

Your Road to Recovery and Returning to Work

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**Government
of South Australia**

Office of the Commissioner
for Public Sector Employment

The Government of South Australia
Is committed to supporting our injured
workers. We have a strong focus on
supporting your early, safe and sustainable
return to suitable employment.

This document outlines your rights and
obligations, our obligations as your
employer, what happens when you lodge
a claim for a work-related injury and
the process of returning to work.

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I have lodged a claim; what happens next?

We (your employer) will immediately start the process to support your recovery and return to work.

We work to help you as soon as we receive notification of your injury – even before your claim is determined – to ensure that you are quickly on the path to recovery. If your work injury impacts on your capacity to do your job we will meet with you and your manager to understand your needs so that we can assist in your recovery and return to work.

We will determine your claim as soon as practical and advise you when a decision has been made. Wherever possible, we will make this decision within 10 business days of receiving your claim.

In some cases a decision may need to be deferred; we may need to speak to your treating medical practitioner or other people involved in your claim to obtain further information or documentation before we can make a decision about your claim.

Roles and Responsibilities

WHO IS INVOLVED?

Early in the process you'll mainly be speaking with your line manager and Return to Work (RTW) Consultant.

While you are recovering and returning to work, your doctor may refer you to other medical or allied health professionals.

What is the role of those involved?

You	<p>You are expected to actively engage in activities to support your recovery and return to work, including planning, goal setting, and participating in return to work activities. You will be required to provide feedback to your doctor on how your treatment and recovery are progressing and take all reasonable steps to remain at, or return to, work in suitable employment and recover from your injury as soon as possible.</p> <p>You must also ensure you provide up-to-date medical certificates that address your capacity for work and other relevant information.</p>
Your employer	<p>Your manager / supervisor has a significant role during all stages of your recovery and return to work process by providing information and assistance to you, ensuring suitable duties are provided, and attending return to work meetings.</p>
Return to Work Consultant	<p>The Return to Work Consultant has the responsibility of providing a comprehensive vocational return to work service by facilitating the recovery and return work process to ultimately assist you to achieve an early, safe and sustainable return to work.</p>
Claims Consultant	<p>The Claims Consultant manages your workers compensation claim, including determination of your claim and entitlements in accordance with the <i>Return to Work Act 2014</i>.</p>
Medical Practitioner	<p>Your treating medical practitioner works with all parties involved in your recovery and return to work, to support you and provide advice on your treatment, progress, and capacity for work.</p>

Capacity and Return to Work

WHAT DOES CAPACITY MEAN AND WHY IS IT IMPORTANT?

Your doctor's opinion of what you can do at work – your capacity – is extremely important.

Clarification of your capacity and injury may be required from an independent specialist from time-to-time.

Your doctor will provide you with a '**Work Capacity Certificate**' (WCC) – a description of what you can safely do, and any physical and/or psychological considerations, to minimise the risk of aggravating your injury. Your doctor can access a WCC on RTWSA's website at <https://www.rtwsa.com/service-providers/medical-practitioners/work-capacity-certificate>.

In some cases, it may not be possible for you to return immediately to all your pre-injury duties, and you may require an initial return to suitable modified or alternative duties.

WHAT HAPPENS IF I CAN'T RETURN TO MY PRE-INJURY ROLE?

If your work restrictions prevent you from returning to your pre-injury role, we will identify alternative suitable duties that match your capacity.

We will regularly review your situation to make sure:

- your duties are within your current capacity
- appropriate support is provided to help you maximise your recovery and return to work.

WHAT ARE RECOVERY / RETURN TO WORK PLANS?

If your work injury impacts on your capacity to do your job, usually confirmed by your work capacity certificate(s), your Return to Work Consultant will work with you and your employer to develop a Recovery / Return to Work Plan.

Your Recovery / Return to Work Plan is an important tool designed to assist you and your support team to remain on track with your recovery and return to work. It is an action plan that identifies what assistance you might need.

Everyone involved in your recovery and return to work is expected to comply with the plan.

It is important that you actively participate and cooperate in the development and implementation of a Recovery/ Return to Work Plan that is most appropriate for your specific circumstances.

HOW WILL MY EMPLOYER SUPPORT ME TO RETURN TO WORK?

