



Factsheet - Workers' Compensation

Am I Entitled To Compensation?

You are entitled to compensation if you suffer an injury arising out of and in the course of your employment or suffer a disease to which your employment substantially contributed. An injury occurs at work if it happens at your workplace on a workday. There are three types of payments that can be made, which are detailed below.

Weekly Payments

If you are incapacitated for work, and have a worker's compensation medical certificate from your doctor, you are entitled to receive a payment to compensate you for loss of your usual income. If you are incapacitated for a short time you will receive a sum close to your usual income. However, the amount will slowly decrease if your incapacity lasts for a significant period. You cannot receive less than 70% of the basic wage. Payments will stop 9 years from the date of the first injury.

Medical And Associated Costs

You are also entitled to claim reasonable and necessary medical, hospital and pharmaceutical costs from your employer. Physiotherapy and other rehabilitation costs are included. You can also claim reasonable and necessary travelling costs to and from medical and other related appointments. There is no limit on the amount payable by your employer for medical and associated costs, although your employer's liability to pay for medical services ends 10 years from the time they first received your worker's compensation claim.

Lump Sum Payments For Permanent Impairments Or Injuries

If you have suffered a permanent or partial impairment to a specified part of your body you may be entitled to a lump sum payment for the permanent impairment involved. The amount you are entitled to receive depends on the degree of impairment, which would be assessed by a specialist. This is in addition to any other compensation paid under the Act.

Exclusions

An injury suffered whilst travelling between your home and workplace will not be covered. Some categories of workers are also excluded from receiving worker's compensation.

Claiming Compensation

Your responsibility is to report any injury or disease as it occurs or when you become aware of it. You have six months from the date of the injury to claim compensation. To claim you must complete and forward to your employer a worker's compensation claim form, together with a worker's compensation medical certificate completed by your doctor. If your claim is accepted your benefits will commence within approximately 14 days. To continue to receive weekly payments of compensation you will need to be covered by a medical certificate indicating your incapacity to return to work. If your employer disputes your claim for compensation you should seek legal advice.

Getting Back To Work

One of the aims of the worker's compensation scheme is to get you back to work as soon as possible. As a worker you have a responsibility to attend any reasonable medical appointments made for you by your employer and to participate in any rehabilitation program or alternative work

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duties arranged by your employer. Your employer also has a responsibility to hold your job open for you for a period of 12 months to allow you to be rehabilitated after your injury.

Obtaining Additional Compensation - Common Law Claims

If you suffer an injury or disease as the result of the fault or negligence of your employer or another person, you may be able to sue the negligent, or at fault person, for common law damages. This is in addition to your right to worker's compensation. Before commencing common law damages, an injured worker must make an election to do so, within two years of the date weekly payments were first paid to the worker. To make such an election the worker's degree of incapacity must be at least 30 % of whole person impairment. If a court awards you damages, they are to compensate you for pain and suffering; loss of earning capacity; and future medical expenses. If you wish to seek common law damages you must do so within three years of suffering your injury. There is power to extend this to six years in special circumstances.

RELEVANT LEGISLATION

Workers' Rehabilitation and Compensation Act 1988

CONTACTS

Workcover Tasmania

The information contained in this factsheet is not legal advice. If you have a legal problem you should talk to a lawyer before making a decision about what to do. The information in this factsheet is written for people resident in, or affected by, the laws of Tasmania, Australia only. All questions concerning this factsheet to info@legalaid.tas.gov.au.