Medical Assessor Guidance Note – Number 17

The Musculoskeletal System:
Assessment of The Spine
Assessment of pre-existing spinal conditions and surgery

Introduction

This material is issued by the Motor Accidents Authority under s.65(2) of the *Motor Accidents Compensation Act 1999* (the Act) in the interests of promoting accurate and consistent medical assessments under the Act. The interpretation provided here is not legally binding but represents the clinically recommended interpretation in an area where more than one interpretation of existing provisions may be possible. This recommended interpretation is publically available. Any medical assessment which does not adopt this interpretation should be accompanied by clinical justification for the interpretation adopted, supported by full, robust reasons.

Reference

The Motor Accidents Authority Permanent Impairment Guidelines – Guidelines for the assessment of permanent impairment of a person injured as a result of a motor vehicle accident 1 October 2007 **(MAA Guidelines):** Chapter 4 Spinal Impairment pages 21 – 29, Clauses 4.16, 4.23, 4.32, 4.34, Table 4.1 page 22; and, Chapter 1 Introduction to the MAA Guidelines Clauses 1.33 -1.35.

The American Medical Association Guides to the Evaluation of Permanent Impairment, 4th edition **(AMA 4 Guides):** Chapter 3.3, The Spine pages 94 to 109 and Tables 72, 73, 74.

Background

Evaluation of permanent impairment can be complicated by the presence of an impairment in the same region that existed prior to the relevant motor accident. The MAA Guidelines at clause 1.33 provide that there should be '*...objective evidence of a pre-existing symptomatic permanent impairment in the same region at the time of the accident...'* in order to apportion.

However, in cases where there has been a pre-existing spinal condition or spinal surgery, this may result in either total apportionment of the claimant's impairment, or no apportionment, if the claimant was not symptomatic at the time of motor accident. If there has been further surgery as a result of the motor accident, this could also potentially result in total apportionment and zero impairment as a result of the relevant motor accident.

Issue requiring clarification

Clauses 1.33 and 1.34 of the MAA Guidelines state:

> *'The evaluation of the permanent impairment may be complicated by the presence of an impairment in the same region that existed prior to the relevant motor accident. If there is objective evidence of a pre-existing symptomatic permanent impairment in the same region at the time of the accident, then its value should be calculated and subtracted from the current whole person impairment value. If there is no objective evidence of pre-existing symptomatic permanent impairment, then its possible presence should be ignored.'*
>
> *'The capacity of an assessor to determine a change in physical impairment will depend upon the reliability of clinical information on the pre-existing condition. To quote the AMA 4 Guides page 10, "For example, in apportioning a spine impairment, first the current spine impairment would be estimated, and then impairment from any pre-existing spine impairment would be estimated. The estimate for the pre-existing impairment would be subtracted from that for the present impairment to account for the effects of the former. Using this approach to apportionment would require accurate information and data on both impairments…'*

In cases where there has been previous spinal surgery, Table 4.1 of the MAA Guidelines page 22 provides that '*Previous spine operation without radiculopathy'* may be quantified as DRE II, and if there is radiculopathy, it may be quantified as DRE III, IV or V. There is no reference here as to whether the previous surgery need be symptomatic or not. There could also be a pre-existing spinal condition, such as a vertebral crush fracture which could be categorised at DRE II, III or IV depending on the extent of vertebral compression.

Clause 4.23 of the MAA Guidelines states that *'The AMA 4 Guides... use the term 'structural inclusions' to define certain spine fracture patterns that may lead to significant impairment and yet not demonstrate any of the findings involving differentiators*...' Clause 4.32 states that multilevel structural compromise is constituted by '*structural inclusion'* and Clause 4.34 of the MAA Guidelines directs that '*Multilevel structural compromise also includes spinal fusion and intervertebral disc replacement*'.

Medical Assessors may differ in the way they apportion for pre-existing spinal conditions and spinal surgery. For example, a person with a pre-existing fusion at L4/5 (DRE IV, 20% WPI) who subsequently is involved in a motor accident (which does not affect the previous surgery) and undergoes another fusion at L3/4 (also DRE IV) could be assessed as DRE IV for the relevant motor accident and then have the 20% WPI for the pre-existing L4/5 fusion subtracted/apportioned as the impairment is also in the lumbo-sacral spine, resulting in 0% WPI.

However, clause 1.35 of the MAA Guidelines states that:

> *'Pre-existing impairments should not be assessed if they are unrelated or not relevant to the impairment arising from the motor vehicle accident.'*

Relying on this clause, a Medical Assessor may determine that if the original fusion at L4/5 is unchanged, the fusion at L3/4 is unrelated and so ignore the impairment arising from the previous fusion, assessing the person with a current 20% WPI.

Both these methods are currently permissible so long as the Medical Assessor provides reasons for their decision.

Similar issues arise with a history of past vertebral crush fractures and a subsequent vertebral crush fracture or spinal surgery as a result of the motor accident.

Interpretation

Medical Assessors should carefully assess a pre-existing spinal condition and/or surgery in the same region, to determine if it is related to the relevant motor accident. Where a pre-existing spinal condition, or spinal surgery, is **unrelated** to the injury from the relevant motor accident, the Assessor should rely on clause 1.35.

The Medical Assessor should provide reasons with reference to the applicable clause/s of the MAA Guidelines.

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