

## Uninsured workers' compensation claims

## Fact sheet



WorkCover WA is the government agency responsible for administering the *Workers' Compensation and Injury Management Act 1981 (the Act)*. All employers in Western Australia are required to have workers' compensation coverage for anyone defined as a 'worker' under the Act.

This fact sheet provides:

1. an overview of WorkCover WA's processes for a workers' compensation claim when an employer did not hold insurance, and
2. the consequences of not having insurance.

### Why is workers' compensation insurance so important?

Workers' compensation insurance protects employers from the financial costs of workers' compensation claims. It ensures costs are covered regardless of the employer's financial situation.

Any worker who suffers a work-related injury requiring medical treatment and/or time off work is entitled to claim workers' compensation. This may include weekly payments to cover loss of earnings, medical expenses, lump sum payments and workplace rehabilitation assistance. Workers' compensation and common law claims can cost in excess of \$1,000,000.

### What happens when WorkCover WA receives a claim relating to an uninsured employer?

Injured workers must not be disadvantaged if their employer does not hold insurance. Workers must be able to access the same entitlements as though their employer had been insured.

To ensure an injured worker's claim progresses well, it is important for the worker, employer and WorkCover WA to work together. Each party has important responsibilities.

### Worker responsibilities

The injured worker is expected to:

- notify the employer of the claim
- attend medical and vocational rehabilitation appointments
- play an active role in Return To Work (RTW) planning, as medically appropriate
- attend and perform the agreed duties set out in the RTW program, and
- keep the employer informed.

### Employer responsibilities

Despite being uninsured, an employer is expected to:

- make a decision on the claim (accept or dispute). A claim can be pended if more information is required.
- cover all costs associated with the claim, and
- take a lead role in planning for a workers' return to work.

### WorkCover WA responsibilities

WorkCover WA oversees all uninsured claims.

Where an employer meets its responsibilities (including payments), WorkCover WA's involvement will be limited to ensuring the worker is not disadvantaged.

Where an employer does not meet its responsibilities, WorkCover WA may:

- make decisions on behalf of the employer to ensure the injured worker is not disadvantaged, and
- recover expenses from the employer.

WorkCover WA may penalise employers for not holding workers' compensation insurance.

WorkCover WA receives support from the Insurance Commission of Western Australia to manage uninsured claims and the State Solicitor's Office with legal issues.

### If WorkCover WA make payments to an injured worker, who pays?

Where the employer does not meet its responsibilities, WorkCover WA will initially pay an injured worker. Once the claim is finalised, WorkCover WA will seek to legally recover these payments from the employer.

### Further information

 Call Advice and Assistance 1300 794 744

 Visit [workcover.wa.gov.au](http://workcover.wa.gov.au)