

FAIR WORK COMMISSION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards - Pharmacy Industry Award 2010

(AM2016/28)

SUBMISSIONS -PHARMACY GUILD OF AUSTRALIA

1. The Pharmacy Guild of Australia (the Guild) makes these submissions pursuant to the Full Bench decision made in the Work Value case [2018] FWCFB 7621 (the Decision) in relation to the *Pharmacy Industry Award 2010* (the Award).
2. In the Decision the Commission invites submissions in relation to three matters broadly described as:
 - a. Allowance for Home Medicine Reviews and Residential Management Reviews (see [187] of the Decision)
 - b. Adjustment to remuneration for some increases in work value (see [188] of the Decision)
 - c. Relativity between Pharmacist Rates and Manufacturing Award Rates (see [198] of the Decision)
3. The Guild's position in relation to each of those matters is set out below.

Allowance for Home Medicine Reviews and Residential Medication Management Reviews

4. The Commission was satisfied that there is an increase in work value associated with the introduction of Home Medicine Reviews (HMRs) and Residential Medication Management Reviews (RMMRs) and determined that a *discrete adjustments to award remuneration* for that work was warranted (at [185] of the Decision).
5. The Guild supports the conclusion reached by the Commission that an allowance (see [186] of the Decision) is the appropriate way to remunerate employed pharmacists who are accredited and required by their employer to perform HMRs and RMMRs.
6. The number of HMRs or RMMRs that a pharmacist may perform will vary greatly from pharmacist to pharmacist, from business to business and from region to region. For that reason it is the Guild's position that an allowance should be payable on each occasion that the pharmacist performs an HMR or RMMR at the direction of the employer.
7. Pharmacists conducting HMR and RMMRs will typically use their own vehicle and the Guild submits that in those circumstances pharmacists should continue to receive the vehicle allowance provided at clause 19.5 of the Award.
8. A review of the other health and allied sector Awards did not reveal any substantially similar allowances. A broadly similar allowance, that is the allowance for the occasional use of a skill, is found in the *Health Professionals and Support Services Award 2010* which provides at clause 18.9:

18.9 Occasional Interpreting Allowance

An employee not employed as a full-time interpreter who is required to perform interpreting duties will receive an additional 0.11% of the standard rate [currently \$1.01] on each occasion with a maximum additional payment of 1.27% [currently \$11.59] of the standard rate for work performed in any week.

9. The Guild submits that a similar clause would be appropriate for the PIA, however it recognises that HMRs and RMMRs are more often likely to (but will not necessarily always) come with a higher level of accountability and responsibility than interpreting in other health professions settings.
10. It is the Guild's position that an allowance that approximately equates to an additional hour of the experienced pharmacist Award wage (currently \$29.79) is appropriate per HMR or RMMR. The allowance should be capped at an amount that approximately equates to an additional 5 hours (5 HMR or RMMR) per week (which would currently be \$148.95). The allowance should be calculated by reference to the Award's Standard Rate.
11. On that basis, the Guild proposes that clause 19 Allowances should be varied to include a new sub clause 19.9 as follows:

19.9 Home Medicine Reviews and Residential Medication Management Reviews

An employee required by the employer to perform a Home Medicine Review or a Residential Medication Management Review will receive an additional 3.55% of the standard rate on each occasion, with a maximum additional payment of 17.75% of the standard rate where 5 or more Home Medicine Reviews or Residential Medication Management Reviews are performed in any week.

12. The Guild also proposes that clause 27 Annualised Salaries should also be varied to include the new allowance in the list of matters that may be satisfied by the payment of an annualised salary.
13. To enable employers to prepare for the payment of the allowance, and for changes to be made to existing annualised salary arrangements (where appropriate) the Guild submits that the new allowance should come into operation on the latter of, the first full pay period commencing on or after:
 - a. three months from the making of any determination of the Commission varying the Award to introduce an allowance; or
 - b. 1 July 2019.

