

WFI WORKERS' COMPENSATION WESTERN AUSTRALIA

INFORMATION PACK FOR EMPLOYERS

Good people to know.



Disclaimer

This publication contains important information about the local workers' compensation environment, your legislative obligations, entitlements and services available from us. It also provides guidelines for managing workers' compensation claims.

It is designed to provide general information only and is not intended as a summary, recommendation, or substitute for any legislation or resource to which it refers. You should not act or omit to act on the basis of anything contained herein. In relation to any particular matter you should seek legal advice where appropriate.

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Introduction

WFI is part of Insurance Australia Limited ABN 11 000 016 722, a member of Insurance Australia Group (IAG), one of Australia's leading commercial insurers with operations in Australia, New Zealand and Asia.

Whatever size your business, our approach is based on partnership. We'll work with you to manage your claims and drive early return to work outcomes. At the same time we'll ensure you have the information and tools you need to play an active role in managing your workers' compensation program and developing a strong safety culture within your organisation.

This information pack is a step in that direction. It contains an overview of the local workers' compensation environment, your legislative obligations, entitlements and services available from us.

If you would like additional information regarding any of our services, please contact your local WFI Area Manager or our WFI office.

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Section 1 - Your Policy

1.1 Why do you need a policy?

Employers are legally required to keep a current policy of insurance and must ensure that the current certificate of currency issued by the insurance company is available for inspection by WorkCover WA at the employer's principal office or place of business in WA.

WFI will provide you with a certificate of currency upon request. Please contact your WFI representative to arrange or call us on 1300 934 934.

Under the Workers' Compensation and Injury Management Act 1981 (the Act), you must have workers' compensation insurance for anyone you employ who the legislation defines as a 'worker', including cover for common law. Definition of a worker can be found on WorkCover WA website www.workcover.wa.gov.au. Apprentices must also be covered. There are also special considerations for the categories mentioned below that you need to be aware of.

Sub-contractors

If you engage sub-contractors to do work which is for the purpose of your trade or business and they are paid in substance for their personal manual labour or services, they may be defined as a "worker", as per the Act.

Further information can be obtained from the WorkCover WA website <https://www.workcover.wa.gov.au/employers/understanding-your-rights-obligations/covering-your-workers/contractors-subcontractors/>

Workers engaged by Contractors and Sub-contractors

Section 175 of the Act makes you jointly and severally liable for injury to the workers of any of your contractors or sub-contractors. It is therefore important that you satisfy yourself that all contractors and sub-contractors have insurance covering their own workers.

Please note, however, that by obtaining a Certificate of Currency for such Contractors and Sub-contractors you do not take away your obligation to declare them on your insurance declaration. You will only be protected against claims made against you by persons engaged by Contractors and Sub-contractors under a contract of service for the Act benefits. No cover is provided for common law.

Family members

The reference in the Act to a family member has been removed and therefore any family member residing with the employer will be covered for workers' compensation should they suffer an injury where the family member and employer have entered into or works under a contract of service or apprenticeship with the employer, whether by way of manual labour, clerical work, or otherwise and whether the contract is expressed, implied, is oral or in writing.

The wages of all family members who are employed in your business must be declared and included under the policy as Employees for the purposes of calculating premium.

Working directors

Companies (excluding public companies) have the option of covering their working directors under Section 10A of the Act.

In relation to such companies, a working director means a director of a company who:

- a) executes work for or on behalf of a company, **and**
- b) whose earnings as a director of the company by whatever means are in substance for personal manual labour or services.

To obtain cover, a working director(s) must be named on the policy and their total actual earnings must be declared, including wages, salary and other remuneration (including non-cash benefits). Employer contributions under the Superannuation Guarantee (Administration) Act 1992 should not be included for working directors.

Companies must also provide supporting particulars to verify the aggregate amount paid to their working director(s) with the actual wages declaration and in the event of a claim.

Statutory benefits cover is provided for named working directors. Common law cover may not be provided for claims by working directors unless, amongst other things, they can establish they were working under a contract of service for the company.

Note: Working directors of public companies cannot “opt in” under Section 10A and are no longer considered to be workers under the Act.

Obligations of principals to working directors

Principals engaging contractors need to be aware that they will be in breach of the Act if they enter into arrangements that are designed to avoid their liability to a worker under the Act.

This situation is known as an ‘avoidance arrangement’ under Section 175AA of the Act.

Principals are advised to seek advice on their contractual arrangements with their contractors to ensure they are not in breach of the Act as penalties apply.

Mining Risks

The Policy does not provide cover for industrial disease (i.e. the diseases of pneumoconiosis, mesothelioma and/or lung cancer) arising from employment in any mine or mining operation. All employers who have workers engaged in any mine or mining operation are required to effect cover for industrial disease with the Insurance Commission of WA.

