

## Rehabilitation and Compensation

### – Workers' Compensation

# Disputes >

**This information bulletin outlines the dispute resolution processes available to injured workers when they have a workers' compensation dispute.**

#### **Notification of the decision**

If you have been injured at work, or suffered a work-related illness, and have lodged a claim for workers' compensation with your employer, there may be times when you disagree with decisions made by the insurer regarding your claim.

These decisions include:

- (a) initial rejection of the claim;
- (b) reduction or cancellation of a weekly benefit already being paid;
- (c) rejection of medical, rehabilitation or other benefits claimed.

You must be notified of decisions (a) and (b) in writing by your employer's insurance company. This notification is called a Notice of Decision and Rights of Appeal form (sometimes referred to as a Form 5). On this notice the insurer must state, in a manner that is easily understood, the reasons for their decision, and advise you of your rights of appeal.

There is no requirement for the insurer to issue a formal Notice of Decision and Rights of Appeal form regarding (c), above.

#### **Your rights of appeal**

##### ***Mediation process***

Should you disagree with the insurer's decision you may ask for mediation.

**NOTE: You have 90 days from receipt of the Notice of Decision and Rights Appeal form to apply to NT WorkSafe for mediation**

To initiate the mediation process either:

- Complete the section on the Notice of Decision and Rights of Appeal form entitled Request for Mediation, and send the complete form to NT WorkSafe (instructions are outlined in the Notice of Decision and Rights of Appeal form) or;
- Write to NT WorkSafe and clearly state the nature of the dispute you have with the insurer.

NT WorkSafe will appoint a mediator who will then obtain information from you and the insurer and may arrange a mediation conference between you and the insurer. This should happen within 35 days of NT WorkSafe receiving your request.

The mediation process is strictly confidential and anything said, written or done during the course of mediation conference cannot be used, should the matter proceed to the Work Health Court.

It is important to provide the mediator with copies of any written information that you have on which you intend to rely (eg. medical reports).

### ***Interim benefits***

The worker may apply to the Work Health Court for interim benefits at any time after they have applied for mediation. The worker should be aware that if their claim is subsequently denied, action might be taken to recover these benefits from the worker.

### ***Court process***

If you are dissatisfied with the outcome of the mediation process, you may then make an application to the [Work Health Court](#) to have the dispute resolved.

Applications to the Work Health Court can be made at any Local (Magistrates) Court in the Northern Territory. The Registrar of the Work Health Court will provide you with the application form and may provide some information on how to make your application.

As well as completing the application, which requires you to make a statement of claim, you must attach the mediation certificate provided by the Mediator. An application for interim benefits can also be made to the Work Health Court without the requirement for a certificate of mediation on the condition that a worker has applied for mediation.

An application to the Work Health Court should be made within 28 days of you receiving the certificate of mediation from the Mediator. If you fail to make an application within this time, you can apply to the Work Health Court to extend that time limit. This extension is at the Court's discretion.

From here the Registrar of the Court will arrange for a directions conference. At this conference the emphasis is on trying to reach a settlement of the dispute through conciliation.

If the dispute cannot be settled by conciliation it will then proceed to a hearing before a Magistrate.

**NB** It is not a requirement to have legal representation when taking an action through the Work Health Court. However, such representation may well be of advantage to you and should be considered.

For further information see NT WorkSafe Bulletin [13.01.09 Compensation - Mediation](#).

**Please note: before making an application to the Work Health Court the worker *MUST* first apply for and complete the mediation process.**

### ***Permanent impairment reassessment process***

If you have been assessed for a permanent impairment and you or the insurer is dissatisfied with the percentage level of permanent impairment, either party may apply to NT WorkSafe for a reassessment. Such applications must be in writing.

**NOTE: NT WorkSafe must receive an application for a reassessment within 28 days of the insurer or worker being notified of the result of the initial assessment.**

Upon receipt of an application for permanent impairment reassessment, NT WorkSafe must organise a panel of three doctors to carry out the reassessment.

The panel of doctors must include at least one medical practitioner who according to NT WorkSafe has specialist knowledge of the type of impairment in question and must not include the medical practitioner who originally assessed the level of impairment.

The panel's chairperson prepares a panel's consolidated report determining the level of permanent impairment in accordance with the prescribed guides, which are the 'American Medical Association Guides to the Evaluation of Permanent Impairment (Fourth edition)'.

The level of impairment determined by the panel is final and binding on both the worker and insurer.

The cost incurred in carrying out a permanent impairment assessment or reassessment is paid by the employer's insurer.

For further information see NT WorkSafe Bulletin [13.01.10 Compensation - Permanent impairment](#).

### **Further information**

During the course of your claim there may be other issues you wish to dispute which may be resolved in a different manner.

For further information regarding permanent impairment reassessment, mediation or other matters in relation to your claim contact the Rehabilitation & Compensation Division of NT WorkSafe on telephone 1800 250 713.

### **NT WorkSafe >**

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