) an employee who works for the first time at an ODMWA mine or works on or after the commencement date of this Amendment Act and who suffers from an occupational disease</p>	<p>The transfer of the Novice workers from ODIMWA into COIDA will need a short enactment of a transferring legislation and simultaneously amendment of ODIMWA to repeal the provisions dealing with their coverage</p> <p>The constitutionality of unequal benefits for workers in similar situations will also have to be ascertained. COIDA and ODIMWA offer different scale of benefits.</p>

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
		Clause 8 Section 16	<p>(a) Clause 8 of the COIDA Amendment Bill (section 16(1)(a) of COIDA): Rehabilitation and life enhancement assistance.</p> <p>The words "life enhancement assistance" be defined.</p> <p>(a) The word "diseases" be substituted by the words "occupational diseases".</p>	<p>The definition of life enhancement assistance is as follows: the provision of psychosocial support subsequent to occupational injury or disease, which forms part of the clinical, vocational and social rehabilitation services already defined under "Rehabilitation" in the Act</p> <p>(a) The Department agrees with the comment and will effect the necessary changes.</p>

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
2	Minerals Council of South Africa	Clause 12 Section 22	<p>Clause 12 of the COIDA Amendment Bill (section 22(5) of COIDA): The conveyance of an employee</p> <p>What constitutes "in furtherance of the business of the employer"? Substitute those words with "arranged by the employer".</p> <p>Clause 12 (c) amending Section 22</p> <p>A full description is needed as it should be clear if travelling from the place of work to home after a shift has ended, is included as an "accident" in terms of the Act.</p>	<p>"In furtherance of the business of employer" is intended to make it clear that the transport provided by the employer must be used for the business of the employer. It simply means that the business interests of the employer may be prejudiced for any other purpose.</p>

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
	Minerals Council of South Africa	Clause 12 Section 22	<p>Clause 12 (c) amending Section 22</p> <p>A full description is needed as it should be clear if travelling from the place of work to home after a shift has ended, is included as an “accident” in terms of the Act.</p> <p>Clause 12(d) amending Section 22(6)</p> <p>To enhance clarity and prevent vagueness and different interpretation, it is proposed that the employers are obliged to provide clarity in a travel policy on the “pick up” and drop off” points referred to in the Bill, to prevent placing the employee at the mercy of the employer if the employer decides to change the “pick up” and “drop off points”.</p>	<p>Injuries sustained by employees travelling are not regarded as injuries on duty. However, where the employer provides transport free of charge and the transport/vehicle is driven by an employee of the employer over whom he has control. The Fund will be liable.</p>



# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
	Minerals Council of South Africa	Clause 16 Section 30	<p>Clause 16 of the COIDA Amendment Bill (section 30 of COIDA): Mutual association</p> <p>The Amendment Bill does not provide for the continuation of the validity of a license issued to a mutual association in terms of the Workmen's Compensation Act, 1941 (as amended).</p> <p>Provision must be made for the continuation of the rights and obligations of a mutual association that has an existing license.</p>	The Department agrees, this will be dealt with in the transitional arrangements.

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
	Minerals Council of South Africa	Clause 19 Section 39	<p>Clause 19 of the COIDA Amendment Bill (section 39 of COIDA): Notice of accident by employer to Commissioner</p> <p>The penalty of 10% be limited to the earnings of the employee(s) involved in the accident and that the penalty be the maximum which may be imposed.</p> <p>If the new proposed provision remains unqualified it will have draconian consequences. It does not give the Commissioner any discretion to impose a lesser penalty.</p>	NB: The agreed penalty at NEDLAC is 10% of the total annual earnings of the employees.

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
	Minerals Council of South Africa	Clause 20 Section 40	<p>Clause 20(a) - (c) of the COIDA Amendment Bill (section 40 of COIDA): Inquiry by Commissioner into accident</p> <p>Proposed provision is unreasonable and unfair.</p> <p>A discretion should be given to the Commissioner to determine the penalty. As worded, it is not clear whether the calculation of the penalty refers to the actual earnings of all the employees of the employer or only the earnings of the particular employee(s) involved in the accident inquiry. The proposed provision therefore lacks clarity which is required in terms of the rule of law.</p>	The agreed penalty with social partners at NEDLAC is 10% of the total annual earnings of the employees.

