

## Factsheet Twelve

# Workers Compensation

If you are injured at work or become ill as a result of work, you may be entitled to workers' compensation for lost wages, medical and other expenses.

You should report any injury or accident to your employer as soon as possible and preferably in writing. Do this even if the injury is minor and you don't need time off, as the injury may cause problems later on.

### Am I covered for workers compensation?

You will be covered for workers' compensation if you are considered to be a 'worker' according to the definition in the *Return to Work Act 1986 (NT)*. The definition of worker has been aligned to the PAYG test applied under Australian Taxation Office (ATO) laws. To determine if you are a 'worker' or 'contractor' for the purposes of workers' compensation can be difficult. If you are unsure, you should seek advice. The ATO website has guidelines and online tools to assist you to determine your status.

### When is a worker covered for workers compensation?

A worker is entitled to compensation for any personal injury or an aggravation of an injury that occurs:

- During the course of employment; or
- By an incident arising out of employment.

Workers have six months to lodge a claim for workers compensation from the date of the injury or when they became aware of the injury.

### How do I make a workers compensation claim?

You will need to submit the claim form to your employer along with the approved

workers' compensation medical certificate (called a "Statement of fitness for work - First certificate"). This first certificate can cover up to the first 14 days of work incapacity and should be provided to your employer with your completed and signed Workers' Compensation claim form. Remember to keep a copy of your Claim Form, medical certificate and any documents you have attached, for future reference.

### **What happens if my claim is accepted?**

If your claim is accepted by your employer's insurer, you may receive compensation for lost wages for a maximum of five years, or 260 weeks of paid compensation. You are entitled to receive your normal weekly earnings for this time, less any amount you actually earn. However, after receiving a total of 26 weeks compensation payments (not 26 weeks from the date you were injured), compensation payments are then paid at 75% of your normal weekly earnings.

You may also receive compensation for medical and treatment costs for an additional 12 months after that date.

Note that the five year time limit does not apply to workers who are permanently impaired, if the degree of their impairment is 15% or greater. The assessment of impairment is limited to the primary injury and excludes secondary psychological injury.

Your employer does not have to pay superannuation while you are on workers' compensation and not working, unless there is an alternative provision in the modern award that covers you.

Workers' compensation can also cover medical costs which may include fees charged by doctors, specialists, chiropractors, physiotherapists, psychologists and various other practitioners, hospitalisation, chemist items, family counselling, financial counselling and employment counselling, the cost of travelling to and from treatment and replacement of the following items if damaged or destroyed at the time of the injury: spectacles, prosthesis, crutches and other walking aids.

If you are aged 66.5 years or older at the time of the injury, you are entitled to 104 weeks compensation.

### **What happens when a decision on a claim gets deferred?**

A claim can be deferred for up to 56 days to allow the insurer time to gather further information on the claim. The worker will receive up to 56 days of compensation while the insurer further considers the claim.

When the claim is deferred, the employer must commence payments of weekly benefits within three working days of the decision to defer.

The insurer must make a final decision to accept or reject the claim before 56 days have expired from the date of the decision to defer.

During the period of deferral, the employer must pay for treatment and rehabilitation.

The employer is not required to pay for treatment that relates to hospital inpatient and associated surgical costs or the costs of interstate evacuations.

### What happens when a decision on a claim gets rejected?

If your claim is rejected by your employer's insurer, you have the right to appeal the decision by applying to NT WorkSafe for mediation, but you must do this within 90 days of receiving the Notice of Decision and Rights of Appeal form. (This form is the document that your employer's insurer must provide to you if they reject your claim).

Mediation is a free service. The mediator will be appointed within 7 days. They will organise to hold discussion with the parties and assist the parties to reach agreement.

If, in the opinion of the mediator, a conference would help resolve the matter then they will convene a mediation conference and require the worker, the insurer, and sometimes the employer, to attend. You are entitled to have a support person, such as a union representative, family member or friend, attend the conference with you. The support person may represent you if the mediator is satisfied that to do so would facilitate the conduct of the mediation.

In certain circumstances (if the mediation is in relation to liability for compensation, or a decision to cancel or reduce compensation) the mediator may allow a lawyer to represent you if they are satisfied that it is physically impractical for you to participate in the mediation in person, or if they believe it will facilitate the conduct of the mediation. The mediator may recommend to the Authority that the employer be directed to pay the reasonable costs of legal representation and legal advice.

Once you have applied for mediation you can seek interim benefits from the Work Health Court. This means that you ask the Court to pay you weekly benefits (wages) while you are awaiting a decision as a result of the mediation or a substantive decision from the Court about whether you are entitled to ongoing benefits. You should be aware that if your claim is subsequently denied, action may be taken to recover these benefits from you.

If you are not satisfied with the insurer's decision after mediation you have the right to appeal to the Work Health Court but you must do this within 28 days from the date you receive the Certificate of Mediation. You should seek advice from a lawyer if you wish to do this.

### Where can I get more help?

NT Working Women's Centre  
Ph: 1800 817 055  
[www.ntwwc.com.au](http://www.ntwwc.com.au)

Your Union  
Unions NT  
Ph: 8941 0001  
[www.unionsnt.com.au](http://www.unionsnt.com.au)

NT Anti-Discrimination  
Commission  
Ph: 1800 813 846  
[adc.nt.gov.au](http://adc.nt.gov.au)

Australian Human Rights Commission Ph: 1300 656 419 <a href="http://www.humanrights.gov.au">www.humanrights.gov.au</a>	Fair Work Ombudsman Ph: 13 13 94 <a href="http://www.fairwork.gov.au">www.fairwork.gov.au</a>	Fair Work Commission Ph: 1300 799 675 <a href="http://fwc.gov.au">fwc.gov.au</a>
NT Police Ph: (emergency) 000 If calling from a mobile: 112	Office of the Commissioner of Public Employment (OCPE) Ph: 8999 4129 <a href="http://www.ocpe.nt.gov.au">www.ocpe.nt.gov.au</a>	NT WorkSafe Ph: 1800 019 115 <a href="http://www.worksafe.nt.gov.au">www.worksafe.nt.gov.au</a>
Your HR Department	Aboriginal Interpreter Service Ph: 1800 334 944 <a href="http://www.ais.nt.gov.au">www.ais.nt.gov.au</a>	To access an interpreter Interpreting and Translating Service NT Ph: 1800 676 254 <a href="http://www.itsnt.nt.gov.au/">www.itsnt.nt.gov.au/</a>

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