

Treatment Dispute Guidelines

Three Questions

Section 3.24(2) of the *Motor Accident Injuries Act 2017* provides that (emphasis added):

"No statutory benefits are payable for the cost of treatment and care to the extent that the treatment and care concerned was not reasonable and necessary in the circumstances or did not relate to the injury resulting from the motor accident concerned."

Three questions should, therefore, be addressed whenever a request is made of treatment or care:

- **Reasonableness** – is the treatment reasonable?
- **Necessity** – is the treatment necessary?
- **Causation** – does the treatment relate to an injury resulting from the motor accident?

Reasonableness

The following factors are relevant to whether treatment or care is reasonable:

- The appropriateness of the treatment in dispute.
- The availability of alternative treatment.
- The cost effectiveness of the treatment.
- The actual or potential effectiveness of the treatment.
- The acceptance by medical experts of the appropriateness of the treatment.

See *Johnston v QBE Insurance* [2023] NSWPICMP 21

Necessity

Ask:

- Is the treatment care "needed" or "essential"?

See *Johnston v QBE Insurance* [2023] NSWPICMP 21

Causation

Ask:

- Did the motor accident make a material contribution to the need for the treatment or care?
- Would the treatment or care have been required but for the motor accident?

See *AAI Limited t/as AAMI v Phillips* [2018] NSWSC 1710

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