Occupational Therapy Australia

NSW Workers Compensation Reform Regulations and Guidelines

15 May 2026



Introduction

Occupational Therapy Australia

OTA is the professional association and peak representative body for occupational therapists in Australia. There are more than 34,000 registered occupational therapists working across the government, non-government, private and community sectors in Australia (1). Occupational therapists are allied health professionals whose role is to enable their clients to engage in meaningful and productive activities. There are over 9,000 occupational therapists working in New South Wales (NSW). OTA is committed to supporting our members to provide best practice, evidence-based services to individuals as part of NSW workers compensation insurance schemes.

Occupational therapists play a vital role in the rehabilitation and return of injured workers to work and are trained in the assessment and management of physical and mental injury. With expertise in assessing an individual's functional capacity and their focus on work ergonomics, consideration of bio-psychosocial factors and strong collaboration approach, occupational therapists are well placed to determine an individual's capacity to work.

Occupational therapy is a person-centred health profession concerned with promoting health and wellbeing through participation in occupation (activities). Occupational therapists achieve this by working with people with disability, including children with developmental delays and/or disability, to enhance their ability to engage in the occupations they want, need, or are expected to do; or by modifying the occupation or the environment to better support their occupational engagement. Occupational therapists provide services across both clinical and non-clinical settings across the lifespan and have a valuable role in supporting children with developmental disorders including physical, intellectual, chronic, and/or progressive disability.

Occupational therapists work in a diverse range of settings including small, medium, and large private practice, rehabilitation settings, paediatric services, and community services.

Mental health occupational therapy

Occupational therapists working in mental health draw on a broad range of frameworks and models to provide strengths-based, behaviourally oriented interventions to improve mental health and wellbeing.

Occupational therapists draw on, and are trained in, occupational therapy-specific tools and approaches, as well as the psychological techniques used by other mental health professionals. Occupational therapists apply a unique, goal-directed occupational focus that addresses the activities and occupations that are important and meaningful to a person's daily life.

[1] Occupational Therapy Board of Australia (Australian Health Practitioner Regulation Agency), 2024; https://www.occupationaltherapyboard.gov.au/News/Annual-report.aspx

The practical, recovery-focused approach used by occupational therapists addresses not only an individual's diagnosis, but how the person may experience mental illness and the impact it has on their ability to function in daily life, such as their ability to work.

Occupational therapists providing mental health specific services are eligible for endorsement under Occupational Therapy Australia's (OTA) mental health endorsement program. The endorsement program recognises the additional knowledge, skills and experience of OTs focusing their scope of practice on mental health. OTA Endorsement is recognised by a number of different schemes including Government, the Medicare Better access to mental health program, The Eating Disorders program, Mental Health items under DVA, as well as a number of state-based compensation schemes, including Return to Work SA.

Submission Overview

- Diagnosis and Treatment/Definitions under the newly implemented Workers Compensation scheme.
- Payment and Treatment Timeframes.
- Administrative Burden
- Treating Psychosocial Injuries
- Disputes clarification under new legislation
- Impacts on Occupational Therapists in Rural, Regional and Remote Areas of NSW
- Recognition of Occupational Therapists within NSW
- Impact on Occupational Therapy Access and Recovery

NSW WORKERS COMPENSATION REFORMS 2026: OTA Recommendations

Recommendation 1 Assurance that key OT practice elements inform oversight of reforms

Recommendation 2 Apply flexibility in regulatory approach that will prevent delays, if required.

Recommendation 3 Recognition that "reasonable and necessary" parameters create administrative burden

Recommendation 4 Apply evidence requirements in psychological injury claims proportionately

Recommendation 5 Apply a trauma informed approach to claim-review processes

Recommendation 6 Ensure regulatory approach not create treatment barriers in regional and remote areas.

Recommendation 7 Review recognition requirements for Occupational Therapists in NSW

Diagnosis and Treatment/Definitions

OTA will always advocate for best practice for client diagnosis, assessment, and treatment, including timely intervention, required treatment escalation or adjustment based on clinical need, and early targeting and identification of any issue preventing a client from leading a productive life.

