

## **Part 23: Workplace and education facility modifications**

This Part of the Lifetime Care and Support Guidelines is made under the *Motor Accidents (Lifetime Care and Support) Act 2006* (the Act), including sections 11A, 11AA, 23, 28 and 58.

This version of Part 23 of the Lifetime Care and Support Guidelines (the Guidelines) takes effect on the date of gazettal in the NSW Government Gazette and applies to any assessment of treatment and care needs relating to workplace and education facility modifications made on and from that date in respect of any participant in the Scheme, whether interim or lifetime, and whether accepted into the Scheme before or after the date of gazettal.

The Lifetime Care and Support Authority (Lifetime Care) may waive observance of any or parts of this Guideline. Waiving observance of all or part of this Guideline in any particular circumstances is not an indication that Lifetime Care will waive observance of this or any other Guideline in any other circumstances.

### **1 Modifications to a workplace or education facility**

- 1.1 Lifetime Care considers treatment and care needs in connection with workplace and education facility modification to be reasonable and necessary only when:
  - a) it has been confirmed that the proposed modifications are not available under another scheme or legislation, including any reasonable adjustments an employer or education provider may be obliged to make;
  - b) a suitably qualified occupational therapist has recommended the modifications to meet a participant's injury-related need in a workplace or education facility modifications report; and
  - c) the employer or education provider and the building owner (if different) both agree in writing to the modifications.
- 1.2 The following workplace or education facility modifications are not considered reasonable and necessary treatment and care needs:
  - a) modifications to any workplace or education facility that constitute, are likely to constitute, or will result in, an illegal structure. An illegal structure is one that is contrary to relevant building and construction codes or local council planning guidelines, statutes and/or laws;
  - b) modifications that are undertaken without approval from Lifetime Care;
  - c) modifications where the owner, body corporate or other responsible authority has not given permission for the modifications and such permission is required;

- d) modifications required as a result of a condition that existed before the motor accident or that is not a result of the motor accident; and
  - e) modifications that provide no clear injury-related benefit to the participant.
- 1.3 The reasonable expenses in relation to the participant's assessed treatment and care needs in relation to workplace or education facility modifications will not generally include:
- a) additional costs or other modifications or renovations intended to add value to an existing workplace or education facility and are not related to the participant's motor accident injury;
  - b) the cost of upgrades of any materials required for workplace or education facility modifications;
  - c) costs for the removal of modifications from a workplace or education facility; and
  - d) any loss of value of any property resulting from any modifications to, or removal of, modifications from the property.

## **2 Method of assessment and criteria used to determine reasonable and necessary treatment and care needs in connection with workplace and education facility modifications**

- 2.1 To determine whether a participant's need for workplace or education facility modifications is reasonable and necessary in the circumstances, the following factors are relevant:
- a) the physical and social environment of the workplace or education facility;
  - b) the participant's physical, cognitive and behavioural impairments such as impairments to:
    - i) mobility including type of wheelchair use where relevant
    - ii) arm and/or hand function
    - iii) thermo-regulation
    - iv) bladder and bowel function
    - v) cognition
    - vi) behaviour;
  - c) whether any future improvement or change in the above factors is likely; and
  - d) the effects of aids or appliances, including wheelchairs, on the participant's ability to function within their work or education environment.
- 2.2 Information required by Lifetime Care to assess a participant's treatment or care needs in connection with workplace or education facility modifications may include one or more of the following relating to:
- a) the safety of the participant, attendant care workers and other employees or students;
  - b) the ownership of the property; and
  - c) consents required for modifications with any other parties such as a landlord, body corporate or local Council.

