

Chief Adjudicator Directive**Evidence that indicates a potential move from ADR to IAP**

An issue has arisen concerning a transition matter that CARG and the IAP Oversight Committee have identified that requires the assistance of ADR adjudicators. It involves adjudicators flagging a potential movement to IAP in certain circumstances.

If, during the course of a hearing where physical abuse is alleged, inferences emerge from evidence that may fall within the expanded definition of the PL category or the Other Wrongful Acts category that appear credible and could more appropriately qualify the claimant for compensation under the IAP, the adjudicator will:

- (a) Where the claimant is self-represented, stop the formal hearing and suggest to the claimant that she or he may wish to seek legal advice concerning continuing the claim under the IAP before proceeding further;

- or -

- (b) Where the claimant is represented by legal counsel, stop the formal hearing and advise legal counsel to consider whether it might be more appropriate to continue the claim under the IAP.

The hearing shall be adjourned where:

- (a) the claimant is self-represented and decides to seek legal advice; or
- (b) the claim had been initiated as a Process “B” claim (in which case the provisions of Appendix XVIII, paragraph 6, of the DR Model effectively apply).

Where the claimant is represented by counsel, the hearing shall:

- (a) be adjourned if requested by counsel; or
- (b) proceed as an IAP hearing provided that:
 - (i) the adjudicator is an IAP adjudicator who has participated in training for IAP adjudicators, and
 - (ii) all parties present at the hearing consent to the matter proceeding under the IAP Model, and
 - (iii) the claim had been initiated as a Process “A” claim under the DR Model.

Condition (b)(i) shall not apply where the transition provisions of Appendix XIII of the IAP Model with respect to adjudicators apply.

This situation may arise because of the extended scope of acts in the PL category of the IAP compared to the PL3 category in ADR, and the existence of the “Other Wrongful Acts” abuse category in the IAP.

The following provisions of the IAP Model are relevant:

Other Wrongful Acts (OWA)

IAP Schedule D, Page 3 Compensation Rules:

Being singled out for physical abuse by an adult employee or other adult lawfully on the premises which was grossly excessive in duration and frequency and which caused psychological consequential harms at the H3 level or higher.

Any other wrongful act committed by an adult employee or other adult lawfully on the premises which is proven to have caused psychological consequential harms at the H4 or H5 level.

IAP Schedule D, Page 33-34:

For the purpose of this category, a wrongful act, other than the specified act of physical abuse of grossly excessive duration and frequency, is one which

- a) was committed by an adult employee or another adult lawfully on the premises,
- b) is outside the usual operational practices of the IRS at the time in question, and
- c) exceeds recognized parenting or caregiving standards at the time.

Other wrongful acts are those not captured in another part of the Compensation Rules.

The claimant should be notified that the adjudicator may order a psychiatric or psychological report where OWA's are alleged.

(Approved by IAPOC 24/09/07)