

Reducing or Discontinuing Income Compensation – Worker not Residing in WA

The *Workers Compensation and Injury Management Act 2023 (the WCIMA23)* provides for the suspension of income compensation payments to a worker not residing in WA if the worker fails to provide a required declaration about their incapacity at the intervals set out in the *Workers Compensation and Injury Management Regulations 2024 (the WCIMR24)*.

Key Points

Act ref: s. 65 Reg ref: reg 29

- The *WCIMA23* sets out a requirement for a worker who is not residing in WA to provide a declaration about their incapacity for work to the relevant insurer or self-insurer at three monthly intervals in accordance with the *WCIMR24 (reg. 29)*.
- The approved form of the notice is published on the WorkCover WA website as *CN5 Non-resident worker – incapacity declaration*.
- A worker's entitlement does not cease if the worker fails to provide the declaration in time. Instead, the *WCIMA23* sets out a process by which an insurer or self-insurer may suspend income compensation payments.
- Before taking any action, the *WCIMA23* requires an insurer or self-insurer to give the worker a written warning notice in the approved form reminding the worker of their obligations to provide the required declaration before the due date. The notice must also warn the worker that the payment of income compensation will be suspended from a specified date if the worker fails to provide the declaration.
- The warning notice cannot be issued to a worker earlier than 14 days before the last day the worker has to provide the declaration.

Key Points

- The date specified as the suspension date must be at least 14 days after the warning notice is given to the worker and cannot be earlier than the last day the worker must provide the declaration.
- The approved form of the notice is published on the WorkCover WA website as *CN4 Non-resident worker – declaration warning notice*.
- Payment of income compensation will be suspended from the specified date until the worker provides the required declaration to the insurer or self-insurer.
- Income compensation payments must be recommended from the date the worker provides the required declaration.

Questions & Answers

Q. If a worker believes income compensation payments were not lawfully suspended what can they do?

A. A worker may apply to have the matter determined as a dispute. An arbitrator can make any order the arbitrator considers appropriate in the circumstances.