MEDICAL PRACTITIONERS GUIDE TO WORKCOVER

ABILITY NOT DISABILITY – A BACK TO WORK APPROACH

making a difference
Disclaimer
This publication may contain occupational health and safety and workers compensation information. It may include some of your obligations under the various legislations that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate legislation.

Information on the latest laws can be checked by visiting the NSW legislation website (www.legislation.nsw.gov.au) or by contacting the free hotline service on 02 9321 3333.

This publication does not represent a comprehensive statement of the law as it applies to particular problems or to individuals or as a substitute for legal advice. You should seek independent legal advice if you need assistance on the application of the law to your situation.

© WorkCover NSW
## CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  INTRODUCTION</td>
<td>2</td>
</tr>
<tr>
<td>2  YOUR ROLE – THE NOMINATED TREATING DOCTOR</td>
<td>4</td>
</tr>
<tr>
<td>3  THE MEDICAL CERTIFICATE – REPORTING AND COMMUNICATION</td>
<td>6</td>
</tr>
<tr>
<td>4  THE WORKERS COMPENSATION SYSTEM</td>
<td>10</td>
</tr>
<tr>
<td>5  BENEFITS FOR INJURED WORKERS</td>
<td>13</td>
</tr>
<tr>
<td>6  WORKPLACE NOISE-INDUCED HEARING IMPAIRMENT</td>
<td>14</td>
</tr>
<tr>
<td>7  RESOURCES TO ASSIST RETURN TO WORK</td>
<td>15</td>
</tr>
<tr>
<td>8  OTHER MEDICAL PRACTITIONERS</td>
<td>18</td>
</tr>
<tr>
<td>9  GAZETTED FEES, INVOICES AND PAYMENTS</td>
<td>21</td>
</tr>
<tr>
<td>10 DISPUTE PREVENTION AND RESOLUTION</td>
<td>23</td>
</tr>
<tr>
<td>11 FREQUENTLY ASKED QUESTIONS</td>
<td>25</td>
</tr>
<tr>
<td>12 NOMINATED TREATING DOCTOR CHECKLIST</td>
<td>26</td>
</tr>
<tr>
<td>13 NSW WORKERS COMPENSATION – QUICK GUIDE FOR GENERAL PRACTITIONERS</td>
<td>27</td>
</tr>
<tr>
<td>14 APPENDIX 1 – WORKCOVER MEDICAL CERTIFICATE</td>
<td>28</td>
</tr>
</tbody>
</table>
1. INTRODUCTION

UNDERSTANDING THE WORKERS COMPENSATION SYSTEM

This education package has been produced by WorkCover NSW to provide medical practitioners, who are treating injured workers, with information about the injury management system in NSW. WorkCover’s injury management system is designed to provide a framework which enables an early, safe and durable return of injured workers to the workplace. Each chapter provides information on topics of relevance to general practitioners who carry out the important role of nominated treating doctor.

ADOPTING A BACK TO WORK TREATMENT APPROACH

When a patient presents to you with a work related injury, as with any other patient, you are responsible for their management with the aim of promoting recovery. WorkCover is committed to the provision of evidence based treatment that supports a return to work outcome. Nominated treating doctors (NTDs) can at times experience resistance to this approach from the injured worker or feel restrained by their relationship with the worker, their family or other expectations. It is important that you act on your professional judgement regardless of what you think the injured worker, employer or insurer would like you to say or do.

CONTACTING YOUR PATIENT’S EMPLOYER TO FACILITATE RETURN TO WORK

In addition to overseeing the medical management of your patient, the role of the nominated treating doctor requires participation in the return to work process. Effective communication is vital to this process. There is evidence that communication, cooperation and establishing common agreed goals between the injured worker, health providers, supervisors and management is critical in improving clinical and occupational outcomes. Studies in Australia and overseas have highlighted the importance of contact between the injured worker’s health care providers and the workplace in order to reduce work disability duration.

As your patient’s nominated treating doctor you play a key role in the injury management process. The worker will look to you for information about their condition and for return to work advice. Your role in helping workers return to work after illness or injury is a comprehensive one and involves:

- a patient-centred approach focusing on the patient’s best medium to long term interests
- appropriate diagnosis, information and advice (with full consideration of their implications and how the patient is likely to interpret what is said)
- starting from the premise that return to work is the optimal health outcome
- recognising the link between work and health, and between clinical and occupational management

1. Foreman P, Murphy G and Swerissen H. Barriers and facilitators to return to work: A Literature Review. Australian Institute for Primary Care, La Trobe University: Melbourne 2006.

• recognising and addressing obstacles to return to work (this would include identification of any yellow flags – psychosocial risk factors)
• positive approach and setting expectations about return to work.

All available evidence points to a high correlation between early return to work and better health outcomes. It is advisable that all involvement with the worker promotes a consistent expectation of early return to work.

This document is intended as a quick guide for you, to assist you in your busy role as a general practitioner. If you require further information please refer to the WorkCover website at www.workcover.nsw.gov.au, the WorkCover Doctors Helpline on 1800 66 11 11 or email doctorinformation@workcover.nsw.gov.au.

2. YOUR ROLE – THE NOMINATED TREATING DOCTOR

Workers who, as a result of a work injury, will be away from their normal duties for more than seven days, must nominate a treating doctor who is prepared to participate and take responsibility for coordinating all aspects of their treatment and return to work management. If you choose to be the nominated treating doctor you need to be involved in:

**Communication** with all parties to assist in the development of injury management and return to work plans. This is an integral part of your role and it is advisable to notify of your preferred method of communication eg fax, phone, or email. You are able to bill for the time spent communicating with others in relation to the worker’s claim and return to work. Please refer to Chapter 9 for information on the fees payable.

If you do not communicate with other parties, your patient may be asked to nominate another medical practitioner. You are able to withdraw your agreement to be the worker’s doctor if you do not wish to operate in the workers compensation system.

**Medical certification** outlining your diagnosis, management plan, opinion on whether the injury is work related and your patient’s capacity for work. This is an important document for ensuring a worker receives their due entitlements and for ensuring return to work or treatment is not delayed. Further information on completing the WorkCover medical certificate is available in Chapter 3.