Your employer is required to make all reasonable efforts to identify and to provide suitable duties aligned to your current capacity, considering your:

- capacity for work
- medical history
- education, skills and work experience
- recovery/ return to work plan requirements
- any other relevant information.

If you believe your employer has failed to make reasonable efforts to identify, support and offer you suitable employment you can:

- apply to your employer in writing seeking suitable employment - refer to section 18 (3) of the Return to Work Act 2014; or if that fails
- raise your concerns with the Office of the Commissioner for Public Sector Employment; or
- apply to the South Australian Employment Tribunal for an order that your employer provide suitable employment.

Financial Support

WILL I RECEIVE FINANCIAL SUPPORT?

If you're injured at work, you'll be supported to recover from your injury and return to work and life as soon as possible. If your claim is accepted, you may be entitled to:

Income support

- up to 100% of your average weekly earnings for up to 52 weeks from the first day you are incapacitated to work
- then up to 80% of your average weekly earnings for up to 52 weeks.

Reasonable and necessary medical expenses

- whilst you are in receipt of income support; and
- for up to one year after your income support ceases; or
- for up to one year from your date of injury

Return to work services

- such as job placement, retraining and vocational support

CAN I GET FINANCIAL SUPPORT IF IT TAKES A WHILE TO DETERMINE MY CLAIM?

If your claim cannot be determined within 10 business days after its receipt, you will be offered payment of medical and related expenses, and income support if you lose time, by way of 'interim benefits'. It is your choice whether you accept the payment of interim benefits, or not.

You should be aware prior to accepting interim benefits that if your claim is rejected, any interim benefits paid to you will be required to be paid back.

WHAT HAPPENS IF MY CLAIM IS REJECTED?

If your claim is rejected, we will tell you why, and follow this up in writing to you. The letter will tell you about your right to have our decision reviewed, and the process that needs to be followed should you wish to have the decision reviewed.

HOW WILL I KNOW IF I WILL RECEIVE INCOME SUPPORT?

If you lose time from work, you may be entitled to income support.

As a guide, income support is calculated based on the salary earned over the previous 12 months, known as average weekly earnings (AWE). The legislation sets out minimum and maximum support payments that employees may receive.

If you have concerns about how your payments are calculated, your Claims Consultant will work with you to explain the calculation and inform you on how to have calculation reviewed if you believe it is wrong.

If you are earning less than your calculated AWE rate, you may be entitled to the difference between what you are earning and your AWE rate.

However, income support is not available indefinitely and it reduces over time if you continue to have an incapacity for work as follows:

- for up to 52 weeks you may be entitled to 100% of your AWE, or 100% of the difference between your earnings and AWE
- from 53 weeks to 104 weeks you may be entitled to 80% of your AWE, or 80% of the difference between your earnings and AWE.
- From 105 weeks onwards you will have no further entitlement to income support unless you are a 'seriously injured worker' (see 'Seriously injured workers' section for more information).

WHAT ABOUT MEDICAL EXPENSES?

In addition to income support you will be entitled to payment of necessary and reasonable medical expenses, for up to 12 months from the date your injury, or where you receive income support for up to 12 months from the date your income support ceases.

If your treating medical practitioners believe you will need to undertake surgery for your injury on a date after your medical expenses cease, you are able to apply for that surgery to occur at the later date with you Claims Consultant, so long as you apply before your entitlements cease.

This does not apply to surgeries considered to be a therapeutic aid, (including the cost of replacement and maintenance of your aid) and you may apply for approval to undertake this type of surgery at any time regardless of whether your medical entitlement has ceased. Therapeutic aids may include spectacles, contact lenses, hearing aids, false teeth, prosthesis, crutches and wheelchairs.

WHAT IF I NEED SURGERY AFTER MY ENTITLEMENTS END?

You may be entitled to up to 13 weeks of income support and associated medical expenses after the end of your entitlement period. You should discuss any proposed surgery with your Claims Consultant prior to your entitlements coming to an end.

AM I ENTITLED TO ANY OTHER COMPENSATION OR PAYMENTS?

You may be entitled to a lump sum payment if you have suffered a permanent impairment because of your injury.

An impairment assessment is undertaken if you have a permanent impairment resulting from a work injury once your injury has stabilised and will detail the level of whole person impairment (WPI) as a percentage.