Further information can be obtained from the Insurance Commission of Western Australia website <https://www.icwa.wa.gov.au/other-insurance/industrial-diseases>

Workers employed across State boundaries

We recommend that if you engage workers from other jurisdictions or send workers to perform work for you to other jurisdictions outside Western Australia, that you contact your WFI Area Manager or a lawyer to ensure you have the appropriate cover in place.

The Workers’ Compensation and Rehabilitation Amendment (Cross Border) Act 2004 is designed to clarify the workers’ compensation coverage of workers who work in different states. These “cross border” provisions reflect nationally agreed principles which are being progressively adopted by all workers’ compensation jurisdictions to clarify which state or territory individual workers are connected to.

State of connection

To make it simpler for employers to determine the appropriate “State of connection” in which to insure workers a three-step process is involved.

- 1) The State or Territory in which the worker usually works in that employment and therefore spends the greatest proportion of their working time.
- 2) If no jurisdiction is identified in Step 1, the State or Territory in which the worker is usually based for the purposes of that employment. To help determine this, consideration would be given to the work location specified in the worker’s contract, the location the worker routinely attends, the location from which the worker’s wages are paid.
- 3) If steps 1 or 2 don’t apply it becomes the jurisdiction in which the employer’s principal place of business in Australia is located. This can be determined from the Australian Business Register or the Australian Securities and Investment Commission’s National Names Index.

It is important to note that a claim will not be accepted unless the State of Connection ‘test’ for WA is met. If for any reason the above steps don’t apply, the worker’s employment will be deemed to be connected with the jurisdiction the worker is in when their injury occurred.

Further information can be obtained from the WorkCover WA website at www.workcover.wa.gov.au.

Temporary Work Arrangements

In deciding whether a worker usually works in a particular State, an employer must have regard for any temporary working arrangements. Periods of not more than six months working interstate may be considered temporary. This removes the need to have two workers’ compensation policies for workers temporarily working interstate. Should an interstate working arrangement be planned for or continue beyond six months, the State of Connection will need to be reconsidered to determine if it remains temporary, or is a permanent arrangement.

Employees Working Overseas

If a worker who usually works for you in WA is required to temporarily perform work overseas, then the worker will be covered for the benefits of the Act for a period of up to six months, which may be extended upon request. Although this cover is automatic, we do need to know in which country your workers will be engaged. Your workers' compensation policy will not cover you for claims made against you for damages under the Fatal Accidents Act 1959, the Law Reform (Miscellaneous Provisions) Act and the Law Reform (Contributory Negligence and Tortfeasors Contribution) Act 1947 and at common law for employees working overseas.

Overseas Workers Employed Under a Section 457 or TSS Visa

Workers employed pursuant to a S457 or Temporary Skills Shortage (TSS) visa are entitled to receive workers' compensation benefits if injured during the course of their employment.

These workers must be declared under your policy.

There are strict obligations for an Employer to rehabilitate an injured worker employed under a S457 or TSS visa within their own organisation. A condition of S457 and TSS visa is that a sponsored Employee must remain working for the sponsoring Employer.

For further information contact the Department of Home Affairs website at www.homeaffairs.gov.au

Overseas Workers Employed Under a Section 417 Visa

Workers employed pursuant to a S417 visa are entitled to receive workers' compensation benefits if injured during the course of their employment.

These workers must be declared under your policy.

For further information contact the Department of Home Affairs website at <https://immi.homeaffairs.gov.au/>

1.2 How do you take out Workers' Compensation Insurance?

When taking out a policy, you will need to submit a proposal form declaring estimated wages for the period of the policy (usually 12 months) and pay the deposit premium based on the estimate. The premium is adjusted at the end of the period based on actual wages.

1.3 WorkCover number

Employers are now allocated a number issued by WorkCover WA and is obtained by their insurer. The number remains the same no matter which insurer the employer uses and must be quoted to the insurer prior to insurance being written.

1.4 Industry classification

Your premium will be based on an Industry Classification (ANZSIC) which is determined by the predominant activity at your work location.

Where a company has several separate industries operating from different locations, each industry should be rated separately. Where that company has a head office comprising mainly clerical employees, the wages should be allocated to the predominant industry, unless they can be directly linked to the industry that they service.

Where an employer operates more than one industry at the same single location, that employer's predominant industry shall determine the rate that is applied to all their operations at that site. Other employers on the same site are to be rated in accordance with their own predominant industry.

1.5 Premium

Recommended premium rates are set and reviewed (usually on 30 June each year) by WorkCover WA. Insurers may load these rates by no more than 75 per cent of the recommended rate unless permitted by WorkCover WA. The rates are published in a Special Government Gazette that is available from the State Law Publisher, & WorkCover WA website www.workcover.wa.gov.au.

An insurer calculates premiums in two stages. Firstly, the appropriate recommended rate is applied to the gross wages declared by the employer.

The resulting premium should be adjusted in accordance with the claims experience and any risk factors of the individual employer.

Please be aware that all claim costs incurred under your policy will be included as part of our assessment of your premium calculation.