**Recommending reasonably necessary treatment.** As the worker’s nominated treating doctor you are responsible for recommending reasonably necessary treatment and any necessary ordering of appropriate investigations. Diagnostic tests should only be recommended when indicated to confirm your clinical judgement. Any recommendations for intervention by other providers such as physiotherapists or workplace rehabilitation providers should be clearly noted on the WorkCover medical certificate under ‘Management Plan’. It is the responsibility of the treatment provider/imaging company to obtain approval to provide the service.

**What is reasonably necessary treatment?**

Under NSW workers compensation legislation an insurer is only liable to pay for treatment, as medical or hospital treatment, if:

- the worker has received an injury that is:
  - a personal injury arising out of or in the course of employment
  - a disease contracted in the course of employment, to which employment was a contributing factor
  - the aggravation, acceleration, exacerbation or deterioration of a disease, and employment was a contributing factor to the aggravation, acceleration, exacerbation or deterioration of the disease
  - the employment concerned was a substantial contributing factor to the injury
  - the incapacity and/or the need for treatment has resulted from the injury
  - treatment is reasonably necessary.
The factors that define reasonably necessary treatment are:

- appropriateness of treatment
- availability of alternative treatments
- cost of treatment
- effectiveness (actual or potential) of treatment
- usage of treatment in similar cases (or acceptance).

**Appropriateness**
To be appropriate, treatment must serve a purpose. It must have the capacity to cure or reduce the effects of injury.

**Alternatives**
Consideration must be given to all other forms of treatment. If alternative avenues of treatment would substantially alleviate the problem, it may be difficult to regard the treatment in question as reasonably necessary.

**Cost**
There must be a positive cost benefit. If treatment is provided at high cost but with minimal effectiveness, it may well be considered as not reasonably necessary. Similarly it may be considered not reasonably necessary where there is only one available treatment, but its effectiveness is very small and its cost is high.

**Effectiveness**
The degree to which the treatment can alleviate the effects of injury will also be considered.

**Acceptance**
The particular treatment approach needs to be generally accepted by clinical peers.
3. THE MEDICAL CERTIFICATE (Reporting and Communication)

The medical certificate is a legal document and needs to be completed accurately based on facts known to the doctor. Please refer to the NSW Medical Board Policy on completing medical certificates.

Effective communication with all is vital in facilitating the return to work process. If you provide specific and relevant information on the medical certificate, the number of requests for other information and reports will be minimised. As well as completing WorkCover medical certificates to facilitate injury management, you may be asked to participate in case conferences. WorkCover NSW and the Australian Medical Association (NSW) have negotiated an hourly rate to compensate doctors for the time spent in such activities (see Chapter 9).

It is advisable that you inform others of your preferred method and timing of communication to allow you to manage the administrative aspect of operating in the workers compensation system.

The WorkCover medical certificate

The WorkCover medical certificate is to be completed by the nominated treating doctor. The medical certificate is your most important communication tool.

The WorkCover medical certificate provides crucial information to other parties and guides decisions about:

- accepting a workers compensation claim
- the type and amount of weekly benefits an injured worker will be paid
- the development of the injury management plan by the insurer
- the development of the return to work plan by the employer/return to work coordinator/workplace rehabilitation provider
- approving reasonably necessary treatment.

A properly completed medical certificate should be sufficient evidence to commence payment of weekly benefits and approve medical expenses for your patient.

The injury management plan is developed by the insurer once they have adequate information from the employer and nominated treating doctor. The plan outlines the treatment, rehabilitation and return to work of the injured worker and all involved must agree to the plan.

Please see Appendix 1 for a copy of the WorkCover NSW Medical Certificate.

NOTES TO ASSIST IN COMPLETING THE WORKCOVER MEDICAL CERTIFICATE

Three copies are provided: 1 for employer, 1 for worker and 1 for Medical Practitioner.

Section 1 – Worker details

May be completed by the worker or the Practice Manager. Most of the information in this section need not be completed on progress certificates, unless any of the details change.
Section 2 – Medical certification

Diagnosis
A clear medical diagnosis using acceptable medical terminology assists an insurer to make decisions about a workers compensation claim. Terms such as “stress” are not acceptable under workers compensation legislation and may lead to delays in your patient’s claim being accepted. If your diagnosis is unclear pending further investigations please state this.

Work is a substantial contributing factor
You are asked to provide your opinion as to whether you consider the worker’s medical condition could have resulted from the incident as reported by the worker and based on known facts. You are not asked to make a liability decision but should consider whether the medical condition of the worker is consistent with the circumstances as described by the worker or whether it is more likely to be related to another incident or pre-existing condition of which you are already aware.

If you are unsure about the contribution of work to the injury or illness, then tick the box “unknown”.

Management plan
This may include diagnostic investigations, specialist referral, treatment services and approved workplace rehabilitation provider referral. The information you provide enables the insurer to know what services are required and what invoices to expect. Services that are outside of your management plan may not be paid for by the insurer. It is also important that you monitor and review the effectiveness of any treatment you arrange.

Section 3 – Fitness for work

Fit for suitable duties
Suitable duties are duties that are within your patient’s capabilities but are different from their usual pre injury duties and/or hours of work. If your patient is unable to return to their pre injury job but is capable of doing some work tasks, the medical certificate should reflect their capabilities and not the availability of suitable duties. This certification enables the employer to make an offer of suitable employment. Your patient should not be certified as totally unfit simply because they report that no suitable duties are available.

If your patient indicates that there are not any suitable duties available, it is worth contacting the employer to verify this information and discuss a referral to an approved workplace rehabilitation provider who may be able to help them identify suitable duties.

Capabilities should be specified for all injured workers who are certified as fit to return to work on suitable duties, including the number of hours and the days that work can be performed.

Maximum medical improvement on completion of treatment
If there is unlikely to be any further improvement in the worker’s condition, certifying “fit for permanently modified duties” is appropriate.

Section 4 – Medical practitioner details
Your agreement to be the nominated treating doctor means that you will communicate with all relevant parties to manage the injured worker’s return to work.
Section 5 – Injured worker consent

The injured worker must sign this section of the form, to enable all relevant parties to communicate about the worker’s injury and workers compensation claim. This section has been developed to meet the requirements of the Privacy Amendment (Private Sector) Act 2000 and related legislation. After signing the medical certificate, you should encourage the worker to give it to the employer without delay.