There are two types of lump sum payments:

- **Non-economic loss:** If the WPI percentage for your work injury is assessed at 5% or above, you will be entitled to a payment for non-economic loss.
- **Economic loss:** If the WPI percentage for your physical work injury is 5% to 34% you will be entitled to a lump sum payment for economic loss.

If your WPI percentage is 30% or more from a psychiatric injury or 35% or more from a physical injury, you can access support as a seriously injured worker that offers an alternative benefits package (see 'Seriously injured workers' section for more information).

WHAT IS AN IMPAIRMENT ASSESSMENT?

An impairment assessment is undertaken to determine the level of WPI caused by your work injury. You are only entitled to one assessment for one or more injuries arising from the same trauma. When your work injury is at maximum medical improvement your Claims Consultant will contact you to initiate an impairment assessment by referral to an accredited impairment assessor.

Impairment assessors are medical practitioners that are accredited under an accreditation scheme established by the Minister. Their role is to assess injured workers and prepare assessment reports in accordance with the relevant Impairment Assessment Guidelines to determine:

- whether the injury has reached maximum medical improvement
- whether the injury has resulted in an impairment
- whether the impairment is permanent
- the degree of whole person impairment resulting from the work injury

A report will be provided to your Claims Consultant to help them make a determination for any lump sum entitlements. An impairment assessment is important as this will be used to determine your lump sum entitlements (economic and non-economic loss) and whether you have access to ongoing support as a seriously injured worker.

SERIOUSLY INJURED WORKERS

If, as a result of your impairment assessment, you are determined as having a WPI of 30% or more for a psychiatric injury or 35% or more for a physical injury, you will be considered a seriously injured worker.

Seriously injured workers are entitled to income support until retirement age, as well as continuing payment of necessary and reasonable medical expenses.

You are also able to utilise continuing return to work services.

Alternatively, seriously injured workers with eligible physical injuries can elect to take their entitlement to income support as a one-off economic loss lump sum in lieu of weekly payments. Where this election is made, there will be no ongoing entitlement to return to work services.

If an election is made for a lump sum payment in lieu of weekly payments, it cannot be later withdrawn, so advice from a competent professional, qualified financial advisor, and recognised health practitioner is required to make an election.

If a Seriously Injured worker's WPI is 50% or more and they elect to receive their entitlement as a lump sum, the South Australian Employment Tribunal will need to approve the election.

If your entitlements are due to cease and you are not yet able to proceed with an assessment, and you believe you are likely to meet the serious injury threshold for your injuries, you may apply to your Claims Consultant to make an interim decision that you are a seriously injured worker. You will need to provide medical evidence that supports that your whole person impairment is likely to be at or above the respective threshold.

If you are determined to be an interim seriously injured worker you will be entitled to income support and medical expenses as a seriously injured worker on an interim basis until your WPI is assessed and determined, or improvement in your impairment has occurred and a decision is made that it no longer appears that your WPI meets the respective threshold.

WHAT DO I DO IF I THINK MY CLAIM IS NOT BEING CORRECTLY MANAGED?

Crown agencies are required to meet services standards as defined in the Return to Work Act, 2014. The service standards cover:

- recovery and return to work as the primary goal after a work injury
- early and timely intervention to improve outcomes
- active assistance and participation of the worker and employer to ensure the maintenance of the relationship between the worker and employer
- employer's recovery and return to work obligations
- ensuring fairness, integrity, respect and courtesy for a worker and employer
- clarity about the claims management and return to work process
- providing assistance and information to make a claim
- clear and effective communication in a manner a worker and employer will understand
- maintaining confidentiality and privacy
- avenues for feedback and complaints resolution
- your right to be supported

Your Road to Recovery and Returning to Work

These standards encourage positive relationships between agencies and their workers and acknowledge that we all need to work together to achieve the best outcome possible when someone is injured at work.

Your agency will work with you to address and resolve problems and concerns, keeping you advised along the way. If you have a complaint, please refer to your agency's complaint management procedure.

If you remain unsatisfied with your agency meeting the service standards you may lodge a complaint with Ombudsman SA (ombudsman.sa.gov.au).

