IMEG

First Report published 19 January 2011 (Topic 4) – Paired Injuries

TOPIC 4 - Paired Injuries

In their consideration of injuries to paired organs and structures (e.g. eyes, ears and limbs) IMEG were guided by two important principles:

a) Loss of or injury to two paired structures or organs is considerably more disabling than twice the loss of one organ or structure e.g. loss of one eye versus loss of both eyes, (i.e. multiplicative not additive).

b) Loss of the upper limb (complete or partial) is more disabling than the equivalent loss of the lower limb (e.g. hand versus foot).

In considering the appropriate levels of award IMEG considered the impact of the loss of one and of both structures or organs on capacity for future civilian employment (reflected in GIP). IMEG's recommendations reflect this. To be clear, Levels 1 – 4 attract 100% GIP, Levels 5 and 6 attract 75% GIP, Levels 7 and 8 attract 50% GIP and Levels 9, 10 and 11, 30% GIP.

AFCS Current Approach

Tariff tables which importantly include paired injuries include Table 5, Amputations and Table 7 Senses.

TABLE 5 – AMPUTATIONS

Item	Level	Injury
1	1	Loss of both legs (above or below knee) and both arms (above or below elbow).
4	2	Loss of both legs above knee (hip disarticulation or hemipelvectomy).
5	2	Loss of both arms above elbow (shoulder disarticulation or forequarter).
6	2	Loss of both legs above or below knee (not hip disarticulation or hemipelvectomy) and one arm (above or below elbow.
7	2	Loss of both arms above or below elbow (not shoulder disarticulation or forequarter) and one leg (above or below knee).
8	3	Loss of both legs at or above knee (trans-femoral or knee disarticulation).
9	3	Loss of both arms at or above elbow (trans-humeral or elbow disarticulation).
12	4	Loss of both legs below knee (trans-tibial).
13	4	Loss of both arms below elbow (trans-radial).
14	4	Loss of both hands (wrist disarticulation) or where amputation distal to that site has led to permanent total loss of use of both hands.
15	5	Loss of both feet distal to the calcaneum or where amputation distal to that site has led to permanent total loss of use of both feet.

TABLE 7 – SENSES

Item	Level	Injury
2	2	Loss of eyes.
3	2	Total blindness in both eyes.
6	6	Total deafness in both ears.
8	8	Loss of one eye or total blindness in one eye.
12	10	Total deafness in one ear.

1. Limb Amputations

Considering points a) and b) above for the most serious injuries the following descriptors currently attract a Level 1 award:

Z loss of both arms and both legs

Z loss of both eyes or sight of both eyes and either both legs or both arms

Z total deafness and loss of either both legs or both arms and

Z total deafness and loss of both eyes or blindness

NB these descriptors apply to any level of limb loss.

There are currently three other variants for loss of upper and lower limbs dependent on level of amputation:

I. Loss of leg above knee/hip disarticulation and loss of arm above elbow/shoulder disarticulation: in keeping with the enormity of such injuries, where it is often impossible to wear a prosthesis, these merit a Level 3 award for unilateral loss (£380,000)*. Bilateral loss is set at Level 2 (£470,000). This distinguishes from the Level 1 injuries, affecting two body systems above. Whether Level 1 or 2 is allocated for bilateral loss, the principle of more than doubling of award to reflect impact on function cannot be met unless by revising downwards the Level 3 award for a single loss. This is unacceptable.

II. Loss of limb at/above knee or at/above elbow, are at Level 5 (£175,000) and for two such injuries, Level 3 (£360,000).

III. Similarly, where the loss is below knee or elbow, Level 6 (£140,000) and Level 4 (£290,000) apply.

In the more common cases (ii) and (iii), the principle of a more than doubling of award for bilateral loss is met.