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
		Clause 33 Section 56	Clause 33 of COIDA Amendment Bill (section 56 of COIDA): Increased compensation due to negligence of employer.	The existing provision must remain unamended as no engineer has been or will be appointed under regulations made under the Mineral and Petroleum Resources Development Act, 2002, as no such regulations exist.
	Mineral Council of South Africa	Clause 47 Section 78	<p>Clause 47 of the COIDA Amendment Bill (section 78 of COIDA): Medical aid provided by employers.</p> <p>Reimbursement should at the election of the employer be made by the Commissioner directly to such fund.</p> <p>Propose that a new paragraph (d) be added which provides as follows:            "(d) the Commissioner may at the election of the employer reimburse a medical aid fund through which medical aid was provided to employees, such cost out of the Compensation Fund as the Commissioner may deem equitable."</p>	The Department stands by the provision in the Bill. The current provision in the Act do allow for re-imburement of the party that paid medical expenses

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
	Minerals Councils of South Africa	Clause 59 Section 93	<p>Clause 59 of the COIDA Amendment Bill (sections 93D and 93E of COIDA): Powers to question and inspect</p> <p>The person questioned must have the right against self-incrimination.</p> <p>A provision similar to section 91 of the Basic Conditions of Employment Act 75 of 1997 should be inserted which provides as follows:</p> <p>"No answer by any person to a question by an inspector conducting an investigation, questioning or inspection in terms of this Act may be used against that person in criminal proceedings, except in proceedings in respect of a charge of perjury or making a false statement".</p>	<p>This is a trite legal principle in our law. However, the Department has no objection in repeating it in our Bill.</p>



# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
3	Commission for Gender Equality	Clause 44	Clause 44 – 3 year prescription period	SEE OUR COMMENTS ON QASA
4	South African Institute of Chartered Accountants.	Clause 51 Section 83	<p>Clause 51(a) amending Section 83</p> <p>No limitation should be imposed to the Commissioner’s right to correct an assessment to bring it in line with the actual earnings.</p> <p>The section must apply to all earnings incorrectly shown, not only to earnings “currently estimated”.</p>	The Department cannot place reliance on estimates and disagree with the proposal. For accuracy reliance can only be placed on actual.
5		Clause 52 Section	<p>Clause 52(b) amending Section 85</p> <p>The Compensation Fund requires a framework for rebates.</p> <p>To avoid uncertainty and abuse, strict guides are required for all aspects of Section 85.</p>	Department agrees with the proposal, however, the framework will be in the Policy instead of the amendment.



# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
	QASA	Clause 76	<p>Clause 76 Medical Aid – Description of assistive devices</p> <p>Section 76 of the Principal Act is hereby amended by the substitution for subsection (2) of the following subsection:</p> <p>“(2) The tariff of fees for medical aid [affecting the Medical Association of South Africa, the Chiropractic Association of South Africa an Dental Association of South Africa] shall be determined after consultation with [those associations] the Health Professions Council of South Africa and registered associations.</p> <p>Provide an open list of persons who may be consulted that includes service providers and organisations for disabled persons instead of just the HPCSA and registered Medical Associations.</p>	<p>The clause relates to the tariffs being billed by the medical service providers who offer medical services to our clients. The department stands by its position as set out hereunder:</p> <p>As per standard medical aid and private health care funding the tariffs are determined in consultation with medical service provider associations and the HPCSA.</p> <p>Organisation for disabled persons do not have the scope of practice to provide medical service to injured workers and are not registered with the HPCSA and BHF to provide medical services.</p>
			Constant Attendant Allowance should be increased to ensure those who need 24 hour care, can afford it.	The department will consider the proposed comments through Schedule 4 review for processes

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
7	Solidarity	Section 1	Solidarity opposes the removal of the word accident from the definition of accident	This is inconsequential. <b>“Accident”</b> cannot be defined as accident i.e. <b>“Accident”</b> means accident. The amendment is intended to remove tautology and bring about some clarity. There is no confusion that will be created by the removal of the word <b>“accident”</b>
8	Richard Spoor and Khan Inc.	Section 97(k)	Assessment of disablement in terms of schedule 2 should not be restricted to regulations and needs to be reconsidered and substituted with proper and considered method to determine or assess disablement. It is preferable that the assessments be done by CIME.	Regulatory framework is necessary. Although Schedule 2 fixes the perimeters of assessment of disablement, it is not restrictive as such. Even if it were restrictive, section 49(2)(c) mitigates against some of the perceived restrictions. <i>“Section 49(2)(c) reads as follows: “if an injury or serious mutilation contemplated in paragraph (a) or (b) has unusually serious consequences for an employee as a result of the special nature of the employee’s occupation, the Director-General may determine such higher percentage as he or she deems equitable”.</i>

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
8	Richard Spoor and Khan Inc.	Section 97(k)		So the DG may still assess disablement outside the perimeters fixed by Schedule 2 as contemplated in this section. Even the “ <i>certified independent medical examiners (CIME) and other relevant specialists</i> ” will still need some guidelines such as schedule 2 in order to avoid arbitrariness.
		Section 91	Restriction of costs orders to Magistrates’ Courts scales must be rejected	It is trite law that the Compensation Tribunal is a creature of Statute and that its status is equivalent to that of magistrate courts. The perimeters are fixed in terms of the tribunal status hence the Magistrates’ Courts scales. Section 91(5)(b) accords with the legal position on the status of the tribunal.



# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
9	South African Society of Physiotherapy		<p>The word Medical Service Provider should be replaced by the words Healthcare Provider.</p> <p>Medical Service provider is restrictive and excludes other types of health practitioners.</p>	<p>The Health Practitioner is defined in the Health Professions Act 56 of 1974. The National Health Act has a better terminology which is “Healthcare provider” which it is defined in Act. National Health Act also include definition of Health establishment.</p> <p>Because the Fund pays medical aid fees to both practitioners and hospitals, the term Medical Service Provider will be continue to be used in the Bill as a general term.</p> <p>A definition of Medical Service provider which refers to both terminologies used in the National Health Act will be included in the definitions.</p>

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
10	COSATU	Section 70A	Language correction on the use of may/must; employment/work “must” must be used instead of “may” and “work” instead of “employment”	The Department agrees with the submission and the department will effect the necessary changes.
		Section 30(7)	<p>The insertion of section 30(7) to read: Any licensee issued with a license in terms of this Act shall : -</p> <ul style="list-style-type: none"> <li>a) be accountable to the Minister;</li> <li>b) be under the control of a board consisting half members representing organised labour and half of members representing business;</li> <li>c) comply with conditions determined by the Minister or as may be prescribed; and</li> <li>d) conduct their business transparently and in a manner that gives full effect to the right of employees and their dependants under this Act</li> </ul>	<p>The Department agrees and has made the same insertion with regards to whom the licensees must be accountable.</p> <p>The Department agrees with this submission on the composition of the Board. This does not need to be in the law as it will form part of the conditions determined by the Minister.</p> <p>However, there are checks and balances that already exist in the financial services industry in the form of regulators who regulate the conduct of business in the transparent manner.</p>

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
	COSATU	Section 30(7)	<p>The insertion of section 30(7) to read: Any licensee issued with a license in terms of this Act shall : -</p> <ul style="list-style-type: none"> <li>a) be accountable to the Minister;</li> <li>b) be under the control of a board consisting half members representing organised labour and half of members representing business;</li> <li>c) comply with conditions determined by the Minister or as may be prescribed; and</li> <li>d) conduct their business transparently and in a manner that gives full effect to the right of employees and their dependants under this Act</li> </ul>	<p>The Department is of the view that the much tied provision on the licensees should be the advice that was given by the Prudential Authority concerning the definition of “licensee”</p> <p>The advice can be formulated as follows:</p> <p>“licensee’ means a licensed insurer to whom a licence has been issued in terms of section 30 of this Act to conduct non-life insurance business under the Insurance Act, 2017 (Act No. 18 of 2017)</p>

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

No	Organisation / Individual	Clause	Support / Against	Comment(s)
1 1	Socio-Economic Rights Institute.	Section 100	No transitional provisions There are no transitional provisions contained in the Bill that would lend support to ensuring that domestic workers are, from the date of their inclusion in the Bill are able to access adequate healthcare services for occupational injuries and diseases under COIDA.	The department agrees to this omission and will accordingly correct it as indicated below:  Domestic employees will have 3 years to lodge their claim from the commencement
		Section 1: Definition of dependants	The age limit of a dependant should not be limited to 25 years.	The limitation is important because the age cannot be open-ended. If it is open-ended, it will have the results that the dependants of the deceased employee will themselves be on pension for life.  Income replacement provided in COIDA for dependents (children) is for those who are at an age they are unable to earn a living

# COMMENTS ON PROPOSED AMENDMENTS/INSERTIONS/DELETIONS

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	Compsol, Coidlink, SAMA,HASA and others	<p>Clause 43(4) Section 73(4) Prohibition of Cession of medical claims.</p> <p>The proposed amendment will infringe upon the employees rights for Compensation for Occupational Injuries and Diseases. It will further result in difficulties for employees to obtain medical services from service providers who will not ne willing to treat IOD injuries.</p>	Against.	While the Department is concerned with the practice of cession and its impact on claims to injured workers. Section 73(4) will be amended to read as follows: "The Commissioner shall issue rules on process for payment and submission of medical claims through publication of the notice in the Gazette".





**Thank You...**