



WorkCover lump sum compensation for permanent impairment

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Sustaining an injury at work can turn your life upside down. If you've [lodged a WorkCover claim](#) and it is accepted, you are entitled to medical and like expenses and weekly wages. But did you know that if your injury becomes permanent, you may be entitled to [no fault lump sum compensation](#) known as an impairment benefit claim?

What is a WorkCover impairment benefit claim?

A WorkCover impairment benefit claim ("IB claim") is a worker's compensation lump sum settlement for your permanent injury. It is brought against the relevant WorkCover insurer.

You must have an accepted WorkCover claim to be eligible to claim a lump sum for permanent impairment. Whether or not your injury occurred in negligent circumstances is not a factor when determining your lump sum entitlement. Rather, your injuries are assessed in order to determine the amount of compensation payable to you. The more severe your injuries, the more compensation you are entitled to.

The *Workplace Injury Rehabilitation and Compensation Act* requires that in order to be entitled to lump sum compensation (an impairment benefit), your injuries must meet the required threshold.

- If you have sustained a physical injury, they must be assessed as attracting a 10% or more whole person impairment.
- For spinal injuries, you must be assessed as having a 5% or more whole person impairment; and
- If you have a [psychological injury](#), you must be assessed as having a 30% or more whole person impairment.

When can I lodge a WorkCover permanent impairment claim?

IB claims can be lodged twelve months after your injury and once your injury is stable.

In these circumstances, stability means that your injuries are not going to get markedly better or markedly worse. This means that you are not required to have any surgery, hospital admissions or significant medication changes.

To determine stability, your treating doctors are asked to provide a report to confirm that your injuries are stable.

What is the process for claiming a WorkCover impairment benefit?

To lodge an IB claim, your lawyers will take detailed instructions from you concerning how your injuries occurred, the nature of your injuries and their impact upon you. They will also ask you to confirm all of your treating doctors, including general practitioners, physiotherapists, surgeons, psychologists and psychiatrists.

Once your lawyer has this information, they will request reports and clinical notes from your treating doctors. Once this material is received, they will review the material to ensure that they have the required evidence to support an IB claim for all your injuries.

If you have sustained more than one injury during the course of your employment, or if additional injuries have developed as a consequence of the original injury, these can all be included in the IB claim. It is crucial that all injuries are included as the percentage impairment for each will be added together and will maximise your entitlements and amount of compensation you are paid.

Your lawyer will complete an IB claim form with you to sign. It is important that the information on this claim form is thorough, true and correct. Your claim will then be lodged with the insurer to assess.

How is my injury assessed for permanent impairment?

Once your IB claim is lodged, the insurer has 120 days to make a determination concerning your claim.

During these 120 days, the insurer will arrange for you to be assessed by an appropriate independent medico-legal doctor. In current circumstances, these appointments may either be in person for a physical injury assessment or via video link for a psychological injury assessment.

The assessment will be conducted to determine:

1. whether your injuries were sustained during the course of your employment;
2. whether your injuries are stable;

3. how your injuries rate in accordance with the 4th edition of the American Medical Association Guides.

When you attend the independent medical assessment, it is important that you answer the doctor's questions as truthfully and directly as possible.

If your injuries are determined to be unstable, the insurer will issue a notice suspending your claim until your injury becomes stable.

If your injuries are considered stable, the insurer will issue a Notice of Entitlement. This notice will set out the following:

- The injuries that the insurer accepts or rejects liability for;
- For the injuries that are accepted, the whole person impairment (a percentage) that the injuries rate in accordance with the 4th edition of the American Medical Association Guides; and
- The amount of compensation payable in accordance with the whole person impairment calculation tables.

Can I dispute the insurer's decision about my impairment benefit claim?

Attached to the Notice of Entitlement will be a document called a Worker's Response form. This will ask you to either accept or reject the insurer's decisions about your claim. This form must be returned to the insurer within sixty days.

If you do not agree with the insurer's decision concerning your impairment benefit claim, whether that be their decision concerning liability, their assessment of your whole person impairment or their calculation of the compensation payable, you have [the right to dispute the decision](#).

If you disagree with the decision regarding liability

If you disagree with the liability decision, then a request for conciliation should be lodged with the Accident Compensation Conciliation Service (ACCS).

If you disagree with the percentage of impairment

If you disagree with the assessment of the whole person impairment, this will be referred to the Medical Panel for a determination.

If you disagree with the amount of compensation payable

Finally, if you disagree with the calculation of your compensation, then this will be referred back to the insurer for reconsideration. Should you still disagree with the calculation, then this dispute should be referred to the ACCS.

Why is legal advice from WorkCover lawyer so important?

It is important that impairment benefit claims are lodged correctly in order to maximise the compensation you are entitled to.

Obtaining legal advice early is crucial to best prepare your claim.

Personal injury lawyers are specially trained to obtain and assess the essential elements of an impairment benefit claim including claiming **all** injuries, assessing liability, advising with regards to whole person impairment determinations and advising with regards to any offers made.

At Guardian Injury Law, we will take the time to listen to you, provide you with clear legal advice and achieve the best possible outcome for you.

Any work undertaken is on a no win, no fee or expenses basis, so you only pay if you are successful.

Contacting Guardian Injury Law

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