MINISTRY OF SOCIAL DEVELOPMENT
TE MANATŪ WHAKAHIATO ORA

25 August 2023

Tēnā koe

On 1 August 2023, you emailed the Ministry of Social Development (the Ministry) requesting information about allowable costs under a Disability Allowance, specifically relating to medicinal cannabis products. Your request has been considered under the Official Information Act 1982 (the Act).

Please find the Ministry's responses to your 18 specific questions below. For the sake of clarity, I have grouped some questions together.

1) *What criteria does a Client have to meet to get assistance via the Disability Allowance for Medicinal Cannabis Products as an allowable cost in their Disability Allowance?*

2) *Why does MSD decline Medicinal Cannabis Products as an allowable cost in a client's Disability Allowance? If the answer is anything related to science and evidence please give a thorough explanation with sources in response to Q6.*

5) *When declining Medicinal Cannabis Products as an allowable cost under the Disability Allowance is MSD responsible for explaining the reason of the decline? If not, why not?*

6) *Does MSD base their decision when granting/declining Clients who've applied to have Medicinal Cannabis Products included in their Disability Allowance on any evidence-based research? If so, please cite specific examples? If not, why not? And how are decisions then made if not based on evidence-based research?*

15) *When declining assistance for Medicinal Cannabis Products under Disability Allowance, what work is being done to ensure that the needs of the client/patient are fully understood, heard and they have a mana enhancing experience?*

16) *Is MSD aware that declining Medicinal Cannabis Products as an allowable cost is forcing clients/patients to go down a more harmful path that WILL increase in cost to Government over the time the longer the patient/client is prescribed? Dispensings for Morphine and Oxycodone increased*

between 2017 and 2021 and will continue to climb. There is already a large and growing amount of people on these types of pain medications which will eat away at your quality of life resulting in more prescriptions and treatments. The warnings on the labels carry risks.

Medicinal cannabis is considered under Disability Allowance by the Ministry as a non-subsidised pharmaceutical. More information on non-subsidised pharmaceuticals can be found here: workandincome.govt.nz/map/income-support/extra-help/disability-allowance/non-subsidised-pharmaceuticals-01.html.

The costs of a non-subsidised pharmaceutical can be included as an additional expense for Disability Allowance (DA) if the client's usual general practitioner (GP) or nurse practitioner verifies the pharmaceutical item is essential, directly related to the client's disability, and there are no suitable subsidised or partly subsidised alternatives.

The health practitioner will also need to confirm the reasons for prescribing the pharmaceutical item, if PHARMAC funding has been applied for and declined and the reasons for this, or the reasons PHARMAC funding has not been sought.

In New Zealand, under Section 29 of the Medicines Act 1981, a medicinal cannabis product must be prescribed by a medical practitioner registered to practice in New Zealand. The Ministry may therefore seek additional information to ensure that the prescribing practice meets these legal requirements.

A reason for declining to include medicinal cannabis products into a DA is there is often a fully subsidised or partly subsidised alternative treatment that hasn't yet been trialled. As an example, medicinal cannabis products are often requested to help manage pain symptoms. In order for the criteria for non-subsidised pharmaceuticals to be met, the client would need to have trialled an extensive range of analgesics, pain modulating medications and other therapies that can relieve pain before we could include medicinal cannabis into DA costs.

Please find the following links regarding who can receive a DA and the qualifications and in the following links:

Disability Allowance: www.workandincome.govt.nz/products/a-z-benefits/disability-allowance.html.

Qualifications: www.workandincome.govt.nz/map/income-support/extra-help/disability-allowance/qualifications.html.

Types of costs: www.workandincome.govt.nz/map/income-support/extra-help/disability-allowance/types-of-costs-01.html.

Costs paid for: www.workandincome.govt.nz/map/income-support/extra-help/disability-allowance/costs-paid-for-01.html.

Costs not included: www.workandincome.govt.nz/map/income-support/extra-help/disability-allowance/costs-not-included-01.html.

