



Permanent Impairment Thresholds and Time Limits

Impairment

Impairment is defined under the US Guides as *the loss, loss of use or derangement of any body part, organ system, or organ function.*

Application

Under the *West Australian Workers' Compensation and Injury Management Act* ("the Act") an approved medical specialist must assess and certify that a worker's permanent impairment level has reached the required threshold before they are entitled to access:

- common law damages;
- schedule 2 payments;
- extended medical benefits;
- specialised retraining.

Approved medical specialists

An approved medical specialist is a registered medical practitioner who has undertaken Workcover approved training in the assessment of permanent impairment.

There is a list of current approved medical specialists on the Workcover WA website.

Impairment thresholds

An impairment threshold is the level of bodily impairment that an injured worker must reach before they are entitled to access certain entitlements under the Act.

Access to common law damages is conditional on a worker being assessed as having a permanent impairment of not less than 15%. Other criteria also apply.

Access to extended medical benefits to a maximum of \$250,000.00 is conditional on an injured worker being assessed as having a permanent impairment of not less than 15%.

Access to specialised retraining programs is conditional an injured worker being assessed as having a permanent impairment of at least 10% but less than 15%.



Maximum Medical Improvement

Workers should be assessed for permanent impairment once their injuries have reached maximum medical improvement. This means that their condition has stabilised and unlikely to change substantially in the next year, with or without treatment.

Common Law Claims

Injured workers who wish to pursue a common law claim in the District Court are subject to strict statutory time limits. The clock starts to run when an injured worker makes a claim on their employer for workers' compensation.

Workers have one year from the day they make a claim for compensation to elect to pursue common law damages against their employer. This is called the termination day. A worker cannot elect after the termination day.

Within 30 days of notice that the election has been registered a worker must commence proceedings in the District Court.

In some circumstances the termination day can be extended. The request for an extension of the termination day is also subject to the one year statutory limitation.

Extended Medical Benefits

A worker who has been assessed as having a permanent impairment of not less than 15% is entitled to apply for an extension of medical benefits of a further \$250,000.00. The worker must apply within five years from the date the claim for compensation is made on the employer.

Workers who apply for an extension of medical benefits are not entitled to pursue a common law claim.

Specialised Retraining

A worker who is assessed as having a permanent impairment of at least 10% but less than 15% is entitled to apply for a specialist retraining program. The worker must apply within two years from the date the claim for compensation is made on the employer.