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L A W Y E R S

WORKERS COMPENSATION FACT SHEET

What does a worker need to do to lodge a workers compensation claim?

To lodge a claim for workers compensation benefits, a worker needs to submit a Notification of Injury or Claim Form to icare or their relevant self-insurer (such as BlueScope Steel or Wesfarmers/Coles employees).

The worker also needs to obtain a Certificate of Capacity from their General Practitioner, which diagnoses the injury, advises regarding their connection to work and details treatment needs and work capacity.

What does a worker need to prove to have their workers compensation claim accepted?

For a claim to be accepted, the insurer or Personal Injury Commission (PIC) needs to accept that:

1. *The worker has sustained an injury at work that has been substantially caused by work, or in the case of an injury of gradual onset, such as a psychological condition developed over time, employment must be the main contributing factor.*
2. *The injury has caused an incapacity for work (to obtain weekly payments) or a reasonably necessary need for treatment (to obtain medical expenses) or at least 11% Whole Person Impairment (WPI) for a physical injury or 15% WPI for a psychological injury (for the worker to receive a lump sum compensation for the permanent impairment suffered).*

Are there any special requirements for a psychological injury?

Yes, in addition to the above requirements, a psychological injury must not be sustained due to matters wholly or predominantly due to discipline, transfer, retrenchment, etc if the employer has acted in a reasonable manner.

The insurer has a defence under Section 11A of the *Workers Compensation Act 1987* in relation to injuries sustained in the above way.

How can a worker beat the insurer's Section 11A defence?

In our vast experience in acting for workers in relation to psychological injury claims with liability disputes, we have learnt that in many cases even if the matters listed above have some relevance to the injury, they are usually not the only matters that have caused a worker to stress.

Typically, other relevant matters that cause psychological injury for a worker are difficulties with management or work colleagues' behaviour over time (frequently bullying) or over work and the stresses associated with that. Injuries that evolve from exposure to trauma are also prevalent.

It is important that a worker provide the full and detailed history of their workplace problems to their treatment providers, as often the focus can be on the straw that broke the camel's back and not the longer term issues that have led to the deterioration in the worker's health.

How long can a worker receive compensation?

A worker who continues to be incapacitated for work can receive weekly compensation for no more than five years, unless they are established to have 21% whole person impairment.

How long a worker receives payment of their reasonably necessary medical expenses depends on their Permanent Impairment level.

A worker with less than 11% WPI receives medical expenses for up to two years after the date of their entitlement to weekly payments ceases. For a worker with 11–20% WPI, they can receive medical expenses for up to five years after they receive weekly payments. Workers with at least 21% WPI can receive their reasonably necessary medical expenses for life.

Hence, it is vitally important that your patients are referred for legal advice so that a level of permanent impairment can be determined.

What support does RMB Lawyers offer to injured workers?

Our lawyers have extensive experience in supporting injured workers and we have four lawyers in our Compensation practice who are specialists in personal injury law as accredited by the Law Society of New South Wales.

All workers who approach us will receive detailed and personal advice regarding their workplace compensation situation. We work with our clients to support them throughout the complex claim process and are understanding of the vulnerability of many of our clients.

There is no cost to the worker for our advice or any further work required in their statutory workers compensation claim.

We receive a grant from the Independent Review Office (IRO) to allow us to provide our support to workers in relation to their claims. IRO also pays for the costs of medical reports.

What additional support services are available for workers for day-to-day management queries?

IRO offers a service for workers in relation to day-to-day problems that sometimes arise with the insurer (such as a delay in payment of medical expenses, weekly compensation or reimbursements).

The email address details for this service are:

- ilarscontact@iro.nsw.gov.au or
- complaints@iro.nsw.gov.au

A worker can also telephone IRO on 13 94 76.

What role can I play as a treatment provider in supporting a workers legal investigation?

Often where there is a liability dispute in relation to a claim, we will need to seek a treatment report or medical records from you.

These are governed by set rates of payment under the report fees order set by the New South Wales Government and we will ask for you to, if possible, adopt those rates.

We will issue a report request specifies what information would assist in terms of the evidence required to address the issues in the claim.

It is also often prudent, with a mutual client's consent, to touch base regarding their situation as open communication channels can assist us to provide appropriate support to somebody going through a very difficult personal injury and, at times, a seemingly overwhelming insurance claim process.

Please contact our Expert Compensation Team on **1800 681 211** or email
compensation@rmblawyers.com.au