The premium is also adjusted at the end of the period based on actual wages.

If you are dissatisfied with the type of business or occupation which an insurer has used as the basis to calculate your premium or the amount of premium charged by the insurer, you may appeal against the classification or assessment to WorkCover WA under the provisions of Section 154 of the Act.

1.6 If you don't have a policy

If one of your workers has a work related injury or industrial disease and you are uninsured, you will be liable for the cost of that claim. You may also be liable for the cost of any damages awarded by a Court.

In addition, WorkCover WA may prosecute any uninsured employer, with fines payable of up to \$5,000 in respect of each worker employed and impose penalties equal to the total of any insurance premiums avoided during the five (5) years before the conviction.

1.7 Your obligations under the policy

Under the terms of the policy we issue, you have certain policy and claims responsibilities to fulfil. It is important that you take the time to read your policy document so that you are aware of these obligations.

The major obligations you have are to:

- provide estimated and actual wages declarations for each policy period you are insured with us
- maintain proper Wages Records for every worker employed
- allow inspection of your wages records by a duly authorised representative appointed by us, **and**
- give notice of any injury as soon as practicable (see Employer Claim Obligations in Section 2).

1.8 Our obligations under the policy

Our obligations under your policy are to indemnify you for any payments that you become legally liable to pay under the Act. We will also meet any reasonable costs and expenses incurred by you (with our written consent) in relation to a claim.

We also undertake to manage your claims pro-actively to achieve the best medical and return to work outcomes for your injured employee.

Section 2 - Employer Claim Obligations

Immediately you are aware that a worker has suffered an injury, particularly where there may be lost time from work, the worker must seek medical aid and obtain a certificate issued by a duly qualified registered medical practitioner.

2.1 Initial Notification

We encourage our customers to adopt an 'early reporting culture'. This helps ensure the injured worker is receiving timely and appropriate treatment and enables WFI to move quickly in terms of claim processing and return to work planning.

Research shows that early injury notification also improves claim outcomes. Claims reported within two weeks of injury have been found to be more expensive than those reported within one week. This rises when claims are not reported until week four.

Reporting delays have also been shown to increase the likelihood of litigation.

2.2 Providing Initial Injury Notification

Providing WFI with initial notification of an injury means we can prioritise complex or high-risk claims and start planning in terms of claim and injury management. Ultimately this will mean we can achieve better return to work outcomes and help you keep your workers' compensation premium under control.

You can provide initial notification via phone, fax or email.

Please note that initial notification does not replace your obligation to provide formal notification by submitting to WFI a claim form and medical certificate.

2.3 Submission of claim forms

Time limits and forms required

An employer who receives a claim or any other documentation in respect of a claim must forward it to their insurer within five (5) business days of receipt. Failure to do so may result in the employer not being indemnified for the first five (5) business days for which weekly payments are claimed by the worker (Section 57A (2) Workers' Compensation and Injury Management Act, 1981), and may attract a fine of up to \$1,000.

2.4 What to do when an injury occurs

- Encourage your injured worker to seek medical attention from a medical practitioner as soon as possible and obtain a First Medical Certificate.
- Ensure the injury is reported to a Manager/ Supervisor and Safety & Health Representative (if you have one) immediately.
- Record the incident in an 'Accident Book'.

- Provide the worker with a Workers' Compensation Claim Form available from us, or online at wfi.com.au.
- Provide WFI with Initial Notification of Injury.
- When the worker gives you the First Medical Certificate and a completed Workers' Compensation Claim Form, you are required to complete the Employer Details section and keep a record of the date you received the claim form.
- The worker is required to complete all other sections of the Workers' Compensation Claim Form, sign and date the form, as well as have somebody witness their signature. Please ensure that the worker signs and dates the claim form in all three places. The carbon copy is not to be separated from the original.
- Detach the front cover of the Workers' Compensation Claim Form and give it to the worker, as it contains information they require about their claim.
- Complete the Workers' Compensation Employer's Report Form – available from us, or online at wfi.com.au.
- Forward the Workers' Compensation Claim Form, Workers' Compensation Employer's Report Form, First Medical Certificate and any other correspondence (i.e. progress medical certificates, accounts) to us immediately. The Act requires this to be done within five (5) business days of the Workers' Compensation Claim Form being given to you by the worker.
- Other documents should be forwarded to WFI as soon as they are received.
- In the event of the worker's injury arising from a motor vehicle accident, please ensure the worker also completes the relevant Employer's Indemnity Journey Report Form.
- Please ensure all questions are answered fully.

If you have concerns about the claim, or there is additional information relevant to the claim, please telephone us in the first instance and follow up with a covering letter when lodging the documents. As your insurer, our service standard is to make a decision whether or not to accept liability within five (5) business days. If we decide to 'Pend' the claim (i.e. defer the decision) in order to investigate the nature and cause of the injury to help us make a decision, then we will advise you in writing that a decision is unable to be made within the time allowed by Section 57A(3) of the Act. We will do this within 14 days of receiving the claim.

