

Workers' Compensation

The Western Australian workers' compensation system is designed to support injured workers to successfully return to gainful employment through injury management.

Can I make a Workers' Compensation Claim?

If you injure yourself in the course of your employment and are defined by law as a worker, then you are entitled to make a claim.

The legal classification of a worker includes full-time, part-time, casual, seasonal, piece and commission workers. Depending on their working arrangements, directors, contractors and sub-contractors, and family members of the employee dwelling in the same house may also be defined as workers.

When can I make a Workers' Compensation Claim?

You are entitled to claim for workers' compensation if you suffer any of the following and any one of them results in time off work or requires medical treatment: -

- a personal injury caused by an accident arising out of, or occurring in the course of employment, or while acting on the employer's instructions
- a disabling disease
- a disease contracted in the course of employment, or the recurrence or aggravation of a pre-existing disease where the employment contributed to a significant degree

How do I make a claim?

The following steps need to be followed: -

1. Seek first aid

2. Report the incident or accident to your employer as soon as possible
3. Report the injury to your Union Delegate or Organiser
4. Visit a doctor of your own choice and obtain a Workers' Compensation First Medical Certificate
5. Fill in a Workers' Compensation Claim (2B)
6. Give the original forms to your employer, make sure you keep your own copies
7. Your Employer has five days to lodge your First Medical Certificate and Claim Form with their insurer
8. After receiving your claim form the insurer has 14 days to notify you if your claim has been:

a. Accepted

If your Workers' Compensation Claim is accepted and your injury prevents you from working, your employer must commence making weekly compensation payments. Payments will be made on your normal payday for the duration of the medically certified period of your incapacity.

There is a limit on the maximum compensation that can be paid per week. For the first thirteen weeks of your claim, if you are totally or partially unfit, you will get the same wages you were receiving before the injury.

After 13 weeks you should be paid as per your award or certified agreement base rate plus any allowance paid on a regular basis related to the number or pattern of hours worked (i.e. regular shift allowances)

If you are not on an award or certified agreement you will receive 85% of the same wages you were receiving before the injury, after 13 weeks.

Your Rights @ Work 2023

b. Disputed

If your claim is disputed the insurer shall advise you of the reason and no compensation shall be paid. If you disagree with the insurer's decision, you can ask them to review their decision. If the decision does not become resolved, then you may lodge an application with the Conciliation and Arbitration Services for an independent review.

If you do not ask the insurer to review their decision, then the insurer could consider that your Workers' Compensation Claim has been resolved and can dismiss your claim.

c. Pending

There may be instances when the insurer may put your claim on hold until they seek further information. If your claim is put on hold then the insurer has another 10 days to make a decision on your claim. If the claim is still undecided after the 10 days have passed, the claim is deemed to be in dispute. You may lodge an application with the Conciliation and Arbitration Services to have the matter decided.

What happens if my employer or insurer wants to send me to their medical practitioner?

Before or after your claim has been accepted your employer or their insurer can refer you to a medical practitioner of their choosing. You are required to attend this appointment for medical examination only.

You cannot be required to attend medical reviews:

- more frequently than once every two weeks
- at any time, other than during reasonable hours
- with more than three medical practitioners who are specialists in the same field of medicine.

If you do not attend an appointment without a reasonable excuse, refuse to attend the examination, or in any way obstruct the examination your right to compensation may be suspended.

Return to work

If your doctor states on your Medical Certificate that you have total capacity to return to work, then you should return to your previous position. If your doctor assesses that you have only partial capacity to return to work, your employer will consult with you in implementing a return to work program.

What happens if my Workers' Compensation Claim is investigated?

Your Workers' Compensation Claim can be investigated at any stage. If you are approached by investigators, ask that all questions be provided in writing and seek legal advice. Unrepresented workers can end up significantly worse off at the end of their claim if they do not seek legal representation for their Workers' Compensation Claim.

Referral for legal advice

Workers' Compensation is a complex legal matter.

ASU has a partnership Agreement Eureka Lawyers, who have specialists that deal only with Workers' Compensation and personal injury matters.

ASU members will be referred to for legal assistance to ensure that they receive the very best advice and representation if they have a Workers' Compensation Claim.

Need Further Advice?

For more information please contact our Member Services Centre on 9427 7777 or by email at member.service@asuwa.org