3) *How many clients are currently in receipt of Disability Allowance assistance that covers Medicinal Cannabis Products as an allowable cost?*

4) *What percentage of applicants applying/applied for Medicinal Cannabis Products as an allowable cost covered under the Disability Allowance are declined or lapsed, and what is the most common reason for declining this assistance? If you could, please separate the data between lapsed and declined.*

9) *Since the passing of the Misuse of Drugs (Medicinal Cannabis) Regulations Act 2019, has MSD updated any of it's systems to align with current legislation? Example: Cannabis is now classed as a Medicinal Product that can be prescribed and therefore being updated as such on all of MSD's software/resources/processes/tools. If not, why?*

As medicinal cannabis products are classified as a non-subsidised pharmaceutical (which was already a category) no additional changes were required to be made to the Ministry's systems.

I am unable to provide you with the information you have requested in questions 3 and 4, as this information as it is held in notes on individual client files and is not centrally reported. In order to provide you with this information, Ministry staff would have to manually review a substantial number of files. As such, I refuse your request under section 18(f) of the Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry's ability to undertake its work would still be prejudiced.

7) *Does MSD have any written or digital resource(s) or guidelines and process' (that are not already readily available to the public, such as internal memos, bulletins, reminders etc) regarding decision making when granting/declining Medicinal Cannabis Products as an Allowable cost under Disability Allowance?*

   If so, could you please provide it without it impacting the business? If there is no process/resource or guide, why not and how is the decision then made?

17) *When a Regional Health Advisor consults a Client's doctor regarding their Medicinal Cannabis Products, what questions are being asked to formulate*

the decision to grant or decline? Why is the client/patient not consulted with during this process? Why does it appear that the client/patient is placed last in the factors for decision making? They are left scrambling trying to figure out how they will manage.

Members of the Regional Health and Disability team are required to ensure that the application meets the criteria for DA. Where additional information is required, this information may be asked of the client (where they have the information) or of their regular general practitioner (GP). Any questions asked of the client's GP to formulate this decision, relate to the criteria; for example, ensuring that they consider this to be essential and that all other subsidised options have been tried.

The current process is that the Case Manager requests input from the Regional Health and/or Disability Advisors, who collate this information if it isn't already available. The request is then forwarded to the Principal Health Advisor (PHA) and Principal Disability Advisor (PDA) who provide a recommendation determining whether or not the application meets the DA criteria. Appendix A provides the guidance table used by the Regional Health & Disability teams to ensure they have all the necessary information before sending to the PHA and PDA for approval.

8) *Since the passing of the Misuse of Drugs (Medicinal Cannabis) Regulations Act 2019, has MSD delivered any education to it's Staff, Case Managers and/or Regional Health Advisors (or anyone involved in the decision making process) to make them aware of the changes and what that means for clients/patients? If so, how and what was involved? If not, why and will this change?*

10) *Has MSD updated any of its processes and/or understanding around Medicinal Cannabis Products, the prescription process and it's challenges, in order to better service whanau across New Zealand who are now legally prescribed it? If not, why, will this change, when? If so, how?*

11) *Have staff at MSD who ultimately decide grant/decline for Medicinal Cannabis Products received any training or extra education relating to Medicinal Cannabis Products? If not, why?*

The PHA and PDA meet frequently with the Regional Health and Disability teams and the subject of medicinal cannabis products is regularly discussed. Information is shared during the regular meetings and resources as they become available. We have circulated the following pieces of guidance from BPAC to the regional teams to assist when assessing qualification to including medicinal cannabis products into DA entitlement. Please see the links below for your reference:

- bpac.org.nz/2022/medicinal-cannabis.aspx
- www.health.govt.nz/our-work/regulation-health-and-disability-system/medicinal-cannabis-agency/medicinal-cannabis-agency-

information-health-professionals/medicinal-cannabis-products-meet-minimum-quality-standard
- www.health.govt.nz/our-work/regulation-health-and-disability-system/medicinal-cannabis-agency/medicinal-cannabis-agency-information-health-professionals

All frontline staff should be sending all requests to include medicinal cannabis products through to the RHD team, who then forward the request to the PHA/PDA (as per our response to Q7 above).

