

FACT SHEET: WORKERS COMPENSATION

What is workers compensation?

Workers compensation is compensation paid to an employee in the event of a work-related injury.

Injured workers will be entitled to receive payments covering the loss of earning capacity, payments for medical expenses and rehabilitation expenses to assist them in getting back to work. A claim for workers compensation should be made **within 6 months** of the date of the injury but this time limit is frequently extended to 3 years and can be extended beyond this in some circumstances.

What is an injury?

'Injury' according to Section 4 Part 1 of the *Workers Compensation Act 1987* means;

- Personal injury arising out of or in the course of employment;
- includes a disease that is contracted by a worker in the course of employment and to which the employment was a contributing factor;
- the aggravation, acceleration, exacerbation or deterioration of any disease where the employment was a contributing factor;
- injuries can be either physical or psychological.

How can I make a claim for workers compensation?

Inform your employer that an injury has occurred and provide medical information. Your employer must then notify their insurer within **48 hours**.

Provisional liability payments should start within **7 days**. This means you will receive regular income whilst the insurer gains more information to support or dispute your claim.

The insurer will investigate the facts and decide to continue or stop further payments. The insurer has either **21 days or until the period of provisional liability expires** to make this decision. The maximum period of provisional liability is usually 12 weeks although this may be extended by the insurer.

What Benefits are available?

You may, depending on your situation, be eligible for some or all of the following:

- Weekly benefits;
- Medical or related treatment and Hospital treatment;
- Occupational rehabilitation services;
- Ambulance service;
- Lump sums for pain and suffering;
- Lump sums for permanent impairment;
- Travel expenses to attend appointments;
- Vocational, re-education and retraining, work aids and equipment, work trials;

- If the injury results in death, the dependent family members may be eligible for death benefits and/or funeral expenses.

What will I be paid if I am totally unfit for work?

For the **first 26 weeks** payments are at the award rate or agreement rate of pay capped at a maximum weekly amount.

Casual workers are entitled to their average weekly income based on what was earned over the previous 12 months.

After 26 weeks your payment will be at a statutory rate.

What if I can only return to work on partial duties?

If you return to work on partial duties and earn less than before the injury, then additional pay will be provided to make up the difference.

This 'make-up' pay will be the difference between your normal gross weekly wage before the injury including any overtime, shift work and penalty rates and the actual weekly earnings after the injury.

What if there are no suitable partial duties within my place of employment?

If this occurs you can receive what is known as a Section 38 payment, which include;

- Not more than the award/agreement rate of pay within the first 26 weeks of incapacity; and
- Not more than 80 percent of the award rate between 27 and 52 weeks of incapacity;
- Section 38 payments stop after a maximum of **52 weekly payments** after which you may continue to receive make up pay or statutory rate payments.

Hot Tips

- Notify the employer immediately after a workplace injury.
- Remember what happened, when, how and write down the names of any witnesses.
- Keep a copy of documentation you send your employer or insurance company and of the documentation that is sent to you.
- Keep a diary of events.
- Get early legal advice.

Contacts

WorkCover NSW

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Disclaimer: This fact sheet provides general information and does not provide legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to a court.