Adjustment to remuneration for some increases in work value

14. The Commission determined (see [188] of the Decision) that there was some increase in the work value of pharmacists since 1998, arising from:
 - a. Administering inoculations
 - b. Providing emergency contraception
 - c. the down scaling of some medicines

- d. a general increase in the level of responsibility and accountability (related to documenting activities and measuring outcomes for the purposes of government funding)
15. The Guild notes that term 'inoculations' is not one used in pharmacy and uses an alternative term, 'vaccinations', in these submissions.
16. Having regard to the Decision, it is the Guild's position that the weekly rate for all pharmacists' classifications, with the exception of interns, should be increased to reflect, on an overall basis, the increase in work value set out above. That is, there should be one increase to take account of all of the determined work value changes.
17. Interns should be excluded from the increase on the basis that they do not; administer vaccinations, provide emergency contraception, dispense any medication (including that which has been downscaled) and although they may measure and document outcomes for government funding the responsibility and accountability for that lies with the supervising registered pharmacists.
18. Not all pharmacists perform all of the duties identified by the Commission as set out in paragraph 14 above. Some pharmacists may perform more and some may perform less. For example some pharmacists may never administer a vaccination and others may increasingly provide more vaccinations into the future.
19. Down scheduling (or indeed up-scheduling) of medicines will continue to occur and the volume of administration associated with government funding may increase or decrease into the future.
20. The significant change in work value in the provision of emergency contraception, is in fact effectively the 'prescribing' of the drug to the patient. The function of 'prescribing' medication in this way may not be limited to emergency contraception into the future, although the skills, processes, accountability and responsibility may well be the same.
21. The Guild submits that an increase to account for the above work value changes, should be set to take into the factors noted at paragraphs 17, 18, 19 and 20 above. There has to be an acknowledgment that the mix of duties a pharmacist may perform in a shift may well change into the future.
22. An increase awarded now should be for the skill, accountability and responsibility associated with providing vaccinations, over the counter medication, 'prescribing' (within the parameters provided by relevant regulations) and record keeping generally.
23. If pharmacists become able to administer additional vaccines (to the ones they can administer now), or 'prescribe' other medications (in addition to emergency contraception), or have to keep records due to funding requirements, that work should not give rise to a further work value claim.
24. On that basis, the Guild submits that the rates for classifications of Pharmacists, Experienced Pharmacist, Pharmacists in Charge and Pharmacist Manager should be increased by 5%. Noting that there is a strong chance that pharmacist wages will also be increased as a consequence of annual wage reviews, which creates an increased cost to business, the Guild submits the increases should be phased in two equal instalments on 1 July 2019 and 1 July 2020.

25. The current rates and the rates, phased in as proposed by the Guild, are set out in the table below without any potential increase to the award rates under the national minimum wage review process. The rate sought by APESMA in the original claim, although not accepted by the Commission, is also included for reference

	Current	2.5% increase on 1 July 2019	2.5% increase on 1 July 2020	APESMA original claim
Pharmacist	1033.40	1059.20	1084.60	1132.74
Experienced Pharmacist	1131.80	1160.10	1189.30	1213.65
Pharmacist in Charge	1158.40	1187.40	1217.10	1456.38
Pharmacist Manager	1290.9	1322.25	1355.30	1699.11

26. If the Commission determines a higher increase than that proposed by the Guild, the Guild submits that in order to ameliorate the cost impost on employers it should be phased in over a longer period.
27. The Guild submits that any increase should be able to be absorbed into existing over-award payments.

Relativity between Pharmacist Rates and Manufacturing Award Rates

28. The Guild submits that the Commission may be satisfied that pharmacists rates, as adjusted above are fair and relevant and it is not necessary for the Commission to consider the relativity between the pharmacists rates and the rates in the *Manufacturing and Associated Industries and Occupations Award 2010* (the Manufacturing Award).
29. Largely due to the manner in which modern awards were made, there will be many modern awards with rates that have not been set with regard to their relativity to the Manufacturing Award rates.
30. If the Full Bench adopts the position that relativity with the Manufacturing Award rates should be considered before the review of the Award can be concluded, then the Guild submits that consideration is a common issue.
31. In that case, the matter should be referred back to the President for consideration as to the procedural course to be taken, pursuant to section 582.
32. The Guild would participate in any proceedings that may follow.

Filed on behalf of the Pharmacy Guild of Australia

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28 February 2019