

Workplace compensation

Name

Institution

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#### **Whether I will accept, dispute or pend the claim.**

As a workers' compensation claims manager, it is their responsibility to accept, dispute or pend an insurance claim on behalf of the insurance company among other duties bestowed upon me by law and by their position (Western Australia, 2006). These other duties are majorly two, that is, they have the duty to watch over the claim costs made by the injured worker and check on the recovery process of the worker who is injured. The other duty is to administer the claims made in accordance with the WorkCover WA's requirements of the WorkCover. For the claims manager to determine whether an insurance claim is fit to be approved, disputed or pended, it is important to look into some things in respect to the fact that every worker has the entitlement to compensation provided the legislative requirements are met.

Before taking you through what is to be considered before a claim is accepted, disputed or made pending, I think it is appropriate that I explain what WorkCover WA means. Workcover WA of the State Government Public Sector Agency that has the mandate of controlling the compensation system of workers in Western Australia. The Worker's Compensation Injury Management Act (WA) of 1981 is answerable to the WorkCover WA. It is the WorkCover WA that schedules and payment rates for treatment providers, approves and audits Vocational Rehabilitation Providers, monitors Workers' Compensation insurance companies, oversees the Dispute Resolution Directorate and gives guidance on issues of workers' insurance cover (2019). It should be noted that there is a penalty of \$1000.00 to employers who fail to report claims in good time to the insurer as stated in section 57A(2A) of the Workers' Compensation and Injury Management Act 1981.

To begin with, the claims manager will ensure he receives the claim forms plus the First Medical Certificate. He will look at the information in the WorkCover WA First Certificate of Capacity that is supposed to be completed by the injured worker and the worker's medical doctor, which has been done so. It is important to take a look at the Employer's report form, a form that the employer is to fill following the injury details and lastly, the worker's compensation form which is to be filled by the injured worker. The essence of looking at these forms is to get the idea of the circumstances that lead to the injury of the worker so that as a Workers' Compensation Claims manager, to know what to award the injured worker.

Following the information from the forms, it can be adduce that the injury occurred at the workplace, that is, at Reasonably Honest Car Repairs. It was on a Wednesday during official work hours and the injured worker was doing her official duties that are car repairs where she was injured using a spanner whilst working underneath a car. Sudden pain in the right shoulder then ensued. Once injured, the worker did not hesitate in reporting the incident, she reported from which she was relieved of her duties and she went to seek medical services.

The medical report, as per the attached form indicates that there was a rapture on the right arm, the first occurrence of its kind to the worker. Medical repairs are to be done by surgery there after the worker will be required to attend some sessions of physiotherapy. Due to the injury, the said worker is incapacitated partially such that she cannot do any work and is unable to lift weights completely. All these information points fingers to the employer, whom by law is supposed to compensate the injured worker (Safe Work Australia, 2012).

If the claim was to be accepted, a letter would be sent to the employer about my decision on liability within three working days of the employer's receiving the email with a claim number inclusion from which payment commencement should follow. However, looking at the

circumstances, there is a realization that the employer claimed that the accident was due to the carelessness of the worker. The employer stated in the employer report that the accident occurred while undertaking normal duties but not in the normal workplace. This fact is disputing the information indicated in the WorkCover WA First certificate of capacity that stated that the incident occurred while undertaking normal duties in the normal work that is the shop floor, this fact has also been echoed in the Employer report. A clear sign that the employer is contradicting himself, the shop floor of a motor vehicle garage is the workplace that a normal vehicle repair would be handled at.

Besides that, there is also the issue of the employer stating in the Employer report that despite the worker following all the required procedures and precautions, the worker admitted having been tired due to staying up late the previous night while drinking with friends. This brings the presumption of negligence on the worker's side because the employer is insinuating that the worker had come to work drunk and tired. If it were on normal occasion, the injured worker would have neither been tired nor drunk thus the accident would have not occurred. I, therefore, consider it necessary to pend the claim for further investigations to be done so as to be clear on whether the injured worker was tired and drunk as her employer claims.

More and clear information is needed to make an amicable decision. Both the employer and the worker are to be contacted and any other parties that might be considered a credible source of information for clarity which I am expected to do within ten working days. If the required information is missing by the end of ten working days then the claims manager should send a copy of 3C Form, an insurer's form notifying the injured worker, employer and the WorkCover WA that more time is needed to reach a decision on who is to be liable.

It should be noted that compensation payments should not be commenced in any circumstance unless the claims manager authorizes the compensation payment. Also, it is within the claims manager's scope of the duty to advise the parties involved on which action to take considering the circumstances of the situation. While still on the process of getting clarity on the issues raised above, it is important that the injured worker is given her accrued leave, either the annual leave or the sick leave, this will help with the temporary financial support on medical bills because medication should not be postponed. We value health more than anything else.

Upon acceptance of the compensation claim, the employer is required to reinstate the leave used by the injured worker. Upon denial of the compensation claim, Form 3B is sent giving valid reasons for the grounds of denial of the compensation claim. The form is to give notice to the injured worker, the employer and the WorkCover WA that liability has not been imposed on the employer (Richardson, 2014).