As this is an area of medicine that is relatively new to Aotearoa, and is rapidly changing, all requests come to the PHA or PDA for a recommendation, advice or direction.

12) *What are MSD's policies or actions to ensure that Regional Health Advisors have adequate medical knowledge and understanding to make medical decisions? How often is their competency and knowledge tested, and how? If not, why?*

The RHAs as Ministry staff are required to undertake professional development activities relevant to their position. The PDA and PHA provide ongoing mentoring and training opportunities, meeting the wider Regional Health and Disability teams for regular fortnightly teleconferences. The RHAs are also responsible for maintaining and upskilling their own knowledge in their respective roles. The performance of the RHA in this role is managed by the reporting manager through regular performance reviews.

You may also find helpful the job description for the RHA's and the RDA's at the following links;

- *www.msd.govt.nz/hr/documents/position-descriptions/dce-service-delivery/client-service-delivery/regional-health-advisor-oct-20.pdf*
- *www.msd.govt.nz/hr/documents/position-descriptions/dce-service-delivery/client-service-delivery/regional-disability-advisor-oct-20.pdf*

13) *Under 'Pharmaceutical Charges' in the MSD Deskfile I have found this statement:*

"Costs not included Disability Allowance cannot be paid for:

- *pharmaceutical items not related to the client's disability (for example a cough suppressant for the flu) or*

- *illegal drugs used for medical purposes (for example marijuana for pain relief)."*

Why has this remained as such, declaring Cannabis/Marijuana as an ILLEGAL drug when it is not, based on the Misuse of Drugs (Medicinal Cannabis) Regulations Act 2019?

14) *This speaks to the above question, is it MSD's understanding that MSD may have influenced the decision-making process by not adequately updating its resources? If not, how has MSD made this clear for staff who have the right to grant/decline?*

Prescribed medicinal cannabis products are not illegal drugs, therefore this statement would not apply. As previously stated, medicinal cannabis is treated as all other unsubsidised pharmaceuticals and there is no impact on decision making based on applications being for medicinal cannabis.

18) *Te Pae Tawhiti talks about Mana Manaaki, Kotahitanga and Kia takatu tatou, can you answer how MSD can meet these values if clients/patients are being turned away from support and being put on drugs that actively take away quality of life from them?*

The Ministry reviews all applications for support based on the legislated criteria. Where this criterion is met, DA support is provided. This is in line with the values outlined in Te Pae Tawhiti.

If the Ministry has made a decision that you do not agree with, you are able to request a formal review. The Review of Decision (ROD) process falls under Section 391 of the Social Security Act. This allows for a beneficiary to exercise their right to challenge and review any decision made by the Ministry and is an opportunity to:

- advise that they disagree with a specific decision made, and
- ensure that legislation has been applied correctly, which includes the appropriate exercise of discretion.

The Ministry's publicly available website provides for the process for anyone who wishes to review a decision Ministry has made, at this link: www.workandincome.govt.nz/about-work-and-income/complaints/review-of-decisions.html.

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter and any attached documents available to the wider public. The Ministry will do this by publishing this letter on the Ministry's website. Your personal details will be deleted, and the Ministry will not publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response regarding qualification to medicinal cannabis product, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

Bridget Saunders

Bridget Saunders
Manager
Issue Resolution

Appendix A

The table below indicates the information required from the client's regular GP to process DA applications for specialist unsubsidised pharmaceuticals in order to assess against DA criteria.

What relevant health condition(s) is this medication being prescribed for?	
Please list all previous and current therapeutic interventions that have been trialled to treat the condition(s) named above, and whether or not they were beneficial?	*NB: this should include medications as well as other interventions such as counselling, specialist referral etc and reason for their cessation*
What previous medication (if any) has the applicant trialled and what was their effect / impact?	*NB: This should include alternative forms of the same medication*
Do you consider the use of this medication to be <u>essential</u> in treating the conditions named above?	
Will you have an ongoing role in the prescribing and/or supervision of this medication?	