

National Injury Insurance Scheme –minimum benchmarks for motor vehicle accidents

In their report into disability care and support, the Productivity Commission (PC) proposed the establishment of two schemes: the National Injury Insurance Scheme (NIIS) and the National Disability Insurance Scheme (NDIS).

- The NDIS would provide reasonable and necessary care and support for people with a permanent and significant disability.
- The NIIS would provide no-fault lifetime care and support for people who are catastrophically injured in motor vehicle accidents, workplace accidents, medical misadventure, crime and general accidents occurring in the home or community.

The PC's rationale for the establishment of the NIIS is that current arrangements for catastrophic injury across jurisdictions are fragmented and variable, which in many cases leads to inadequate care and support. In addition, people in jurisdictions without no-fault catastrophic injury insurance, such as is the case for some motor vehicle accidents schemes, need to establish fault of another party to obtain compensation. Court outcomes can be delayed, uncertain, inequitable and inefficient.

The PC proposed that the NDIS be a national scheme run by a national agency, whereas the NIIS be structured as a federation of separate state-based schemes which would be controlled and managed by states and territories.

According to the PC, the reasons for the NIIS being distinct from the NDIS are that:

- implementation could be relatively quick due to the existence of functioning compensation schemes (some no-fault);
- there is an opportunity to change behaviour through incentives; and
- there are some constitutional issues with having a Commonwealth NIIS.

In addition to these reasons, existing insurance arrangements provide an opportunity to develop a NIIS that is financially sustainable, as it can largely draw on existing premium revenue sources. The PC proposed that state and territory governments fund catastrophic injury from a variety of sources, such as compulsory third party premiums for motor vehicle accidents.

It is expected that anyone not covered by the NIIS would automatically be captured by the NDIS, provided they have a significant disability. Therefore, the NIIS will reduce pressure on the NDIS and improve fiscal sustainability. The annual additional cost of a (fully-funded) NIIS is around \$830 million (estimated by the PC, 2011 dollars).

There are well-established catastrophic injury schemes currently in operation across the various jurisdictions, and these vary in the coverage and benefits they provide. The PC proposed that in order to ensure some level of consistency across coverage and benefits, schemes should be subject to minimum benchmarks. Whilst the eligibility may differ between the different categories of accidents, it would be desirable to ensure that the care and support benefits are aligned amongst these different categories of accidents. Consistent eligibility within an accident stream (such as motor

vehicle accidents) will help to avoid gaps in coverage symptomatic of current arrangements. Jurisdictions have agreed that no minimum benchmark is required for governance arrangements between schemes.

Alignments of care and support benefits also have implications for the ongoing sustainability of both the NDIS and NIIS. If one scheme has lower minimum standards of care and support than the other, there may be cost-shifting as individuals seek to access the scheme with the higher standards of care and support. Furthermore, a difference in care and support standards between the schemes could lead to pressure on the scheme with lower standards of care and support to raise their standards of care and support. Clear boundaries, assessment and eligibility criteria for both schemes will assist in minimising these risks.

In light of these considerations, the attached paper proposes a set of common minimum benchmarks for catastrophic injuries arising from motor vehicle accidents.

Minimum benchmarks for catastrophic injury arising from motor vehicle accidents

At the last Standing Council for Federal Financial Relations (Standing Council), Treasurers were presented with a high-level discussion paper based on the PC's NIIS proposal for the motor vehicle accident stream. An extract from the draft minutes of the meeting indicates that Treasurers:

"agreed that Treasuries undertake further detailed work during 2012, for consideration by the Standing Council in late 2012, in relation to the development of a 'model' NIIS which could be adopted nationally and in particular to consider the set-up costs and additional annual costs of a NIIS. The model would focus on motor vehicle accidents, but include a timeline for possible extension to other forms of catastrophic injury."

The NIIS Officials Working Group have prepared the attached paper on minimum benchmarks for no-fault motor vehicle accident catastrophic injury schemes for the consideration of the Standing Council. Jurisdictions would have discretion about whether to provide coverage and benefits above and beyond the minimum benchmarks. Key reasons to pursue minimum benchmarks include:

- ensuring that people who suffer catastrophic injuries in motor vehicle accidents do not 'fall between the cracks';
- avoiding potentially anomalous differences in the interface between the NIIS and the NDIS across jurisdictions; and
- ensuring that differences in the care and support available to those who suffer a traumatic catastrophic injury compared with those with significant disabilities are minimised.

Around half of the catastrophic injuries in the NIIS will be from motor vehicle accidents. Any person not covered by the motor vehicle accident schemes or the NIIS more broadly will be covered by the NDIS. Any proposed exclusions to the minimum benchmarks will need to be considered as to whether costs are best covered by the NIIS or the NDIS.

