

NEW GUIDELINES FOR CLAIMING WORKERS COMPENSATION

10 THINGS TO REMEMBER IF YOU ARE INJURED AT WORK

Effective from 1 August 2016, WorkCover have introduced new guidelines for managing and claiming workers compensation. There is now a single set of Guidelines in lieu of four separate guidelines. These Guidelines set out the “rules” by which a claim for workers’ compensation should be made, as well as the way in which an insurer must respond to and assess claims that have been made.

For an injured worker, it is still important to note:

1. If you are injured at work, you should notify your employer as soon as possible and that notification can be orally or in writing, e.g. your workplace may have an injury hotline number for you to call. Remember, the employer must keep a readily accessible registry of injuries. Have you ever seen or accessed such a register? If not, ask your employer where the register is kept and to whom you should report any injuries.
2. You are entitled to know the name of the insurer and you can lodge a complaint if that information is withheld or not promptly provided.
3. Your employer must notify the insurer within 48 hours of your injury, though equally you can also notify the insurer of the injury.
4. After initially receiving your claim, the insurer has limited options as to whether they must pay you. The insurer can either start provisional payments (pending making a full decision) or they can delay starting such payments if they have a reasonable excuse to do so. They cannot simply sit on their hands and do nothing.
5. Such reasonable excuse to delay payment is focussed on claims for weekly compensation rather than for medical payments.
6. If the insurer is going to seek to rely on a reasonable excuse for not starting payments, you as an injured worker should get written notice of that decision within

seven days of the insurer having the initial notification of the injury. It is very important for you to keep a record of when you report your injury, when you submit supporting medical certificates and claim forms, and all communication you have with the insurer.

7. If the insurer relies upon a reasonable excuse to delay payment of weekly compensation, you should still speak to your employer and arrange to be paid your accumulated sick leave on a provisional basis pending the insurer’s determination.
8. After notifying your employer of your injury you should complete a Worker’s Injury Claim Form (available at <http://www.sira.nsw.gov.au/>) or at the very least, provide the insurer with a Workers Compensation Certificate of Capacity (from your treating doctor) and a signed authority to obtain information about your injury. Subject to making provisional payments, the insurer must decide whether to accept or deny liability within 21 days of receiving a claim for weekly compensation, meaning within 21 days the insurer must either accept your claim and start payments or dispute liability for your claim. This is also the case with claims for medical treatment expenses, that is, the insurer should be accepting or denying liability for your treatment costs within 21 days.
9. If liability for your claim is denied, the insurer must provide you with a Section 74 Notice setting out their reasons for doing so. At that stage you should seek legal advice. Do not blindly accept the decision as final as the insurer is not acting in your interest and their decision can be contested.

10. Just because your claim has been accepted, you should not assume that all of your rights are being protected. Even where liability is accepted by the insurer, there can be issues that relate to:
 - (a) The rate of weekly payments being made; or
 - (b) The pre-approval of reasonably necessary medical treatment (e.g. the insurer may refuse to pay for particular aspects of your medical treatment).

It is important to make sure you fill in the required forms correctly, so that you avoid giving the insurer an easy excuse to avoid paying you your proper entitlements. If you are uncertain about how to fill in the forms you need, speak to your Union for a referral for legal advice.

Some workers’ compensation red flags include:

- ▶ The insurer making a Work Capacity decision;
- ▶ Your employer claiming they are not able to provide you with suitable duties; or
- ▶ Your employer threatening to terminate your employment on medical grounds.

If you or someone you care about has been injured at work, jump on the phone and speak to Michael Barnes, Peter Leonart, or Scott Dougall of Carroll & O’Dea Lawyers to discuss your potential entitlement to compensation.

Call us for a no obligation case evaluation on our toll-free number 1800 816 559.

**MICHAEL BARNES
PARTNER, CARROLL & O’DEA LAWYERS**

JOIN YOUR UNION

When you join the RTBU, you join thousands of people like yourself who work in the transport industry. People like you who have worked hard to make this industry work for the people who rely on it, as well as the people who work in it.

Visit www.rtbu-nsw.asn.au to find out how easy it is to join.

