



## How to make a WorkCover claim in Victoria

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If you're injured at work or you have an aggravation of an injury during the course of your employment, you have the right to lodge a workers compensation claim with the Victorian WorkCover Authority (VWA). These are known as WorkCover claims.

WorkCover claims are governed by the *Workplace Injury Rehabilitation and Compensation Act 2013*.

### The steps for injured workers to lodge a WorkCover claim

#### 1. Report your injury

The first thing that you should do if you have sustained an injury at work is to report the injury to your employer.

Ideally, this should be in writing. You can email your employer and/or complete the incident register if your workplace has one. You should include the date, time and location of the injury. You should provide a brief outline of how the injury happened as well as the nature of the injury.

#### 2. See your GP and obtain a Certificate of Capacity

The next thing you should do is contact your treating doctor (usually your GP) and arrange an appointment as soon as possible. At this appointment, you should notify your treating doctor of the injury and how it occurred. You should also ask them to provide you with a WorkCover Certificate of Capacity for 14 days (subsequent certificates, if required, can be for up to 28 days). This is a

specific WorkCover certificate, not simply a sick leave certificate.

This certificate will set out:

- the nature of your injury(s);
- any restrictions you are experiencing as a result of the injury; and
- whether you have a capacity to work in full duties, alternate or modified duties or no capacity to work at all.

For this certificate to be accepted by the WorkCover insurer it is crucial that you sign the declaration on the second page as to whether you have worked or not in the period covered by the certificate.

You should continue to obtain certificates of capacity from your treating doctor to cover all time you are off work due to your injuries. The subsequent certificates can be for every 28 days.

### 3. Complete a WorkCover claim form

Once you have your Certificate of Capacity, you need to complete a [WorkCover claim form which you can download here](#).

You should provide all relevant information. If you are unsure about any aspect of the form, please contact Guardian Injury Law for advice as to how best to complete the form. It is much better to have your form accurate in the first instance rather than trying to make amendments to the information at a later date.

Particular attention needs to be given when completing the date of injury. If your injury occurred on a specific day, this is the date that should be used as the date of injury. However, if your injury occurred over a period of time, this is known as a “gradual process” injury or an “over the course of employment” injury. Make sure you note this on the claim form.

You also need to provide pre-injury earning details. If you were not in receipt of a regular salary, but worked on a casual basis with different employers or were self-employed, it is important to attach pay slips of wage records showing how much you have earned in the 3 months leading up to your injury.

Overtime, penalty rates and shift allowances will be included in the calculation of your weekly payments for the first 52 weeks.

This will allow the WorkCover insurer to calculate your pre-injury earnings and pay weekly payments appropriately.

#### 4. Give the WorkCover claim form and Certificate of Capacity to your employer

To formerly lodge your WorkCover claim, you must give a copy of your completed WorkCover claim form and valid Certificate of Capacity to your employer. It is crucial that you keep a copy of all of these key documents for your own records. You should also note the date you provided your claim form and Certificate of Capacity to your employer.

Upon receiving the claim documents, the employer has 10 days in which to forward them to their authorised WorkCover insurer for assessment of the claim.

If you do not believe that your employer has forwarded your claim forms to their authorised insurer, you should make contact with WorkSafe and provide them with the copy documents you have provided to your employer so that your claim can be lodged.

If you have concerns about how your employer is responding to your claim, you can also [lodge a complaint with WorkSafe here](#).

#### 5. What to expect next

Once the authorised insurer has a copy of your claim documents, they have 28 days to accept or reject your claim. In this 28-day period, you will receive communication from them confirming receipt of your claim and advising you of your claim number.

In most cases, the insurer will arrange for you to be assessed by an independent medical examiner (IME). Remember, the IME is **not** a treating doctor. You are obliged to attend this examination. The sole purpose of the IME examination is for a report to be provided to the insurer about the occurrence and nature of your injuries.

The insurer may also arrange for an investigator to approach you to take a statement about how the injury occurred. You do **not** have to participate. In most cases, requests for statements should be politely refused. This is to ensure the appropriateness and accuracy of the information provided.

Guardian Injury Law can provide you with advice as to the appropriateness of providing statements to ensure your claim has every chance of success and your rights and entitlements are protected.

Once the insurer has assessed your claim, they will provide you with correspondence either accepting liability for your claim or rejecting it.

## What happens once your claim is accepted?

If your claim is accepted, your benefits will commence; medical expenses and weekly payments for loss of income.

You should continue attending your GP and obtaining Certificates of Capacity which should be promptly forwarded to your employer. You should also ensure that you seek reimbursement for all medical and like expenses from the insurer.

In time, once your injury has stabilised, if you are deemed to have a permanent injury and you meet the percentage impairment threshold, you will be eligible for a lump sum payment. Guardian Injury Law will work with you and ensure any eligibility for a lump sum payment is secured.

## What benefits are payable for a WorkCover claim?

If your claim is accepted, there are a number of benefits you will be entitled to.

WorkCover entitlements include:

- weekly payments for loss of income
- medical expenses such as doctor's visits, medication, psychology treatment, physiotherapy, rehabilitation and inpatient stays at hospitals;
- expenses related to travel for medical appointments;
- home help for domestic and gardening needs;
- lump sum benefits if your injury becomes permanent; and
- in the event of the death of a worker, death benefits are available for dependents of the deceased.

The above benefits are referred to as your statutory or no-fault entitlements. You can learn more about your WorkCover entitlements [here](#).

You may also be able to claim common law entitlements for pain and suffering and economic loss if your injury is serious and occurred as a result of your employer or someone else's negligence. You can learn more about your common law entitlements due to workplace injury [here](#).

## What if my claim is rejected?

If your claim is rejected, you have 60 days in which to lodge a request for conciliation with the Accident Compensation Conciliation Service (ACCS). You can [download the request for conciliation form here](#).

## Get help from a WorkCover lawyer

At this point, if you have not done so already, it is crucial that you seek advice from a lawyer experienced in WorkCover claims in Victoria.

At Guardian Injury Law your first appointment is free so it costs you nothing to find out where you stand.

## Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

[enquiries@guardianinjurylaw.com.au](mailto:enquiries@guardianinjurylaw.com.au)

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