### **3 Workplace modifications**

- 3.1 Lifetime Care considers treatment and care needs in connection with workplace modification to be reasonable and necessary only when:
- a) the long term impact of the participant's motor accident injury prevents them from performing their duties within the existing workplace environment without modification to the layout or fittings;
  - b) there is an employer who has confirmed in writing they will provide permanent employment for the participant;
  - c) the workplace modification is the most cost-effective means for enabling the participant to return to work and all other alternatives have been considered; and
  - d) a workplace assessment or work options plan has been conducted and Lifetime Care has agreed to support the work goal.
- 3.2 The reasonable expenses in relation to the participant's assessed treatment and care needs in relation to workplace modifications will not generally include:
- a) items that are normal workplace or household items (such as furniture or whitegoods, smoke alarms, surge protectors, towel rails, fans, lights, hot water services, security doors and windows); and
  - b) items not directly related to the participant's need arising from their motor accident injury.
- 3.3 The reasonable expenses in relation to the participant's assessed treatment and care needs in relation to workplace modifications will not generally include workplace modifications for a participant where Lifetime Care has already funded substantial modifications in the past 5 years.

### **4 Method of assessment and criteria used to determine reasonable and necessary treatment and care needs in connection with workplace modifications**

- 4.1 To determine whether a participant's need for workplace modification is reasonable and necessary in the circumstances, the following factors are considered:
- a) any reasonable adjustments an employer may be obliged to make under state and federal legislation or law; and
  - b) whether the modifications could be funded partly or wholly under another scheme or by another payer.
- 4.2 Information required by Lifetime Care to assess a participant's treatment or care needs in connection with workplace modifications may include one or more of the following:
- a) the participant's entry to and exit from the workplace;
  - b) the participant's access to all necessary areas of the workplace; and
  - c) the cost and extent of the modifications when considered in relation to the likely benefit to the participant and alternative employment options.

## **5 Educational facility modifications**

- 5.1 Costs for modifications to educational facilities are primarily the responsibility of the education facility.
- 5.2 Lifetime Care may consider funding for an education facility modification to be reasonable and necessary when:
- a) there is no other funding source and the modifications would not be provided under any other legislation or scheme;
  - b) the long-term impact of the participant's motor accident injury prevents them from learning within the existing education facility without modification to the layout or fittings;
  - c) the education facility modification is the most cost-effective means for enabling the participant to participate in the education activity and all other alternatives have been considered; and
  - d) for adult learners, the education program has been identified through a work options plan and Lifetime Care has agreed to support the work goal.
- 5.3 The reasonable expenses in relation to the participant's assessed treatment and care needs in relation to education facility modifications will not generally include:
- a) items that are normal educational or household items (such as furniture) and are not directly related to the participant's need arising from their motor accident injury; and
  - b) modifications that may be considered an education provider's obligation as a type of reasonable adjustment under relevant state and federal legislation or law.

## **6 Method of assessment and criteria used to determine reasonable and necessary treatment and care needs in connection with education facility modifications**

- 6.1 To determine whether a participant's need for education facility modification is reasonable and necessary in the circumstances, the following factors are relevant:
- a) the participant's ability to participate in educational activities as well as access to other facilities such as bathrooms; and
  - b) whether the modifications could be funded partly or wholly by the education provider.
- 6.2 Information required by Lifetime Care to assess a participant's treatment or care needs in connection with education facility modifications may include one or more of the following:
- a) the length of time the student is likely to remain in the education facility;
  - b) reasonable adjustments available to timetable and class allocation. *For example, conducting the student's classes in ground floor rooms;*
  - c) accessibility for the participant to all necessary areas of the facility; and
  - d) the cost and extent of the modifications when considered in relation to the likely benefit to the participant and alternative options for education.

## **7 Repairs and maintenance to workplace or education facility modifications**

- 7.1 The cost of repairs and maintenance for modifications funded by Lifetime Care that are essential for the participant's access or safety will generally be considered a reasonable expense.
- 7.2 Lifetime Care may fund the cost of repairs or maintenance proportional to the original costs paid, where the original modification was not fully funded by Lifetime Care on the basis that this represents a reasonable expense. *For example, where an employer or property owner also contributed to the original cost of the modification.*
- 7.3 The cost of repairs and maintenance as a result of normal wear and tear (such as replacement of bathroom fittings/fixtures), for the upkeep of a workplace or education facility will not generally be considered a reasonable expense in relation to the participant's reasonable and necessary treatment and care needs.
- 7.4 The cost of repairs and maintenance when the participant is no longer attending the workplace or education facility is not a reasonable expense in relation to the participant's reasonable and necessary treatment and care needs.