



Comcare claims; important tips about the claims process

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Comcare is the Federal 'no-fault' workers' compensation scheme. It covers Commonwealth Government employees and employees of certain licensed companies. Eligible injured workers can claim a range of benefits including income payments, medical expenses and lump sum payments for permanent impairment. When lodging a claim, it's important to ensure that the details of your claim clearly demonstrate the connection between work and your injury; a threshold test referred to as causation. This article shares some tips on ensuring your Comcare claim is optimised for success.

Causation and Comcare claims

An entitlement to Comcare compensation only arises when a workplace injury results in incapacity for work and/or impairment.

The threshold issue is whether or not work has 'caused' the physical and/or psychological condition. Another word for this threshold test is 'causation'.

For compensation claims which come within the Comcare scheme, causation is determined depending on whether the condition (the subject of the application for compensation) is considered to be an 'injury' or an 'injury in the form of a disease', according to the *Safety, Rehabilitation and Compensation Act 1988 (SRC Act)*.

The importance of demonstrating 'causation'

The jurisdiction which covers 'Comcare' claims also involves what the Tribunal and courts have noted as a progressive decision-making process.

This essentially means that even accepted claims can be ceased at any point, by Comcare or a self-insurer, if the evolving medical opinion demonstrates that the initial causal connection between the injury and work, no longer exists.

So, if Comcare determines that causation has not been demonstrated, your claim will be denied or terminated.

The importance of accuracy and clarity when completing your Comcare claim form

Quite often, divergent diagnoses by different doctors will exist in relation to an injured worker's claimed work condition. This can be a very challenging aspect of dealing with any workers' compensation matter.

This is why it is so (so) important to ensure that prior to completing your application for compensation, you discuss the nature and likely cause of your physical or mental condition with your treating practitioner (eg, your GP or specialist). This will ensure that you will be able to state, clearly and concisely, the circumstances of how you sustained your injury/condition.

Not doing so will usually cause you all sorts of problems dealing with Comcare or the self-insurer and any doctors who might be asked to provide medical reports about your claim. You will sometimes be required to recount the circumstances of how your injury arose, to a number of different people (usually doctors); especially if your injury is a significant one.

Always review your documentation (diary, copies of the claim form etc) before you go over the circumstances again with anyone (especially doctors). It's your claim and you need to be consistent whenever you have to recount (often several times), what happened that caused your injury.

If you are not confident of the answer to any question that anyone might ask you about what happened, then say so. You can simply say 'I don't recall the precise details of that'. Don't 'do your best' to try to recall what occurred as you may contradict what you have said previously.

Having said that, if you are fairly sure about an aspect of the circumstances of your injury, but not 100% sure, then it's OK to qualify your answer by saying 'it's been so long now but to the best of my recollection (then note what you recall)'.

But if you're sufficiently unsure about something, then say so.

Keep a written statement of the circumstances of your injury

If you tend to get anxious when talking to anyone about your claim and the circumstance surrounding your injury, then take the time at the outset to prepare your statement.

You should type it up (or handwrite it) and take it with you to any appointment and you can refer to it during any consultations. Ensure you have a copy to give to the doctor, or whoever it might be, and tell the doctor that you are very anxious and want to make sure they understand clearly what happened.

You should only share your statement if it is relevant to what you are to discuss with the person; usually a representative from the insurer or a doctor they have sent you to see.

Keep your statement clear and concise

Ensuring your account of what happened to you is consistent and concise is the most important thing you can do when making a workers' compensation claim.

Of course, we all make mistakes or have a 'bad day'. Correcting any errors early is paramount. So, if you subsequently see in any document (eg. a medical report), that there are errors in the summary or the history that you apparently gave, then raise it with your claims officer/representative at that time.

Make sure you contact them to advise of the error and keep a record of doing so. We always recommend calling the claims officer in the first instance, then following up that call with an email to them, confirming what you noted during your telephone discussion. It's then on your file forever.

Get help

Comcare is unfamiliar territory for most workers and the claim's process can be complex and confronting.

If you're unsure, at any point during your claim, we strongly recommend you seek advice from your Union or a lawyer experienced in Comcare claims. It's always much more effective to get things right early than to attempt to fix problems later on.

Contacting Hall Payne Lawyers

You can contact us by phone or email to arrange your consultation; either face-to-face at one of our offices, by telephone or by videoconference consultation.

Phone: [1800 659 114](tel:1800659114)

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