



WCIRS appeals for disputed WorkCover claims unresolved at conciliation

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Date: Monday July 24, 2023

If you have been injured at work in Victoria, you may be entitled to worker's compensation benefits. If your WorkCover claim is rejected or you have another dispute regarding your claim, you can attend conciliation with the Workplace Injury Commission (WIC) to try and resolve the dispute. If, after attending WorkCover conciliation, your matter still remains unresolved, you may be able to challenge the insurer's decision through the Victorian WorkCover Compensation Independent Review Service (WCIRS).

What is the Victorian WorkCover Compensation Independent Review Service (WCIRS)?

The WCIRS was established on 30 April 2020 to review the decisions of WorkSafe insurers where, after conciliation, the worker's claim remained unresolved.

Under both the *Accident Compensation Act 1985* and *Workplace Injury Rehabilitation and Compensation Act 2013*, the WCIRS can direct WorkSafe insurers or agents to overturn decisions that would not be sustainable or would not have a reasonable prospect of success in court.

The WCIRS can review decisions:

- relating to provisional payments for [mental injury](#);
- [rejecting a worker's claim](#), including a decision not to accept liability for an injury, condition or disease;
- relating to [WorkCover weekly payments](#), including a decision:

- to stop, suspend or refuse to pay weekly payments;
- about the calculation of weekly payments;
- about whether a worker has or does not have a current work capacity; and
- relating to medical and like expenses

When can an adverse WorkCover decision be reviewed by the WCIRS?

To apply for an independent review by the WCIRS, you must first have your dispute conciliated by the Workplace Injury Commission (WIC).

For most conciliations, lawyers are unable to represent you. Despite this, having a lawyer providing advice in the leadup to your conciliation can be beneficial. If you have a matter at conciliation, you should seek advice from Guardian Injury Law to assist you in preparing for conciliation and ensuring that you receive the correct legal advice about your rights and entitlements.

[Free advice to find out where you stand: 1300 700 761](#)

If your WorkCover dispute is not resolved at conciliation and you have received a Genuine Dispute Certificate ('GDC'), you can then apply to the WCIRS for an independent review.

If you wish to apply to the WCIRS for a review of your WorkCover dispute, strict time limits apply. You must do so:

- within 30 days of the date of the GDC being issued by the WIC after conciliation; and
- within 6 months of becoming aware that the WorkSafe insurer/agent made the decision you seek to have reviewed.

What happens when a WorkCover review request is submitted with the WCIRS?

Once the application for review of your WorkCover disputed decision is submitted to the WCIRS, it will be referred to an Independent Review Officer (IRO). Their role is to review all the relevant information to determine whether or not the decision being reviewed has a reasonable prospect of being maintained by a court.

The IRO will take into account the information that was before the agent and any further information provided to them. The IRO may approach you to ask questions about the decision and provide any additional information that you think is relevant. It is imperative you seek the advice of Guardian Injury Law to ensure the IRO has all the important information which will lead to a successful review of your WorkCover adverse decision.

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The IRO will consider the following:

- The notice of the decision and any practical impacts of the decision on the worker's recovery and/or return to work;

- The worker's reasons why they feel that the decision is not right;
- What happened at conciliation; and
- Any new information which has become available since the reviewable decision was made.

The IRO will then make a decision about whether or not the decision being challenged is sustainable. Their decision will be based on the information that they have reviewed and the evidence that has been presented to them.

How long does a WCIRS review take?

The WCIRS review will be completed in the following time frames after receiving a valid application from the injured worker:

- 15 business days for a decision relating to provisional weekly payments;
- 42 days for a decision relating to medical and like services;
- 56 days for decisions to reject a claim for compensation and decisions relating to weekly payment entitlements.

What happens after the WCIRS review?

Once the IRO has made a decision, they will send you written confirmation of that decision within 20 business days of the date that they receive your application for review. If the IRO decides that the decision of the WorkSafe insurer/agent is not one that would be upheld by a court (that is, the court would not agree with WorkSafe's original decision), they will direct the agent to overturn its decision.

If the IRO confirms the decision of the WorkSafe insurer/agent, the worker can appeal the decision to the Magistrates Court.

Get worker's compensation help from a WorkCover lawyer

We are experienced at navigating WorkCover claims in Victoria and making requests for reviews to the WCIRS. To ensure your request for a review of an adverse WorkCover decision has the best chance of success, and to protect your rights and entitlements, seek advice from Guardian Injury Law as soon as possible.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

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This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.