

## Workers' compensation essentials

## Employer fact sheet



WorkCover WA is the government agency responsible for administering the *Workers' Compensation and Injury Management Act 1981 (the Act)*. All employers in Western Australia are required to have workers' compensation insurance coverage for anyone defined as a 'worker' under the Act.

### What is workers' compensation?

Workers' compensation is financial compensation provided to workers who become injured or exposed to diseases during the course of their employment.

Workers' compensation can include:

- weekly payments to cover loss of earnings
- medical and related expenses
- certain travel expenses
- lump sum payments in case of permanent impairment and/or permanent incapacity for work
- workplace rehabilitation assistance.

Any worker who suffers a work-related injury or disease requiring medical treatment or time off work is entitled to claim workers' compensation.

### Why do I need workers' compensation insurance?

Workers' compensation insurance is mandatory and protects your business from the financial cost of a workers' compensation and common law claim.

If you don't have workers' compensation insurance, you can be fined up to \$5,000 per worker you employ while uninsured, plus you will need to pay any avoided premium and court costs.

Additionally, if an injured worker makes a claim while you are uninsured, you will be responsible for all costs associated with the claim. **Workers' compensation and common law claims can cost in excess of \$1,000,000 so it's simply not worth the risk.**

### Who do I need to cover?

It is mandatory to have workers' compensation insurance for anyone you employ who is defined as a 'worker' under the Act. This includes:

- full-time workers on a wage or salary
- part-time, casual and seasonal workers
- workers on commission
- family members
- piece workers
- working directors (optional)
- payment in kind.

A contractor or sub-contractor may also be defined as a 'worker' if they are engaged to do work for the purpose of your trade or business and they are paid in substance for their personal manual labour or services. For more information refer to the publication *A technical note on contractors and workers' compensation* or watch our educational videos under the 'Resources' section of the WorkCover WA website.

### How do I get an insurance policy?

You can contact an insurer to obtain a premium quote for your business. A list of approved insurers is available on the WorkCover WA website.

Alternatively, you can use the services of an insurance broker who will negotiate with an insurer on your behalf.

Your insurance premium will vary depending on:

- the industry in which you operate
- your claims history and risk factors
- the number of workers you employ
- the amount of wages paid to your workers.



## The claims process

1. Apply first aid to the injured worker and report the injury in your incident reporting system.
2. Get the worker to see a doctor of their choice as soon as possible.
3. Ask the worker to obtain a First Certificate of Capacity from their treating doctor.
4. Provide the worker with a Workers' Compensation Claim Form and ask them to complete the worker's section.
5. Obtain the completed Claim Form and First Certificate of Capacity from the injured worker.
6. Complete the employer's section of the Claim Form.
7. Take copies of both documents for your own and your worker's records.
8. Submit the First Certificate of Capacity and Claim Form to your insurer within five working days.

All received claim forms **must** be forwarded on to your insurer.

You can be fined **\$1,000** if you fail to submit a claim to your insurer within **five working days**.

9. Your insurer is required to advise you and the injured worker within 14 days if the claim has been accepted, disputed or pended.

## Waiting for a decision

An injured worker is responsible for covering the costs of medical treatment for their injury until a decision on liability is made by the insurer. **It's important the worker keeps receipts during this time.** If the claim is accepted, the costs may be reimbursed by the insurer.

While awaiting a decision on a claim, you may consider paying accrued leave, such as annual or sick leave, to an injured worker. It's important you seek the worker's agreement before taking this action.

If a claim is accepted, any sick leave must be credited back to the worker. Enquiries about annual leave can be referred to the Fair Work Ombudsman on 13 13 94.

## Claim outcomes

Your insurer is required to advise you and the injured worker within 14 days if a claim has been accepted, disputed or pended.

### Accepted

If a claim is accepted by the insurer, the worker's compensation entitlements will commence.

### Disputed

If a claim is disputed, no compensation will be paid and the insurer will advise you and the worker of the reason.

If the worker disagrees with the insurer's decision, they can initiate the insurer's internal dispute process. If they disagree with the outcome, they can lodge an application with WorkCover WA's Conciliation and Arbitration Services.

### Decision pended

If a claim is pended, this usually means the insurer needs more information to make a decision.

The insurer has a further 10 days to decide whether to accept or dispute liability.

If no decision is made after this time, the claim is said to be 'in dispute' and the worker can apply to WorkCover WA's Conciliation and Arbitration Services for resolution of the dispute.



## How do I make payments?

While claim payments are reimbursed by your insurer, you are responsible for making payments to the worker. Your insurer will advise you of the correct amount to pay. You must:

- Make the first payment no later than 14 days after being notified that the insurer accepts the claim
- Make subsequent payments on the employers usual pay days
- Make payments in the usual manner
- Only vary or cease payments if your insurer advises you to do so.