Accordingly, we seek assurances that key elements of OT practice, including

- functional capacity assessments
- activity-based rehabilitation
- workplace assessment
- graded return-to-work planning cognitive and psychosocial strategies
- environmental modification, and
- support for daily routines and participation

will be rigorously and appropriately incorporated into SIRA's regulatory oversight of new reforms.

OTA supports oversight settings that streamline processes for clients, practitioners and employers, that align to accepted professional standards and recognise the need for accurate and evidence-based compensation outcomes. However, the legislation's regulatory guidelines don't offer sufficient detail around frameworks insurers will employ to assess treatment plans.

The newly updated compensable treatment definition is "reasonable and necessary", as transitioned from "reasonably necessary", and OTA strongly notes potential practitioner service impacts. While OTA supports streamlining of clinical and insurance claim assessments to facilitate better return to work outcomes in NSW, there is a risk that solely focusing on these outcomes will come at the expense of longer-term therapy. The instigation of the 130-week cap will place limits on certain treatment outcomes, depending on the nature of claimants' injuries.

OTA seeks concrete, demonstrable assurances that "reasonable and necessary" recognises functional recovery and capacity in people being treated by Occupational Therapists, and that insurers interpret the new definition in a way that also encompasses psychosocial recovery.

While OTA expects assessing insurers to adhere to updated parameters, we similarly seek assurances that claims assessors will engage with, and seek understanding of, clinical advice provided by Occupational Therapists under newly updated parameters.

We strongly note that, under the NSW Workers Compensation Reforms, claimant payments to cover treatment will not commence until claims are complete.

OTA acknowledges the need for sound application of prudent policy rationales, to ensure correct treatment for clients with proven need, and to encourage a regulatory approach that ensures streamlined treatment approvals. While the published 42-day window for insurer decisions is clear and workable, this decision deadline applies only after a complete conduct claim is submitted, i.e. this timeframe sits in addition to any period where claimants must gather evidence to finalise their claim.

Early clinical intervention plays a critical role in recovery and can play a defining determinate role in achieving strong return-to-work outcomes. Treatment delays, caused by overly complex evidentiary hurdles, can exacerbate existing conditions and create return to work barriers, counter to the intention of these reforms.

Approval requirements should be clear, consistent and matched to established risk factors, with higher risk scenarios attracting additional oversight, when required. Where legislation states a need for "detailed evidence" OTA seeks clarification around specific level and form of detail required.

Where serious deterioration in a client's condition is observed by an Occupational Therapist, we encourage any flexibility in regulatory approach that will prevent delays where OT input is needed to support safe work participation or prevent deterioration.

However, in seeking to ensure claimants are physically and mentally able to return to work, OTA's view is that extended treatment delays caused by over-adherence to process should be avoided. Occupational therapists should be able to intervene to treat specific issues, providing holistic foundational treatment approaches, at the earliest possible juncture. This approach supports not only a strong return-to-work rate, but also the overall life outcomes that underpin strong social cohesion, as well as returning clients to work.

We thus seek further assurances that SIRA's regulatory oversight will ensure timely decision outcomes for decisions, that escalation pathways will be transparent, accessible, and workable.

Administrative Burden

Under a "reasonably necessary" framework, Occupational Therapists have been able to assess conditions presented by claimants and determine treatment accordingly. Under the newly adopted "reasonable and necessary" framework, a higher-burden-of proof is placed on practitioners to contextualise causation, in addition to treating presenting symptoms. These higher clinical documentation demands can in turn create:

- Increased requests for functional assessments from clients to finalise claims, and
- Increased pressure on claimants and physicians to research, confirm and provide symptom timelines.

Requests from insurers/employers to mental health Occupational Therapists to clarify the primary or secondary nature of psychosocial injuries, to then link symptoms to a prescribed "relevant event" may add additional administrative burden. Reading provided documentation can take two to four hours, depending on document volume. Review of 500-2000 pages is common. Additionally, claimant examination and assessment will take a minimum of 90 minutes, more commonly requiring two to three hours, noting travel time in the instance of home visits also impacts on an Occupational Therapist's time and overhead costs.

Psychosocial Injuries

While OTA support flexibility; our view remains that workers with complex psychosocially based claims should not be disadvantaged where precise dates, witnesses, or records are not available, especially in bullying, harassment or cumulative psychological injury claims.