There are a range of views on the scope and detail of the minimum benchmarks. In order to capture the views of all jurisdictions and to fully inform governments of the consequences of implementing these benchmarks:

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- the attached paper contains a set of relatively simple minimum benchmarks (without scheme-specific comments); and
- the attached table provides jurisdictions with the opportunity to state their position on the minimum benchmarks including the implication on their scheme and the expected cost, and their preferred approach.

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Table 1: Jurisdictional views on minimum benchmarks

Minimum Benchmark:

Jurisdictions should have eligibility rules which include people who suffer the following catastrophic traumatic injuries in motor vehicle accidents:

1. Spinal cord injury
2. Traumatic brain injury
3. Amputations
4. Burns
5. Permanent traumatic blindness.

	Support/do not support and implications for state/territory scheme	Cost impact	Proposed alternative	Social Policy Impact
New South Wales				
Victoria				
Tasmania				
ACT				
South Australia				
Western Australia				
Queensland				
NT				

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Minimum Benchmark:

Each N.I.I.S should cover injuries which arise from accidents which:

- involve at least one registerable vehicle
- occur on a public road or other locations where registered vehicles are commonly driven including driveways and car parks, and areas adjacent to roads such as nature strips, footpaths and other road related areas
- are the result of the driving of the vehicle, the vehicle running out of control, action taking to avoid a collision with the vehicle, or a collision with the vehicle while it was stationery, and includes injuries to pedestrians and cyclists injured as a result of such incidents.

	Support/do not support and why	Cost impact	Proposed alternative	Social Policy Impact
New South Wales				
Victoria				
Tasmania				
ACT				
South Australia				
Western Australia				
Queensland				
NT				

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Minimum Benchmark:

- At a minimum each jurisdiction’s N.I.I.S. will cover people who are catastrophically injured in motor vehicle accidents which occur in that jurisdiction. Jurisdictions may, if they wish, provide broader coverage extending beyond their jurisdiction.
- State and Territory N.I.I.S. will establish arrangements to purchase care and support services from each other when a scheme participant resides in a different jurisdiction to that which assumes funding responsibility.
- A review will be undertaken every 5 years to assess the extent to which State and Territory N.I.I.S. schemes face differential (net) financial burdens in relation to liability for services provided to non residents.
- In all cases the jurisdiction assuming financial responsibility should retain the right to seek recovery from the CTP insurer of the at-fault driver (or the CTP insurer of the vehicle where the accident is regarded as an “inevitable accident” or where there is a single vehicle accident and the driver is the claimant).

	Support/do not support and why	Cost impact	Proposed alternative	Social Policy Impact
New South Wales				
Victoria				
Tasmania				
ACT				
South Australia				
Western Australia				
Queensland				
NT				

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Minimum Benchmark:

The minimum benchmark is that exclusions be limited to persons who:

- Have received a common law compensation payment in respect of their care and support needs resulting from the motor vehicle accident (query – what about prior accidents?)
- Are already a participant of the NDIS.

	Support/do not support and why	Cost impact	Proposed alternative	Social Policy Impact
New South Wales				
Victoria				
Tasmania				
ACT				
South Australia				
Western Australia				
Queensland				
NT				

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Minimum Benchmark:

A minimum level of entitlement in each N.I.I.S will include reasonable and necessary needs for eligible persons for the following services to the extent that they arise from the motor vehicle accident:

- medical treatment (including pharmaceutical)
- dental treatment
- rehabilitation
- ambulance transportation
- respite care
- attendant care services
- domestic assistance
- aids and appliances
- artificial members, eyes and teeth
- education and vocational training
- home and transport modification

	Support/do not support and why	Cost impact	Proposed alternative	Social Policy Impact
New South Wales				
Victoria				
Tasmania				
ACT				
South Australia				
Western Australia				
Queensland				
NT				

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Minimum Benchmark:

That each Scheme agree to collect information in regard to the following items and report under a consistent definitional framework:

- The number of entrants to each scheme and their characteristics (age/gender/location of service provision – ie metro/regional/rural);
- The classification of injuries of entrants - Spinal injuries (including level of lesion), head injuries (moderate + severe), other severe injuries
- The average cost of support of scheme entrants (overall and by the agreed injury classification)
- The average cost of care in each jurisdiction (to understand variations in the cost of attendant care and monitor trends)
- The amount of care per claim overall and by injury classification.

	Support/do not support and why	Cost impact	Proposed alternative	Social Policy Impact
New South Wales				
Victoria				
Tasmania				
ACT				
South Australia				
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Queensland				
NT				

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