

WORKPLACE INJURY MANAGEMENT DISPUTES



Our role

The Workers Compensation Commission is an independent statutory tribunal established under the *Workplace Injury Management and Workers Compensation Act 1998*.

The Commission provides a fair, flexible and transparent process that encourages people to be directly involved in resolving their own disputes. The Commission's procedures also ensure early resolution of disputes so that injured workers can resume their lives more quickly, with less impact on their long-term health.

What is a Workplace Injury Management Dispute?

A workplace injury management dispute is a dispute about the activities and procedures undertaken to achieve a timely and safe return to work.

The Management Plan Injury

Under the Act, both the employer and the worker have an obligation regarding a worker's timely return to work.

Once notified about a significant injury (being one where the worker is off work for more than seven days), the employer is required to develop an Injury Management Plan. This is usually done through the employer's insurer.

The insurer has three days from the time of notification in which to establish an Injury Management Plan. The worker, employer and treating doctor must all be involved in putting the plan together - and must all agree on what is to be done.

Once agreement has been reached, the injured worker has an obligation to comply with the agreed Injury Management Plan.

The employer now has a further obligation - to develop a Return to Work Plan for the injured worker, including an option for suitable duties.

For more information about Injury Management Plans, contact the Claims Assistance Service on 13 10 50 or by email:

contact@workcover.nsw.gov.au

What types of disputes come before the Commission?

Applications can be made to resolve disputes where:

- There is no Injury Management Plan or it has not been followed.
- There is no Return to Work Plan, or it has not been followed.
- No suitable duties have been provided for the injured worker.
- The worker's capacity to perform duties is disputed.

Who can apply to have a dispute heard?

Anyone involved in an injury management dispute can apply to the Commission, so the applicant can be an injured worker, a worker's representative, an employer or an insurer.

However, an application can only be made after an injured worker has made a claim to the employer and/or insurer involved.

For more information about making a claim contact WorkCover's Claims Assistance Service on 13 10 50

How to apply to the Commission

An application must be made on the Commission's *Application to Resolve a Workplace Injury Management Dispute* - Form 6.

We recommend that the *Guide to completing Form 6* be read prior to completing an application to ensure it is completed fully and accurately.

The guide can be downloaded from the Commission's website or by calling the Commission on 1300 368 040.

What happens next?

An application received by the Commission is allocated, under delegation from the Registrar, to an Expedited Assessment Officer, who may:

- Hold a conciliation conference with the parties involved.
- Direct an injury management consultant or other suitably qualified person to conduct a workplace assessment in connection with the dispute. (The employer pays for this assessment).
- Make a recommendation for specific action to be taken. For example, an injured worker may be required to comply with an Injury Management Plan, or an employer may be required to provide suitable employment for an injured worker.
- In extreme cases, the matter may be referred to the WorkCover Authority for further action.

If a recommendation is made by the Registrar, within 14 days of receiving this recommendation, the parties involved in the dispute must either:

- comply with the recommendation, or
- write to the Registrar to request that the Commission decides (or determines) the dispute.

What happens if parties do not comply?

An injured worker is **not** entitled to get weekly benefit payments if:

- they have not complied with the recommendation or,
- they have not written to the Registrar within 14 days of the recommendation being issued, to request that the dispute be referred to the Commission to determine.

This situation continues until the worker has complied with the recommendation.

An employer is obligated to reimburse the insurer for any weekly compensation paid to the injured worker if:

- they have not complied with the recommendation, or
- they have not written to the Registrar, within 14 days of the recommendation being issued, to request that the dispute be referred to the Commission to determine

This situation continues until the employer has complied with the recommendation.

For more information

For more information about how a workplace injury management dispute may be finalised, please call us on 1300 368 040 or visit our website www.wcc.nsw.gov.au.

The information in this brochure is not legal advice. If you need legal advice about lodging or responding to a dispute application, you need to talk with a solicitor. If you do not have a solicitor, you can contact the Law Society of NSW for referral to a solicitor by phoning:

- (02) 9926 0300 (if you live in Sydney), or
- 1 800 422 713 (if you live outside Sydney).

How to contact us

Telephone

All enquiries: 1300 368 040

Telephone Interpreter Services: 13 14 50

TTY service: (02) 9261 3334

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