For further information, please call the WorkCover Doctors Helpline on 1800 66 11 11.

Case conferences

A case conference may be requested by a workplace rehabilitation provider, insurer or return to work coordinator to assist in the return to work process and overcome barriers. The party requesting the case conference should be able to justify the need for a case conference and gain agreement from you before attending. You are able to bill for the time spent in case conference. It is expected that you should maintain records of conferences including the details and duration of discussions.

Confidentiality of information

The worker’s signed and dated consent on the WorkCover medical certificate permits you to speak to relevant parties involved in the management of the injury and the claim.

When you receive a request for additional information and you have any doubt about the legitimate need for that party to obtain information about the injured worker, you should establish that the request has been made with the injured worker’s consent. A copy of a signed and dated consent to disclose relevant confidential information should be considered sufficient for the release of information.

You are obliged to produce information to the Workers Compensation Commission in response to a Direction to Produce Documents and to an Approved Medical Specialist who is appointed to review a particular case.

Backdating certificates

In accordance with the NSW Medical Board’s Medical Certificate Policy, a certificate may be issued subsequent to a patient being away from work. However the certificate must:

- state the date the certificate was issued
- cover the period during which the doctor knows the patient would have been unfit for work (e.g., the worker was treated in Accident and Emergency and is now visiting their doctor at their earliest convenience).

It is illegal to backdate a certificate by indicating that the examination took place at an earlier date than the date on which the certificate is actually issued. It is also illegal to indicate that a condition/injury was incurred earlier than the date that the certificate was issued if the doctor has no evidence of this (severe penalties may apply).
Additional Reports

You may be requested by either an insurer or a lawyer to provide additional reports to help make a decision on a claim, if the reports already available are considered insufficient to determine the issue. A nominated treating doctor is under no compulsion to provide such a report if they have already provided the information and have advised the person requesting the report of this. Additional reports are to be billed according to the Medical Examinations and Reports Fees Schedule (see Chapter 9).

Hints to minimise the administrative burden:

- Ensure that medical certificates are legible and do not contain unnecessary abbreviations or medical jargon.
- Complete medical certificates carefully and thoroughly.
- Inform other parties involved of your preferred method and timing of communication.
- Keep notes of your conversations with other parties.
- Allocate a dedicated administrative person to be responsible for assisting doctors in the practice to communicate with other parties.
- Initiate contact with your patient’s employer.
- Preferably refer to treatment providers who are familiar with the workers compensation system, when such a referral is necessary.
- Ensure that invoices are completed in standard format (see Chapter 9)
- Include your patient’s claim number on all correspondence with the insurer and employer.
4. THE WORKERS COMPENSATION SYSTEM

When you agree to be the injured worker’s nominated treating doctor you agree to coordinate all aspects of the treatment and assist in the worker’s return to work. This role is in addition to your usual role of directing medical management and requires you to communicate with others about the worker’s management and return to work. It is therefore helpful for you to understand the workers compensation system and the roles of other players.

THE CLAIMS PROCESS
(For significant injuries where your patient is likely to be away from normal duties for more than seven days)
THE WORKERS COMPENSATION SYSTEM – ROLES OF PARTICIPANTS

WorkCover NSW

WorkCover NSW is a statutory authority within the Minister for Finance portfolio. Its primary objective is to work in partnership with the NSW community to achieve safe workplaces, effective return to work and security for injured workers. A number of parties operate within the workers compensation system. The following describes the roles of the insurer, employer and lawyer in the NSW workers compensation system.

The Insurer (Scheme Agent, Self or Specialised Insurer)

There are seven Scheme Agents contracted by WorkCover NSW to administer workers compensation insurance by issuing policies and managing claims. These agents are Allianz, Cambridge Integrated Services (CIS), CGU, EML, Gallagher Bassett (GBS), GIO and QBE.

Some large employers are licensed as self insurers by WorkCover. Self insurers must demonstrate they have sufficient financial reserves to pay any claims made by their employees and the capability to administer claims in accordance with the legislation and WorkCover guidelines.

Specialised insurers are licensed by WorkCover to provide workers compensation insurance to a specific type or group class of business eg Catholic Church Insurance. Six specialised insurers are licensed in NSW. They are bound by the same legislation and WorkCover guidelines as Scheme Agents and self insurers.

NSW state government departments are managed under the Treasury Managed Fund (TMF) by three claims agents: Allianz TMF, EML TMF and GIO TMF.

For the remainder of this publication the above groups will be collectively termed “the insurer”.

In managing workers compensation claims, insurers gather medical and other information in order to determine whether they will accept liability for the claim. If liability is accepted, insurers will authorise the provision of reasonably necessary treatment, refer workers to approved workplace rehabilitation providers, pay benefits to injured workers and pay accounts of service providers including you, the nominated treating doctor, for reasonably necessary treatment.

The insurer case manager has the ultimate accountability for the management of a claim and is the primary insurer contact for workers, employers and healthcare professionals. Injury management advisers are generally allied health professionals within insurers. They are responsible for promoting injury management strategies and providing advice to case managers regarding treatment and return to work.

An injury management plan is a document developed by the insurer that outlines the plan of action for an individual injured worker. It identifies the specific treatment and rehabilitation needs of the worker. Insurers will liaise with injured workers, employers and nominated treating doctors to develop individual injury management plans. The medical certificate issued by you provides important information used in formulating the plan. If the medical certificate is completed fully and legibly there is less need for the insurer to contact you.
The Employer

Employers in NSW are responsible for providing a safe and healthy workplace. Every employer must purchase a workers compensation insurance policy covering all employees. Employers are required to notify their insurance company within 48 hours of any injury. The *Workers Compensation Act 1987* provides that an employer shall not terminate a worker’s employment because of a work-related injury within six months of the worker first becoming incapacitated for work.

The employer is responsible for providing suitable duties and developing a **return to work plan** for your patient that is consistent with the medical certificate. For a positive health outcome and successful return to work it is essential that you communicate with the employer as soon as practicable following the injury and establish a common expectation of early return to work if appropriate.

Return to work plans should be staged and upgrades are encouraged to progress recovery. Upgrades should be in line with information on current work capacity and prognosis provided by you.

