



Uninsured workers compensation claims

WorkCover WA is the government agency responsible for administering the *Workers Compensation and Injury Management Act 2023* (the Act).

All employers in Western Australia are required to have workers compensation insurance for anyone defined as a 'worker' under the Act.

Why is workers compensation insurance so important?

Workers compensation insurance protects employers from the financial cost of workers compensation claims. It ensures costs are covered regardless of the employer's financial situation.

Any worker who suffers a work-related injury or illness requiring medical treatment and/or time off work is entitled to claim workers compensation.

This may include income compensation to cover loss of earnings, medical expenses, lump sum payments and workplace rehabilitation assistance. Workers compensation and common law claims can cost more than \$1,000,000.

What happens when WorkCover WA receives a claim relating to an uninsured employer?

Injured workers must not be disadvantaged if their employer does not hold insurance. Workers must be able to access entitlements as though their employer had been insured.

To ensure an injured worker's claim progresses, the worker, employer and WorkCover WA need to work together.

Each party has important responsibilities.

Worker responsibilities

The injured worker is expected to:

- give a Claim Form and Certificates of Capacity to the employer
- attend medical and workplace rehabilitation appointments
- play an active role in return to work planning, as medically appropriate
- attend and perform the agreed duties set out in the return to work program
- keep the employer informed.

Disclaimer This fact sheet provides general information about the Uninsured Workers Compensation Claims Process. You should not act or omit to act on the basis of anything contained herein. In relation to a particular matter, you should seek appropriate legal/professional advice.

This fact sheet should be read in conjunction with the *Workers Compensation and Injury Management Act 2023*, *Workers Compensation and Injury Management Conciliation Rules 2024* and *Workers Compensation and Injury Management Arbitration Rules 2024*. These can be found on our website, together with other WorkCover WA publications.

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Employer responsibilities

Despite being uninsured, an employer is expected to:

- decide on the claim (accept, dispute, or defer the decision if further information is required)
- cover all costs associated with the claim
- take a lead role in planning for the worker's return to work.

An uninsured employer **must** notify WorkCover WA within seven days after receiving a claim for compensation, or face a penalty of \$5,000.

WorkCover WA responsibilities

WorkCover WA oversees all uninsured claims.

Where an employer meets their responsibilities, including payments, WorkCover WA's involvement will be limited to ensuring the worker is not disadvantaged. Where an employer does not meet its responsibilities, WorkCover WA may:

- make decisions on behalf of the employer to ensure the injured worker is not disadvantaged
- recover expenses from the employer.

WorkCover WA may penalise employers for not holding workers compensation insurance. WorkCover WA receives support from the Insurance Commission of Western Australia to manage uninsured claims.

If WorkCover WA makes payments to an injured worker, who pays?

Where the employer does not meet its responsibilities, WorkCover WA will initially cover payments to an injured worker. Once the claim is finalised, WorkCover WA will seek to recover these payments from the employer.

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

