



 **WorkCoverWA**



**Workers Compensation
and Injury Management:**

**A Guide for
Employers**

A workers compensation and injury management scheme that works for all.

workcover.wa.gov.au

WorkCover WA



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Visit [workcover.wa.gov.au](https://www.workcover.wa.gov.au)

About WorkCover WA

WorkCover WA is the government agency responsible for overseeing the workers compensation and injury management scheme in Western Australia.

This includes monitoring compliance with the *Workers Compensation and Injury Management Act 2023*, informing and educating workers, employers and others about workers compensation and injury management, and providing an independent dispute resolution system.

This publication is current at July 2024.

When workplace injuries occur, there can be significant impacts on both the employer and the worker. Workers compensation laws in Western Australia aim to ensure that in the event of an injury, both parties are protected.

This guide is intended to assist employers in meeting their obligations under the *Workers Compensation and Injury Management Act 2023* (the Act) by outlining an effective approach to workers compensation insurance, claims and injury management.

Additional information and supplementary resources for workers and employers can be accessed from the WorkCover WA website.

WorkCover WA's Advice and Assistance Service can also provide further information and clarification on topics addressed in this guide.

Disclaimer

This publication contains information regarding workers compensation and injury management. It is intended to provide general information only. You should not act or omit to act on the basis of anything contained herein. This guide should be read in conjunction with the *Workers Compensation and Injury Management Act 2023*. You should seek appropriate legal/professional advice about your particular circumstances.

For more information, visit the WorkCover WA website. Workers compensation legislation is also available from the Parliamentary Counsel's Office website at legislation.wa.gov.au

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Section 1

Understanding Workers Compensation

Workers compensation scheme

What is workers compensation?

Workers compensation is financial compensation provided to workers who become injured as a result of their work, and may include:

- income compensation payments to cover loss of earnings
- assistance with medical and related expenses
- workplace rehabilitation assistance to return to work
- lump sum payments.

Any worker who suffers a work-related injury requiring medical treatment or time off work is entitled to claim workers compensation, regardless of who was at fault.

Workers compensation in WA

The workers compensation scheme in Western Australia is administered by WorkCover WA in accordance with the *Workers Compensation and Injury Management Act 2023* (the Act). The Act has two main purposes:

- ensuring workplace injuries are managed in a manner that enables a worker's prompt and safe return to work following an injury
- ensuring injured workers are compensated for lost earnings, medical expenses and associated costs while they are unable to work.

The rights and obligations of employers, workers and other key parties in the scheme are defined under the Act. As an employer, your primary obligations include:

- having a current workers compensation insurance policy covering all your workers
- progressing any claim made to your insurer promptly
- developing and implementing return to work programs for injured workers and maintaining their pre-injury position.

Workers compensation insurance

What is workers compensation insurance?

Under WA's 'no-fault' workers compensation system, employers are liable to pay statutory compensation to injured workers regardless of who was at fault. Workers compensation insurance indemnifies employers against this liability – that is, costs and expenses arising from a workers compensation claim are paid by the insurer.

Why do you need it?

Having current workers compensation insurance is a compulsory requirement under the Act. Having insurance coverage for workers compensation protects your business from the financial and operational impact of workers compensation claims.

In the event of a work-related injury, your insurance policy provides coverage for:

- statutory workers compensation entitlements payable to an injured worker
- common law damages and associated expenses if a common law claim is brought against you by an injured worker.

Your insurer will also be able to guide you in the management and administration of claims by:

- advising you on correct claims procedures and when to make compensation payments
- participating in the injury management process at your request, including facilitating communication between the treating medical practitioner and yourself
- assisting with return to work programs and identification of claims which may require workplace rehabilitation
- representing you through the conciliation and arbitration process if a dispute occurs.

If uninsured, workers compensation claims can cost businesses hundreds of thousands of dollars in legal costs, penalties, and benefits payable to the injured worker. If one of your workers sustains a work-related injury while you are uninsured, you may be liable for:

- compensation to the injured worker
- legal costs, including court fees and any damages awarded to the worker in common law claims
- fines and penalties for failing to hold valid insurance.

Who do you need to cover?

A business must provide workers compensation insurance cover for anyone it employs who fits the definition of a worker under the Act.

