

Tribunal flexes its jurisdictional muscle in medical treatment claim

Kumatia and Comcare [2018] AATA 1505

Key Points

- Comcare argued that a claim for medical treatment, without a substantive claim for compensation, did not confer the Tribunal with jurisdiction to determine liability.
- The Tribunal determined that claims for medical treatment can form the basis of a claim for compensation where the decision-maker has considered the issues.

Background

Christiana Kumatia, a Phlebotomist, suffered a compensable left lower leg injury.

Ms Kumatia subsequently sought compensation for a lower back injury which her specialist said was caused by her altered gait. The 'claim' was made through a request for medical treatment, rather than a new claim form.

Comcare opposed the claim on the basis that the Tribunal did not have jurisdiction make a determination in respect of a claim made in that manner.

The Law

Section 64 of the *Safety, Rehabilitation and Compensation Act* 1988 (Cth) (the SRC Act) confers the Tribunal with jurisdiction to review a reconsideration decision made under section 62 of SRC Act.

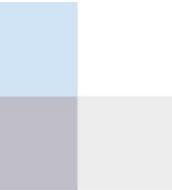
A reviewable decision involves the determining authority making a reconsideration of a determination either on its own motion or following a request made by the claimant, the Commonwealth or a Commonwealth authority.

Conclusion

Member Simon Webb held that where a claim for medical treatment is made, and in denying liability for that treatment, the reconsideration delegate has given consideration to the elements necessary to consider entitlement, the Tribunal will have jurisdiction to consider the same issues and to construe the claim for treatment as an initial claim for workers' compensation.

Lessons Learnt

This is an important decision for employers when it comes to issuing decisions for medical treatment in relation to injuries that were not initially accepted. The decision demonstrates that as long as the elements of entitlement are considered, the decision will be open to scrutiny from the Tribunal. If employers wish to issue decisions in this manner they should be sure to thoroughly investigate



because they will not be able to force a worker to make a new claim.

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