The Lawyer

Workers Compensation is a “no fault” system and the need to involve legal representation has reduced markedly since the introduction of “provisional liability” in 2002. This means that weekly benefits and medical expenses are paid on a “no prejudice” basis unless the insurer has evidence that the injury is not work related.

The provision of the initial medical certificate helps the insurer to approve payment of benefits in the first instance. Generally you should only be requested to provide additional information to a lawyer representing the insurer or worker if there is a dispute about payment to a worker.

Providing accurate information on the medical certificate and responding to reasonable requests for clarification or additional information from the insurer will limit the need for any further request from lawyers.

If you receive a request from a worker’s lawyer for information you have already provided to the insurer, advise the lawyer to obtain this information from the insurer (WorkCover guidelines require this response). If it is new information you can charge the lawyer a fee for completion of the report as per the WorkCover gazetted Fee Schedule (**see Chapter 9**).
5. BENEFITS FOR INJURED WORKERS

The Workers Compensation system provides injured workers with a range of benefits with the aim of supporting injury recovery and facilitating early return to work.

Weekly benefits

The weekly benefit paid to your patient is calculated in accordance with the medical certificate completed by you, their capacity for work and whether or not the employer is able to provide suitable employment.

YOUR PATIENT IS ALWAYS BETTER OFF FINANCIALLY IF THEY RETURN TO WORK

If your patient is totally unfit for work they will receive their award or enterprise agreement rate of pay for a maximum cumulative period of 26 weeks. This is often less than their normal pay as overtime, shift allowances and penalty rates are not included. If your patient is still totally unfit after 26 weeks, their rate of pay will reduce to a standard statutory rate (an amount set by the government), which is often a significant step down from the award or enterprise agreement rate.

If your patient is fit for suitable duties but the employer does not provide these, compensation is payable as if they are totally unfit for the first 26 weeks post injury. After 26 weeks it will only reduce to 80 per cent of the award rate, provided your patient is participating in rehabilitation, retraining or job seeking activities. These rates are available for a maximum of 52 weeks of partial incapacity, after which the rate of pay will reduce to the statutory rate.

If your patient is fit for suitable duties and the employer is able to provide these, the worker will be paid by their employer for work they do and also receive make-up pay from the insurer. The make-up pay means your patient can receive their normal rate of pay including shift allowances and overtime. This level of payment is available whilst the worker recovers and can then return to their normal duties.

Workers with serious injuries

If a worker sustains a serious injury that prevents their return to usual employment, you should discuss the need for alternative employment or permanently modified duties with the insurer. The workers compensation system provides a range of options to help these workers.

Reasonably necessary medical and other expenses

These include medical and hospital treatments, therapies, counselling, medical investigations and medication. You need to provide information to the insurer about what you consider reasonably necessary medical management on the WorkCover medical certificate. It is important that you outline what is required in the Management Plan section of the medical certificate. For more information on reasonably necessary treatment please refer to Chapter 2.
6. WORKPLACE NOISE-INDUCED HEARING IMPAIRMENT

Workers who have had exposure to noise at work and have a hearing loss may be able to make a workers compensation claim for permanent impairment.

Before making a claim

Workers with concerns regarding workplace noise-induced hearing impairment must visit their General Practitioner (GP) to discuss their hearing.

Some workers may already have had a hearing assessment. Workers who have not yet had a hearing assessment may require referral for an assessment. The hearing assessment needs to include calculation of percentage binaural hearing loss (per cent). The usual options for obtaining a hearing assessment can be considered with the worker, such as local Area Health Service, local private hearing service provider or an Ear, Nose and Throat (ENT) specialist. The worker is responsible for any costs incurred for the hearing test.

The worker attends their GP to discuss the results of their hearing assessment and the need for further management. If the worker has a binaural hearing loss of 6 per cent or more and has had exposure to noise in the workplace, the GP provides a medical certificate to the worker indicating the need for referral of the worker to a WorkCover trained ENT specialist (list available from www.workcover.nsw.gov.au/serviceproviders/medicalpractitioners or by phoning 13 10 50) for an assessment of Permanent Impairment and management of the hearing loss. Referral to the ENT specialist should indicate if there is a need for an interpreter. The audiogram should be attached to the medical certificate.

Making a claim

A worker needs to complete a workers compensation claim form and a permanent impairment claim. The GP can obtain assistance from the Claims Assistance Service at WorkCover to complete these forms. Throughout the claim process the GP will monitor the hearing rehabilitation of the worker.

A worker with concerns regarding further workplace noise-induced hearing loss visits their GP to discuss their hearing. If the worker has had exposure to a noisy workplace since the initial claim and further hearing loss is suspected, the worker can be referred back to the treating ENT specialist for a review assessment.

A worker who requires replacement hearing aids visits their GP for review of their hearing needs. The WorkCover Declaration Form (available by phoning 13 10 50) is completed by the GP and worker. If a different hearing aid is required or a further loss appears possible, the GP can refer back to the treating ENT specialist for review. If there is a question regarding whether a replacement hearing aid is reasonably necessary, the GP will review the worker’s hearing needs and refer to the treating ENT specialist if appropriate.
7. RESOURCES TO ASSIST RETURN TO WORK

There are a number of resources that you may utilise as the nominated treating doctor to assist injured workers back to work in the NSW workers compensation system.

LARGE EMPLOYERS

Return to work coordinators

Large employers are required to have a trained return to work coordinator. The return to work coordinator’s principal purpose is to assist injured workers with return to work in a safe and timely manner. Communicating with the return to work coordinator will facilitate return to work.

The return to work coordinator may assist you by:
• providing information about the workplace including potential difficulties
• providing a description of pre injury duties and identifying suitable duties as per your advice
• referring to an approved workplace rehabilitation provider if required
• developing the return to work plan and coordinating and monitoring rehabilitation services and the return to work plan.

Return to work plan

The return to work plan is a formal offer of suitable duties by the employer to the injured worker. It is designed to make clear what the worker can and cannot do when they return to work, and when this will be reviewed. The plan must be agreed to by the worker and yourself. The return to work plan must adhere to the certification of ‘fitness for work’ and the capabilities that you have specified on the WorkCover medical certificate. For this reason, it is important that the WorkCover medical certificate is completed with the injured worker’s capabilities in mind.

