WorkCover claims due to overexertion

Author: Delon Ranasinghe
Email: delon@guardianinjurylaw.com.au

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Overexertion injuries are a growing concern in Victorian workplaces, as these types of injuries can occur to any worker whose job requires frequent physical exertion. They occur through tasks such as repetitive motion, heavy lifting or extended periods of strain being put on the body.

If you're injured at work due to overexertion, you could be entitled to workers' compensation under the Victorian WorkCover scheme.

What is an overexertion injury?

Overexertion refers to excess effort or repetitive movements, leading to strain or injury. These injuries are common in physically demanding jobs but can also occur in sedentary work, for example, where there is an injury that occurs through repetitive use of a computer.

Overexertion can cause a wide range of injuries due to the many ways the body can be overexerted. Again, these injuries can result from a single strenuous event or repetitive actions over time.

Common examples of overexertion injuries include:

Back injuries

Often strains or sprains, frequently caused by improper lifting, carrying heavy objects, or sustained awkward postures. These are the most common type of overexertion injury.

Joint damage

Includes injuries to knees, shoulders, elbows, and wrists, often resulting from repetitive bending, lifting, prolonged kneeling, or other strenuous joint movements.

Repetitive Strain Injuries (RSIs)

A broad category of injuries resulting from repeated motions, such as typing, assembly line work, or using hand tools. Carpal tunnel syndrome is a notable example within this category.

Stress fractures

Small cracks in bones that develop over time due to repetitive force or overuse, often seen in the lower limbs or spine from sustained impact.

Sprains and strains

General overstretching or tearing of muscles, tendons (strains), or ligaments (sprains), common in various parts of the body due to sudden movements, twists, or excessive force.

These injuries can cause significant physical pain and often have a profound impact on a worker's mental health, particularly if they lead to extended recovery periods or time away from work.

Who is at risk of an overexertion injury?

While overexertion injuries can occur across all sectors, some industries and roles are particularly susceptible due to the nature of their daily operations.

Construction workers

From repeatedly lifting heavy materials and operating powerful machinery to working in confined spaces that demand awkward postures, construction sites are hotspots for overexertion. The continuous physical demands can take a significant toll on the body.

Healthcare professionals

Nurses, orderlies, and carers frequently engage in tasks like lifting and repositioning patients, assisting with mobility, and performing repetitive actions that place immense strain on their backs, shoulders, and other muscle groups.

Warehouse and logistics employees

These roles often involve constant lifting, pushing, pulling, and carrying of heavy objects, frequently in fast-paced environments with tight deadlines, increasing the risk of acute and chronic overexertion injuries.

Office workers

Repetitive motion injuries are common in office environments. Prolonged typing, mouse use, and poor workstation ergonomics can lead to conditions like carpal tunnel syndrome, neck strain, and back pain.

Agriculture and manual labourers

Working long hours, often outdoors in challenging weather conditions, and performing repetitive, physically demanding tasks such as harvesting, planting, or tending to livestock, puts agricultural workers and manual labourers at a high risk of overexertion.

Steps to take after a workplace injury due to overexertion

If you believe you've sustained an overexertion injury, taking the correct steps immediately is vital for your health and any potential workers' compensation claim.

Contact your employer promptly

This is the critical first step. Report your injury to your supervisor or manager as soon as possible. While an initial verbal report is acceptable, follow up in writing (email or a formal incident report) to create a clear record.

Document the incident and injury

Take photographs and/or videos of your injury, the specific work area, equipment involved, and anything relevant to how the injury occurred. If possible, note down the names of any witnesses. This visual and written evidence will be invaluable in substantiating your compensation claim, regardless of whether your condition improves or deteriorates.

Seek medical attention immediately

Consult a doctor or other qualified medical professional without delay. Prompt medical attention will not only help manage your injury and prevent further aggravation but also establish a clear medical record linking your injury to your work activities. This will be important for any WorkCover claim.

Obtain a WorkCover Certificate of Capacity

Your treating medical practitioner (usually your GP) can provide you with a WorkCover Certificate of Capacity. This document is essential as it outlines your injury, your capacity for work (e.g., fit for light duties, unfit for work), and the estimated recovery period. It is a mandatory requirement for lodging a WorkCover claim in Victoria.

Certificates of Capacity also need to be completed for every 28-day period in which you are unable to work or have a reduced capacity to work, to enable you to receive weekly payments to cover loss of income. These are the payments made by the WorkCover insurer towards your salary if you are unable to work in the same capacity you did prior to the injury. To learn more about weekly payments, read our earlier blog "WorkCover weekly payments – a comprehensive guide".

For more information about Certificates of Capacity, see our blog "What is a WorkCover Certificate of Capacity and when do I need one?"