If your complaint relates to a decision made in relation to your claim you can make application to the South Australia Employment Tribunal (saet.sa.gov.au) for a review of the decision.

Communication

HOW WILL WE STAY IN TOUCH

To manage your claim, it is important that we maintain regular contact with each other. We will find out what works best for you, like regular phone calls, emails or face-to-face contact.

You must let us know if:

- there is any change in your condition that affects your capacity for work
- you have received a medical report and/or work capacity certificate
- your treating medical practitioner has recommended treatment, services, or special equipment
- you are considering a surgical procedure
- you are changing your treating medical practitioner
- you require time off work to attend an appointment (most appointments, such as with your treating medical provider, are to occur in your own time)
- your address or contact details change
- you wish to cease receiving entitlements.

WHAT IF ENGLISH IS NOT MY PREFERRED LANGUAGE OR I HAVE IMPAIRED VISION OR HEARING?

We can arrange access to professional interpreting and translating services during the injury management and return to work processes, including services for people with impaired vision or hearing.

Key rights and obligations under the *Return to Work Act 2014*

WORKER'S RIGHTS AND OBLIGATIONS

Worker's Rights

- Lodge a workers compensation claim for a work related injury/illness
- Choose your treating medical practitioner(s)
- Early intervention and where required, recovery and return to work assistance
- Active claim management
- Reasonable financial support during the recovery and return to work process if your claim is accepted
- Active involvement in the development of, and review of, your recovery/return to work plans
- Have recovery / return to work plans developed and reviewed to ensure objectives are met, and be provided with a copy of approved plans
- Access your agency's complaint management process
- Independent representation / advice regarding your claim and return to work process
- Have your personal information kept confidential
- Request documentation held on your claim and / or return to work files
- Receive a copy of medical reports obtained

Worker's Obligations

- Notify your employer of any work-related injury as soon as possible (same day / same shift as injury occurs)
- Actively participate in all activities supporting your recovery and return to work
- Comply with all obligations in your Recovery / Return To Work Plan
- Provide up to date work capacity certificates
- Undertake suitable duties that are offered to you

EMPLOYER'S RIGHTS AND OBLIGATIONS

Employer's Rights

- Be actively involved in, and kept informed about, return to work processes, including development, review and provision of a copy of Recovery / Return To Work Plans
- Be provided with a copy of work capacity certificates
- Input into the determination of the claim and entitlements

Employer's Obligations

- Notify their injury management unit of your work injury to determine your eligibility for compensation under the Return to Work Act 2014
- Ensure timely intervention and the provision of effective services to improve your recovery and return to work outcomes
- Provide reasonable financial support during your recovery and return to work process
- Provide suitable employment that you can perform safely as you recover from your injury
- Support you to participate in activities designed to enable your recovery and return to work
- Participate and cooperate in the development of, and review of, recovery/return to work plans
- Comply with Recovery/ Return To Work Plan obligations
- Treat you fairly and with integrity, respect, and courtesy, and comply with stated timeframes
- Provide avenues for feedback or making complaints, including the process for resolving any issues
- Respect and maintain your confidentiality in accordance with legislation

WHERE CAN I GET MORE INFORMATION?

You can get more information from the following:

- Your line manager
- Your Return to Work Consultant
- Your Claims Consultant
- **Office of the Commissioner for Public Sector Employment**
Website: publicsector.sa.gov.au
Email: publicsector@sa.gov.au
Phone: (08) 8226 2700
Street address: Ground Floor, State Administration Centre, 200 Victoria Square
Adelaide SA 5000
Mailing address: GPO Box 2343, Adelaide SA 5001
- **Ombudsman SA**
Website: ombudsman.sa.gov.au
Email: ombudsman@ombudsman.sa.gov.au
Phone: 8226 8699
Street address: Level 5, 91 King William Street, Adelaide SA 5000
Mailing address: PO Box 3651 Rundle Mall, Adelaide SA 5000
- **SA Employment Tribunal**
Website: saet.sa.gov.au
Email: saet@sa.gov.au
Phone: 8207 0999
Street address: Level 6 Riverside Centre, North Terrace, Adelaide SA 5000
Mailing address: PO Box 3636 Rundle Mall, Adelaide SA 5000
- **ReturnToWorkSA**
Website: rtwsa.com
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October 2022