Approved workplace rehabilitation providers

Approved workplace rehabilitation providers provide specialised expertise in addition to that generally available within the employer’s and insurer’s operations. Effective workplace rehabilitation is pivotal to the successful return to work of injured workers with more complex needs.

As the nominated treating doctor you are able to refer to an approved workplace rehabilitation provider. The insurer approves the referral and agrees to meet the cost of rehabilitation. The injured worker has a right to choose their own workplace rehabilitation provider.

When would you refer to a workplace rehabilitation provider?

You are encouraged to refer to an approved workplace rehabilitation provider when you identify that the injured worker’s return to work is not straightforward.

Factors that may prompt your decision to refer to a workplace rehabilitation provider are:
• the worker’s injury is not resolving in line with clinical expectations
• suitable duties are seemingly not available
• the return to work coordinator is not familiar with the injured worker’s role
• the return to work coordinator does not feel they have the experience to identify duties and demands which are appropriate to the worker’s capacity
• you identify workplace issues which may be a barrier to return to work
• you do not feel you have the time to be involved and coordinate the return to work planning.

The workplace rehabilitation provider may provide assistance by:

• undertaking a workplace assessment to provide specific information about the injured worker’s pre injury duties and possible suitable duties
• identifying and overcoming barriers to return to work
• coordinating and monitoring the worker’s progress and the return to work plan
• providing education to the injured worker and advice concerning job modification to the worker and employer
• providing information on an injured worker’s functional capacity
• undertaking a vocational assessment to identify possible work options if the injured worker is unable to return to the pre injury employer
• providing assistance and advice concerning job seeking to the injured worker
• organising vocational education or retraining for the injured worker
• placing a worker in new employment.

Other treatment providers
Any referral you make to another service provider for treatment must be deemed reasonably necessary for the work injury. It should also be outlined on the Management Plan on the WorkCover medical certificate. The treatment provided should be evidence based and outcome focused to facilitate the return to work of the injured worker.

Other health professionals treating the injured worker may be able to provide invaluable information on how the injured worker is progressing towards their return to work goal and assist in identifying any barriers. Physical treatment providers may be able to provide specific information on functional capacity and progress, and psychological treatment providers, information on psychosocial issues affecting their return to work. Other treatment providers are also encouraged to maintain contact with the nominated treating doctor.

WorkCover programs
WorkCover funds a number of programs to help seriously injured workers who need additional assistance with return to work. These programs are usually organised by an approved workplace rehabilitation provider and are approved by the insurer or by WorkCover. These include:

Work trial
A work trial is a short period of work experience with a host employer designed to assist workers to upgrade their physical capacity and/or to learn new job skills. It is a voluntary placement during which the injured worker receives their weekly benefit. It is a useful mechanism for a worker to obtain a new job.

The workplace rehabilitation provider who organises the work trial must liaise with you to ensure that you agree that the proposed duties are suitable.

Formal retraining
When an injured worker cannot return to their pre injury duties and needs to upgrade their skills for the labour market, they can be sponsored to undertake a period of formal retraining.
The workplace rehabilitation provider who organises the formal retraining must liaise with you and get written confirmation that the injured worker cannot return to pre injury duties, is medically capable of completing the proposed training and travel required, and is medically capable of working in the job after the proposed training.

Aids/equipment and modifications
Workplace aids/equipment and modifications can be funded by WorkCover where these are necessary to overcome the worker's restrictions and will allow the worker to safely perform new or pre injury duties.

JobCover Placement Program
The JobCover Placement Program provides incentives for a new employer to permanently employ an injured worker who is fit and ready to work.

Injury management consultants
An injury management consultant is a registered medical practitioner who assists in the return to work process when differences arise between a nominated treating doctor, the employer and/or the insurer. An insurer or employer makes a referral to an injury management consultant to assess the nature of the problem and attempt to mediate a solution through discussions with you.

Injury management consultants are approved by WorkCover NSW. A list of approved injury management consultants is available on the WorkCover website located at: http://www.workcover.nsw.gov.au/ServiceProviders/MedicalPractitioners/injmancons.

An injury management consultant may assist you by:
- discussing the injured worker's readiness for work in regards to timeframes and appropriate medical restrictions and management options.
- reviewing progress and upgrading of the return to work plan
- contacting the employer to assist with identifying suitable duties and upgrading
- providing advice on the workers compensation system and what input delays in return to work can have on a worker's financial status.

WorkCover Doctors Helpline
For any additional queries you may have, please contact the WorkCover Doctors Helpline.

Phone: **1800 66 11 11** or email **doctorinformation@workcover.nsw.gov.au**

WorkCover Claims Assistance Service
If your patient has all or part of their claim declined eg treatment or weekly benefits, or has not heard from the insurer about a request, they should be encouraged to contact the WorkCover Claims Assistance Service.

Phone: **13 10 50**.

WorkCover Information Service
For general information about workers compensation and workplace safety please contact the WorkCover Information Service.

Phone: **13 10 50**
8. OTHER MEDICAL PRACTITIONERS

INDEPENDENT MEDICAL EXAMINERS

Who are they?

Independent medical examiners are specialist medical practitioners with qualifications relevant to the worker’s injury who provide impartial medical assessments of an injured worker.

When are they involved?

A workers compensation insurer, employer or the worker’s lawyer may refer to an independent medical examiner when:

- information from you as the nominated treating doctor is unavailable, inadequate or inconsistent. Insurers are less likely to request independent medical advice if you are able to provide early and concise information
- the insurer has been unable to resolve issues after directing questions to the nominated treating doctor.

They assist with decisions about:

- accepting a claim
- ongoing liability
- the worker's level of fitness for work.
- reasonably necessary treatment
- level of permanent impairment.

An injured worker’s solicitor may refer to an independent medical examiner when:

- they want to understand more about the injured worker’s medical condition to ensure that they receive their full entitlements
- to assess level of permanent impairment (See Assessors of Whole Person Impairment in this chapter).

Unless there are changes in the worker’s condition or there is evidence to suggest that treatment may require change, there must be at least six months time lapse since the last independent medical examination. If possible the worker is to be re-referred to the same independent medical examiner if a second assessment is required.

What happens?

