

in this issue >>>

Making a Claim

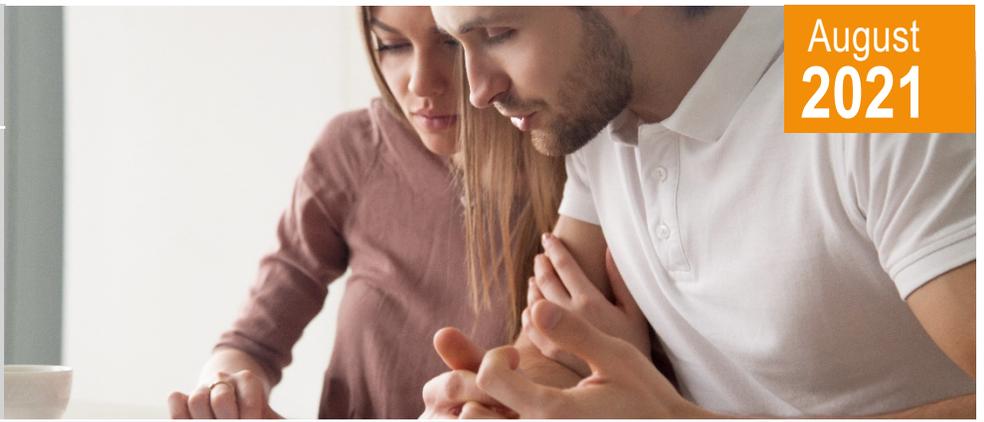
Who's Who

Dispute Resolution

Summary of Entitlements

Deadlines

August
2021



An Insight into Work Related Stress Claims

FORTITUDE LEGAL

Injury Compensation Lawyers

current topics >>>

Work-related stress – getting the help you need sooner

If you suffer from work-related stress caused or contributed to by your employment, as a Victorian Worker you can now access early treatment while you await the outcome of your claim.

These payments are called **provisional payments**. If your claim is accepted, the **WorkCover Insurer** can continue to cover the reasonable cost of treatment in accordance with Victorian workers' compensation legislation.

For more information go to:

[Getting Help with Your Mental Health](#)



Making a WorkCover Claim

The Basics

If you are a Worker injured in the course of your employment after 1 July 2014 in Victoria, your potential entitlement to compensation arises under the *Workplace Injury Rehabilitation and Compensation Act 2013* ("the Act"). Earlier injuries are governed by the *Accident Compensation Act 1985*.

If you are yet to lodge a WorkCover claim and you remain employed by the employer at which your injury occurred, the Act provides:

- A claim for weekly payments must be made "as soon as practicable" after the injury from the incapacity becomes known.
- A claim for medical and like expenses must be made "within 6 months" of the relevant service.

If WorkSafe or the WorkCover Insurer is satisfied that you had "special excuse" for not making a claim within the relevant applicable time limit, they may waive or extend time.

Where a claim is made after you cease to be employed with the relevant employer the Act provides:

- that the claim is deemed not to have been

made unless you satisfy WorkSafe or the WorkCover Insurer that you could not reasonably have made the claim whilst still employed with that employer.

Strict time limits apply to WorkCover Claims. Ensure that you are aware of those time limits to protect your rights.

If you intend to lodge a claim for compensation, you should do so without delay. You should firstly obtain a Certificate of Capacity from your treating doctor. Whilst most doctors will have access to the standard form, a copy can be found here:

[Certificate of Capacity](#)

The First Certificate of Capacity can be valid for a maximum of 14 days unless there are special reasons. Subsequent Certificates of Capacity can be valid for 28 days.

You will be required to complete a Worker's Injury Claim Form, which can be found here:

[Worker's Injury Claim Form](#)

understanding >>>

Who's Who

The many parties and laws associated with a WorkCover claim can add to the confusion you might be feeling.

WIRC Act 2013

If you were injured after 1 July 2014, the **Workplace Injury Rehabilitation and Compensation Act 2013 (Vic)** is the legislation that

sets down the “rules” for how the

workers’ compensation scheme works.

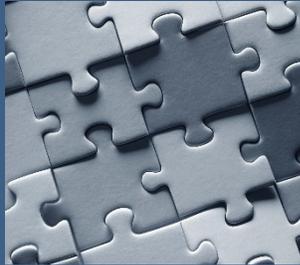
The scheme is sometimes referred to as

“**WorkCover**”. The **Victorian**

WorkCover Authority is the

government Authority established to

manage the scheme.



WorkCover Insurance

This is mandatory insurance held by employers to cover the cost of benefits payable to workers who are injured at work. The scheme is funded by this insurance.

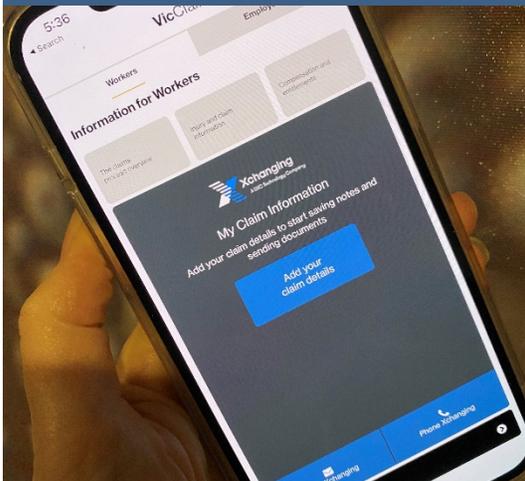
Once your claim has been lodged with your Employer they are required to forward it to their **WorkCover Insurer** and thereafter, most of your dealings with respect to your claim will be with the **WorkCover Insurer**. There are a limited number of insurers that handle Victorian WorkCover Claims.



