

Silicosis Claims in the Engineered Stone Benchtop Industry



Workers compensation is financial compensation provided to workers who become injured or ill as a result of their work. This may include compensation to cover loss of earnings, permanent impairment, medical expenses, and workplace rehabilitation to assist them to return to work.

Research in Australia and overseas has found workers in the engineered stone benchtop industry can be exposed to levels of respirable crystalline silica which are hazardous to their health. Workers may have been exposed to silica dust whilst dry cutting, grinding, sanding and polishing stone bench tops and during the installation process.

Silicosis, a form of pneumoconiosis, is a lung disease caused by breathing respirable crystalline silica dust containing particles small enough to penetrate deep lung tissue.

To obtain compensation, including a lump sum payment, medical and health expenses and, where relevant, income compensation payments, a worker requires the independent Dust Disease Medical Panel (DDMP) to make a final and binding determination on various questions. This includes the diagnosis of work-related silicosis, the extent of a worker's incapacity for work and their level of impairment.

This fact sheet outlines:

- the process for making a compensation claim for workers with a provisional or confirmed diagnosis of silicosis
- the responsibility of insurers to pay the costs of the necessary respiratory specialist report, high resolution CT scan and a standardised full respiratory lung function test prior to a DDMP determination.

Diagnosis of silicosis

Some people with early silicosis do not have symptoms. If you believe you are suffering from a respiratory condition you should inform your employer and see a medical practitioner immediately.

Under work safety and health (WSH) requirements, employers of workers exposed to respirable crystalline silica are required to pay for health surveillance, which includes the costs of medical services and tests. The health surveillance tests must be supervised by a registered medical practitioner (RMP). The RMP is a doctor with experience in occupational exposure and health surveillance. For more information on health surveillance visit the [WorkSafe website](#).

If you have incurred costs related to medical appointments and tests, you should discuss with your employer whether they are required to reimburse you under WSH requirements.

You are encouraged to make a workers compensation claim as soon as possible where a medical practitioner has diagnosed or provisionally diagnosed silicosis.

How to make a claim

If you have been diagnosed, or have a provisional diagnosis of silicosis, you should follow these steps to make a workers compensation claim:

1. Obtain a First Certificate of Capacity from your treating medical practitioner with a diagnosis (or provisional diagnosis) of the specific dust disease.
2. Complete a Dust Disease Compensation Claim Form and Request for WPI Determination – Common Law (available on the WorkCover WA website).
3. Give the following documents to your employer:
 - First Certificate of Capacity
 - A completed Dust Disease Compensation Claim Form and Request for WPI Determination – Common Law.

The employer or the employer's insurer must forward the documents to WorkCover WA at records@workcover.wa.gov.au within seven days after a silicosis compensation claim is made on the employer.

You have a right to be legally represented, or assisted with your claim, throughout the workers compensation process.

Insurer obligations

If you have not already obtained a respiratory specialist report, your provisional diagnosis of silicosis will need to be referred to a respiratory specialist for further testing and comprehensive assessment. This is required before the DDMP can make a determination.

The insurer will:

- immediately forward your claim to WorkCover WA to assist with scheduling a DDMP for a determination
- pay for the respiratory specialist's report that meets the minimum requirements in Table 1 (whether the specialist is selected by the worker or the insurer)
- pay for a high-resolution CT scan and a standardised full respiratory lung function test, both of which meet the minimum requirements in Table 2
- upon receipt of the respiratory specialist report and high resolution CT scan immediately forward the information - including employment history of exposure to silica and any other evidence - to WorkCover WA at records@workcover.wa.gov.au. If the insurer paid for the report and/or scan and lung function test, they will also provide you with a copy.

Table 1

A respiratory specialist's report must include:

Worker's current symptoms

History and context of exposure to respirable crystalline silica (work-related and non-work related)

Medical history

- current active medical problems
- past and current medications
- history of medical investigations

Smoking history

Diagnosis

Capacity for work

Table 2

Scan and test required:

High resolution CT scan of the chest (prone and supine positions)

- no more than six months old
- copy of radiologist's report and disk

Standardised full respiratory lung function test including:

- spirometry
- lung volumes
- diffusion
- oxygen saturation
- flow volume curves.

Pre-Dust Disease Medical Panel considerations

As part of its administrative support role to the DDMP, WorkCover WA will liaise with the DDMP to ascertain if there is sufficient documentation to schedule a determination and may request additional medical tests, information or documents. Once a date has been listed to determine the application, the worker may be required to attend WorkCover WA for an examination by the DDMP. If the worker is unable to attend, the worker may request to have a determination in their absence. This applies in limited circumstances only.

What decisions does the panel make?

The DDMP reviews medical evidence and examines the worker claiming dust disease compensation. The DDMP makes a binding determination on the following questions:

- Is or was the worker suffering from a prescribed dust disease (including silicosis)?
- Is or was the worker incapacitated for work because of the injury by dust disease and, if so, what is or was the extent of the worker's incapacity for work?
- What is assessed to be the degree of permanent whole of person impairment resulting from the injury by dust disease?

The DDMP may request additional medical tests, information or documents before it makes a determination. The DDMP must make a determination within 28 days after it has obtained all the necessary information and documents, and provide a copy of the determination to the worker, the worker's employer and the employer's insurer within seven days of the determination being made.



Need further assistance?



Call WorkCover WA's Advice and Assistance Service on **1300 794 744** (8:30am to 4:30pm, Monday to Friday)



Visit workcover.wa.gov.au

