

Workers' Compensation and Injury Management

Important Information for Workers



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 brochure 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.

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This brochure provides you with basic information about the workers' compensation system and the injury management process.

More detailed information about the system and process can be found on the WorkCover WA website www.workcover.wa.gov.au or obtained by contacting the Advisory Services telephone information service on 1300 794 744.

The aim of workers' compensation and injury management

The primary goal of the *Workers' Compensation and Injury Management Act 1981* (the Act) is to compensate workers who suffer a workplace injury and support injury management to enable injured workers to return to gainful employment.

A worker who suffers a work-related injury or illness and needs medical treatment and/or cannot work because of the injury, is entitled to claim workers' compensation.

Claim process

To submit a claim for workers' compensation, you need to follow the steps below.

Seek first aid and report the injury to your employer

See a doctor of your choice as soon as possible and get a medical certificate. This is known as a Workers' Compensation First Medical Certificate.

Obtain a claim form from your employer, complete it and give it and your First Medical Certificate to your employer.

Your employer must complete their part of the claim form and give it together with the medical certificate to their insurer **within 5 working days**.

The insurer has 14 days to assess the claim and can:

Accept the claim

Your workers' compensation entitlements commence

Dispute the claim

No entitlements are made – you can dispute this decision

Pend the claim

No entitlements are made – the insurer needs more time to make a decision

What happens if you don't agree with a decision?

Your employer's insurer has an internal dispute resolution process. You can approach them to re-examine their decision.

In addition, WorkCover WA provides assistance regarding resolving disputes.

To find out more about having a dispute resolved or for general information about workers' compensation and injury management contact WorkCover WA's Advisory Service on 1300 794 744.

You can also visit www.workcover.wa.gov.au

Your claim is deemed to be in dispute if the insurer advises you that they dispute your claim or are still undecided about your claim more than 10 days after notifying you that they need further information.

If the insurer fails to reply within 14 days of the claim being lodged with them, then you become entitled to weekly payments of compensation.

In either of these instances you may lodge a dispute with WorkCover WA. Contact the WorkCover WA Advisory Services for further information.

While your claim is being assessed, you may consider requesting your employer to pay you any accrued leave (such as annual or sick leave). This would not indicate that liability has been accepted, but may provide interim financial support for you while a decision on liability is being made. If the claim is approved, weekly payments of workers' compensation would commence and your leave would need to be re-instated.

Choice of treating medical practitioner

You are able to choose your own treating medical practitioner.

Review by employer's medical practitioner

Your employer or their insurer may refer you to a medical practitioner of their choice before or after your claim has been accepted. You are required to attend this appointment for medical examination only.

You cannot be required to attend medical reviews:

- more frequently than once every two weeks
- at any time other than during reasonable hours
- with more than three medical practitioners who are specialists in the same field of medicine.

If you do not attend an appointment without a reasonable excuse, refuse to submit yourself for examination, or in any way obstruct the examination, your right to compensation may be suspended.

What am I entitled to?

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.

There are also additional entitlements available for serious injuries and illnesses. These have strict eligibility criteria and include:

- Specialised re-training allowance, if essential for a return to work, provided the worker meets all retraining criteria,
- Exceptional circumstances medical entitlement of up to \$250,000 for operations and post-operative care, and
- Lump sum settlements in certain circumstances.

Further information about your entitlements is available in the *Receiving workers' compensation entitlements* brochure.

Weekly compensation payments

Your employer must commence making weekly payments to you if your claim is accepted by the insurer and your doctor has certified you totally or partially unfit for work.

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

1. 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

2. For non award workers

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

Weekly payments are paid in the usual manner and on your normal payday. If you do not receive your weekly payments in this manner, you should

1. Speak to your employer and check if there is an issue or delay in making your weekly payments
2. If you cannot resolve the matter with your employer, speak to your employer's insurer to seek their assistance
3. If you have attempted both options above without success, contact WorkCover WA's Advisory Services on 1300 794 744 for information.

