



Time limits for WorkCover claims

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Suffering a work-related injury or illness is stressful enough without having to worry about complex legal deadlines. The [Victorian WorkCover scheme](#), managed by WorkSafe Victoria, is designed to provide compensation and support for injured workers, but it operates with strict deadlines. Missing a critical deadline can jeopardise your entitlement to benefits, medical expenses, and potential lump sum payments.

WorkCover law is not always intuitive. The time limits for simply reporting an injury, claiming medical expenses, and pursuing a common law negligence claim are all different. This blog explores the essential time limits you need to know to protect your rights, from reporting your initial injury to pursuing a common law damages claim.

Reporting your injury and lodging the WorkCover claim – 30 days

The first steps after a workplace incident or diagnosis of an injury are crucial. Getting these initial steps right ensures that you are able to access the correct workers' compensation entitlements.

You must first inform your employer of your injury. There is a difference between notifying your employer and lodging a WorkCover claim. Generally, you have 30 days from the date of the injury, or the date you become aware of the injury, to notify your employer and lodge a WorkCover claim.

For injuries that develop over time, such as an overuse injury or a psychological condition, the timeframe starts from the 'date of discovery' (the date you became aware of the injury or illness). This is typically the date a medical practitioner diagnoses your condition and advises you that the injury is work-related.

If you initially thought an injury was minor, but it later turned out to be serious, the 30-day timeframe begins from when you discover the severity.

Once your employer has been informed of your injury, you can lodge your workers' compensation claim. You need to submit a [Worker's Injury Claim Form](#) along with a Certificate of Capacity from your doctor. If you require time off work or medical treatment, the [claim for weekly payments](#) should be submitted as soon as reasonably practicable after the incapacity begins. You can read more about [certificates of capacity in our blog here](#).

What if I miss the 30-day timeframe to lodge a claim?

While there is not a strict 30-day cutoff here, any significant delay can raise doubts about the claim and potentially delay your payments and entitlements. If you miss the 30-day timeframe, you are still able to pursue a claim but it's important to act promptly. You should seek legal advice at this point to protect your entitlements.

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Once your employer receives your claim for weekly payments, they must forward it to their WorkCover Agent within 10 days. The Agent then has a strict deadline of 28 days (or 39 days in certain complex situations) from receiving the claim to make a decision. They will either accept or reject liability and inform you in writing of their decision. If your claim is rejected, you should seek legal advice about your options to appeal this decision.

You can read more about rejected claims in our earlier blog, ["What happens if my WorkCover claim is rejected?"](#)

Navigating claims made out of time and special excuses

If you missed the initial 30-day deadline for notifying your employer and lodging your claim, you should still report the injury and lodge a claim immediately. The WorkCover Agent or self-insurer may waive or extend this limit if there is a 'special excuse' for the delay.

Examples of a special excuse might include being seriously ill, unaware of the correct procedure or time limit, or hospitalised for an extended period, preventing you from taking action.

A special excuse may also include that you were unaware you could make a WorkCover claim until you received legal advice. As relying on a 'special excuse' is risky and requires a compelling explanation, it is always best to obtain legal advice as early as possible.

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Claims for medical and other out-of-pocket expenses – six months

Once your WorkCover claim is accepted, you still need to be aware of the timeline for claiming back your medical costs. This is a common point of confusion that can lead to workers losing out on reimbursement of medical expenses.

For out-of-pocket expenses for medical treatment, prescriptions, travel, and other necessary services, you must submit your claim for reimbursement to your WorkCover Agent within six months from the date the service was provided or the expense was incurred.

This deadline is often missed, resulting in workers having to pay for services that should have been covered. For this reason, it is critical to keep every single receipt and submit them to your Agent regularly, and well before the six-month mark expires.

Lump sum compensation for permanent impairment – no set timeframe

The most significant financial entitlements from WorkCover involve lump sum payments. If your injury or illness results in a permanent impairment, you may be entitled to a lump sum payment, known as an impairment benefit.

There is no time limit to make a claim for a permanent impairment benefit. Your claim can only be assessed once your injury has medically 'stabilised', which is usually at least 12-18 months after the date of injury. You can read more about the process in our earlier blog, ["WorkCover lump sum compensation for permanent impairment"](#).

Common law claims due to negligence – six years

The most critical time limit for WorkCover claims relates to any entitlement to common law damages.

If your workplace injury is deemed a 'serious injury' and was caused by the negligence of your employer or a third party, you may be eligible to pursue a common law claim for damages, covering pain and suffering and/or economic loss. A common law claim is separate from your initial no-fault WorkCover entitlement.

The statutory time limit to begin a common law claim is generally six years from the date of injury. However, the time taken for your impairment benefit claim (referred to above) and the WorkSafe Serious Injury application process generally pauses this six-year limitation period. It is imperative that you receive legal advice when looking to claim lump sum compensation, especially when you are close to six years after the date of your injury, as this pause can dictate your entitlement to significant amounts of compensation through a common law claim.

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If the six-year limitation period is missed, you may be able to apply to the County Court for an extension of time; however, this is not guaranteed, and the Court must be satisfied that it is "just and reasonable" to grant the extension.

Time limits for adverse decisions

If a WorkCover Agent has made an adverse decision against you or a decision you do not agree with, you have a limited window to appeal.

WIC application for conciliation – 60 days

If you receive an adverse decision from the WorkCover Agent, such as a claim rejection or termination of benefits, you typically have just 60 days from the date you receive that notice to formally dispute it by lodging an application with the Workplace Injury Commission (WIC) for conciliation.

Referrals to conciliation can be made after the 60-day timeframe; however, a valid excuse or reason will need to be provided to WIC.

WCIRS appeal – 30 days and/or six months

Should conciliation fail, and a Genuine Dispute exists, you may refer your dispute to the WorkCover Compensation Independent Review Service (WCIRS), which can direct WorkCover Agents (where appropriate) to overturn decisions that would not be sustainable or would not have a reasonable prospect of success in court.

To refer a dispute to WCIRS, it must be done within 30 days of the date of the Genuine Dispute certificate being issued by the WIC and/or within six months of becoming aware that the WorkCover Agent made the decision you seek to have reviewed. You can learn more in our earlier blog, [“WCIRS appeals for disputed WorkCover claims unresolved at conciliation”](#).

Magistrates' Court appeal – no time limit

If you do not want to refer your dispute to WCIRS or are unhappy with the decision of WCIRS, you can refer your dispute to the Magistrates' Court, where there is no time limit by which you need to refer the dispute.

Get help from a WorkCover lawyer

While the law provides some flexibility for special or reasonable excuses in certain initial claim deadlines, the more time that passes, the stricter the Workcover deadlines become.

If you have been injured at work, the most important action you can take is to act fast. At Guardian Injury Law, we are experienced at navigating WorkCover claims in Victoria. To ensure your entitlements are obtained before the set deadlines and to protect your rights, seek advice from Guardian Injury Law as soon as possible.

Contacting Guardian Injury Law

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