



# What happens if my WorkCover claim is rejected?

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The [Victorian worker's compensation scheme, WorkCover](#), provides a safety net for workers by providing financial support and other benefits in the unfortunate event of a workplace injury or illness. While most claims are approved, some are denied, leaving injured workers facing financial hardship, emotional stress, and a disrupted life. In this blog, we explore your options if an insurer has rejected your WorkCover claim.

## Reasons your WorkCover claim might be rejected

Several factors can lead to a WorkCover insurer rejecting your claim for worker's compensation. Below, we look at some of the most common reasons.

### Your injury/illness is not work-related

Injuries you have sustained outside work, during recreational activities, or unrelated to your job duties are ineligible for WorkCover.

### Other options if your injury is deemed not work-related

Where your injuries have not been sustained in the course of employment, you may still be able to make a [total permanent disability/TPD claim](#) against insurance you may hold in your super.

Obtaining early advice about your super disability insurance entitlements (like TPD and income protection) is crucial for you to what is available and the process involved in obtaining these

entitlements. If you're unsure about what cover you have, contact us for some free advice.

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## You are not considered a “worker” under the legislation

If you are a “contractor” who has been injured during the course of your work, your WorkCover claim may be rejected as you were not classified as a “worker” under the WorkCover legislation.

You can read more about the distinction between a contractor and a worker in our earlier blog, [“Contractor vs worker - WorkCover claims Victoria”](#).

## Discrepancies in details provided when lodging your claim

Discrepancies between your account of the workplace incident and your employer's (or witnesses) version can raise red flags to an insurer. This could include inconsistencies about the:

- cause of the injury;
- severity of the injury;
- location of the incident; or
- timing of the injury.

## Delayed reporting of your workplace injury

WorkCover claims should generally be made within 30 days after the injury, illness or condition occurred.

Where there has been a delay in [submitting your WorkCover claim](#) – typically more than six months from the date of your injury – there may be a negative effect on your claim, and the WorkCover insurer may reject the claim on the basis that it was not submitted within a reasonable time.

## Your claim relates to pre-existing conditions

WorkCover will not accept a claim for any pre-existing medical conditions or injuries you had before starting your current job.

However, if your medical condition or injury has been aggravated, accelerated, exacerbated or deteriorated through the course of your employment or due to a work-related incident, then you may be able to lodge a WorkCover claim. It will not matter whether the existing condition was caused outside of work, on the sports field or at home so long as the aggravation of the injury is

sufficiently connected to your employment.

Determining whether a pre-existing injury has been aggravated by your employment for the purposes of a Workcover claim can be complex and involves careful consideration of specific factors and legal principles. At Guardian Injury Law, we will provide you with clear advice to help you navigate your way through the Victorian WorkCover system, contact us to see where you stand.

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## Psychological injuries and reasonable management action

In the case of claims for [psychological injuries](#) developed in the course of employment, you will not be entitled to compensation for a mental or psychological injury which was caused predominantly due to a reasonable and lawful management action being put in place against you.

### Example of reasonable management action

- You work as a forklift driver in a warehouse;
- There are quarterly performance management reviews for all employees;
- Over the course of 3-4 performance management reviews, issues are raised repeatedly about non-compliance with work health safety policies;
- Your employer offers further training and other avenues for you to improve compliance;
- You perceive this to be bullying and lodge a WorkCover claim for stress-related issues.

In this scenario, it is likely that the employer's actions would be deemed "reasonable management action" and your WorkCover claim would be rejected.

## Can I dispute a decision to reject my WorkCover claim?

Once an assessment of your claim has taken place, the WorkCover insurer will decide to either accept or reject your claim. If your claim is accepted, benefits like [weekly payments](#) and medical expenses will commence.

If you receive a letter stating that your WorkCover claim has been rejected, you may be able to dispute the decision of the insurer.

Timelines are tight for challenging rejected claims, and disputing a WorkCover rejection can be complex. It is, therefore, important to have legal representation as soon as possible to assist in your dispute. Guardian Injury Law are experts in WorkCover claims and will ensure you have access to all possible rights and entitlements.

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# How do I appeal a rejected WorkCover claim?

## Conciliation

When your WorkCover claim has been rejected, your best option for the decision to be overturned is to request for the dispute to be conciliated by the Workplace Injury Commissions (WIC).

Conciliation is a free service offered by the WIC in order to efficiently resolve WorkCover disputes, including rejected claims.

You will need to request a conciliation by providing the WIC with a request for conciliation form and a copy of the rejection letter sent by the WorkCover insurer via email or post.

Your request for conciliation should be made within 60 days of the date of the letter rejecting your WorkCover claim. Conciliation *can* be requested after 60 days; however, this will only be granted if exceptional reasons are provided to the WIC.

At the conciliation conference/meeting, an independent conciliator will assist in trying to resolve your dispute with the WorkCover insurer. Conciliation may lead to one of the following occurring:

- An agreement being made between you and the WorkSafe agent or self-insurer to resolve your claim;
- a Conciliation Officer making a recommendation to resolve the dispute;
- a Conciliation Officer referring a medical question to a Medical Panel for a binding opinion, which means it is final and must be accepted by those involved in the dispute;
- a Conciliation Officer directing a WorkSafe agent or self-insurer to make WorkCover payments;
- the dispute being dismissed by the Conciliation Officer which ends the conciliation process. You can also apply for further conciliation of a dismissed dispute; or
- if a dispute isn't resolved, a Genuine Dispute Certificate may be issued, which means you may decide to take the dispute to arbitration or Court.

## Workers Compensation Independent Review Scheme (WCIRS)

If, after attending WorkCover conciliation, your matter still remains unresolved, you may be able to challenge the insurer's decision through the WCIRS.

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.

You can read more about this process in our earlier blog, [“WCIRS appeals for disputed WorkCover claims unresolved at conciliation”](#).

## Get worker’s compensation help from a WorkCover lawyer

At Guardian Injury Law, we are experienced in navigating WorkCover claims in Victoria.

To ensure you understand your rights and entitlements after an adverse WorkCover decision, including a decision to reject your claim, we recommend you get in contact with us as soon as possible. Your first consultation is free, so it costs you nothing to find out where you stand.

### 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.*