- The assessment involves a review of relevant information, an interview and an examination. The examination may take up to one hour. The independent medical examiner will ask a range of questions and will then examine the injured worker.
- The independent medical examiner does not provide the injured worker with information or advice about their medical condition or treatment.
- The independent medical examiner will produce a report based on the interview, the examination and the information provided, including previous x-rays and test results.
- The report should be made available to the injured worker and yourself as the nominated treating doctor, to assist with your decision making.
ASSESSORS OF WHOLE PERSON IMPAIRMENT

Who are they?
The assessor of whole person impairment is a medical specialist trained in the use of the WorkCover Guides for the Evaluation of Permanent Impairment to assess permanent impairment for injuries incurred after 1 January 2002.

When are they involved?
An assessor of whole person impairment is involved when there is a need to establish the level of permanent impairment that results from a work-related injury or disease. The assessment of permanent impairment is conducted for the purpose of awarding a lump sum payment under the statutory benefits of the NSW Workers Compensation Scheme and also for determining access to common law or a commutation.

In assessing permanent impairment, the assessor must determine:
• whether the injured worker’s condition has resulted in impairment
• whether the condition has reached maximum medical improvement
• whether the resultant impairment is permanent
• the degree of permanent impairment that results from the injury
• the proportion of permanent impairment due to any previous injury, pre-existing condition or abnormality, if any.

What happens?
The assessment involves a review of relevant information, an interview and an examination. The examination may take up to one hour. The assessor will ask a range of questions and will then examine the injured worker. The report will be sent to the person referring and paying for the assessment.

WorkCover trained assessors of permanent impairment are listed on the WorkCover website by name, location and expertise.

APPROVED MEDICAL SPECIALISTS

Who are they?
Approved medical specialists are senior specialists with a sound knowledge of the NSW workers compensation system. These specialists are appointed by the Workers Compensation Commission to assess disputes about medical issues for workers compensation claims. Only the Workers Compensation Commission can make a referral to an approved medical specialist.

There are two types of approved medical specialists:
• those who help to resolve disputes about general medical issues regarding the worker’s condition, such as cause, treatment or fitness for employment
• those who help resolve disputes about the evaluation of permanent impairment.

When are they involved?
They are involved when there is a medical dispute at the Workers Compensation Commission, as outlined above.
What happens?

An approved medical specialist may decide to:

- consult with the nominated treating doctor or health care professional who is treating, or has treated, the worker
- call for medical records, including X-rays and results of other tests, and any other information that is considered necessary or desirable to assess the dispute
- request that the worker be medically examined by the approved medical specialist.

After investigating the medical dispute, the approved medical specialist will issue a medical assessment certificate. This is the final, binding opinion in disputes about permanent impairment.

In other types of disputes, their opinions (as detailed in the medical assessment certificate) are taken into account by the Arbitrator when mediating between the parties or issuing direction.

Approved medical specialists are listed on the WorkCover website by name, region and expertise.
9. GAZETTED FEES, INVOICES AND PAYMENTS

The Australian Medical Association (NSW) has negotiated remuneration levels commensurate with the significance of the responsibilities inherent in the role of the nominated treating doctor. WorkCover NSW has approved these fee levels in the expectation that treating doctors will provide optimal services to injured workers and support their successful return to work.

Fee schedules

The fee schedule for medical practitioners references the AMA list of Medical Services and Fees. WorkCover NSW gazette their fee schedule in line with the latest AMA rates on 1 January each year.

Gazetted fees mean that the fee set in the schedule is the maximum amount that you can be paid for a service. It is legally binding and you are not able to charge above these amounts. Current fee schedules are available on the WorkCover website www.workcover.nsw.gov.au

Payment Classification System

The Payment Classification System includes payment items for all services and benefits made against a workers compensation claim in NSW.

For payment of medical consultations and services, the AMA item codes must be used.

The WorkCover specific services that are not found in the AMA list and are relevant for general practitioners are summarised below:

<table>
<thead>
<tr>
<th>Payment Classification Code</th>
<th>Type of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>WCO001</td>
<td>Medical Certificate: Cost of initial medical certificate only</td>
</tr>
<tr>
<td>WCO002</td>
<td>Report/case conference: A service defined by WorkCover as “time based fees paid to medical practitioner for reports, communications with employer/insurer/workplace rehabilitation provider. It is expected that doctors should maintain records of conferences including the details and duration of discussions”</td>
</tr>
<tr>
<td>WCO004</td>
<td>Other surgical items</td>
</tr>
<tr>
<td>WCO005</td>
<td>Providing copies of medical records: Including treating General Practitioner or Specialist notes and reports</td>
</tr>
</tbody>
</table>

WorkCover requires that itemised invoices must be presented before payment can be made.

Please refer to Chapter 11 (Question 3) for information regarding “after hours” consultations.

Your invoices will need to include the following:

- worker’s first name, last name and claim number
- payee details
- ABN of the payee
- name of medical practitioner who provided the service
- date of service
- AMA item number and/or WorkCover NSW payment classification code
- Medicare provider number
- service cost for each AMA item number or WorkCover NSW classification code
- service duration (if applicable).

**Insurers responsibility to pay in a timely fashion**

Insurers are required to process payment for reasonably necessary services within 15 working days of receipt of a properly completed invoice.

**Complaints handling**

If you have a complaint about payment of your account the first contact is the case manager at the insurer. If unable to resolve your issue with the case manager then escalate your complaint within the insurer to the case manager's manager or the complaints department. If after doing this you still have been unable to resolve the complaint then, you may refer your complaint to the WorkCover Information Centre on 13 10 50 or the WorkCover Doctors Helpline on 1800 66 11 11.
10. DISPUTE PREVENTION AND RESOLUTION

The workers compensation system is a no-fault scheme. As such, it is intended to be beneficial legislation, where in the absence of evidence to the contrary, a worker’s claim is accepted, they are paid their entitlements and unnecessary disputes are avoided.

In the event that all or part of a claim is declined and a formal application for dispute resolution is made to the Workers Compensation Commission, the system relies upon an alternative dispute resolution approach based on mediation and arbitration, rather than an adversarial approach involving cross examination of witnesses more typical of a court setting.