2.5 Accident record book

All injuries must be reported to your Safety & Health Representative, Management and/or a Supervisor immediately and the incident recorded in an 'Accident Book'. An Accident Book can take the form of an exercise book and is required to show the following information:

- the date of accident
- time
- nature of injury

- what caused the incident
- to whom the injury was reported
- witnesses
- medical attention provided.

2.6 Notifiable injuries and dangerous occurrences

It is a requirement of the Occupational Safety and Health Act 1984 that an employer whose employee suffers a notifiable injury must notify WorkSafe WA by telephoning 1800 678 198.

Notifiable accidents include accidents that result in:

- the death of an employee
- a fracture of any bone in the arm (other than the wrist or hand)
- a fracture of any bone in the leg (other than in the ankle or foot)
- amputations including and greater than a finger or toe joint
- the loss of sight of an eye, **or**
- any other injury that a medical practitioner believes is likely to prevent the employee being able to work for 10 consecutive days.

There are also certain occupational and infectious diseases which need to be reported to WorkSafe WA. Your organisation may have further regulatory obligations with regard to notifiable injuries and dangerous occurrences. Contact WorkSafe WA for further information.

2.7 Worker's position to be available for 12 months

So far as it is practical to do so, Section 84AA (1) of the Workers' Compensation and Injury Management Act 1981 requires an employer to:

- Keep a worker's pre-injury job role available for them for 12 months from the date on which a worker becomes entitled to receive weekly payments of compensation; or
- Keep available for a worker a job role they are qualified and capable of performing, which is comparable in pay and status to the pre-injury job role, for 12 months from the date on which a worker becomes entitled to receive weekly payments of compensation.

An employer must not dismiss a worker to whom Section 84AA (1) applies unless:

- The worker was dismissed on the grounds of serious and wilful misconduct; and/or
- 28 days' notice is provided to the worker, and WorkCover WA, of the termination of employment by way of a regulated notice prescribed by the Workers' Compensation and Injury Management Regulations 1982.

Failure to comply with these requirements may result in the imposition, by WorkCover WA, of financial penalties upon employers.

If a worker to whom Section 84AA (1) is terminated, this does not change the obligations of the employer, and rights of a worker, under the Workers' Compensation and Injury Management Act 1981 or any other written law.

Section 3 - Entitlements to Compensation

3.1 Definition of a worker

The definition of 'a worker' in the Act is very broad and covers not only full-time workers on a wage or salary but also part-time workers, casual workers, seasonal workers, workers on commission and piece workers. In some situations contractors and sub-contractors may also be defined as 'workers', depending on the circumstances of their working arrangement.

3.2 When can a worker make a claim?

Compensation will be paid to a worker for a work-related disability regardless of whether the disability occurs because of the worker or employer's fault.

The only exception to this situation is where a worker is found guilty of serious and wilful misconduct. The main reasons why a claim may be disputed under this provision are if the accident was caused by:

- the worker's failure to wear safety equipment or clothing provided by the employer
- the worker being under the influence of alcohol or a drug of addiction, or
- any other kind of serious and wilful misconduct by the worker.

Any compensation claimed in respect of that injury should be disallowed unless the injury has serious and permanent effects or results in death.

3.3 Injury management

Injury management is "the management of workers' injuries in a manner that is directed at enabling injured workers to return to work." It is your responsibility to work with your injured workers and cooperate in this process, where it is supported by medical evidence.

Injury management provides benefits to workers, minimises disruption in your workplace, and helps to contain workers' compensation costs.

The first step is to provide WFI with initial notification of an injury. We will screen the notifications of injury for the early identification and assessment of 'at risk' claims, and implement appropriate strategies to overcome any barriers to return to work.

Our role is to:

- a) determine the risk level of notifications received and develop an appropriate injury management response;
- b) initiate early contact with the employer, worker and treating doctor to identify any barriers to return to work.
- c) prepare a Case Management Action Plan (where appropriate) which is then communicated to all parties.

3.4 Journey cover

Workers are covered for any injury that occurs during any journey undertaken in the course of employment or at the direction of the employer.

However, such accidents will not be compensable if the injury occurs during or after a substantial interruption of, or deviation from the journey.

Injuries occurring while travelling between home and work, or vice versa, are not compensable, unless the worker is travelling under the direction of their employer.

3.5 Deciding liability of the claim

Once we receive the Claim forms and First Medical Certificate, we will make a decision to accept, deny or pend within five (5) business days. A letter will be sent to you confirming our decision on liability and will include the claim number, the name of the Claims Consultant administering the claim and their direct telephone number.

Where you dispute the validity of any claim, you should contact us and advise your concerns and your intention to dispute the claim. Based on the information provided, we may appoint an external investigator to investigate the circumstances of the claim, and take statements from various parties relative to the claim.