**Failure to make payments to an injured worker on time can result in a \$2,000 fine for each late payment.**

## Medical appointments

An injured worker is entitled to choose their own medical practitioner for diagnosis, treatment and medical certificates.

If you would like a second opinion, you can request a medical review through your insurer.

An injured worker cannot be required to attend medical appointments arranged by yourself or your insurer more frequently than once every two weeks and only during reasonable hours.

A worker also cannot be required to see more than three medical practitioners who are specialists in the same field.

**An employer cannot insist on being present at an injured worker's medical appointment.**

If a worker's claim is accepted, their medical bills can usually be forwarded straight to the insurer for payment.

Prior to commencing any treatment, the worker should be advised to check with your insurer that any proposed treatments will be covered and costs reimbursed.

## When can an injured worker return to work?

An injured worker can return to work as soon as their doctor issues a Certificate of Capacity indicating the worker can fully or partially return to work.

You are required to develop a Return to Work Program for an injured worker as soon as the doctor signs a certificate indicating a Return to Work Program should be developed or states that the worker:

- has partial capacity for work
- has total capacity for work but is unable to return to their pre-injury position.

A Return to Work Program template is available under the 'Resources' section of the WorkCover WA website.

If you are unsure how to best support your worker's return to work, or if you are experiencing difficulties identifying modified duties for the worker to perform, talk with your insurer about obtaining assistance from a Workplace Rehabilitation Provider.

**Failure to have a Return to Work Program in place can result in a \$2,000 fine.**

## Can I terminate an injured worker's position?

You are obliged to keep an injured worker's position available where reasonably practicable for 12 months following a worker's incapacity for work.

If the position is no longer available, or the worker can no longer perform that position, you must, where possible, provide a position that is comparable in status and pay and that the worker is deemed qualified and capable of performing.

If you wish to terminate the worker's employment during the 12 month period, you must give the worker and WorkCover WA 28 days' notice of your intention to do so by completing a *Form 15G: Notice of intention to dismiss a worker*. The Form 15G is available on the WorkCover WA website.

WorkCover WA may undertake further investigation to determine if there has been a breach of your legislative obligations.





## What happens if there is a dispute?

WorkCover WA's Conciliation and Arbitration Services provide assistance with resolving disputes over workers' compensation and injury management issues.

For more information refer to the publication *What happens if there is a dispute?* available from the WorkCover WA website.

## WorkCover WA Inspectors

WorkCover WA Inspectors regularly visit businesses in metropolitan and regional Western Australia to check employers have workers' compensation insurance.

If you are contacted by a WorkCover WA Inspector, you will be asked to produce a Certificate of Currency (issued by an approved insurer) which you are required to keep on your business premises.

If you employ workers and do not have workers' compensation insurance, you will be advised to obtain a policy immediately. The Inspector will also investigate the reasons why an insurance policy was not taken out.

During the investigation, you will be asked to produce records of any remuneration you have paid to workers while uninsured.

Failing to produce the required records, or providing false or misleading information to a WorkCover WA Inspector, can result in penalties and prosecution.

Penalties for not holding insurance whilst employing workers apply.

## Need help?



Call Advice and Assistance **1300 794 744**



Visit **[workcover.wa.gov.au](http://workcover.wa.gov.au)**



Watch the educational videos available under the 'Resources' section of the WorkCover WA website

## Frequently asked questions

### ***Does workers' compensation insurance automatically renew each year?***

No – you need to obtain a new Certificate of Currency each year directly from your insurer or via your broker.

### ***I have public liability insurance – am I covered?***

No – public liability insurance does not cover you for workers' compensation claims.

### ***I have a 'business insurance package' – am I covered?***

'Business insurance packages' often exclude workers' compensation insurance so it's important to check you have the correct coverage.

### ***What is an Injury Management System?***

An Injury Management System provides a written description of the steps you will follow when a workplace injury occurs.

An Injury Management System template is available from the 'Resources' section of the WorkCover WA website and can be tailored to suit the needs of your workplace.

**Failure to have an Injury Management System in place can result in a \$2,000 fine.**

### Disclaimer

This brochure contains information regarding workers' compensation and injury management. It is intended to provide general information only. You should not act or omit to act on the basis of anything contained herein. This brochure should be read in conjunction with the *Workers' Compensation and Injury Management Act 1981*. You should seek appropriate legal/professional advice about your particular circumstances.

For more information, visit the WorkCover WA website at [www.workcover.wa.gov.au](http://www.workcover.wa.gov.au). Workers' compensation legislation is also available from the State Law Publisher website at [www.slp.wa.gov.au](http://www.slp.wa.gov.au).

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