(* all awards are as recommended by Lord Boyce)

The AFCS Tariff currently treats upper and lower limb loss similarly. Reflecting modern thinking on differential disabling effects between upper and lower limbs and modern prosthetics, it is recommended that current tariff awards should remain for lower limbs, with upward adjustment for upper limb loss as follows:

Descriptor	Award Level	
	Two	One
Loss of arm above elbow (shoulder disarticulation or forequarter).	Level 1 £570,000	Level 2 £470,000
Loss of arm at /above elbow.	Level 2 £470,000	Level 4 £290,000
Loss of arm below elbow.	Level 3 £360,000	Level 5 £175,000

Z Loss of hand and foot. At present loss of both hands is at Level 4 (£290,000) and Level 6 (£140,000) for one. For feet, the equivalents are Level 5 (£175,000) for two and Level 8 (£60,000) for one. It is recommended that awards for loss of hand(s) should remain as now, at Levels 4 (bilateral) and 6 (unilateral).

Z Similarly impact of loss of leg below knee and loss of foot would be different, dependent on retention of the heel. Where the heel is retained, Levels 8 (£60,000) for a single loss of foot and 5 (£175,000) for bilateral loss, is appropriate. Loss of leg below knee to beyond heel would merit Level 6 (£140,000) unilateral and 4 (£290000) bilateral. The foot loss descriptor needs to be amended to reflect the anatomical loss.

Z We also recommend that the highest level awards should be paid for upper and lower limb losses which anatomically fall short of hemipelvectomy or shoulder disarticulation but where the stump length or condition precludes fitting of an effective prosthesis.

Recommendations

In summary we recommend:

Descriptor	Award Level	
	Two	One
Loss of leg above knee (hip disarticulation)*	2	3
Loss of leg at/above knee	3	5
Loss of Leg below knee**	4	6
Loss of foot distal to the calcaneum (heel)	5	8
Loss of arm above elbow (shoulder disarticulation)*	1	2
Loss of arm at /above elbow	2	4
Loss of arm below elbow	3	5
Loss of hand	4	6

*includes circumstances where stump length or condition precludes fitting of prosthesis
**includes loss of foot with loss of all or part of the calcaneum (heel)

2. Sensory Losses

At present visual loss or loss of the eyes attracts greater compensation than for total deafness / loss of hearing in one or two ears **. (**total deafness should be defined as audiometric loss of 100 dB or more averaged over 1, 2 and 3 kHz).

Current awards are as follows:

Descriptor	Award Level	
	Two	One
Loss of eyes/blindness	2	8
Total deafness /loss of hearing	6	10

Argument

Total loss of hearing in one ear is potentially as disabling as the loss of one eye that attracts a 50% GIP. Complete blindness or loss of both eyes is obviously a severe injury with significant impact and no corrective means. Total deafness in both ears due to service would be highly unusual. It is unlikely to be an isolated injury but perhaps associated with a head injury. In that circumstance, cochlear implant might be especially problematic. Even where cochlear implant is appropriate, there are technical and user training challenges, which are likely to impact on employability.

Recommendation

It is therefore recommended that the tariff should be revalorised so that total loss of hearing and total loss of sight attract equivalent awards.

Z Awards for total deafness/loss of hearing in two or one ears are increased to Levels 2 and 8 respectively.

3. Other Paired Structures - Kidneys

AFCS Current Approach

At present the tariff includes entries for: serious permanent damage to, or loss of, one kidney at Table 2, Item 21, Level 10, and for loss of both kidneys or chronic renal failure Table 2, Item 2, Level 5.

Argument and Recommendations

I. Loss of a kidney or kidneys due to service will not be common or an isolated injury. It is most likely to occur as part of a serious primary traumatic abdominal or back injury, which itself will attract an award and GIP. Where loss of kidneys or kidney failure results from a primary traumatic injury and requires dialysis there will be impact on employability, due to the kidney damage itself. The current level Table 2, Item 2, Level 5 award and associated GIP should be retained.