Accounts and invoices

When a claim has been accepted, forward all accounts and invoices relating to medical treatment and other approved workers' compensation entitlements to your employer or their insurer, as soon as reasonably possible.

Injury management

Injury management is the process whereby you, along with your employer and your treating medical practitioner, work together as a team to assist you to stay at work, or return to work following a workplace injury.

Your employer is required to have an injury management system in place. This should be a written description of what steps will be taken when an injury occurs. It will include the contact details for the person responsible for the injury management system in your workplace.

Your employer must provide you with a copy of the injury management system if you ask for it.

Return to work programs

Your employer is required to establish a return to work program for you if your doctor indicates on your First or Progress Medical Certificate that you are:

- partially fit to return to work in your usual job, or
- totally or partially fit to return to an alternative job.

This needs to be done with your agreement and must be in writing.

The return to work program should include:

- your name and the name of your employer
- a description of the goal of the return to work program
- the actions to be taken and who is to take them
- a signed statement as to whether or not you agree to the program.

You are required to participate in the agreed return to work program. If you do not, your employer may apply to WorkCover WA for an order to reduce or even stop your weekly payments.

Any changes that need to be made to the return to work program as a result of advice from your treating doctor must also be made with your agreement and in writing.

Your employer has to give you and your treating doctor each a copy of the return to work program and any changes made to the program.

What is vocational rehabilitation?

Vocational rehabilitation is a specific service that may assist in helping you stay in, or return to, suitable work. WorkCover WA approves vocational rehabilitation providers and payment for their services is covered in your entitlements. To obtain a list of approved providers please contact the WorkCover WA Advisory Services or visit the website.

Choice of vocational rehabilitation provider

The injury management team should discuss the need for a referral to a vocational rehabilitation provider, but you have the right to choose which rehabilitation provider you wish to use and you may be asked to sign a document that indicates you understand and have exercised this choice. You may like to talk to your medical practitioner or your employer concerning their recommendation.

Employer obligation to maintain employment

If you reach partial or total capacity for work within 12 months from the day you became entitled to weekly payments of compensation, your employer is required to provide you with the position held by you immediately before that day, if it is reasonably practicable to do so.

If that job is not available or you can no longer perform that job, your employer must provide a similar position for which you are qualified and capable of performing, that is comparable in status and pay.

If an employer wishes to terminate a worker within the 12 months mentioned above, they must give the worker 28 days written notice of their intention. WorkCover WA must be notified of this intent at the same time.

What happens if I am dismissed or resign?

If you are certified as totally unfit for work, your employer is still responsible for paying appropriate workers' compensation weekly payments and your entitlements under the Act, even if you have been dismissed or you resign.

Where you are certified partially unfit for work and are dismissed or resign, in some circumstances the employer may continue to be responsible for paying appropriate workers' compensation payments.

What happens if I get another job?

You must inform your employer or their insurer in writing within seven days if you commence another job. You may still be entitled to partial incapacity payments and other benefits.

Consent authority

To assist with workers' compensation and injury management you may be requested to provide your written consent for your employer and doctor to speak to each other. This can also be provided on the First Medical Certificate and the claim form.

You should be aware that if you do not provide your consent, it may be difficult for your employer and their insurer to determine liability on your claim.

Useful contacts you may need

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

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

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

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

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

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

Further information

The information in this brochure is intended as 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 is a telephone information service which provides general information on workers' compensation and injury management.

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

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

WorkCover WA arbitrates on matters that are disputed between the parties.

Information seminars for injured workers are held on a regular basis free of charge. More information is available from the Calendar of Events at www.workcover.wa.gov.au or through Advisory Services on 1300 794 744.



2 Bedbrook Place
Shenton Park
Western Australia 6008
www.workcover.wa.gov.au
wa.gov.au

telephone 08 9388 5555
facsimile 08 9388 5550
advisory services 1300 794 744
TTY 08 9388 5537
email postmaster@workcover.wa.gov.au