



## **FREQUENTLY ASKED QUESTIONS**

### **What should I do when I am injured?**

1. Report the injury to your supervisor immediately; and
2. Request a workers' compensation claim form from your employer; and
3. See a doctor and request a First Medical Certificate.

Do not delay in reporting the injury. Do not delay in seeking medical advice. Until you return the claim form and first medical certificate to your employer there is no obligation on your employer to pay for your medical treatment and pay you workers' compensation.

### **Can I see my own doctor?**

You are entitled to seek medical treatment from your own doctor.

Your employer is entitled to have you reviewed by a specialist of their choice for the purposes of providing a report. It is important that you attend this medical examination. If you do not attend the medical examination your employer is entitled to seek an order to discontinue your weekly payments.

You are entitled to a copy of the report. You can request a copy from the insurer. If the report from your employer's specialist is adverse to your claim you are entitled to be reviewed by a specialist of your choice.

It is recommended that you seek legal advice if you receive a medical report from your employer that is adverse to your claim.

### **Do I have to give a statement to my employer or the insurance company?**

Other than the notice requirements you are not obliged to give a statement to the insurance company or your employer. The first medical certificate and claim form 2B are the notice requirements.

The employer and insurer may not condition your workers' compensation benefits on you providing a statement.



### **What are my entitlements?**

You are entitled to:

- Weekly payments of compensation whilst you are certified unfit. The current prescribed amount is \$168,499.00
- Medical and hospital expenses. The current prescribed amount is \$50,550.00
- Rehabilitation expenses. The current prescribed amount is \$11,795.00
- Reasonable travel expenses.

On 1 July of each year these amounts increase.

### **Can I still lodge a claim if my employer tells me I am not entitled to workers' compensation?**

Yes. You should still lodge a claim. Your employer does not have the right to determine whether you are entitled to workers' compensation. That decision is made by the insurer once the claim is lodged.

### **Can I claim workers' compensation if I am a sub-contractor?**

To be entitled to workers' compensation as a sub-contractor you must be able to show that you fall under the extended definition of worker in the *Workers' Compensation and Injury Management Act*.

This means you must be able to show that you are engaged by another person to work for that person's trade or business and that the payments you receive are in substance for your personal manual labour or services.

No one factor will determine whether such an employment relationship exists. If you have been denied workers' compensation because you have been told you are a sub-contractor and you believe you fall under the extended definition of a worker it is recommended that you seek legal assistance.

### **Am I entitled to workers' compensation for a stress claim?**

Yes, stress is a recognised disability. The law does limit stress claims and many factors which cause stress are excluded from the compensation scheme. For example dismissal, demotion, discipline or non work related stressors.



**Can my employer terminate my employment while I am on workers' compensation?**

Yes. However if your employment is terminated within 12 months from the day you became entitled to weekly payments of compensation your employer must give you 28 days written notice and notify Workcover of their intention.

Your employer and its insurer still have an obligation to pay your entitlements and rehabilitate you if your employment is terminated while you are in receipt of workers' compensation.

**Why do I need to be assessed for permanent impairment?**

Before you can commence proceedings in the District Court or access any entitlement to a Schedule 2 lump sum payment you will have to establish permanent impairment.

**Why should I seek legal advice?**

Having an experienced workers' compensation lawyer review your claim at the earliest possible opportunity, even if only during an initial telephone call, may assist in identifying and attempting to eliminate future problems.

Some common problems which arise because a worker has not sought legal advice are:

1. Missing common law termination dates.
2. Failure to promptly investigate any possible third party claim.
3. Failure to respond promptly to a notice of intention to discontinue weekly payments of compensation.
4. Settling a claim too early.