WorkSafe Victoria

WorkSafe Victoria is the Victorian health and safety regulator and also the manager of the workers’ compensation scheme.

WorkSafe Victoria is simply the trading name of the **Victorian WorkCover Authority**.



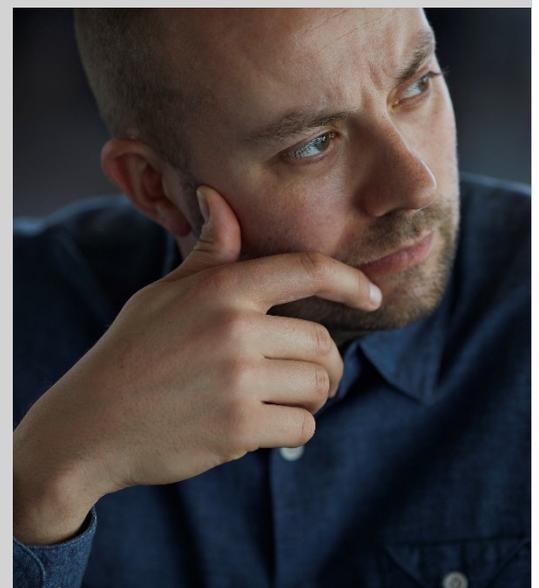
Dispute resolution

What if I disagree?

The **WorkCover Insurer** may make decisions that you are unhappy with. This can be from the outset if your claim is rejected, or, where you have an accepted claim, you may disagree about your entitlements including such things as the level of your weekly payments, the funding of medical and like expenses, or lump sum entitlements.

A Request for Conciliation can be lodged with the **Accident Compensation Conciliation Service (“ACCS”)** but must usually be lodged within **60 days** of the decision. Where the **ACCS** fails to resolve the dispute, the issue can be referred to the **Workers Compensation Independent Review Service (“WCIRS”)**. If the issue remains unresolved it can proceed to the Courts. You should seek legal advice if you are unable to resolve a dispute.

Call us: 1300 020 618



VicClaim App

WorkSafe Victoria now has an App to help you manage your WorkCover Claim. It's called the **VicClaim App**.

The App will assist you to photograph and send documents to WorkCover and send notifications to remind you when your Certificate of Capacity is expiring etc. Remember, neither WorkSafe nor the WorkCover Insurer are acting on your behalf, so seek legal advice where needed.

For more information go to:

[VicClaim App Guide](#)

Potential Entitlements – a snapshot

If you have an accepted WorkCover claim for work-related stress, it may give rise to certain entitlements. Every claim is different so if you find yourself in a dispute with the WorkCover insurer or find you are struggling to return to your usual work after an extended period (eg: 12 months) you should call us.



Medical & Like Services – if you have sustained a mental injury, you can now access early treatment and support while you await the outcome of your claim. If your claim is accepted, the WorkCover Insurer can continue to pay reasonable expenses.

Permanent Impairment Benefit – if you do not make a complete recovery from your injury such that you have a permanent impairment, you may be entitled to lump sum compensation, providing your injury satisfies a certain threshold.

Weekly Payments – if you are unable to work by reason of your injury, you will be entitled to weekly payments of compensation. These payments are calculated as a percentage of your pre-injury earnings and reduce and/or cease over time depending upon your level of injury.

Common Law – if your injury was caused at least in part by your employer or another party, and you satisfy the definition of “serious injury” you may be entitled to claim damages at Common Law. These claims are complex and strict time limits apply. If you have a potential Common Law claim we urge you to contact us.

in the news >>>

Increase in mental health claims

“WorkSafe Victoria, the government agency that runs the workers compensation scheme, said growing community awareness of mental health meant workers were more likely to seek treatment, and take time off work than in the past” – The Age 28 June 2021



Time Limits Can Be Deadly

The WorkCover scheme is complex and contains many time limits and deadlines which, if not adhered to, can be fatal to your claim. Every case is different so if you are concerned about a deadline – CALL US!

Medicals

You generally have **6 months** from the date you receive medical or like treatment to claim those expenses from the WorkCover Insurer.

Conciliation

You generally have **60 days** from the date of a WorkCover Insurer decision to lodge a Request for Conciliation with the **Accident Compensation Conciliation Service**.

Common Law

If you have sustained an injury which may give rise to a claim for damages, then such claim must normally be commenced within **6 years** from the date of the incident causing injury. This date can in some cases be more difficult to ascertain and extensions can sometimes be granted. It is important that you **SEEK LEGAL ADVICE** if you have not recovered from your injury.



final thoughts...

Circumstances can change. Things may not have turned out the way you had hoped. If, despite your best efforts you have not managed to return to your usual employment after many months or are struggling to do your usual duties, please ensure you contact us. You may be entitled to lump sum compensation and we are here to assist.

At Fortitude Legal we are a team of dedicated legal professionals who have devoted our working lives to serving Victorians injured at work.

We have an unrivalled passion for the work that we do and for ensuring that our clients get the compensation they deserve.

We understand that our clients deserve exceptional legal services, delivered in an understandable, approachable and convenient way.

We have offices in Ballarat, Bendigo and Geelong and visiting services in Maryborough, Melton and Melbourne CBD.

We pride ourselves on flexible communication options that make it easier for our clients to talk to us from wherever you are, whenever you need to.

Contact us: 1300 020 618

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coming soon >>>

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Developments in the Law

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