The main areas of dispute that you may be affected by are:

**Disputes about whether medical treatment is reasonably necessary**

It is less likely that a dispute about medical treatment will occur if you communicate clearly the injured worker’s reasonably necessary treatment needs on the WorkCover medical certificate under the “Management Plan”.

If an insurer does decide to deny liability for medical expenses or treatment, they must send the injured worker a letter that advises them of their decision and the information relied upon to make that decision. The worker is able to request a review of the decision. It is at this stage that you may be asked to provide further information in relation to the work injury and the treatment requested, to be considered as part of that review. The review is to be done by a “subject expert”. The review decision must be made and communicated to the worker within 14 days.

**Disputes about suitable duties**

Disagreements about suitable duties usually occur when:

- the injured worker refuses the duties
- the employer refuses to offer suitable duties
- the nominated treating doctor is reluctant to agree to suitable duties
- the injured worker does not progress through the duties provided to return to pre injury duties.

In these cases, an injury management consultant or an approved workplace rehabilitation provider can help. Disputes about suitable duties may also be lodged with the Workers Compensation Commission.

**Disputes about attendance at Independent Medical Examinations**

The current WorkCover Guidelines on Independent Medical Examinations and Reports were revised to commence in February 2009 and outline WorkCover’s policy about independent medical examinations as well as the mandatory obligations for employers/insurers when referring a worker. These updated guidelines will replace the November 2006 version of the WorkCover Guidelines on Independent Medical Examinations and Reports.

Referral to an independent medical examination is only appropriate when information from the treating medical practitioner(s) is inadequate, unavailable or inconsistent and where the referrer has been unable to resolve the problem directly with the practitioner(s). Therefore, if you provide sufficient information on the WorkCover medical certificate and in other communication with the insurer, there is less likely to be the need for an independent examination.
WHAT YOUR PATIENT CAN DO

Your patient should try and resolve a dispute regarding weekly benefits or treatment directly with the insurer in the first instance. If they are not able to resolve it this way, they may contact the Claims Assistance Service at WorkCover NSW.

Claims Assistance Service

WorkCover has established the Claims Assistance Service to provide injured workers and employers with assistance and advice if necessary. Claims Assistance Service may be contacted on 13 10 50.

The Claims Assistance Service acts as a link between the insurer and the worker to try and resolve disputes. If the Claims Assistance Service cannot resolve the problem to the worker’s satisfaction the worker may apply to the Workers Compensation Commission to have their dispute resolved. They cannot produce any material at the Commission that has not been considered by the insurer.

Workers Compensation Commission

The Workers Compensation Commission resolves workers compensation claim disputes. They encourage workers and employers to discuss ways of resolving their dispute at each stage of the process.

The process for resolving a dispute depends on the type of claim that is in dispute. The Registrar will refer claims for permanent impairment, where the only issue in dispute is the degree of permanent impairment, directly to an approved medical specialist for medical assessment.

Most other claims, such as weekly benefits compensation, medical expenses, or where liability is disputed in relation to a claim for permanent impairment, will be referred to an Arbitrator. If the dispute is referred to an Arbitrator, it will involve a telephone conference and if it does not settle, may involve a face-to-face conciliation conference/arbitration hearing.

Arbitrators are trained to conduct Commission proceedings in a way that is fair to all parties. At every stage of the process, Arbitrators encourage and assist parties to resolve their dispute. However if parties fail to resolve their dispute, the Arbitrator will determine the dispute.
## 11. FREQUENTLY ASKED QUESTIONS

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Can GPs charge for reading and writing letters and reports to return to work coordinators? Are GPs able to charge for reading and writing return to work plans?</td>
<td>A communication fee can be charged for additional consultation (including in writing) over and above normal clinical practice that might be required in the management of an injury. The payment classification code WCO002 should be used.</td>
</tr>
<tr>
<td>Who pays the GP if a claim is declined and there are outstanding fees to the GP?</td>
<td>If the claim is declined the insurer should pay all fees up to the date of declinature. It is usual practice for the insurer to let the GP know that the claim has been declined. If for some reason the GP hasn’t been informed, it is worth submitting any outstanding invoices and the insurer may pay. In any case, the patient is ultimately responsible for paying if a claim is not accepted.</td>
</tr>
<tr>
<td>With regards to the AMA WorkCover rates for GPs, are the rates different when a GP sees a patient outside the 9am – 5pm Monday – Friday working hours? ie Are the rates different on Saturday and Sunday?</td>
<td>If the practice normally operates on Saturday or Sunday, this would be within normal hours. You can claim after hours rates if the consultation is an emergency and outside the advertised normal practice hours, but you would have to justify seeing a patient at that time.</td>
</tr>
<tr>
<td>Do GPs charge the rate for communication (WCO002) per five minutes for a case conference in their rooms with rehabilitation providers, patient, employer etc?</td>
<td>Yes. A case conference is just an efficient way of communicating with the participating parties.</td>
</tr>
<tr>
<td>With regards to communication, can a GP charge for faxing?</td>
<td>For communicating with other parties about return to work, a fax is treated as a form of communication. The GP can charge for preparation of the information in the fax.</td>
</tr>
<tr>
<td>In general, is there legislation that requires employers, return to work coordinators, rehabilitation providers and insurers to initiate and maintain contact with the nominated treating doctor?</td>
<td>S47 and S48 of the Workplace Injury Management and Workers Compensation Act 1998 require workers and employers to participate in the creation and development of an injury management plan in consultation with the nominated treating doctor. An employer or worker could be considered in breach of these sections if they did not communicate with the doctor. Return to work coordinators work on behalf of the employer and would be bound by the same provisions. An approved workplace rehabilitation provider is nominated by the employer or worker, and is therefore bound by the same provisions.</td>
</tr>
<tr>
<td>What should a GP do if their patient has their claim declined?</td>
<td>Regardless of whether a workers compensation claim is accepted, if your patient has a genuine medical condition, it is important that they receive the treatment that you consider necessary. You can treat your patient through the Medicare system if a claim is declined. If the claim is accepted at a later date, Medicare will recover the costs from WorkCover.</td>
</tr>
</tbody>
</table>
12. NOMINATED TREATING DOCTOR CHECKLIST

The WorkCover Medical Certificate

On the Initial certificate ensure all details are completed, especially:

- How the injury occurred (section one)
- A clear diagnosis using acceptable terminology (section two)
- Whether work was a substantial contributing factor (section two)
  (consider whether the injury is consistent with the reported mechanism)
- The management plan (section two)
- Clear detail of the patient's fitness for work (section three)
- If you agree to be the patient’s nominated treating doctor (section four)
- The patient’s consent (section five)

On the final certificate, ensure you indicate that the patient is fit for pre injury duties or permanently modified duties (section three).

