

INFORMATION FOR INJURED WORKERS



This booklet explains what you, as an injured worker, can expect if you have a workers compensation dispute. It helps you understand how we manage disputes and explains our dispute resolution processes.

Our role

The Workers Compensation Commission is an independent, fair, timely and cost-effective service that resolves workers compensation disputes between injured workers and employers.

We receive and resolve disputes about workers compensation claims, for example, weekly compensation for loss of income, payment of medical expenses and compensation for permanent impairment/pain and suffering.

We encourage you and your employer to discuss ways of resolving your dispute at all stages of the process.

How to apply

You apply to us by completing and lodging an Application to Resolve a Dispute (Form 2). We stamp our seal and date of registration on the application and return sealed copies to you to send to the employer and insurer. We return the application with a proceedings timetable, which you must also send to the employer and insurer.

Our application forms and guides to completing them are available on our website at www.wcc.nsw.gov.au.

There is no fee for lodging an application with us.

If you have any special needs, state this in your application. A special need includes requiring an interpreter, hearing loop, TTY or wheelchair access.

The employer's reply

After you send your application to the employer and insurer, the employer will contact the insurer who will lodge a Reply to Application to Resolve a Dispute (Form 2A). We stamp our seal on the reply and return it to the insurer to send to you.

How to request relevant information

You have the opportunity to request information that may be relevant to your dispute, for example, information from treating doctors or the insurer's file. The employer also has the opportunity to request information they feel may be relevant to your dispute, for example, information from doctors or former employers.

Arbitrators and dispute resolution conferences

After you and the insurer have the opportunity to request and see relevant documents, we will assign an arbitrator to your dispute and arrange a teleconference unless your dispute only concerns quantum of compensation for permanent impairment/pain and suffering or a threshold dispute for the purposes of work injury damages.

Arbitrators are decision-makers who are independent of the worker, employer and insurer, and have extensive experience in dispute resolution.

The arbitrator will manage your dispute and encourage you and the employer to reach agreement.

Teleconference

We will notify you and your representative in writing of the date and time of the teleconference. You need to be available on the phone number you have given us for the teleconference in your application form. You can participate in the teleconference from your home or your representative's office.

The teleconference involves you, your representative, the employer, the insurer and the insurer's legal representative and is managed by the arbitrator.

At the teleconference, the arbitrator will ask you, the employer and the insurer about the dispute, identify the issues and encourage you and the employer to reach an agreement about the dispute or part of the dispute.

If you reach an agreement at the teleconference, the arbitrator will record your agreement in a Certificate of Determination – Consent Order. We will send you a copy of the Certificate after the teleconference.

If you do not reach an agreement at the teleconference, we may need to arrange a conciliation conference/arbitration hearing or a medical assessment.

The arbitrator may discuss the possibility of deciding the dispute based on the documents lodged with us. In this case, there is no need for a conciliation conference/arbitration hearing.

Conciliation conference/arbitration hearing

We will notify you and your representative in writing of the date, time and location of the conciliation conference/arbitration hearing. If you live outside of Sydney, we will endeavour to hold the conciliation conference/arbitration hearing in a location convenient to you.

You, your representative, the employer, the insurer, and the insurer's representative, need to attend in person and participate in the conciliation conference/arbitration hearing. The conciliation conference is not recorded.

At the conciliation conference, the arbitrator discusses the possibility of reaching an agreement about the dispute. If you reach an agreement during the conciliation conference, the arbitrator records the agreement in a Certificate of Determination – Consent Order. We will send you a copy of the Certificate after the conciliation conference.

If you are unable to reach agreement about the dispute, the arbitrator will end the conciliation conference and give participants a short break. After the break, the arbitrator will start the arbitration hearing. The arbitration hearing is more formal than the conciliation conference and is recorded.

The arbitration hearing results in the arbitrator making a legally binding decision about the dispute. The arbitrator may tell you the decision at the end of the arbitration hearing or, more usually, you will receive the Certificate of Determination and reasons for decision within a couple of weeks.

Medical assessment

If your dispute requires referral for medical assessment by an Approved Medical Specialist (AMS), we give you and the employer the opportunity to agree on the AMS. If you do not advise an agreed AMS, we will appoint an AMS in the appropriate specialty.

We will arrange an appointment with the AMS and notify you in writing of the date, time, and location of the appointment and the name of the AMS.

You must attend the appointment and if you do not attend the appointment, we may charge you a non-attendance fee and any weekly benefits you currently receive may be suspended.

After the medical assessment, the AMS will complete a Medical Assessment Certificate and send it to us. We will stamp our seal on the Medical Assessment Certificate and send a copy to you, your representative and the employer. We may also send the certificate to the arbitrator and arrange another conference if there are outstanding issues to be resolved or determined. The Certificate of Determination will be issued in accordance with the medical assessment, if there are no outstanding issues.

Legal representation

You are entitled to have a lawyer or agent (for example, union representative) represent you. Employers and insurers usually have legal representation.

If you decide to represent yourself, make sure you identify this on the application form. We will help you with our procedures but we cannot give you legal advice.

If you need legal advice about a workers compensation dispute, you need to see a solicitor. If you do not have a solicitor, you can contact the Law Society of NSW for referral to a solicitor by phoning:

- (02) 9926 0300 (if you live in Sydney), or
- 1 800 422 713 (if you live outside Sydney).

Costs

Generally, you do not have to pay any costs to have us resolve your dispute. This is because:

- we do not charge any fee for our dispute resolution services
- there is no fee for lodging applications with us
- employers usually pay injured workers' legal costs for workers compensation disputes.

A worker only pays legal costs if an application is made without proper justification, is frivolous or vexatious, or fraudulent.

How to contact us

Telephone

Sydney and NSW Country: 1300 368 040

TTY (Telephone Typewriter Service for people who are hearing impaired):
(02) 9261 3334

If you need an interpreter to speak to us, phone the Telephone Interpreter Service on 13 14 50

In person

The

Registry

Level 20

1 Oxford Street

Darlinghurst NSW 2010

Opening hours: 8:30am to 4:30pm

Monday to Friday

Fax

Sydney and NSW Country: 1300 368 018

Mail

PO Box 594

Darlinghurst NSW 1300

Document Exchange

DX 11524

Sydney Downtown

Email

registry@wcc.nsw.gov.au