II. Pre - enlistment medical examination does not routinely include abdominal scans or ultrasound examination, so it is possible that someone with only one kidney and normal renal function may be undetected and enlist. Where abdominal injury and loss of that kidney or of its function then arises as a result of AFCS service, then Table 2, Item 2, Level 5 award would be payable.

III. By contrast where in the presence, pre - injury of two normal functioning kidneys, the primary injury results in the loss of one kidney or its function, there should be no detectable functional impact, or effect on employability, and so Table 2, Item 21, Level 10 is deleted. In such cases, an award and any associated GIP is payable for the primary injury. However the accepted

service related loss of kidney is recognised as in (iv) below.

IV. Where any service accepted traumatic injury results in the loss of one kidney or its treatment requires a kidney to be removed without development of chronic renal failure, an additional supplement of £40,000 should be paid. This will not attract GIP.

4. Loss of Paired Structures/Organs from Service and Non-Service Causess

Argument

Loss of two structures or organs due to service may take place in one incident or in two:

I. Where two service related incidents and accepted injuries are involved, Article 18 AFCS applies. This applies to arms or parts of arms – feet - hands – kidneys – legs or parts of legs - total loss of sight in both eyes and total loss of hearing in both ears. Here the lump sum payable when the second accepted injury is sustained is the award for the paired injury, minus the award already made for the first injury. The GIP paid for the first injury is replaced by the GIP applicable for injury to the pair of organs or like parts of the body.

II. A different situation is where two structures or organs are lost, and in the one case it is due to service and the other, a non-service cause, The War Pensions Scheme recognised this situation by a method discussed in the 1947 Hancock report. This said that:

- where in service one organ of a pair is damaged or lost from a non-service cause and the second subsequently from a service cause, the Ministry accepts liability for the whole of the resulting loss of function.

- where one organ is lost due to service and the other subsequently, either in service or post-service, from a non-service cause, and the assessment of the double injury is less than 100% but more than twice the assessment of the single injury, the Scheme accepts liability for half of the total loss of function i.e. loss of one organ is 30% and loss of two is 80% so we accept 40%.

- a second rule was added in 1954 called the "halving Rule" where the assessment of the accepted injury and the subsequent non accepted injury together is 100%, then the assessment is increased by half of the difference between the current assessment and the 100%.

III. These rules recognise that, at least in part, the impact of the loss of the second organ is attributable to loss of the first organ in service. We consider that in the case of loss of the second eye, of hearing in the second ear and of the hand, that AFCS should recognise 100% of the responsibility for the consequences of the loss of the second organ.

Recommendations

I. It is therefore recommended that AFCS adopts the following approach to double injuries where the first is due to service, the one sustained later is not causally related to service and where the post service non accepted injury is acute loss or loss of use due to trauma or infection involving:

- Eyes and ears: loss of one is Level 8 and loss of two is Level 2. Accept all responsibility i.e. award Level 2 and band A GIP.

- Arms or parts of arms, and hands: award paid appropriate to the double loss including appropriate GIP.

ll. Where the same structures are involved, but loss of the second organ or total loss of its function, develops more gradually due to ageing, or degenerative disease e.g. osteoarthritis, atherosclerosis (cerebrovascular or peripheral vascular disease) or diabetes and for all other combinations i.e.

- Legs or parts of legs
- Foot
- Kidney

AFCS would make an additional award of half of the lump sum due for the difference between the single and double injuries. GIP would increase by one band except where a band A GIP (based on 100% of the base figure) applies and that rate of GIP is already in payment.

e.g. where one leg is lost below knee due to service, a lump sum award of Level 6 i.e. £140,000 is made, with band B GIP payable from service termination. If the other leg is subsequently lost below knee, due to a disease process, the award paid is half the difference between that and the award for loss of two legs below knee, £ 290,000 i.e. a total of £215,000 and the GIP rises to band A.

Future Work

We recognise we have not addressed a number of related issues which include bilateral fractures. In general in the armed forces population the pattern is of full recovery. However we do recognise there may be particular problems e.g. heels and mid - foot fractures and will consider these more fully in the future.