Speech by

Mr TIM MULHERIN

MEMBER FOR MACKAY

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WORKCOVER QUEENSLAND AMENDMENT BILL

Mr MULHERIN (Mackay—ALP) (4.16 p.m.): One of the critical issues for this Government in formulating the WorkCover Queensland Amendment Bill 1999 has been to ensure a more independent and transparent review process for workers and employers. Honourable members will recall that, prior to 1 July 1997, there was no formal review and appeals process for workers and employers other than the court process.

Following the introduction of the WorkCover Queensland Act 1996, the Statutory Review Branch was established within WorkCover Queensland to review all WorkCover and self-insurer decisions before an appellant proceeded to court. While the process is an improvement on previous practices, it has been the subject of ongoing criticism centred on the lack of independence and transparency. An aggrieved person receives only a paper or file review of the decision, and there is little or no opportunity for an appellant worker/employer or their representative to present their case and be heard.

The medical assessment tribunals have also been subject to criticism. They are seen to be too closely associated with WorkCover, resulting in a perceived WorkCover bias in decisions. Complaints have also been received by the Department of Employment, Training and Industrial Relations that the process is intimidating to some claimants. Most of us here would be aware of the number of people who come into our electorate offices and talk about the experiences that they have had when going for an assessment through the medical assessment tribunals. The proposed changes place WorkCover at arm's length from the review process. They will provide a more independent, yet cost-effective review process.

There are a number of reforms in the overall review and appeals package. These fall into two key areas: reforms relating to internal decision making and reforms relating to the statutory review process. One of the key reforms to the internal decision-making process is that the time for WorkCover and self-insurers to decide a claim will be reduced from six months to three months. The intent of this provision is to encourage WorkCover and self-insurers to improve claims management and encourage timely decisions on applications for compensation.

Of the 79,686 claims for compensation lodged with WorkCover in the 1997-98 financial year, 85% of claims were decided in the first four weeks. In view of the small number of claims that are outstanding after the four-week period, it would be unreasonable to expect workers to be made to wait up to six months for a decision. If WorkCover is unable to make a decision on an application within three months, the claimant must be notified of this and of appeal rights within seven days after the end of the three-month period. Importantly, before a decision to reject a claim is made, a more senior officer must review the likely decision.

WorkCover also must provide adequate written reasons to the claimant if the application for compensation is rejected. The statement of reason to reject a claim will not be required to be in an approved regulated form. This will ensure sufficient information is supplied to the claimant and that there is adequate information for internal review of decisions. There are a number of key reforms in relation to the statutory review process. As part of the move to a more independent and transparent review process, the regulatory and commercial functions in WorkCover have been separated. The

review processes will move to the regulatory function, ensuring a separation of the decision makers and the reviewers.

The legislation provides for the establishment of a WorkCover Review Unit, separate from WorkCover's commercial insurance functions, for the review of decisions on premiums and entitlement to compensation. The time for lodgment of an application for review will be increased from 28 days to three months. This will enable a person who may not immediately be aware of or understand their rights more time to lodge an application for review and provide sufficient time to organise their case. Workers and employers may lodge appeals after the three-month period with the approval of the WorkCover board. While there is potential for the extended appeal time to have an impact on the return to work process, this relates more to how the claim is managed. Like all large employers, self-insurers will have to ensure that they have the necessary rehabilitation process to foster a timely return to work.

The WorkCover board is to provide a grant to peak employer and employee groups to establish a workers compensation advisory service that will assist all workers and employers through the review process. The grants will be provided to peak bodies because of their broad community networks and ability to support this initiative. However, as a condition of the grant, the peak bodies will have to agree to offer this service to any person, not just to their membership.

The legislation also provides for the establishment of a WorkCover Review Council to monitor the performance and outcomes of the review process and the medical assessment tribunals. The council will consist of the chairperson of the WorkCover board, or a director nominated by the chairperson, and two representatives of workers and two representatives of employers. The representatives will be selected from the nominees of peak bodies because of their broad networks in the community and their ability to provide feedback on community satisfaction with the process.

While the review council will not have any powers to direct or alter any decision of either the review unit or medical assessment tribunals, it provides an excellent opportunity for the WorkCover board to receive direct input from the representatives of the users of the service. Accordingly, the review council will play an important role in ensuring a more efficient and cost-effective dispute resolution process.

Changes to the review process will allow appellant workers and employers to have face-to-face reviews and, where appropriate, conciliation conferences. Appellants will be reimbursed for the cost of additional medical certificates should these substantially contribute to a decision being overturned. It is important to note that, once an application has been lodged with the review unit, the unit still has 35 days in which to make a decision. The revised review process will remain mandatory and must be followed before a person proceeds to court. This will keep costs of appeals to a minimum for workers and employers. Of course, the fundamental right of individuals to use the court system remains. However, the focus will be on the resolution of issues, rather than on pursuing legalistic outcomes in the first instance.

The Government firmly believes that these reforms will contribute to a more independent, transparent review process for workers and employers. Most importantly, it provides an internal feedback loop which should improve initial decision making, thereby improving the efficiency and cost effectiveness of the process for all parties.

Finally, I congratulate the Minister, the Honourable Paul Braddy, on the Government's initiative, which I believe will deliver a fair and equitable system of workers compensation to workers and employers in Queensland.