



WorkCover claims for occupational cancer

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Date: Monday November 27, 2023

Work-related cancers are those that occur due to exposure to carcinogens or cancer-causing agents in the workplace. If you have received a cancer diagnosis, you may be able to claim worker's compensation to receive [WorkCover benefits](#) like weekly payments, medical expenses and lump sum compensation for permanent impairment. You will need to show that the cancer was caused or contributed to by your workplace.

The Cancer Council of Australia reports that the International Agency for Research on Cancer (IARC) has identified [over 165 cancer-causing agents that workers are potentially being exposed to in their workplace](#). Further, the Cancer Council reports that occupational groups where exposure is the greatest include farmers, drivers, miners and transport workers.

What workplace exposure could cause cancer?

There are many different workplace exposures that can cause cancer. The Cancer Council lists some of the exposures as:

- ultraviolet (UV) radiation;
- asbestos;
- diesel engine exhaust;
- lead and other heavy metals;
- silica;
- wood dust;

- welding fumes;
- heavy metals;
- solvents;
- rubber;
- pesticides;
- environmental tobacco smoke;
- ionising radiation;
- benzene and other similar chemicals.

What types of cancer can workplace exposure cause?

Workplace exposure to carcinogens can cause different types of cancers. The most common types of cancer include:

- mesothelioma;
- lung cancer;
- nose cancer;
- liver cancer;
- bladder cancer;
- cervical cancer;
- pancreatic cancer;
- brain cancer;
- stomach cancer; and

Claiming WorkCover for work-related cancers

If you have developed cancer that can be linked to workplace exposure, then you are eligible to [claim WorkCover benefits](#). If your WorkCover claim is accepted, then you are entitled to various benefits.

Medical expenses

Expenses such as doctor's visits, medication, inpatient stays at hospital, home help, psychology treatment and physiotherapy. To access these entitlements, your treating doctors are required to seek approval from the WorkCover insurer. There is no time limit for these expenses, and the insurer is required to pay them as long as the expense is reasonable and related to the workplace injury or illness.

Weekly payments

Payments to cover for loss of income. In order to claim weekly payments, you need to obtain a WorkCover Certificate of Capacity from your treating doctor and provide this to your employer. Each certificate must be for 28 days. Note that this is a specific WorkCover certificate rather than a general sick certificate.

For the first 13 weeks off work, you are entitled to 95% of your pre-injury average weekly earnings. From 14 weeks to 130 weeks, you are entitled to 80% of your pre-injury average weekly earnings. Weekly payments can only continue beyond 130 weeks if you have no capacity for any job in the open labour market. You can learn about your entitlement to this benefit in our earlier blog, [“WorkCover weekly payments – a comprehensive guide”](#).

Impairment benefit lump sum compensation

A lump sum is paid when you have a permanent injury that is stable and meets the required threshold in accordance with the 4th edition of the American Medical Association Guides.

In order to be successful with an impairment benefit claim, you need to be assessed as having a 5% or greater whole-person impairment for spinal injuries, a 10% or greater whole-person impairment for physical injuries or a 30% or greater whole-person impairment for psychological injuries.

You can learn more about lump sum claims in our earlier blog, [“WorkCover lump sum compensation for permanent impairment”](#).

A WorkCover common law claim

This is a type of claim for pain and suffering and economic loss, which can only be made if your injury is permanent and stable. You will also need to [meet the serious injury test](#) and be able to prove that your employer or a third party was negligent or failed in their duty of care to you.

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

The proclaimed diseases list

In Victoria, the WorkCover legislation, *The Workplace Injury Rehabilitation and Compensation Act*, recognises that some diseases (including cancers) are automatically deemed to be related to particular workplaces. The list has been designed to make it easier for workers who have been diagnosed with particular types of cancer to claim compensation.

If you have been diagnosed with one of the listed proclaimed diseases, then you are automatically entitled to WorkCover compensation. For example, if you have worked in the manufacturing industry and have been exposed to the inhalation of silica

dust and you have developed lung cancer with silicosis, then you have an automatic entitlement to WorkCover compensation.

Case study – WorkCover claim due to cancer

At Guardian Injury Law, we act for a client called “Jane.” Jane worked for many years with the same employer. Her role required her to spend significant periods of time outdoors working in the sunshine.

Jane was not provided with sun protection and was unable to wear a broad-brimmed hat as she had to wear a hard hat. She was also required to regularly handle chemicals and had longstanding exposure to chemicals without gloves, respirators, or general protection.

Tragically Jane has received a diagnosis of melanoma.

When speaking with Guardian Injury Law and describing the exposures in her workplace, she was advised by our legal team that she is eligible to claim WorkCover benefits.

Jane obtained a supportive WorkCover certificate of capacity from her treating GP. A WorkCover claim was lodged and accepted. Jane now has access to WorkCover benefits, including medical and like expenses, weekly payments, lump sum compensation, as well as common law entitlements for pain and suffering and economic loss.

Get help from a worker’s compensation lawyer

If you have received a cancer diagnosis, obtaining legal advice early on about your compensation options is essential. Alongside your WorkCover claim, you may also have an [entitlement to a TPD payout](#).

At Guardian Injury Law, we are experienced in assisting those who have work-related cancer to maximise their entitlements. We understand that receiving a cancer diagnosis and undergoing treatment can be a terribly distressing time. That is why we take the time to get to know all of our clients and their loved ones and provide legal advice with compassion and care.

Our first interview is free of charge, and any ongoing work is undertaken on a "no win, no fee" or expenses basis.

Contacting Guardian Injury Law

[1300 700 761](tel:1300700761)

enquiries@guardianinjurylaw.com.au

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.