Track all medical expenses and costs related to your injury

Keep records of all medical expenses, including doctor's visits, specialist consultations, physiotherapy, medication, and even travel costs to appointments. If your WorkCover claim is accepted, you will be entitled to reimbursement for these reasonable and necessary expenses.

What benefits are available for a successful Workcover claim?

Medical and like expenses

If you've suffered an overexertion injury and have an accepted WorkCover claim, you will be entitled to be reimbursed for your medical and like expenses. WorkCover aims to cover "medical and like expenses" necessary for your recovery. This typically includes a wide range of services such as doctor's visits, specialist appointments, psychological treatment, physiotherapy, and medication.

Weekly payments to cover loss of wages

For those whose overexertion injury prevents them from working, WorkCover also provides "weekly payments" for lost income. To receive these, you must submit specific WorkCover Certificates of Capacity, as above. The first certificate should cover a 14-day period from the date of your injury. Every certificate thereafter should cover a 28-day period.

The *Workplace Injury Rehabilitation and Compensation Act 2013* outlines these payments:

First 13 weeks of incapacity: 95% of your pre-injury average weekly earnings (PIAWE).

From 14 weeks to 130 weeks: 80% of your PIAWE.

At 130 weeks: Weekly payments will stop, unless you can display that you have no current work capacity, not only for your pre-injury job but for any job in the labour market.

Be aware that after 52 weeks, shift allowances, bonuses, or overtime are no longer included in your PIAWE calculation. If your certificate indicates some work capacity, you'll need to engage with your employer and an occupational rehabilitation provider to facilitate a safe return to work. It's vital to seek advice from a personal injury lawyer if your weekly payments are terminated, as such decisions can often be disputed.

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You can learn more about weekly payments in our earlier blog, "WorkCover weekly payments – a comprehensive guide".

Lump sum compensation – impairment benefits

If your overexertion injury results in a permanent and stable condition, you may be eligible for a "lump sum payment" known as an impairment benefit. This claim can generally be lodged 18 months post-injury, provided your condition is considered stable (unlikely to significantly improve or worsen).

Employer negligence is not a prerequisite for an impairment benefit. To qualify for this lump sum compensation, your injury just needs to meet specific thresholds in accordance with the 4th edition of the American Medical Association Guides (AMA Guides).

- **For spinal injuries:** Greater than 5% whole person impairment (WPI).
- **For all other physical injuries:** Greater than 10% WPI.
- **For psychological injuries:** Greater than 30% whole person impairment.

You can read more about these types of claims in our earlier blog, "WorkCover lump sum compensation for permanent impairment".

Common law claims due to employer negligence

Your employer could be held liable for your overexertion injury if their negligence contributed to it. Proving negligence generally requires establishing that the following.

There was a breach of duty of care which led to injury

This occurs when the employer fails to do something a reasonable employer would have done in the same situation, or does something a reasonable employer would not have done.

For example, if an employer knowingly required an employee to repeatedly lift heavy boxes without providing training, mechanical aids, or sufficient breaks, this would likely constitute a breach of duty of care.

The injury occurred as a result of the breach

There must be a direct causal link between the employer's breach of duty and your injury. The injury suffered must have been a foreseeable consequence of the employer's inaction or inappropriate action.

So, if you suffered a back injury from consistently lifting heavy boxes without training, it's foreseeable. However, if you sustained an injury from maintaining an awkward posture in an environment deemed otherwise safe and appropriate, proving foreseeability might be more complex.

Where your injury was caused by the negligence of your employer, you could be entitled to lump sum compensation for pain and suffering and economic loss damages (loss of your capacity to earn, past and future economic loss, etc.), through what is known as a common law claim. Common law damages is compensation payable in addition to your WorkCover statutory entitlements outlined above.

You can learn more about common law claims in our earlier blog, "WorkCover common law claims and serious injury applications".

If you were acting outside of your scope of employment, breached your organisation's safety policies, or your employer could not be found to be negligent in causing your overexertion injury, you may still be entitled to lump sum compensation through an impairment benefit claim as outlined in the statutory entitlements above.

How can Guardian Injury Law help you?

Given the potential breaches of negligence in causing overexertion injuries, knowing your rights to compensation (both statutory and common law) can be confusing. If you are looking to seek compensation for overexertion injuries sustained through work, speaking with a WorkCover lawyer is essential.

At Guardian Injury Law, we will provide you with clear advice to help you navigate your way through the WorkCover maze and maximise your entitlements. Your first appointment is free, so it costs you nothing to find out where you stand.

Contacting Guardian Injury Law

1300 700 761

enquiries@guardianinjurylaw.com.au

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