

FACT SHEET

Workers compensation changes: Q&As for workers

On 3 September 2014 the NSW Government introduced a number of reforms to workers compensation benefits for workers who made a claim for compensation before 1 October 2012. The following Q&As provide further information to questions you may have about the changes.

What changes have been made?

On 26 June 2014 the Minister for Finance and Services announced changes to workers compensation benefits for workers who made a claim before 1 October 2012. These changes are:

- continued access to home and vehicle modifications, crutches, artificial members, eyes or teeth, and other artificial aids or spectacles (including hearing aids and hearing aid batteries) until retiring age
- ongoing reasonably necessary medical treatment until retiring age for workers with a permanent impairment of between 21 and 30 per cent
- workers injured before retiring age may have access to weekly payments for up to 12 months after reaching retiring age
- preventing the insurer from taking action based on a work capacity decision, for example by reducing weekly payments, until a review of a work capacity decision (if requested by a worker) has been completed
- access to secondary surgery for the same part of the body, that is directly consequential on an earlier surgery, and which is approved by the insurer within two years of the earlier surgery (or later, if the claim is disputed).

Why do we need these changes?

The changes have been put in place to better support injured workers returning to, and remaining in, employment.

When will the changes take effect?

The changes are effective from 3 September 2014 and will apply as from 1 October 2012.

Am I eligible?

The changes apply to workers who made a claim for compensation before 1 October 2012. Your insurer will assess your claim and determine how the changes will impact your claim. You may also contact your insurer case manager if you require information about the changes and how they may apply to you.

What is meant by 'existing claim'?

An 'existing claim' is a workers compensation claim that was made before 1 October 2012. The changes will apply to claims for workers compensation that were made before this date.

What happens if my claim was made on or after 1 October 2012?

If your claim was made on or after 1 October 2012, the changes will not apply to you. The 2012 amendments to the Workers Compensation Scheme will continue to apply to any claim made on and after 1 October 2012.

My claim was made before 1 October 2012, what do I do now?

The insurer managing your claim will endeavour to identify all claims affected by the changes and contact you if your entitlements have changed. You may also contact your insurer case manager if you require information about the changes and how they may apply to you.

What happens if the insurer has not contacted me yet?

Your insurer will endeavour to review all claims for compensation made before 1 October 2012 and to contact affected workers. This may take some time as case managers search their databases for workers who are eligible, determine what entitlements they should get under the new regulation, and contact each worker in this situation. Your patience during this time is appreciated, however, you may contact your insurer case manager as your first point of contact for any enquiries.

What happens if I have a disagreement with the insurer about my entitlements?

Your insurer case manager is your first point of contact for any enquiries.

If you have raised your enquiry with the insurer and are still dissatisfied with the outcome or decision you may contact the WorkCover Independent Review Office (WIRO) on **13 94 76**. WIRO provides an independent complaints solution service if you are unhappy with a decision made by your insurer. WIRO also provides funding for legal advice. For more information, call WIRO on **13 94 76**. In addition you can contact WorkCover on **13 10 50**.

How do I find more information about the new changes?

For general information about the changes to workers compensation, see WorkCover's fact sheet *Workers compensation changes: Information for workers* (catalogue no. WC01117), go to workcover.nsw.gov.au or call us on **13 10 50**.

To discuss the impact of the changes on your claim, contact your insurer case manager.

Continued access to certain medical and other expenses

How are hearing aids and related expenses assessed?

If your claim for compensation was made before 1 October 2012 and as a result of your injury you require hearing aids, you will have continued access to hearing aids and related medical expenses until you reach retiring age. If the provision of hearing aids are determined by your insurer to be reasonably necessary because of your injury your insurer will approve and pay for these expenses.

How are home and/or vehicle modifications assessed?

If your claim for compensation was made before 1 October 2012 and as a result of your injury you require home and/or vehicle modifications, you will have continued access to these until you reach retiring age. If home and/or vehicle modification expenses are determined by your insurer to be reasonably necessary because of your injury your insurer will approve and pay for these expenses.

How are artificial members and artificial aids assessed?

If your claim for compensation was made before 1 October 2012, and as a result of your injury you require crutches, artificial limbs, artificial eyes or teeth, other artificial aids, spectacles, hearing aids or hearing aid batteries, you will have continued access to these until you reach retiring age. If these expenses are determined by your insurer to be reasonably necessary because of your injury your insurer will approve and pay for these expenses.

Ongoing reasonably necessary medical expenses until retirement age for workers with a permanent impairment of between 21 and 30 per cent

How are medical expenses assessed?

If your claim for compensation was made before 1 October 2012 and your injury has resulted in permanent impairment of between 21 and 30 per cent, you will have continued access to ongoing medical and related expenses until you reach retiring age. The insurer will approve and pay for any reasonably necessary medical and related expenses.

My claim for compensation was made before 1 October 2012 but my permanent impairment has not yet been assessed, what happens now?

If your claim for compensation was made before 1 October 2012 and your permanent impairment has not yet been assessed, you may still be eligible for medical and related expenses for as long as the insurer is satisfied that the degree of your permanent impairment is likely to be between 21 and 30 per cent.

What happens if my claim is currently in the Workers Compensation Commission (WCC)?

If your claim for compensation was made before 1 October 2012 and there is a dispute regarding your level of permanent impairment in the WCC, you may still be able to claim reasonably necessary medical and related expenses where the approved medical specialist declines to assess your permanent impairment because you have not reached maximum medical improvement. This will remain until there is an outcome in the WCC.

Workers injured in the 12 months before retiring age may have access to weekly payments for up to 12 months after reaching retiring age

What does this mean for me?

This means that if you made a claim for compensation before 1 October 2012 and injured yourself before retiring age, you may be entitled to receive a maximum of one year of weekly payments after reaching retiring age.

Ensuring work capacity decisions are *stayed* until a dispute has been resolved

What does *stay* mean?

A *stay* in this context means that if a worker has requested a review of a work capacity decision, an insurer cannot take action, for example by reducing or ceasing weekly payments, until the review has been completed.

Access in certain circumstances, to secondary surgery

What is meant by 'secondary surgery'?

The new regulation defines secondary surgery as surgery that:

- is directly consequential to an earlier surgery
- affects the same part of the body that was affected by the earlier surgery
- is approved by the insurer within two years of the earlier surgery (or later if the claim is disputed).

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 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.

©WorkCover NSW