We will also contact the worker and advise him/her of their rights and responsibilities in regard to their claim for compensation.

3.5.1 Accepted claims

If the claim is accepted we will send you an Approval Letter advising the claim has been accepted. This letter will outline the correct rate of pay. Compensation should not be paid until approved by us in writing and only at the rate advised.

If the claim involves the worker being unfit for work, you must commence payment of compensation for the period of incapacity shown in the First Medical Certificate. If you have any queries about when or how much a worker should be paid, please contact your Claims Consultant to clarify the correct amounts before making any payments. Compensation must continue and cannot be stopped even if no further medical certificate is received.

For all claims with an accident date on or after 1 October 2011 you must make the first weekly payment to your injured worker within 14 days of notification of acceptance of the claim by WFI, or within 14 days of the date of the arbitrator's order. If you fail to do so a \$2,000 fine may apply. Subsequent weekly payments must also be paid to your injured worker on your usual pay days. If you do reduce or withhold weekly payments of compensation that you have received from WFI for the worker, a \$2000 fine may apply. This fine applies individually for each weekly payment not made.

3.5.2 Pended claims

If we are unable to reach a decision within five (5) business days of us receiving the claim form, the claim is 'Pended', and a letter sent. This letter is an Insurer's Notice to advise the employer, worker and WorkCover WA that more time is required to make a decision on liability. This notice requires the reasons for the delay to be in plain English.

Important note:

Once our enquiries are complete, we will advise you of our decision.

Under no circumstances should compensation payments to the worker be commenced without confirmation of liability being accepted or our express authority. An option is to pay any accrued sick leave or annual leave entitlements in the intervening period. If the worker does not have any accrued entitlements they may seek Centrelink Benefits (refer 3.13). If the claim is subsequently accepted, these entitlements can be credited back to the worker.

3.5.3 Denied claims

If the claim is denied, a letter will be sent advising of the specific grounds for denial. This letter is an Insurer's Notice to advise the employer and worker that liability is denied or disputed. We will advise the worker of their rights to refer the decision to deny their claim to our Internal Dispute Resolution Panel for further consideration.

3.5.4 Recurrence or aggravation of injury

In the event that a worker seeks medical attention with respect to a previous claim and there has been a break since the worker last had treatment, or the worker has returned to work and is again certified unfit, liability must once again be decided and the time constraints referred to previously must again be adhered to.

You should forward the following forms to us in the case of a recurrence:

- a Recurrence of Injury claim form
- Witness Statement forms
- supporting Medical Certification.

3.6 Benefits payable

Weekly compensation rates are based on "weekly earnings" as defined in the Workers' Compensation and Injury Management Act 1981. The following notes should assist with the information you need to provide for calculation of the compensation rate.

3.6.1 Workers on an industrial award

The weekly compensation rate for the first 13 weeks of lost time is the average of weekly earnings over the 13 weeks prior to the date

of incapacity. It consists of the rate of weekly earnings payable under the relevant industrial award, plus any over award or service payment paid on a regular basis. It also includes overtime, bonuses or allowances, up to the statutory capped amount which is set at twice the average weekly earnings.

To calculate the compensation rate for the first 13 weeks of incapacity, it is necessary to first calculate the Base Weekly Earnings by multiplying the ordinary hourly rate by the base award hours, this includes any over award or service payments. Overtime including any penalty rates, bonuses and allowances are then averaged by the period of earnings used. The Base Weekly Earnings and averaged overtime, bonuses and allowances are then added together.

If the worker was totally or partially incapacitated from work, or for any reason did not work during part of the prior 13 week period, that part is to be disregarded in the calculation.

To calculate the compensation rate after 13 weeks incapacity, it is necessary to first calculate the Base Weekly Earnings by multiplying the ordinary hourly rate by the base award hours, this includes any overtime, over award or service payments paid on a regular basis. Any bonus, incentive or allowance (i.e. shift, living, clothing, travelling or other) is not included unless it is related to the pattern of hours worked. The Base Weekly Earnings and averaged overtime, bonuses and applicable allowances are then added together.

Part-time workers

For a part-time worker who works less than a full week as prescribed under the relevant industrial award, the compensation rate should be pro-rata that of the full award rate, based on the average hours worked per week. Calculation of the compensation rate can be made pursuant to a standard industrial award worker, replacing the base award hours with the average hours per week.

Concurrent workers

If the worker is employed concurrently by other employers, the worker is required to provide details of other employers' hours per week worked, and total remuneration of ordinary hours per week. It is then referred to us for calculation of the compensation rate.

Casual/seasonal workers

For a casual, seasonal or other worker who is ordinarily employed for only part of the year, the compensation rate is calculated by multiplying the "weekly earnings" under the relevant award by the number of weeks normally worked in the year and dividing the result by 52.

