



Australian Government
Comcare

FACT SHEET No. 8

Information for General Practitioners

Employees rights and responsibilities



Executive summary

The injured employee has a right to their entitlements under the *Safety, Rehabilitation and Compensation Act 1988* (the SRC Act) including the payment of reasonable medical expenses and incapacity payments for time off work.

Additionally any information collected in relation to a claim for compensation should be treated confidentially in accordance with the privacy principles contained in the *Privacy Act 1988* (Privacy Act).

An injured employee also has responsibilities which include promptly reporting to their supervisor the details of any accident, injury or disease which may be work-related. The injured employee is also responsible for cooperating with their employer, case manager or rehabilitation provider to achieve a full return to work where this is possible.

The employee's rights

The employee has a right to

- their entitlements under the SRC Act
- confidentiality
- access documents that relate to their claim
- seek a reconsideration of certain determinations.

Employee entitlements

Under the SRC Act reasonable medical treatment will be paid based on the employee's individual situation. Medical treatment includes services which are provided by, or under the supervision of a medical practitioner and may also include treatment by health professionals such as physiotherapists, osteopaths, dentists, as well as prescribed medications.

Fortnightly incapacity payments may be paid for periods of time off work, or of reduced earnings, that are as a result of the compensable condition, and are supported by medical evidence linking the absence with the compensable condition.

Additionally, the SRC Act has a very strong focus on rehabilitation and return to work. The SRC Act requires Commonwealth employers to take responsibility for the rehabilitation of employees with work related injuries.

For more information see Fact Sheet No.1 — *Overview of the Safety, Rehabilitation and Compensation Act 1988* (the SRC Act) and Fact Sheet No. 6 — *Rehabilitation and return to work policy and strategies*.

Confidentiality

The information provided by the employee to enable their claim to be determined is subject to the ‘privacy principles’ under the *Privacy Act 1988*. This information cannot generally be used for purposes other than compensation, rehabilitation and occupational health and safety or other specific circumstances permitted by the SRC Act, Privacy Act or other legislation.

In certain circumstances, information obtained for a compensation claim or rehabilitation program may be given to

- treating and/or other medical practitioners
- the employer
- an approved rehabilitation provider
- Comcare’s or a self insurers’ legal representatives
- law enforcement authorities
- Comcare investigators
- Centrelink
- Courts, Tribunals and/or other Commonwealth agencies where there is an obligation under law to provide it
- superannuation boards
- the Safety Rehabilitation and Compensation Commission.

Providing misleading or false information

If at any stage the employee becomes aware that they have made a misleading statement (for example on a claim form) they can amend this by writing to the claims manager. Uncorrected false or misleading statements may lead to delays in a decision on the claim. In certain cases, it may also lead to Comcare taking action under the *Crimes Act 1914*. From time to time, Comcare may undertake investigations into the legitimacy of a claim if it appears, amongst other things, that the information provided may be false or misleading. This helps ensure that only legitimate compensation claims are accepted.

Access to file material

At their request, Comcare can arrange for the employee to view their file or will arrange to give them a copy of documents which are held in relation to the claim. It is preferable that the employee submits their request in writing or requests this in person. This is to ensure that the employee's documents are not provided to someone else. There will be no charge for the information provided.

Employee's responsibilities

The employee's responsibilities include

- promptly reporting to their employer the details of any accident, injury or disease that might be related to their work

- co-operating with their employer, case manager and rehabilitation provider to achieve a full return to work if this is appropriate.

Additionally, employees may be required to attend a medical appointment if arranged by Comcare or another determining authority and to notify Comcare or the determining authority of any third party action taken or change to their personal circumstances.

Reporting the details of any accident, injury or disease

The employee has the responsibility to report any accident, injury or work-related illness or disease to their supervisor or personnel section as soon as possible. It should be reported on an Incident Report Form (or equivalent form) which can be obtained from the employer.

Commonwealth employers are covered by the *Occupational Health and Safety (Commonwealth Employment) Act 1991* and must keep a record of any incidents and dangerous occurrences that happen in the workplace. The records may be used to help prevent similar incidents in the future.

Co-operating to return to work

The employee must participate actively in any return to work program agreed to with their case manager and rehabilitation provider. Also, where relevant, the employee must implement any professionally recommended and agreed changes to their work practices, workplace environment and/or home environment in consultation with their employer to minimise the chance of further injuries or accidents.

Compensation payments may be suspended if the employee refuses or fails without reasonable excuse to participate in their return to work plan without consulting the case manager. For further information see Fact Sheet No. 6 — *Rehabilitation and return to work policy and strategies*.

Attendance at medical appointments made by Comcare

The employee is obliged to attend any medical examination arranged by Comcare or another determining authority unless they are able to provide a reasonable excuse as to why they cannot attend. If the employee does not attend an examination or in any way obstructs an examination, without providing a reasonable excuse, all their rights to compensation benefits and all other activity on the claim will be suspended, until the examination takes place.

Reporting change of circumstances

Employees receiving compensation benefits should advise any change to their

- name
- address
- number or circumstances of their dependants
- employment (including employment outside the Commonwealth or ACT government, whether voluntary or otherwise)
- earnings
- medical condition
- bank account details (if their incapacity benefit is being paid directly into their bank account).

Third party action

If an employee, their dependants, or another person, institutes legal action against a third party or against a Commonwealth or ACT Government employer in relation to their work-related injury or illness, Comcare or the relevant determining authority must be notified, in writing, within seven days, that those proceedings have been instituted.