



Can I resign while on Workcover?

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If I resign, will my WorkCover claim be impacted? While you have the right to resign while receiving [worker's compensation benefits](#), your WorkCover entitlements may be impacted upon your resignation.

Your WorkCover insurer will consider multiple factors surrounding your circumstances when deciding whether and how your WorkCover claim may be impacted if you resign from your job. They will look to whether the reason for your resignation is your workplace injury or some other reason.

That is why, if you are currently on WorkCover and you are thinking of resigning from your place of work, there are some key things that you should be aware of before you do so. If you're unsure of how resigning will impact your worker's compensation entitlements, you should seek legal advice BEFORE you resign.

[FREE ADVICE TO FIND OUT WHERE YOU STAND: 1300 700 761](#)

What is the reason for your resignation, including if it is injury-related?

If you have sustained an injury during the course of your employment, are in receipt of WorkCover benefits such as [weekly payments](#) and medical and like expenses and are thinking of resigning, it is important to consider the reason why you are choosing to do so and whether a resignation is necessary.

If your resignation is a result of new management, relocation or anything that is not related to your WorkCover injury, your WorkCover entitlements may be severely impacted. The insurer could terminate your weekly payments on the grounds that you have not made a "reasonable effort" to return to the workplace.

However, if you are resigning as a result of your injury, whether it is because:

- you are unable to return to work due to your injuries;
- your injuries are exacerbated as a result of the work you are doing; or
- your employer is unable to find you suitable work to do because of your injuries,

it is likely that your WorkCover claim will not be impacted as the reason for your resignation is a result of the WorkCover injury.

Further factors that are considered by WorkCover insurers when assessing whether changes should be made to your worker's compensation claim include:

- Reasons and circumstances related to the registration;
- Whether your resignation was due to misconduct;
- Your employer's conduct in managing your resignation; and
- Whether any assistance can be provided to allow you to return to work.

How can a resignation impact WorkCover entitlements?

How and whether your resignation will have an impact on your WorkCover entitlements is individually based.

It is at the discretion of the WorkCover insurer handling your claim as to how much of an impact your resignation will have on your WorkCover entitlements. It is at the insurer's discretion whether your weekly payments will be maintained, reduced or ceased. If your resignation is not related to your claimed injury, there is a higher chance that your worker's compensation payment will be either reduced or stopped completely.

The reason for this is that when calculating your weekly payment entitlements, the agent takes into consideration your current weekly earnings. This is because your obligation under the WorkCover scheme is to demonstrate that you are 'ready, willing and able to return to work duties'. Therefore, if you resign for a reason other than your injury, this is considered a breach of your obligations under the Act.

If I resign, what WorkCover entitlements are not affected?

While your registration may affect your worker's compensation weekly payments, it will have no impact on your medical and like expenses. Also, if you are eligible for a [lump sum impairment benefit claim](#) in the future, your ability to do so will not be impacted.

If you are also able to prove that you have complied with your return-to-work obligations, however, your decision to resign is a result of your employer not being able to provide you with suitable work, it is likely that your WorkCover insurer will not cease your weekly payments as you have met all your obligations.

If I resign, am I still able to pursue a common law claim?

Should you choose to resign while on WorkCover, this will not impact on your ability to pursue a claim for [common law damages](#) in the future.

To successfully pursue a common law claim, your injury must be deemed serious and significant, and you need to establish that your serious injury was caused as a result of the negligence of your employer.

Common law claims are made up of pain and suffering compensation and economic loss. In order to be successful with an economic loss claim, you must establish that you are unable to earn more than 60% of your pre-injury income.

Can I lodge a WorkCover claim after I have resigned?

A WorkCover claim should always be lodged as soon as possible after the injury has taken place. However, if you have resigned from your place of injury, you are still able to [lodge a WorkCover claim](#).

However, it's still important, before resigning from your current workplace, that you're aware of how your unique circumstances could affect your current WorkCover entitlements.

Get help from a worker's compensation lawyer

Speaking with a lawyer experienced in WorkCover claims will allow you to ensure that you are receiving the correct advice to ensure that your WorkCover claim is not impacted if you chose to resign from your employment. Most importantly, you should definitely seek legal advice before you submit your resignation. We offer free advice so it costs you nothing to find out where you stand.

At Guardian Injury Law, we understand the complexities that each WorkCover claim can bring and are able to analyse your circumstances and WorkCover claim to provide you with advice personalised to your situation.

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.