3.6.2 Workers not on an industrial award

The weekly compensation for the 1st 13 weeks of lost time is the average weekly earnings (including overtime and any bonus or allowance) over the period of 52 weeks prior to the date of accident or if the worker is then in more than one employment at the end of that period, the sum of the average weekly earnings (including overtime and any bonus or allowance) in each employment.

The weekly compensation rate after the 13 weeks drops to 85 per cent.

If the worker has been in employment for less than 52 weeks, the worker's average weekly earnings in that employment are to be determined over the lesser period.

3.6.3 Age limits

For all claims with an accident date on or after 1 October 2011 the limitations on weekly payments being ceased on account of age have been removed. All workers will have the same entitlement to compensation regardless of age.

3.6.4 Death benefits

Fatality benefits payable under the Workers' Compensation and Injury Management Act 1981 include:

- A "notional residual entitlement" payable to a current or former dependant spouse or defacto partner as a lump sum for loss of dependency on a deceased worker;
- Child's allowances, payable per child and while children remain full-time students;
- Medical expenses incurred prior to death; and
- Funeral expenses up to a capped limit.

3.7 Common law

In addition to claiming workers' compensation benefits in the statutory scheme, injured workers may also pursue claims for common law damages against their employers in certain circumstances.

To pursue a claim for common law damages against their employer, an injured worker must:

- Be assessed as having a degree of permanent whole of person impairment of not less than 15% or not less than 25%;
- Lodge an "election" to retain the right to seek common law damages with WorkCover WA's Director Conciliation before a "termination date"
- Commence proceedings in the District Court of Western Australia within three years of the date of injury by way of filing, and serving on the employer, a writ of summons.

To succeed in a claim for common law damages made against an employer, it is not enough that a worker establishes that they have sustained a certain degree of whole person impairment; a worker must also establish that an employer's negligent acts or omissions caused or contributed to their injury. We may need to investigate claims early to establish if there is negligence.

For workers electing to pursue a claim for common law damages with an assessed whole person impairment of not less than 15% but not more than 24%, damages which may be awarded in court do not exceed a prescribed capped sum.

For workers electing to pursue a claim for common law damages with a whole person impairment of not less than 25%, no capped amount on the damages which may be awarded exists.

3.8 Claims processing and payment authority

Compensation should not be paid until approved by us in writing and only at the rate we have calculated. Once you receive this notification you must commence payments within 14 days.

You are obligated to pay compensation to workers in the usual manner and at the usual time as they would normally receive remuneration. Compensation should not be paid in advance of normal pay days.

Once compensation payments have commenced, they may only be reduced or ceased in certain specific circumstances.

Complete the Employer Wage Reimbursement Invoice forms for all compensation paid and submit these to us on a fortnightly/monthly basis.

3.9 Medical certificates

The worker should seek medical attention from a qualified medical practitioner of their choice as required and obtain a First Medical Certificate. Any Progress Medical Certificates must specify the worker's capacity for work which may be totally unfit; partially unfit; or fit, requires treatment, and must include the dates covering that certification.

Payment of weekly benefits must be made in accordance with medical certificates certifying the period of incapacity. If the injured worker does not provide a medical certificate, please contact WFI for further advice.

Progress medical certificates should be sent to us. When an injured worker is certified fit to return to work please obtain a clearance certificate from the injured worker's treating medical practitioner prior to the return to work.

All medical certificates should be sent to WFI attention to the Claims Consultant managing your claims immediately.

3.10 Injury management and workplace rehabilitation

We recognise the value of working in partnership with our customers in driving injury management. We believe that the best return to work plans are delivered by an integrated approach to injury claims management and that flexibility in service delivery is critical to achieve safe and durable return to work. We are committed to minimising your risk and exposure post-injury and will work with you in restoring injured employees to their pre-injury capacity, while also containing costs; a win-win situation.

Under the Workers' Compensation and Injury Management Act 1981 all employers, regardless of size, are required to have an Injury Management System (IMS) established in accordance with the Injury Management Code of Practice. By law, you must have an IMS that describes the steps to be followed if a workplace injury occurs. It must be in writing and available to any employee on request.

An IMS is a document which describes the steps you need to take when a workplace injury occurs. It allows you to commence injury management quickly and properly, so injured workers can remain at work or return to work at the earliest appropriate time.

An injury management system may encompass the following:

- return to work guidelines and suitable duties registers designed specifically for the job positions within your organisation outlining the physical requirements of each position
- a defined alternative employment policy for injured employees who are unable to return to pre-injury duties
- establishment of a preferred rehabilitation provider, that is aware of your worksite/s, culture and business practices
- establishment of a preferred medical practitioner(s), who is aware of your industry, has reviewed your worksite and understands the physical requirements of all positions and the availability of alternative duties
- defined staff who coordinate all workers' compensation matters.

These are activities that we will work with you to implement and achieve.

In the event an employee is injured and is certified unfit for work, on receipt of the claim you will be contacted by a Claims Consultant to commence the Claim and Injury Management process and to confirm whether your organisation has an IMS established.