This includes:

- full-time workers on a wage or salary
- part-time, casual and seasonal workers
- workers on commission
- piece workers.

In some circumstances it may also include:

- contractors and subcontractors
- working directors.

If you are in any doubt as to your obligations to provide workers compensation insurance for anyone you employ or engage, call WorkCover WA's Advice and Assistance Service.

What will it cost?

Premiums for workers compensation insurance are set by insurers and will vary depending on:

- the industry in which you operate
- the total amount of remuneration paid to your workers
- your claims history.

For more information on premium calculation, see Section 2: Insurance.

What is an injured worker entitled to receive?

Entitlements vary based on the circumstances of individual claims, but may include payments to compensate for:

- Loss of earnings - income compensation payment amounts depend on a worker's pre-injury average earnings.
- Medical and health expenses - reasonable expenses can be claimed for a range of treatments, medication, medical or surgical attendance, dental, physiotherapy, psychology, chiropractic, hospital and other health services.
- Workplace rehabilitation expenses - workplace rehabilitation services assist a worker in staying in, or returning to, work following an injury.
- Miscellaneous expenses - reasonable costs associated with first aid and emergency transport, wheelchair or similar appliance, repair or replacement of clothing or artificial aids damaged or destroyed, travel, and assessment of degree of permanent impairment.
- Permanent impairment - a lump sum may be payable if a worker suffers impairment as a result of their work-related injuries.

Maximum amounts

Limits apply to the total amounts of compensation that an injured worker can receive for different entitlements over the life of their claim. Maximum amounts are adjusted annually. For current amounts, speak to your insurer or visit the WorkCover WA website.

Section 2

Insurance

Getting insured

Finding an insurer

A list of insurers licensed to underwrite workers compensation insurance is available on the WorkCover WA website. Some employers prefer to use the services of an insurance broker to negotiate with an insurer on their behalf.

Getting a quote

To obtain a quote, you will need to provide the insurer with:

- an estimate of total remuneration for all your workers for the period of the policy
- a full description of the business activities undertaken at each workplace location
- the number of workers you employ
- details of your claims history (this can be obtained from your current or previous insurer)
- any other information the insurer reasonably requires.

Calculating the total remuneration costs

It is important to make accurate remuneration declarations, as the estimate you provide to the insurer will affect the premium applied to your insurance policy.

The WorkCover WA Remuneration Guidelines set out what constitutes 'remuneration' to assist employers to provide a remuneration declaration to their insurer when applying for the issue or renewal of a workers compensation insurance policy. You will be required to sign the remuneration declaration form and confirm the accuracy of the information. The Guidelines are available on the WorkCover WA website.

What you need to include:

- salaries and wages
- commissions
- bonuses
- overtime
- allowances
- any other benefits paid before tax.

What you don't need to include:

- termination, retirement and retrenchment payments
- pensions
- compulsory superannuation commitments.

Premium assessment

While all workers compensation insurance policies provide the same cover for employer liabilities, there may be differences in premium amounts quoted between insurers.

WorkCover WA publishes the following documents used by employers and insurers in the premium assessment process:

- *WorkCover WA Industry Classification Order* assigns 517 industry classes so that each employer's class can be identified.
- *WorkCover WA Recommended Premium Rates*, published annually, sets recommended premium rates for each industry class.
- *WorkCover WA Remuneration Guidelines* shows which payments constitute remuneration, and are therefore required to be included in a remuneration declaration.

Premium calculation

Premiums are calculated by insurers in four stages.

Stage 1: The insurer identifies your industry class and corresponding recommended premium rate from WorkCover WA's premium rates and industry classification publications.

Stage 2: The recommended premium rate is multiplied by the amount provided in your declaration of estimated remuneration.

Stage 3: The insurer may apply a discount or a surcharge based on your risk profile. An employer may seek a review if a surcharge is 75% or greater than the recommended premium rate.

Stage 4: Your premium is adjusted at the end of your policy period if there are variations in actual total remuneration paid.

Activating and maintaining your policy

To activate your policy, you will need to provide the insurer with a signed declaration of total remuneration and pay the premium. It is important you familiarise yourself with the terms and conditions of your policy and clarify any issues with your insurer.

