

Workers' Compensation and Injury Management

Receiving Workers' Compensation Entitlements



About WorkCover WA

WorkCover WA is the government agency responsible for overseeing the workers' compensation and injury management system in Western Australia.

This includes monitoring compliance with the *Workers' Compensation and Injury Management Act 1981*, informing and educating workers, employers and others about workers' compensation and injury management, and providing an independent dispute resolution system.

Disclaimer

This publication is intended to provide general information only. You should not act or omit to act on the basis of anything contained herein. You should seek appropriate legal/professional advice about your particular circumstances.

Workers' Compensation and Injury Management

Receiving Workers' Compensation Entitlements

This brochure explains the rights and responsibilities of you and your employer in managing a workers' compensation claim and provides you with information about the workers' compensation entitlements available to you under Western Australia's workers' compensation and injury management system.

The majority of workers' compensation claims are minor, resulting in coverage of medical expenses only and the worker has no time off work.

However each claim is unique and this brochure will explain the full range of entitlements available to workers.

If you have more specific questions not covered in this brochure, speak to your employer, their insurer, or contact WorkCover WA for further information.

Rights and responsibilities

Western Australia's workers' compensation and injury management system is designed to ensure you are provided with the support you need to return to work whilst recovering from a work related injury or illness.

Injured workers rights and responsibilities

Once your claim has been accepted, your rights as an injured worker include:

- payment of reasonable medical expenses
- weekly payments when you are unable to work
- treatment from a doctor and, if required, an Approved Workplace Rehabilitation Provider (AWRP) of your choice.

Your responsibilities include:

- staying in contact with your employer
- attending medical reviews, and
- participating in your return to work program.

You can learn more about return to work programs by phoning WorkCover WA or visiting the website.

Employer responsibilities

Your employer must:

- have an **injury management system** in place
- keep your position open for one year
- pay your salary in the usual pay cycle
- if required, coordinate the establishment of a return to work program.

Further information on Injury Management Systems is available by phoning WorkCover WA or visiting the website.

If you have any concerns about your rights and responsibilities, discuss them with your employer or their insurer. If you require further information contact WorkCover WA or visit the website.

Workers' Compensation Entitlements

My claim is accepted, what are my entitlements?

Once your claim has been accepted, you can access a range of entitlements to help you in your rehabilitation and return to work.

You can receive compensation for:

- medical and allied health treatment expenses
- loss of wages
- travel and accommodation costs and meal allowances
- vocational rehabilitation to assist you to return to work.

There are limitations to the amount of compensation you can receive for each entitlement.

The maximum amount of compensation you can receive during the life of your claim in terms of weekly payments for loss of earnings is called the **Prescribed Amount**. There are also maximum amounts for medical and rehabilitation expenses.

The Prescribed Amount is indexed annually so it changes at the start of each financial year. This amount is published on the WorkCover WA website.

Medical entitlements

If you are injured at work you are entitled to a range of reasonable medical expenses, including:

- First aid and ambulance
- Medicines
- Medical or surgical attendance
- Treatment by specialists
- Dental
- Physiotherapy
- Chiropractic
- Charges for hospital treatment
- Other approved treatment (including osteopathy, clinical psychology, occupational therapy, speech pathology, exercise physiology).

Not all medical practitioners and allied health providers charge according to the scheduled workers' compensation fees, so it is important to ask your health provider about any potential gap payments prior to making an appointment.

Workplace rehabilitation expenses

You are entitled to workplace rehabilitation services to assist with your rehabilitation and return to work and you have the right to choose an Approved Workplace Rehabilitation Provider (AWRP).

AWRPs can provide expertise in a broad range of return to work activities including identifying appropriate duties, developing graduated return to work programs and monitoring your progress at work in consultation with yourself, your employer, their insurer and your doctor.

If there are problems with your return to the workplace an AWRP can help you and your employer to overcome these. An AWRP is engaged through an agreement between you, your employer and your doctor. Sometimes your employer's insurer will act on its behalf in this process.

The WorkCover WA website has a list of Approved Workplace Rehabilitation Providers.

Travel and accommodation entitlements

You may claim reasonable travel costs, for instance, for trips to medical appointments. This is best arranged through your employer's insurer.

For workers in regional areas, this may also include reasonable meals and accommodation expenses.

It is recommended that you keep a record of your travel by recording vehicle kilometres, appointment times and dates and public transport receipts. The amount payable for travel, meals and accommodation expenses is limited.

Weekly payment entitlements

If you are unable to fully return to work, you are entitled to receive weekly payments to compensate for lost income. Once your claim is accepted, your employer is required to pay your salary on the normal payday and in the usual method of payment of your wages prior to the injury.

There are two methods of calculating your salary, depending on your conditions of employment.

If you are paid under an industrial award

For the first 13 weeks you receive:

- Your award rate of pay **plus**
 - Any over award or service payment
 - overtime, bonuses and allowances averaged over the 13 weeks prior to the incapacity

From week 14 onwards you receive:

- Your award rate of pay **plus**
 - any over award or service payment paid on a regular basis
 - any allowance paid on a regular basis and related to the number and pattern of hours worked
 - any other allowance prescribed by the regulations
- overtime, bonuses and any other allowance is excluded

If you are a non award worker

For the first 13 weeks you receive:

- Your average weekly earnings **plus**
 - Overtime, bonuses and allowances averaged over the 12 months prior to the incapacity

From week 14 onwards you receive:

- 85% of your average weekly earnings

Remember

- There is a **limit** on the amount of compensation you can receive for loss of earnings per week. The cap on weekly payments is set at 2 x Average Weekly Earnings, as published by the Australian Bureau of Statistics (the ABS). This figure is revised each financial year and published on the WorkCover WA website.
- Contact your employer's insurer or WorkCover WA if you have queries about the calculation of your weekly payments.
- Check with your employer or Wageline if you are not sure about whether you work under an industrial award agreement or not.

