

FACT SHEET

Workers compensation changes

On 3 September 2014 the NSW Government introduced a number of enhancements to workers compensation benefits. These changes apply to workers who sustained a workplace injury and who had made a claim for compensation for that injury **before 1 October 2012**. These changes do not apply to workers who made a claim after that date.

Key reforms

The changes allow

- for the insurer to meet the cost of any secondary surgery
- that workers may receive weekly payments while a work capacity decision is being reviewed
- workers with whole person impairment of 21 to 30 per cent to have access to medical and related expenses up until retiring age
- workers to continue to receive certain medical and related expenses until retiring age
- entitlement to weekly payments for up to one year after retiring age.

Medical and related expenses

As a result of the changes, a worker may have continued access to certain medical and related expenses until retiring age.

- Workers with a permanent impairment of between 21 and 30 per cent will have continued access to ongoing reasonably necessary medical and related expenses until retiring age.
- For all other claims made before 1 October 2012, workers requiring the following types of medical and related treatment will have continued access until retiring age regardless of their degree of permanent impairment:
 - home and vehicle modifications
 - crutches
 - artificial members
 - eyes or teeth
 - spectacles or other artificial aids (including hearing aids and hearing aid batteries).

The insurer is still required to pre approve any such treatment or service.

If a worker disputes the insurer's decision, an unresolved matter may be referred to the Workers Compensation Commission. The Independent Legal Assistance and Review Service (ILARS) provides funding to pay for costs incurred by injured workers when disputing decisions made by the insurer.

Secondary surgery

Workers who require secondary surgery are entitled to receive it, as long as the secondary surgery is:

- directly consequential to an earlier surgery
- affects the same body part affected by the earlier surgery
- is approved by the insurer within two years of approval of the earlier surgery.

The insurer is still required to pre approve any such treatment or service.

If a worker disputes the insurer's decision, an unresolved matter may be referred to the Workers Compensation Commission. The Independent Legal Assistance and Review Service (ILARS) provides funding to pay for costs incurred by injured workers when disputing decisions made by the insurer.

Eligibility for weekly payments until a review of a work capacity decision has been completed

In 2012, *work capacity* was introduced into the NSW workers compensation system. At certain points during a worker's claim, the insurer makes a work capacity decision which can affect a worker's entitlement to weekly payments.

Work capacity decisions can be reviewed through a three step review process.

1. After a worker receives a work capacity decision notice they may request an internal review by the insurer.
2. If a worker is not satisfied with the outcome of an insurer's internal review, or if the review is not completed within 30 days, the worker may lodge an application for WorkCover NSW to carry out a merit review of the insurer's internal review decision.
3. If a worker is not satisfied with the outcome of a WorkCover merit review, the worker may lodge an application for procedural review by the WorkCover Independent Review Officer within 30 days of receiving the merit review decision.

From 3 September 2014 a worker (who made a claim for compensation before 1 October 2012) who requests an internal review of a work capacity decision within 30 days after receiving the notice of the decision by the insurer, is entitled to continue to receive weekly payments until the work capacity decision of the insurer is reviewed. This means that an insurer is prevented from taking action, such as reducing or ceasing weekly payments, while the work capacity decision is being reviewed, or the worker withdraws the application for review.

Weekly payments on retiring age

Under the changes, a worker is entitled to receive weekly payments for a maximum of 12 months after reaching retiring age.

More information

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.

For general information about the new changes go to workcover.nsw.gov.au or call us on 13 10 50.

If a worker is dissatisfied at any stage with the management of their claim, they can contact the WorkCover Independent Review Office (WIRO) at wiro.nsw.gov.au or call 13 94 76.

Please note: these changes do not apply to claims for compensation made on and after 1 October 2012.

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.

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