What you can do to reduce your premium

Improving your workplace safety and injury management processes may help reduce your premium. Discuss the activities you can undertake to reduce your workers compensation premium with your insurer or broker who may provide risk management services to help you improve injury prevention and management practices in your workplace.

Seeking a premium review

If you disagree with your premium, you may be able to request a review against either:

- the industry classification applied to your business
- the premium charged by the insurer (if 75% or greater than the recommended premium rate).

Visit the WorkCover WA website for more information on how to seek a premium review.

Changes to your business

If there is a change in the number of workers you employ or the kind of work undertaken by your business, advise your insurer immediately as these changes may require a revision of your policy and premium.

Remuneration adjustments

At the end of the policy period you will be required to submit a declaration showing the actual total amount of remuneration paid during the period. Your insurer will adjust the premium accordingly and apply the difference to your renewal premium.

Important dates

Your insurer will provide notification of important dates and deadlines relating to your policy and claims, and advise when your policy is due for renewal. It is your responsibility as an employer, however, to ensure that your policy remains current and valid.



What to expect from your insurer

WorkCover WA works closely with the insurance industry to set and maintain standards for licenced insurers working within the workers compensation scheme.

Insurers are required to comply with the *Insurer and Self-insurer Principles and Standards of Practice*, which set out WorkCover WA's service expectations.

If you use an insurance broker to manage your workers compensation arrangements, they are required to comply with the *Insurance Brokers Principles and Standards of Practice*, which set out guidelines for brokers to assist in meeting their professional obligations.

Section 3

Compensation Claims and Return to Work

The claims process

Initiating a claim

The following steps should be taken following an injury at work:

1. Apply first aid to the injured worker and report the injury in your incident reporting system.
2. Get the worker to see a medical practitioner of their choice as soon as possible.
3. Ask the worker to obtain a First Certificate of Capacity from their treating medical practitioner.
4. Provide the worker with a Workers Compensation Claim Form and ask them to complete the worker sections.
5. Obtain the completed Claim Form and First Certificate of Capacity from the injured worker.
6. Complete the employer section of the Claim Form.
7. Take copies of both documents for your own and your worker's records.
8. Submit the First Certificate of Capacity and Claim Form to your insurer within seven days of receipt from the injured worker. A penalty of up to \$5,000 may apply if you fail to submit these documents within this time.

Claim assessment

It is the role of the insurer to determine liability for a claim, not the employer. Following receipt of documentation, a case manager allocated by your insurer may contact you, the injured worker and the treating medical practitioner for further information to determine liability and payment entitlements. The insurer has 14 days to notify you and the worker of their decision.

While a claim is being assessed

Medical expenses

An injured worker is responsible for covering the costs of medical treatment for their injury until a decision on liability is made by the insurer. It is important the worker keeps all payment receipts during this time. These costs will be reimbursed by the insurer if the worker's claim is accepted.

Optional leave payments

While awaiting a decision on a claim, you may wish to consider paying accrued leave, such as annual or sick leave, to an injured worker. It is important you seek the worker's agreement before taking this action and advise the worker:

- leave payments are not an alternative to workers compensation
- accepting leave payments is voluntary and will not affect their workers compensation entitlements in any way
- leave entitlements will be credited back to them if the claim is accepted.

Provisional payments

Provisional payments become payable to a worker if an insurer requires more than 28 days from receiving a claim to make a decision. Provisional payments are made up of income compensation payments and a limited amount of medical and health expenses.



Claim outcomes

Your insurer is required to notify you and the injured worker in writing within 14 days if a claim has been accepted, not accepted, or deferred. If the claim is deferred, a deferred decision notice is issued. The insurer will provide a claim number which should be quoted in all related correspondence.

Claim decisions

Accepted - Workers compensation entitlements commence.

If a worker's injury prevents them from working, you must commence making income compensation payments as soon as advised to do so by your insurer. Refer to 'Managing Compensation' for more information on the payment process.

Not accepted - No compensation will be paid to the injured worker.