Should you require assistance in implementing an IMS or would like a copy of the Code of Practice (Injury Management), please contact your Claims Consultant. or one of our Injury Management Advisers on 1300 934 934.

Alternatively, you can contact WorkCover WA on 1300 794 744 or access their website at www.workcover.wa.gov.au.

Please note that a \$2,000 penalty may apply to all employers for not having an IMS in place which is in accordance with the Code of Practice.

How can an employer manage and maximise their injury performance?

One of the best ways for an injured worker to recover is to gradually increase the physical duties they perform on the job. A worker does not have to be fully recovered or have finished treatment before they can return to work, and easing back into work by participating in a Return to Work Program (RTW Program) may help them recover sooner.

A RTW Program is a document which outlines the hours and duties an employee can complete following an injury. It is a formal written program developed in conjunction with all parties. A RTW Program is a constantly changing document which provides a record for all parties to know exactly what duties and hours an injured worker is safe to perform and when. A RTW Program should be regularly reviewed and updated to ensure the worker is coping.

You can do this by meeting regularly with the worker to ensure problems are resolved quickly, and to gradually increase duties as the worker is able and as supported by medical certification. A RTW Program must be established in accordance with the Code of Practice.

A RTW Program may be required for an injured worker to help them remain at work or return to appropriate duties following an injury. This needs to be done in consultation with their treating medical practitioner (GP).

A RTW Program must be established as soon as practicable if:

- the worker is certified fit for partial or restricted duties, **or**
- the treating medical practitioner advises that one is required

A RTW Program is not required if:

- the worker is totally unfit, **or**
- the worker is fit for pre injury duties and hours.

WFI are able to provide your organisation with a blank template for a RTW Program and guidelines that will assist in the development of the program.

How can we assist?

Our injury management strategies are built around the prevention of long-term disability by promoting recovery and positive health outcomes. With this focus, we have developed an approach to injury management that promotes the early identification of 'at risk' claims via a comprehensive, evidence-based injury management model.

We offer a consistent approach to injury management which ensures there is a strong joint management approach between our Claims Consultants and approved independent vocational rehabilitation providers. Our approach recognises that the best

possible return to work outcomes occur in cooperation between insurer and employer. We will work with you to establish appropriate return to work procedures.

Should you require assistance with establishing and monitoring a RTW Program, please contact your Claims Consultant or one of our Injury Management Advisers on 1300 934 934. Alternatively, you are able to discharge your obligation to establish a RTW Program to WFI as your insurer.

Please note a \$2,000 penalty may apply to all employers for non-compliance with a RTW Program.

3.11 Medical and incidental expenses

Please forward any medical accounts to us when you receive them. Please do not pay any accounts without our approval, as this is deemed to be an admission of liability. Payments will be made by our office to the creditor concerned, in line with WorkCover WA's approved rates.

3.12 Travelling expenses

Injured workers can claim the reasonable cost of travelling to and from medical and associated appointments. The worker is required to complete a Travel Reimbursement form and forward this to us when practicable.

If travelling by motor vehicle, the worker will be reimbursed for the number of kilometres travelled at the applicable rate, however parking expenses are not covered. Please check with us if any other form of transport will be used before incurring the expense, i.e. taxi fares.

3.13 Centrelink payments

Should the claim be accepted WFI are legally obliged to deduct any amount owing to Centrelink from any payments that are going to be made to the worker. WFI will advise you of the amount deducted and the balance payable to the worker.

Section 4 - Employee Obligations

4.1 Claim advice

A worker is required to lodge a claim within 12 months of the injury occurring, otherwise liability may be disputed in accordance with Section 178(b) of the Workers' Compensation and Injury Management Act 1981.

4.2 Return to work

If a worker in receipt of weekly payments returns to work with another Employer, he/she must notify you within seven (7) days of starting such work. You in turn must notify WFI. Any worker who breaches this part of the Act is liable to a fine of \$500.

4.3 Workplace rehabilitation

If agreement for workplace rehabilitation to proceed has been given by the employer and/or insurer and the treating medical practitioner, and the worker refuses to participate, then cessation of benefits may occur.

For this to occur, an application must be made to WorkCover WA.

4.4 Medical examinations

If a medical examination has been arranged and paid for by the employer and/or insurer, a worker must attend. Failure to do so without reasonable excuse, or obstruction of the examination may lead to suspension of benefits.

For this to occur, an application must be made to WorkCover WA.

Section 5 - Customer Service

5.1 Customer service standards

Our customer service standards detail our commitment of service to you.

Key elements of our service standards include:

- respond to telephone / verbal enquiries within one (1) business day
- respond to written enquiries within two (2) business days
- process wage reimbursement payments within seven (7) business days of receipt of invoice, for eligible claims
- process service provider accounts within twenty (20) business days of receipt
- reimburse injured person within five (5) business days
- process service provider accounts within twenty (20) business days of receipt.
- initial contact and risk screening to be completed within five (5) business days of receipt of claim
- coordinate claims reviews if required
- keep you informed of all matters that proceed to WorkCover WA or the District Court
- changes in Claims Consultant are to be communicated to all clients as soon as practicable.