When do my weekly payments stop?

Your employer is required to continue to make your weekly payments until you give your consent for them to stop or an order to stop payments is issued by WorkCover WA.

Weekly payments may also cease if:

- Your treating doctor has certified you fully or partially fit for work.
- Your workers' compensation claim is finalised through a Schedule 1 or Schedule 2 Settlement (see the *Finalising your claim* brochure for further information).
- You have reached the maximum limit on all of your entitlements to weekly payments (prescribed amount) including any possible extensions.

In certain circumstances, your employer is also entitled to stop making weekly payments if you have registered to pursue a common law claim.

Your employer may be entitled to temporarily suspend weekly payments if you:

- do not comply with your return to work program
- fail to attend a medical review arranged by your employer or their insurer, or
- are in custody or serving a term of imprisonment.

However, in these situations your employer or their insurer cannot simply stop making weekly payments. An application still needs to be made to WorkCover WA.

What happens to my entitlements if I make a gradual return to work?

If you are able to make a gradual return to work, work in a part-time capacity or alternative position, or return to work with a different employer, your weekly payments may be affected.

Check with your employer, their insurer or WorkCover WA if you are concerned about your rate of pay.

What happens if I reach the limit of my entitlements?

Generally when you have reached the limit on your workers' compensation entitlements, the claim ends.

However, in some circumstances extensions may be granted. You can apply for:

- An additional amount of up to 75 percent of the Prescribed Amount if you suffer a permanent total incapacity and your social and financial circumstances justify it, and
- an extension of up to \$50,000 for medical and related expenses where your social and financial circumstances justify it.

Applications for extensions are made to WorkCover WA.

Other entitlements

Specialised retraining program

A specialised retraining program is available to workers injured after 14 November 2005 who are unable to return to work and who have a **whole person impairment** of not less than 10 per cent but less than 15 per cent. Workers need to meet stringent retraining criteria to be eligible. Call WorkCover WA's advisory services for further information.

Exceptional circumstances medical payments

Workers who satisfy an Exceptional Medical Circumstances test and have a whole person impairment of not less than 15 per cent, may apply for additional medical and related expenses, capped at \$250,000.

Workers obtaining an exceptional medical expenses extension are excluded from seeking common law damages.

I've received a letter from the employer's insurer that talks about a termination date for common law - what does this mean to me?

This letter is a standard letter reminding you of your potential right to access common law. The letter does not mean that your workers' compensation payments will be stopped. Refer to the *Finalising your claim* brochure for further information about common law settlements.

Lump sum payments and settlements

Fortunately, the majority of workers who suffer a work related injury or illness make a full recovery and return to work. However, sometimes, more severe injuries and illnesses do occur. In these situations, the workers' compensation and injury management system provides additional support in the form of lump sum payments and settlements.

To see if you are eligible for lump sum payments and settlements please request a copy of the *Finalising your claim* brochure from WorkCover WA. It is recommended that you seek independent legal advice.

Glossary of Terms

Approved Workplace Rehabilitation Provider: An approved vocational rehabilitation provider (AWRP) may be engaged to deliver an appropriate professional program that meets the needs of the worker and the employer, in consultation with the treating medical practitioner, in a timely and cost effective manner.

Industrial award: Awards are legally binding documents outlining the wages and conditions of employment for groups of employees in an industry or occupation.

Injury management: This refers to management of workers' injuries in a manner that is directed at enabling injured workers to return to work.

Injury management system: An injury management system describes the steps that an employer will take when a workplace injury occurs.

Prescribed amount: Each financial year, the entitlements available to injured workers within the Western Australian workers' compensation scheme are indexed. The prescribed amount describes the funds available for weekly payments of compensation.

Return to work program: A return to work program is a formal program developed as part of an injury management system.

Other useful contacts you may need

For Centrelink enquiries, and enquiries about how receipt of a lump sum payment in the settlement of a workers' compensation claim may affect your Centrelink entitlements, contact Centrelink. Telephone 13 27 17.

For issues which may affect your personal taxation, contact the Australian Taxation Office. Telephone 13 28 61.

For enquiries about superannuation while you are receiving workers' compensation entitlements speak to your employer or contact the Australian Taxation Office on 13 10 20.

For information about leave entitlements while you are receiving workers' compensation entitlements speak to your employer or contact the Department of Commerce Wageline on 1300 655 266.

For enquiries about work safety and health issues, contact the WorkSafe Information line on 1300 307 877.

For information on wage rates and award conditions contact Wageline. Telephone 1300 655 266.

You may wish to contact your union for information and advice.

For emergency counselling services contact Crisis Care, telephone (08) 9223 1111.

Further information

The information provided in this brochure is intended to be a brief introduction to the *Workers' Compensation and Injury Management Act 1981*.

Additional information services and publications can be obtained by telephone or in person from:

WorkCover WA
2 Bedbrook Place
Shenton Park 6008

Telephone: (08) 9388 5555

Facsimile: (08) 9388 5550

Advisory Services: 1300 794 744

TTY (hearing impaired):

(08) 9388 5537

Website:

www.workcover.wa.gov.au

Email:

postmaster@workcover.wa.gov.au

Advisory Services provides one-to-one information on workers' compensation and injury management by telephone or in person.

Information is also available in alternative formats for people with disabilities, including an audio loop, which is available on 48 hours notice for the hearing impaired.

Interpreter services paid for by WorkCover WA can be made available with prior notice.

Information seminars for injured workers are held on a regular basis and are free of charge. More information is available from the WorkCover WA Events Calendar or from Advisory Services on 1300 794 744.





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