If primary psychological injury claims must arise from a defined "relevant event" (e.g. bullying, excessive work demands, sexual or racial harassment, or specific trauma), OTA express concern around the viability of effective treatment approaches.

Noting that claims will be rejected if a claimant cannot prove that an injury was caused by a 'defined traumatic or conduct event', OTA firmly emphasises the cumulative nature of psychosocial exposure. Trauma presenting in clients can stem from a series of historical events, with certain events or experiences in differing settings exacerbating or re-opening previous psychosocial injuries.

This may create scenarios where claimants present with psychosocial injuries that cannot be tied to single, clearly evidenced events. In these contexts, Mental Health Occupational Therapists may need to treat clients in timeframes exceeding the 130 weeks stated in the new legislation.

While OTA supports clear information requirements, we also strongly advocate for proportionate application of evidence requirements in psychological injury claims, that appropriately acknowledging evidence-based trauma.

Clarity around disputes

Noting both the NSW Personal Injury Commission and Industrial Relations Commission can play a role if the respective claim assessments of professional allied health clinicians and insurers arise, OTA seeks assurance that these dispute pathways will be accessible and streamlined, with clear access points and process explained to users. OTA notes the stipulation comprising a single principal assessment relating to permanent claims. While we acknowledge subsequent consideration where unforeseen further deterioration, not including ageing, may trigger future assessment in highly limited circumstances, OTA requires considerably more clarity around how 'unforeseen further deterioration' will be deemed to have occurred in psychosocial treatment contexts.

We request SIRA's advisement on how regulatory oversight will be undertaken to ensure a trauma informed approach will apply to review processes, if the initial single principal assessment denies compensation to a claimant with a psychosocial injury.

OTA also requests stronger clarity around applicable timeframes for an occupational therapist to determine if Whole Person Impairment has fallen the 10 percentage points, as required by the legislation, to trigger any secondary review. OTA also supports reviews triggered by disputes, with clear feedback to providers and sector-wide guidance on common issues.

Impacts on Occupational Therapists in Rural, Regional and Remote Areas of NSW

[2]26% of all Occupational Therapists in Australia work in NSW. Of these 9,423 allied health professionals, [3] 4.4% (or 417 professionals) practice in regional, rural or remote locations. While this comparatively low percentage represents a workforce shortage in any case, OTA's view is that any regulatory approach should not create access- to-treatment barriers in regional and remote areas. OTA seek clarity around SIRA's regulatory oversight of risk in thin markets in regional and rural areas of NSW, where claim bottlenecks may be exacerbated by lower availability of Occupational Therapists available to workers compensation claimants. Inevitably, clients with complex needs in thin markets will be adversely affected when small-to-medium scale clinicians must absorb costs or reduce services.

Recognition of Occupational Therapists within NSW

The requirement that Occupational Therapists must participate in clinical treatment for a minimum of eight hours per week for a three-year period prior to application plus undertake medicolegal assessments potentially excludes some experienced occupational therapists from practice. These requirements remain unrealistic for occupational therapists who are working part-time to meet both clinical and medico-legal aspects and will also impact on the career progression of some experienced therapists in this space. Members report that this is also a deterrent to them reapplying to continue to be on the Allied Health Professions list.

Occupational Therapy Australia continues to advocate for review of these parameters to afford Occupational Therapists stronger career and training options, helping to consolidate this workforce segment in NSW

Impact on Occupational Therapy Access and Recovery

Occupational therapists play a central role in psychosocial recovery, vocational rehabilitation, and return-to-work planning. Strong, nuanced regulatory oversight of the NSW Workers Compensation reforms by SIRA can achieve the goals of the legislation's expanded parameters and goals without causing claimants or employers to be worse off.

Conclusion

OTA welcomes the opportunity to provide input to SIRA's NSW Workers Compensation Reform Regulations and Guidelines. We look forward to working with SIRA to ensure that regulatory oversight of workers compensation claims functions in a way that balances the needs of claimants/workers, insurers, and employers, and that work of Occupational Therapists is strongly valued and recognised, to maintain provision and sustainability of essential OT services. If you would like to discuss our submission, please contact OTA on policy@otaus.com.au

[2] Occupational Therapy Board of Australia - Statistics (AHPRA)
[3] Occupational Support at Home Member Survey 2026.



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