



## FACT SHEET

# Workers compensation changes: information for workers

In June 2012 the government introduced changes to the Workers Compensation Scheme in NSW. The reforms make benefit calculations fairer for all workers, improve financial support for seriously injured workers, and provide more assistance for injured workers to return to work.

### Focus on return to work

Evidence shows that getting back to work early is an important part of your recovery. In most cases, you do not need to be 100 per cent recovered to return to work. Assisting early, safe and durable return to work is a key intent of the reforms.

Under the changes:

- work capacity assessments now give you and your employer a better understanding of your capacity to work
- weekly payments are linked to return to work, with more benefits during the first 13 weeks (when 80 per cent of injured workers return to work) and thereafter if you work for at least 15 hours a week
- WorkCover NSW inspectors have additional powers to enforce your employer's obligation to provide you with reasonable suitable duties for your return to work.

### Key reforms

#### Benefits

Benefits for new claims are now based more closely on your real earnings prior to injury – incorporating overtime and shift allowance in the initial 52 weeks of weekly payments.

- For the first 13 weeks of a claim, you will receive up to 95 per cent of your pre-injury earnings.
- In weeks 14–130, your benefits will be made up to 95 per cent of your pre-injury average weekly earnings if you return to work for at least 15 hours a week. Otherwise, you will receive up to 80 per cent.
- After 130 weeks, if you have capacity to work but are not working at least 15 hours a week and earning at least \$155 per week then your benefits will cease. If you are working at least 15 hours and earning at least \$155, or have no capacity to work, your benefits will continue.
- For most workers, weekly payments are limited to five years from the date of your claim (or when you reach retirement age, if that is sooner – at which stage you may receive commonwealth benefits).
- Benefits cover your medical and related expenses for up to 12 months after you cease to be entitled to weekly payments (or 12 months after you made your claim if you do not receive weekly payments).

If you were claiming prior to these reforms, from 1 January 2013 a 'transitional amount' (which is significantly higher than the old statutory rate) will be used as your deemed pre-injury earnings.



## Work capacity assessments

Your employer's insurer now assesses your work capacity. This involves a review of your medical, functional and vocational status, and helps to inform decisions about your capacity to return to work in suitable employment and your entitlement to weekly payments. If you are assessed as having some capacity to work, you must make reasonable efforts to do so, otherwise, your weekly payments may be suspended or cease.

A work capacity assessment can occur at any point in the life of your claim. A decision must be made on your work capacity by 130 weeks and this will be reviewed at least every two years thereafter.

If you disagree with the insurer's decision on your work capacity, you should apply to your insurer for a fresh review of the decision. If you are not satisfied with that decision you may then seek a review by WorkCover. If the issue is then not resolved to your satisfaction you may seek a review by the WorkCover Independent Review Officer, who has been introduced under the reforms to resolve such matters.

## Claims and lump sum benefits

From 19 June 2012 there are new arrangements for journey claims, lump sum payments, and nervous shock, heart attack/stroke and disease injury claims.

## Seriously injured workers

You are a 'seriously injured worker' if you have a permanent impairment of more than 30 per cent as a result of your injury. As a seriously injured worker, you are exempt from the five year limit on weekly payments and from the 12 month limit on medical and related expenses.

You are also exempt from having a work capacity assessment every two years, unless you request one as part of exploring your return to work options.

## Implementation

The reforms have been implemented in stages from June 2012. If you claim on or after 1 October 2012 you are subject to the new legislation and benefits.

If you were claiming prior to the reforms then you will be transitioned to the new legislation in 2013 (or if you are seriously injured you would have received improved benefits from 17 September 2012). WorkCover is working with the insurers to make your transition as smooth as possible.

## More information

The information in this fact sheet is general only. To discuss the specific impact on your claim, please contact your claim manager.

For more general information about the reforms, visit [workcover.nsw.gov.au](http://workcover.nsw.gov.au) or call 13 10 50.

**Please note:** The workers compensation changes do not apply to some workers. The excluded groups are police officers, paramedics, firefighters, coal miners and workers who make dust diseases claims.

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### Disclaimer

This publication may contain work 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](http://www.legislation.nsw.gov.au)).

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.

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