

Role of an Approved Medical Specialist

Information for Medical Practitioners



GOVERNMENT OF
WESTERN AUSTRALIA



WorkCoverWA

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 should be read in conjunction with other brochures available from WorkCover WA for workers, employers, medical practitioners and other service providers. WorkCover WA brochures provide general information only. You should not act or omit to act on the basis of anything contained herein. In relation to a particular matter you should seek appropriate legal/professional advice.

What does an approved medical specialist do?

Approved Medical Specialists (AMSs) assess the degree of *permanent impairment* or degree of *permanent whole of person impairment* (WPI) due to workplace injuries. These assessments are required in cases where the worker and the employer do not agree about the degree of permanent impairment. In all cases, except claims for Exceptional Circumstances Medical Payments, the injury must have been sustained on or after 14 November 2005.

An AMS is trained to evaluate *permanent impairment* using the *WorkCover WA Guides for the Evaluation of Permanent Impairment* (WorkCover WA Guides).

While treatment continues to be provided by the worker's treating medical practitioner, only a medical practitioner registered as an AMS can undertake an impairment assessment, which forms the basis for access to certain workers' compensation entitlements.

An assessment of the degree of *permanent WPI* is necessary where an injured worker is seeking to access any of the following entitlements:

- a claim for damages at common law;
- Specialised Retraining Programs;
- Exceptional Circumstances Medical Expenses.

An assessment of the degree of *permanent impairment* is required where the worker and employer disagree as to the level of *permanent impairment* for Schedule 2 entitlements (lump sum entitlements for *permanent impairment*).

(Note: conditions for eligibility apply to each of these entitlements.)

How to become an AMS

WorkCover WA may designate a person as an AMS if the person is a medical practitioner, who in WorkCover WA's opinion, is sufficiently trained in the use of the WorkCover WA Guides, and otherwise satisfies WorkCover WA's criteria for designation.

Functions of an AMS

An assessment of the degree of **permanent impairment** or **permanent WPI** by an AMS will be made where the injured worker is seeking to access each of the following entitlements:

1. Schedule 2 (lump sum settlements for *permanent impairment*);
2. a claim for damages at common law;
3. Specialised Retraining Programs;
4. Exceptional Circumstances Medical Payments (up to \$250,000).

(Note: conditions for eligibility apply to each of these entitlements.)

1. Schedule 2

(lump sum settlement for permanent impairment)

To access a lump sum payment for *permanent impairment* under Schedule 2, where the worker and employer disagree on the level of *permanent impairment*, a worker requires an assessment of the degree of *permanent impairment*.

2. Common law

Some workers are eligible to pursue damages from their employers through the courts.

A permanent WPI assessment of not less than 15 per cent will be necessary in order for a worker, injured on or after 14 November 2005, to pursue a common law claim.

The worker must provide this assessment to the Director of the Dispute Resolution Directorate prior to the termination day, which in normal circumstances is 12 months from the date that a claim for weekly compensation payments was made.

The Director may, from time to time, extend the *termination day* (ie the day on which a worker's access to pursue common law damages ends) by up to, but not more than, one year. This may occur if before the termination day, an AMS in writing:

- certifies that the worker's condition has not stabilised to the extent required for a normal evaluation of the worker's degree of permanent WPI; and
- recommends a date the termination day be extended to.

If, in the final six months of the extension period of 12 months from the termination day, the worker's condition has not stabilised sufficiently for a normal evaluation, then a worker may request that an AMS make a special evaluation of the worker's degree of permanent impairment.

3. Specialised Retraining Programs

Specialised Retraining Programs enable eligible workers to undertake formal vocational training or tertiary studies. Workers may be eligible for a specialised retraining program if:

- they have a compensable injury which occurred on or after 14 November 2005; and
- they apply in the manner and within the timeframes described in the Act; and
- it is agreed by the worker and their employer, or determined by an arbitrator, that the worker has a *permanent WPI* of at least 10 per cent but less than 15 per cent; and
- it is agreed by the worker and their employer, or determined by a Specialised Retraining Assessment Panel, that the worker meets all of the retraining criteria.

4. Exceptional Circumstances Medical Payments

Where a worker is injured, either before or after 14 November 2005, and is in need of additional medical treatment, the worker may apply for Exceptional Circumstances Medical Payments which can provide up to an additional \$250,000 in medical expenses. To apply, a worker needs an agreed or certified permanent WPI of not less than 15 per cent.

A worker applying for Exceptional Circumstances Medical Payments also needs to provide an outline of the treating medical practitioner's treatment plan including the cost of the plan.

Even if the worker's condition has not stabilised, and where the worker and employer agree the impairment is not less than 15 per cent, a *special evaluation* is to be made by an AMS for the purpose of establishing that the level of permanent WPI is at least 15 per cent.

If the insurer agrees with the certified level of permanent WPI, the application to access medical funds can proceed.

If the insurer does not agree, the matter may be disputed. Such disputes would follow the normal disputes process.

Powers of an AMS

An AMS may require the worker to attend at a specified date, to submit to an examination and to answer any questions about the injury. An AMS may also require the worker, employer or employer's insurer to produce or consent to the production of any relevant document or information. Time limits may apply for meeting these requirements and penalties exist for non-compliance.

Court proceedings may be delayed or dismissed for non-compliance by the parties with requirements for assessment by an AMS.

Outcomes

Assessments for Schedule 2 settlements, access to common law, access to Specialised Retraining Programs or access to additional Exceptional Circumstances Medical Payments, all require an AMS to provide the worker and the employer with a written report incorporating:

- a degree of impairment;
- details of the assessment and reasons justifying the assessment; and
- a certificate specifying the worker's degree of impairment.

If the injury has not stabilised to the extent required for a normal evaluation the AMS must provide the worker and employer with a report of any details provided by the worker and brief reasons for justifying the finding certified.

A certificate issued for Schedule 2 settlements, common law access, Specialised Retraining Programs or Exceptional Circumstances Medical Payments is to specify the purpose for which it is made and cannot be used for any other purpose.

WorkCover WA may, with the consent of the worker, release to the AMS any information it has which may be relevant to the worker's assessment.

Disputes regarding the assessment of permanent WPI may be referred to an AMS panel for review. However, decisions of an AMS are not open to judicial review.

Where can I get more information?

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