

FACT SHEET 3

What to do if there is an injury

This fact sheet describes the responsibilities of the employer, the injured worker and the insurer when someone is injured at the workplace.

Responsibilities of the employer

When there is an injury at work, the employer must:

- provide the injured worker with:
 - first aid and/or transport where required (specifically in emergency situations) to medical treatment
 - name of the employer's insurer
 - company name and contact details of the employer
 - a workers compensation claim form (if requested by the worker)
 - suitable employment (where reasonably practicable) in cooperation with the injured worker and the insurer
 - any assistance that will help the worker to recover and safely return to the workplace quickly.
- ensure that the register of injuries is completed
- for incidents involving the death of a person, serious injury or illness or where a dangerous incident has occurred:
 - notify WorkCover immediately on **13 10 50**
 - notify your insurer within 48 hours
 - preserve the worksite by keeping it undisturbed.
- for other incidents involving an injury or illness where workers compensation is payable such as lost time and/or medical expenses:
 - notify your insurer within 48 hours.
- for further information, refer to the 'reporting an incident or injury' page at workcover.nsw.gov.au
- provide the insurer with:
 - date and description of injury, and details of how it happened
 - name, address and date of birth and contact telephone number of the injured worker
 - name and address of the company
 - name of the treating doctor and contact telephone number, or name of the hospital if the worker is hospitalised
 - name and contact details of the person making the initial notification, and their relationship to the worker or employer
 - date of initial consultation with treating doctor and a diagnosis
 - worker's capacity to return to work and expected return to work date
 - details of any time off work
 - the worker's pre-injury average weekly earnings.

- forward to the insurer:
 - a WorkCover certificate of capacity, if provided by the employee, within seven days
 - ongoing certificates, receipts and accounts for medical or other treatment, within seven days.

Responsibilities of the worker

When there is an injury at work, the injured worker must:

- seek any necessary medical attention
- notify the employer (usually their direct supervisor) as soon as possible
- record their name, the date and cause of the injury in the employer's register of injuries or have someone to do it on their behalf
- sign the WorkCover certificate of capacity (if one is required) to:
 - indicate the doctor that has been chosen as the nominated treating doctor
 - permit the nominated treating doctor to release information to the insurer and the employer to help with injury management
 - sign the worker declaration (except exempt workers)*.
- participate and cooperate with the development and implementation of an injury management plan
- comply with requests made by the insurer within seven days (this may include obtaining a WorkCover certificate of capacity or completing a claim form). Workers should keep copies of all documentation relating to their injury
- in cooperation with the employer and insurer make reasonable efforts to safely return to the workplace as soon as they are able
- request the employer provide suitable employment.

Responsibilities of the insurer

In relation to an initial notification of injury, the insurer must:

- issue a claim notification number to the notifier at the time of initial notification
- decide whether the injured worker needs to complete a claim form, and inform the worker how to complete the form
- inform the employer within seven days of a claim being made if provisional weekly payments will be made and provide a reasonable excuse if not commencing weekly payments
- if payments are not to be made, inform the worker they are entitled to make a claim for compensation and respond to the claim within 21 days
- provide the worker with contact details of the WorkCover Assistance Service to facilitate communication of accurate information and prevent disputes
- provide the worker with contact details of the Workers Compensation Commission if liability is disputed and provide a written explanation for its decision.

When notified of a claim, the insurer must:

- contact the worker and the employer within three days, and consult with all relevant parties including the treating doctor to ensure that the worker receives necessary assistance to recover and safely return to the workplace
- develop an injury management plan for a worker with a significant injury and cooperate with their obligations under the injury management plan
- provide information regarding the claims process
- within seven days, decide whether to approve provisional weekly payments for up to a maximum of 12 weeks, and commence these payments (unless a reasonable excuse exists – see next page)

*exempt workers include police officers, paramedics, fire fighters, volunteer bush fire fighters, emergency services volunteers, coal miners and workers making a dust diseases claim.

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- decide whether to approve provisional medical expenses for up to \$7500 and commence these payments
 - notify the injured worker and employer, in writing, about the amount and time period of the provisional payments, and the nature of the payments (ie weekly payments, medical expenses, travel expenses and or rehabilitation services)
 - decide whether the insurer or employer will pay the worker.

Reasons to not start provisional liability payments

The insurer will have a reasonable excuse to not start provisional liability payments if:

- there is not enough medical information to make the decision
- the worker is unlikely to be considered a 'worker' under NSW workers compensation legislation
- the insurer is unable to contact the worker, after repeated attempts
- the worker refuses access to information
- the injury is considered not work-related
- the injury is not a significant injury (in these cases, decisions regarding compensation must be made within 21 days)
- the injury was notified after two months of the date of injury.

Key points

- When there is an injury at work, the employer, the injured worker, the nominated treating doctor and the insurer all have responsibilities.
- Full cooperation of all parties results in the injured worker returning to the workplace as quickly and safely as possible.

Further information

- *Fact sheet 4 – Claims and benefits* (catalogue no. WC01293) outlines information about making a claim for workers compensation and the benefits a worker may be entitled to if the claim is accepted.
- workcover.nsw.gov.au
- WorkCover Assistance Service on **13 10 50**.

Disclaimer

This publication may contain work health and safety and workers compensation information. It may include some of your obligations under the various legislations that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

Information on the latest laws can be checked by visiting the NSW legislation website (www.legislation.nsw.gov.au).

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

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