5.2 Claim reviews

Claims management is not a function performed only by the insurer. Information shared between both the insurer and employer plays a vital role in the administration and ongoing assessment of claims.

If you would like a claim review meeting to discuss any of your open claims, please contact us to arrange a suitable time.

5.3 Employer Training

5.3.1 Injury Management for Employers Training

This series of free employer training packages is targeted at human resource specialists, line managers, supervisors, small business owners and those with an interest in better understanding and managing workplace accidents and injuries.

Please contact your Claims Consultant if you would like to know more.

5.4 Legal, investigation and workplace rehabilitation providers

5.4.1 Service providers

We will work with you in establishing a network of service providers. We have established provider panels in the areas of legal, investigation and workplace rehabilitation providers.

Our providers all have specific arrangements concerning cost and service delivery. A comprehensive objective and subjective performance measurement model overlays our provider network allowing us to monitor performance from the perspective of quality and timeliness.

In the event that we are not satisfied with the performance of a provider or a conflict arises, then we will seek a meeting with all parties involved to resolve the conflict.

5.4.2 Injury Management Advisers

We have a dedicated team of health professionals who provide support to our claims staff in strategically managing injury management activities. This support is provided in terms of streamlining our systems and processes around the utilisation of workplace rehabilitation providers and specific review of individual performance and return to work strategies required on claims.

Our Injury Management Advisers are all qualified health professionals specialising in a diverse range of areas, namely Occupational Therapy, Nursing, Rehabilitation and Physiotherapy.

We need to understand your business to ensure we deliver timely injury management services. Our Injury Management Advisers will assist you in developing an employer profile that details your rehabilitation policy, preferred network, suitable duties registers and so on.

5.4.3 Workplace rehabilitation

We consider the referral to external service providers to be an extension of our business. The link between you, workplace rehabilitation service providers and us is essential to ensure that a timely and durable return to work is achieved.

We have established preferred provider arrangements with external workplace rehabilitation providers. Our preferred rehabilitation and return to work providers have been selected from a detailed tender process and have been selected under strict performance criteria surrounding their abilities in the following areas:

- cost efficiency
- return to work outcome performance

- timeliness of undertaking instructions and activities
- reporting requirements
- areas of expertise.

5.5 Managing the medico legal process

We will make available to you, subject to the privacy law requirements, any medico-legal reports if requested.

5.6 Internal Dispute Resolution

We have developed a process to deal with disputes internally before they proceed down a legal course.

Upon receipt of a dispute by a party we will endeavour to resolve the matter before it is listed for a hearing. Similarly, before we file an application we will try to resolve the dispute. We will keep you advised as to the progress of any disputes.

5.7 Disputes lodged with WorkCover WA

A dispute arising between any parties in the workers' compensation system is dealt with by WorkCover WA. This system requires parties raising a dispute to file all documents they intend to rely upon at the time they file their application. In addition, there is provision for minor claims and interim payments orders to be made on an expedited basis.

As an employer, it is important that you submit claims to WFI as quickly as possible. If you wish to dispute a worker's claim, you must inform us both verbally and in writing as soon as practicable. Strict time frames apply so if you receive an application from a worker or their representative, please advise us verbally to ensure we have also received a copy.

5.8 Legislative updates

Our commitment is to ensure that you will be kept informed on all workers' compensation, rehabilitation and occupational safety and health legislative changes. This is done in a variety of ways including:

- information and training seminars
- email – information is provided of legislative changes via email to our designated contacts.

Section 6 - Summary

In order to achieve a successful outcome, the injury management and return to work process requires a team effort with ongoing communication between you, your injured worker, medical practitioner and WFI.

We trust you have found this Pack informative and of benefit. We would appreciate any feedback on our services at any time to ensure we continue to partner with you to reduce workplace injuries and achieve positive return to work outcomes.

Remember our staff are always available to help you. Contact your Claims Consultant directly or feel free to contact us on 1300 934 934.

You will also find all the information and forms you need to manage a claim at our website **wfi.com.au**.

Alternatively you can contact WorkCover WA with any queries you may have in relation to workers' compensation matters.

Notes

Contact details

WFI

46 Colin Street
West Perth WA 6005

PO Box 77 Welshpool DC WA 6986

Tel: 1300 934 934
Fax: 1300 038 395

Email: workerscompclaims@iag.com.au
wfi.com.au

WorkCover WA Website

www.workcover.wa.gov.au
Tel: (08) 9388 5555 or 1300 794 744

WorkSafe WA Website

www.worksafe.wa.gov.au
Tel: 1300 307 877 or 1800 678 198



Insurance Australia Limited
ABN 11 000 016 722
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