

INFORMATION FOR

# INJURED WORKERS



**This brochure provides you with information about  
your rights following an injury at work**

WorkCover. Watching out for you.



## YOUR RIGHTS IF YOU ARE INJURED AT WORK

If you have a work related injury or disease and need medical treatment and/or cannot work for a certain period of time because of the injury then you can claim workers compensation.

The workers compensation system provides you with benefits and assistance to help you to recover so that you can return to work as safely and as soon as possible.

### WHAT WORKERS COMPENSATION COVERS YOU FOR

The workers compensation system provides a range of benefits:

**Loss of wages** – this is paid to cover your basic wage until you are able to return to work. Initially, the weekly benefit is paid at award rate, registered agreement rate or enterprise agreement rate of pay – capped at a maximum weekly rate. The payments **do not** include payments like overtime, shiftwork and penalty rates.

**After 6 months** – your payments could drop to a statutory rate.

**Reasonable medical and other expenses** – including most medical and hospital treatments, therapies, counselling, medical tests and medication.

**Reasonable rehabilitation expenses** – covers all costs associated with your return to work including rehabilitation provider and job seeking expenses.

**Wages on returning to work** – where a return to work plan is required for your return to work your employer pays you for the hours you work and the insurer\* makes up the difference to your average weekly earnings.

**Reasonable other expenses** – including items such as travel, aids and equipment.

**Payment for permanent injuries** – you may be entitled to a lump sum payment for serious and permanent injuries.

The details of these types of benefits payment are available from WorkCover's website and other WorkCover publications.

### WHEN SHOULD YOUR PAYMENT OF WAGES COMMENCE?

If you are entitled to weekly benefits, payments should commence within 7 days of the insurer being notified of your injury. The insurer should also pay all reasonable medical expenses.

If you do not receive payment you can contact the WorkCover Claims Assistance Service **13 10 50** or your union.

## YOUR RIGHTS AND RESPONSIBILITIES

### You, the injured worker, have the right to:

- choose your nominated treating doctor, usually your own doctor
- choose your rehabilitation provider
- have a say in your return to work plan
- choose your treatment providers as well as occupational and/or retraining provider.

**PROTECTION OF YOUR JOB** – your employer cannot dismiss you within the first 6 months of your injury.

**REINSTATEMENT** – even if you are terminated after 6 months and become fit for your old job within 2 years you can apply to be reinstated with your employer.

### These are the things that you need to do:

- tell your employer of any injury *or illness* immediately
- see your doctor to arrange treatment and get a WorkCover medical certificate to give to your employer
- cooperate in plans for your return to work
- keep in touch with your employer regularly
- return to work as soon as possible in consultation with your doctor
- keep copies of all your paperwork
- comply with your injury management and return to work plans
- notify the insurer if any of your employment circumstances change.

## GETTING BACK TO WORK

It is important and a right of every injured worker to return to their normal job and quality of life.

### YOUR RETURN TO WORK TEAM

Workers, employers, doctors and insurers all have a part to play in the workers compensation system. This means that you, your doctor, your employer, and the insurer will work together to make your return to work as smooth and safe as possible. If you're a member of a union, they can help you too.

## **YOUR INJURY MANAGEMENT AND RETURN TO WORK PLAN**

There are 2 types of written plans – the injury management plan developed by the insurer, and the return to work plan developed by your employer.

Your return to work plan must be agreed to by your nominated treating doctor.

Your return to work plan includes details on:

- how many hours you can work
- types of work you can do
- medical restrictions.

### **Your employer's role**

Employers recognise the benefit of getting injured workers back to work and should assist in this process by:

- notifying their insurer within 48 hours of being notified of your injury
- consulting with you, your treating doctor and the insurer about your return to work plan
- organising suitable (alternate) duties for you while you are recovering from your injury
- keeping in touch with you until you recover from your injury and return to your normal duties.

### **Your treating doctor's role:**

- arrange for necessary treatment for your injury
- complete WorkCover medical certificates
- monitor your condition regularly
- liaise with the insurer and your employer to develop the written plans for your return to work
- advise your employer about suitable duties while you are recovering from your injury
- sign off on your return to work plan.

### **The insurer must:**

- if you're entitled to weekly benefits, start paying you weekly workers compensation benefits within 7 days of being told of your injury by your employer, or advise you of the reason they are not making payments
- continue to pay your benefits on a regular and timely basis
- decide whether to accept or deny your claim for workers compensation and advise you in writing
- pay reasonably necessary medical expenses
- prepare an injury management plan in the case of an injury lasting more than 7 days.

## EMPLOYER'S OBLIGATIONS IN RETURN TO WORK

All employers in NSW must have a written *Return to Work Program* describing how they will help an injured worker return to work following injury.

This program must be developed in consultation with, and agreed to by, their workers. Your employer's program should be reviewed and updated at least every 2 years or in response to workplace changes or legislative changes. You should request a copy of this program from your employer to help you understand how your employer will assist your return to work.

### YOUR RETURN TO WORK PLAN

Your return to work plan must be based on your doctor's recommendations. Your employer (return to work coordinator) or rehabilitation provider will then write a return to work plan for you. This return to work plan will be developed in full consultation with you and your treating doctor.

### RETURNING TO WORK ON SUITABLE DUTIES

**Suitable duties can be:**

- parts of the job that you were doing before the injury
- the same job, but on reduced hours
- different duties altogether.

If your doctor thinks you are fit to work but not in your normal job, your employer will liaise with you and your doctor about what work is suitable.

This plan must provide all of the details about your return to work including what you can and can't do, the medical restrictions, and the hours and days of your return to work.

### IF YOU ARE UNABLE TO GET BACK TO YOUR NORMAL JOB

Your employer, rehabilitation provider and insurer will advise of your options if you are unable to return to your normal job. The WorkCover Claims Assistance Service and your union can also assist.

### IF YOUR CIRCUMSTANCES CHANGE

If you are receiving workers compensation benefits, by law you must notify your insurer:

- if you undertake any paid or unpaid work
- if you start your own business or
- if there are any changes in your employment that may affect your earnings.

Failure to provide this information may result in you obtaining benefits you are not entitled to. This could result in you having to repay the benefits and/or potentially being prosecuted for fraud. People who commit fraud against the workers compensation system face maximum penalties of \$55,000 and/or up to 2 years imprisonment.

Employers and insurers who do not comply with their obligation also face fines of up to \$55,000.

## WHERE TO GO IF YOU NEED ASSISTANCE OR FURTHER INFORMATION

You may have questions about your return to work, your payments or your workers compensation claim.

Contact the following:

- your employer's return to work coordinator
- the insurer managing your claim
- WorkCover Assistance Service Ph: **13 10 50**  
**[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)**
- your union, Unions NSW Freecall 1800 688 919  
**[www.unionsafe.labor.net.au](http://www.unionsafe.labor.net.au)**

### People from non-English speaking backgrounds should contact:

*Translating and Interpreting Services (TIS)*

*Part of the Department of Immigration and Ethnic Affairs  
24-hour telephone and face-to-face interpreting on a fee for service basis.*

*Australia-wide 131 450 or*

*Community Relations Commission*

*Translating and Interpreting*

*Phone: 1300 651 500*

- \* For the purposes of this publication 'insurer' means claims agent, self and specialised insurer.

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WorkCover Publications Hotline **1300 799 003**



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Website: **[www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au)**

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