Invoices

Have you included:

- Patients full name and claim number
- Payee details
- ABN of payee
- Name of the medical practitioner who provided the service
- AMA item number and/or the WorkCover NSW payment classification code
- Medicare provider number
- Service cost for each AMA item number
- Service duration (if applicable)

Have you communicated to others the preferred method and timing of communication to you?

Have you contacted the patient’s employer?

Have you kept notes of conversations with other parties?

Have you included the patient’s claim number on all correspondence with the insurer and the employer?
### 13. NSW WORKERS COMPENSATION SYSTEM – QUICK GUIDE FOR GENERAL PRACTITIONERS

| Workers compensation system | • NSW WorkCover Authority has contracts with seven agents to manage workers compensation claims. They are Allianz, CGU, Gallagher Bassett, Cambridge, GIO, QBE and EML.  
<table>
<thead>
<tr>
<th></th>
<th>• there are also a number of large employers who have licences to be self insurers. They manage and bear the cost of their own claims.</th>
</tr>
</thead>
</table>
| Provisional liability     | • insurers have seven days from being notified of an injury to make a decision on whether to make weekly payments and pay for reasonably necessary medical treatment  
|                           | • decision based on information gained from the injured worker, employer and doctor within three days of notification |
| Injured workers nominate a treating doctor (GP) who: | • completes the WorkCover medical certificate  
|                           | • provides an opinion on diagnosis, prognosis and whether the injury is work related  
|                           | • recommends, provides and coordinates treatment  
|                           | • facilitates return to work  
|                           | • communicates with the insurer and employer when necessary |
| WorkCover medical certificate | • is a tool for communication with the insurer and employer about appropriate management of your patient  
|                           | • includes consent for you to release relevant information to other key parties |
| To be paid weekly benefits your patient must: | • have a current medical certificate indicating fitness for work  
|                           | • actively participate in treatment and when able – return to suitable duties (if offered) or participate in rehabilitation and job seeking |
| Doctors can facilitate return to work by: | • setting early expectations about return to work and that full fitness is not required to return to work  
|                           | • adopting an active treatment approach incorporating return to work  
|                           | • contacting the patient’s employer to discuss return to work  
|                           | • detailing work capabilities on the WorkCover medical certificate |
| Payments for medical services | • WorkCover fee schedules commence on January 1 each year linked to the AMA List of medical services and Fees  
|                           | • standard invoices required  
|                           | • complaints about payment of accounts should be directed to the insurer case manager in the first instance |
|                           | • WorkCover Doctors Helpline – 1800 66 11 11  
|                           | • doctorinformation@workcover.nsw.gov.au |
| Resources for workers if all or part of a claim is declined | • provide extra information to support the claim and request the insurer review their decision  
|                           | • WorkCover Claims Assistance Service – 13 10 50  
|                           | • Workers Compensation Commission – [www.wcc.nsw.gov.au](http://www.wcc.nsw.gov.au) or 1300 368 040 |
## WORKCOVER NSW MEDICAL CERTIFICATE

### 1. WORKER DETAILS (may be completed by the injured worker)

Claim No.: ________________________________

**Family name:** ________________________________  **Other names:** ________________________________

**Address:** __________________________________________________________________________________________________________________________

**Postcode:** __________________  **Phone No.:** __________________  **Date of birth:** __________________

**Employer name:** ______________________________________________________________________________________________________________________

**Address:** ____________________________________________________________________________________________  **Postcode:** __________________

**Occupation:** __________________________________________________________________________________________  **hrs / week:** __________________

**How the injury occurred:** _______________________________________________________________________________________________________

____________________________________________________________________________________________________________________________________________

**Date of injury:** __________________

### 2. MEDICAL CERTIFICATION

**Diagnosis:** ________________________________________________________________________________________________________________________

In my opinion, the worker's employment is a substantial contributing factor to this injury:  

- [ ] Yes  
- [ ] No  
- [ ] Unknown

**Management plan:** __________________________________________________________________________________________________________________

________________________________________________________________________________

**Treatment review date:** __________________

### 3. FITNESS FOR WORK:

- [ ] is fit for pre-injury duties
- [ ] is unfit to work from __________________________ to __________________________
- [ ] is fit for suitable duties from __________________________ to __________________________
- [ ] has reached maximum medical improvement and is fit for permanently modified duties from __________________________ to __________________________ (final certificate only)

An assessment of workplace duties is / is not required.  **Date of examination:** __________________

The worker has the following capabilities for __________________________ hrs / day  __________________________ days / week

- Lifting up to __________________________
- Sitting up to __________________________
- Standing up to __________________________
- Travelling up to __________________________
- Keying up to __________________________
- Other: __________________________________________________________________________________________________________________________

Fitness for work will be reviewed on: __________________________

### 4. MEDICAL PRACTITIONER DETAILS

**Name:** __________________________________________________________________________________________________________________________

**Provider No.:** ________________________________

**Address:** ______________________________________________________________________________________________________________________

**Postcode:** __________________

**Phone No.:** __________________  **Fax No.:** __________________

I agree to be this worker's Nominated Treating Doctor and to assist in his / her return to work  

- [ ] Yes  
- [ ] No

**Signature:** _____________________________________________________________________________________________________________________  **Date:** __________________

### 5. INJURED WORKER CONSENT

I confirm the information I have given is correct; I nominate ________________ as my Nominated Treating Doctor; I consent to my Nominated Treating Doctor, my employer, the insurer, other treating practitioners, rehabilitation providers and WorkCover NSW exchanging information for the purposes of managing my injury and workers compensation claim. I understand this information will be used by WorkCover and insurers to fulfil their functions under the workers compensation legislation.

**Signature:** _____________________________________________________________________________________________________________________  **Date:** __________________

---

**Note:** Questions in italics need not be completed on subsequent certificates unless there is new information.