### **The process from here and obligations of the insurer, employer and worker**

Normally, settlement of the claim is what happens next, but this only happens after the liability claim is accepted. It is within the Workers Compensation Insurer to issue an acceptance of liability notice, usually referred to as Form 3A. This is the first procedure after acceptance is made. Compensation only covers medical expenses. Section 57A of the Workers Compensation and Injury Management Act of 1981 stipulates that weekly compensation payments for the total or partial incapacity suffered by the injured worker will be made.

Our situation presents partial incapacitation of about six months thus the injured worker will be entitled to weekly compensation. Calculation of weekly compensation is based on the average weekly earnings of the worker before the occurrence of the incident. However, upon recovery and resuming work, the employer is to stop remitting the worker the weekly

compensation. Also, the weekly compensation can be put on hold upon request of the injured worker. The worker has an entitlement of rehabilitation expenses, not just any rehabilitation expense but a reasonable one, when that is not lower than \$15,744.00.

After the calculation of the weekly payment follows the payment of compensation. Compensation is to be paid to the injured worker through the usual channel of payment and during normal paydays as per section 57A (7) of the Workers' Compensation and Injury Management Act 1981. Advance compensation from the recognized paydays is not allowed by law. Also, it is mandatory that a certificate of incapacitation is issued. Compensation reimbursement form of all compensation claim paid must be submitted at regular intervals. As per the common law, the law binds all citizens thus everyone is required to do what the law states, in case of absconding the above mentioned requirements will attract a WorkCover penalty of \$2,000.00 for each weekly payment not made when due for equity does not act in vain. In case of a pending claim, investigations will ensue.

As mentioned above, the insurer is to notify the employer and the injured worker from which immediate investigation ensues. Investigations will be in the form of asking questions to employers, the injured worker, medical practitioner, witnesses and any person that may give the required information. Most of the workers, however, find it hard to keep up with the very many questions that come along with the investigation process.

Like in this case, the workers' compensation claims manager will question the employer to get his stand on his claim the worker was tired and might be drunk. He would ask the worker about that issue too, inquire whether it is true she had admitted to being tired due to staying up late and drinking with friends. From there, he will find out from the worker where the friends are, ask each friend about the previous night prior to the injury incident to find out if it was true

that they stayed up late at night drinking with the injured worker. From there, the claims manager will head to the doctor, inquire whether a person who stayed up late the previous night drinking would be tired by 8 am the following day and if at all during the examination of the injured worker after the incident, the worker showed any sign of being tired and looked drunk. From the findings, he would be able to come up with a decision on whether to accept or deny the claim.

Upon declination of a compensation claim, the insurer is supposed to file a detailed response to the worker explaining the grounds for declination of the compensation claim. The next step is filing an application for conciliation with the WorkCover WA (WorkCover W.A., 2012). Supporting evidence for the conciliation application is necessary. In the application, it is advisable to state and provide documents showing that:

- The workers' compensation claim that was served to the employer
- First medical certificate filled. Other medical certificates from a professional doctor that were used can also be included.
- The injured worker's statement indicating the circumstances surrounding his or her injury.
- Provide witness statement, if any.
- All the payments made by the employer to the employee indicating the salary and ages of the employee.
- The invoices and receipts issued from medication expenses due to the injury
- Proof that that was the first time the worker is suffering from such an incident and that it is not a recurrent medical situation.

Upon acceptance of the reconciliation application, a date and time will be fixed for the conciliation process. The worker is supposed to attend the conciliation conference unless it

would pose a challenge due to medical conditions. Lawyers are appointed to the workers' compensation insurer to present its case in the conciliation conference.

Some employers have the right to "self-insure", which means that they accept all the financial costs and liabilities for their own workers' compensation and rehabilitation programs. However, this status is normally only available to large employers which satisfy certain requirements based on economic criteria and number of workers and must be approved by the government workers' compensation agency (Dunn & Thakorlal, 2014).

## References

(2019). Retrieved from <https://www.workcover.wa.gov.au/>

Barrett, T., Strickland, E., & Browne, D. (2016). (Eds). *Rehabilitation, Work and Beyond* (3rd ed). Perth, WA: Safety and Rehabilitation Books.

Dunn, C. E., & S. Thakorlal, S. (2014). *Australian Master Work Health and Safety Guide* (2nd ed.). North Ryde, NSW: CCH Australia.

Johnstone, R., Bluff, E., & Clayton, A. (2014). *Work health and safety law and policy* (3rd ed). Pyrmont, NSW: Lawbook Co.

Richardson, K. (2014). *Work health and safety*. Pyrmont, NSW: Lawbook Co.

Safe Work Australia. (2012). *Key Workers' Compensation Information, Australia 2012*, Canberra, Australia: Safe Work Australia.

Western Australia. (2006). *Workers' Compensation and Injury Management Act 1981*. Perth: State Law Publisher.

WorkCover W.A.,. (2012). *WorkCover WA: Guidance notes for approved medical specialists : procedures for the permanent impairment assessment process*.