



WR&C ACT 1986
INJURY MANAGEMENT PRACTICE NOTE
FOR THE PUBLIC SECTOR

ASSESSMENT OF INITIAL ENTITLEMENTS

1. PURPOSE

- 1.1 To ensure there is consistent application within the public sector of sections 32A, 50B and 53 of the Workers Rehabilitation and Compensation Act, 1986 ('the Act'), following the receipt of a claim by an injured worker following a workplace injury.

2. BACKGROUND

- 2.1 The public sector is committed to the early, safe and sustainable return to work of all injured workers and recognises to support a culture of return to work, an injured worker should have their legislative entitlements assessed ('assessment of initial entitlements') as early as possible, so there is minimal disruption to the worker's financial situation, family and/or lifestyle.
- 2.2 It is government's expectation that once a worker submits a claim for compensation, which results in time off work and/or medical and other expenses, the agency will:
- 2.2.1 Determine the claim for compensation within 7 calendar days of its receipt (if possible); or
- 2.2.2 If the claim cannot be determined within 7 calendar days of receipt, commence provisional weekly payments unless a reasonable excuse for not commencing those payments exists; and
- 2.2.3 If a reasonable excuse for not commencing provisional weekly payments does exist, the agency shall either offer interim payments of compensation to the injured worker under section 106 of the Act or provide an opportunity for the injured worker to access their accumulated leave entitlements pending the determination of their claim.
- 2.3 An injured worker may also seek compensation for costs (medical and other expenses) under section 32 or 32A of the Act. Government's expectation is that agencies will also assess an injured worker's entitlement to the payment of these costs within 7 calendar days.

3. PRACTICE

- 3.1 It is recommended that public sector agencies note that:
- 3.1.1 The WorkCover Claim Form, which includes mandatory and other supporting information, is used by the worker to make a claim for compensation.
- 3.1.2 If cases where the claim for compensation cannot be determined within 7 calendar days and provisional weekly payments are commenced, the period of payment will generally be from the first date of incapacity for work resulting in a loss of wages, and continue for a cumulative period of up to 13 weeks.
- 3.1.3 After the commencement of provisional weekly payments, any further information required to determine the claim should be requested and the claim determined in the normal manner.
- 3.1.4 The agency is deemed to have complied with the requirement to commence weekly payments within 7 calendar days if the decision to commence weekly payments has been made and the worker notified, in writing, of this decision within the 7 days.

- 3.1.5 A decision to commence provisional weekly payments does not constitute an admission of liability under the Act.
- 3.1.6 Provisional weekly payments, once commenced, may only be discontinued in certain circumstances, as contained in the Provisional Payment Guidelines.
- 3.1.7 When a determination of the claim is made, provisional weekly payments will cease and, if the claim is accepted, continue as weekly compensation payments under section 35 of the Act.
- 3.1.8 If provisional weekly payments do not commence because of a reasonable excuse, which must be evidence based, the worker must be advised in writing. The notice must state the reason for not commencing provisional weekly payments and contain details of the evidence utilised to support the use of the reasonable excuse.
- 3.1.9 A reasonable excuse for not commencing provisional weekly payments cannot be used after a period of 7 calendar days from the initial notification of injury.
- 3.1.10 If a worker's claim is ultimately rejected, any amount paid as a provisional weekly payment is not recoverable by the agency, unless it is found that the worker has acted dishonestly.
- 3.1.11 Decisions not to commence provisional weekly payments are not reviewable. However, an injured worker who has a concern with the non-commencement of provisional weekly payments should initiate contact with the relevant agency, in accordance with that agency's Injury Management Internal Complaint Handling process.
- 3.1.12 An injured worker, who remains dissatisfied with the outcome of this aspect of their claim, may make contact with the WorkCover Ombudsman.

Should you have any questions in relation to this advice please direct your enquiry to Public Sector Workforce Relations (Workers Compensation Performance), Department of the Premier and Cabinet (phone 822 62683).

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