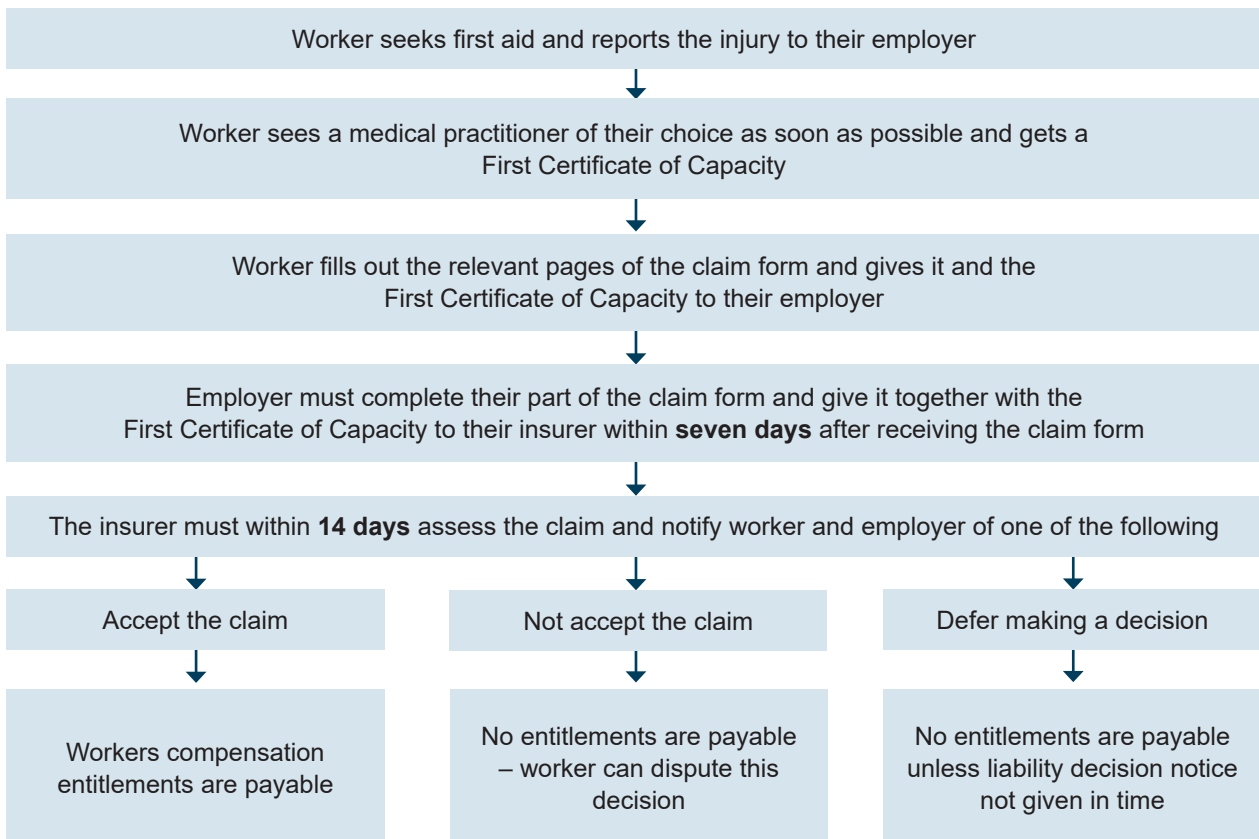
Your insurer will advise you and the worker of the reasons for this decision. If the worker disagrees with the decision, they may approach the insurer to have the matter reconsidered under the insurer's internal dispute resolution procedure. An application can also be made to WorkCover WA's Conciliation and Arbitration Services (CAS) for assistance with resolving the dispute.

Deferred decision – If a claim decision cannot be made within 14 days, the insurer may defer the claim by sending a deferred decision notice pending further information and investigation.

If a liability decision notice cannot be given within 28 days of receipt of the claim, provisional payments will become payable.

The insurer has up to 120 days to make a claim decision. Failure to do so in this timeframe means the claim is deemed to be accepted.

Claim process



Section 3

Managing compensation

Making income compensation payments

If a claim is accepted by the insurer, an injured worker is entitled to receive payments to compensate for lost earnings. These are known as 'income compensation payments'. The frequency of payments may be weekly, fortnightly or monthly, depending on how the worker is usually paid. While these costs are reimbursed by your insurer in accordance with your insurance policy, you are responsible for making these payments to the worker.

Your insurer will calculate the income compensation entitlements due to the worker and advise you of the correct payment amount to make. You must commence making payments as soon as notified by the insurer and pay the worker on their usual payday. Penalties apply if you fail to make these payments on time. Your insurer will advise you if any changes should be made. Reimbursement arrangements should be discussed with your insurer.

If for any reason you are unable to make payments as directed, you should contact the insurer as soon as possible. If you cannot resolve the situation with your insurer, contact WorkCover WA's Advice and Assistance Service.

Managing medical accounts

When seeing a medical provider for assessment or treatment, an injured worker will usually be required to make payment up front until a claim is accepted. After a claim is accepted, some providers may issue invoices directly to insurers. All accounts and invoices should quote the claim number and be forwarded to the insurer as soon as possible to ensure prompt payment or reimbursement.

Getting a second opinion

A worker has the right to see a medical practitioner of their choice for treatment and management of a work-related injury. If you disagree with a medical assessment or want a second opinion, you can request a medical review through your insurer.

Subject to the insurer's agreement, an appointment will be made for the injured worker to see a medical practitioner nominated by the employer or insurer. If a worker fails to attend this appointment without a reasonable excuse, their ongoing entitlements may be affected.

A worker cannot be required to attend a medical review at the insurer's request more than once over a two-week period, or at any time other than during reasonable hours.



Noise Induced Hearing Loss (NIHL)

If you employ anyone in 'noisy employment', you may have further obligations in relation to NIHL under the Act.

Noisy employment is where a worker is frequently required to wear personal protective equipment to reduce the risk of hearing loss associated with noise exposure that exceeds noise levels of 85dB(A) or greater over the course of a typical 8-hour workday, or a peak noise of 140dB(A). As a guide, 85dB(A) is roughly equivalent to the noise from a food blender or heavy traffic.

At the request of a worker, you must pay for them to undergo an audiological test conducted by an authorised audiologist (no more than once every two years). If the worker's audiological test shows hearing loss of 10% or more (5% if a worker has already made a successful claim for NIHL compensation), you will also have to pay for a NIHL assessment by an Ear, Nose and Throat Specialist, along with reasonable expenses.

For more information, visit the WorkCover WA website.

Return to work and injury management

An early return to work is the best possible outcome for an injured worker, as workers become increasingly unlikely to return to work the longer they are absent. It is important for the employer to remain involved throughout the claims process and work together with the injured worker, the insurer and the treating medical practitioner to facilitate this outcome.

The worker's treating medical practitioner will advise when the worker is able to return to work and any conditions they should observe on their return.

Injury management

It is compulsory under the Act for all employers to have a documented Injury Management System in place. This is a written procedure describing the steps that will be taken if there is an injury in the workplace. Employers may also be required to establish and implement a return to work program for injured workers, in consultation with their insurer or the worker's medical practitioner.

Maintaining employment

You are obliged to maintain the injured worker's employment, keeping their original position available for 12 months from the date of incapacity for work following an injury. If on their return to work the position is no longer available or the worker can no longer perform the role, you must provide the worker with a position that is comparable in status and pay, that the worker is qualified for and capable of performing.

A worker cannot be dismissed solely or mainly due to their incapacity for work. If you wish to lawfully terminate the worker's employment during the 12-month period, you must give the worker 28 days' notice of your intention to do so.

This requirement does not affect any other right or obligation of a worker or employer under another law.

Returning to modified duties

If the nature of the worker's injury is likely to require modifications or restrictions to their duties or working hours, the treating medical practitioner may indicate the need for a documented return to work program to be developed by the employer in consultation with the injured worker. An approved workplace rehabilitation provider (WRP) may also be appointed to assist with workplace rehabilitation, retraining and job placement as required.

Resolving disputes

If a dispute occurs that cannot be resolved by you or your insurer, an application can be made to WorkCover WA's Conciliation and Arbitration Services for assistance with resolving the dispute.

WorkCover WA provides a fair and cost-effective system for resolving disagreements over workers compensation or injury management issues.

Visit the WorkCover WA website for more information on resolving disputes.



Need further assistance?



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