

## Rehabilitation and Compensation

### – Workers' Compensation

# Mediation >

**This information bulletin has been produced to explain the mediation process and the role of each participant, in the resolution of workers' compensation disputes.**

#### Mediation time limit

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

#### What is mediation?

Mediation may help solve disputes by sharing information, identifying the issues in dispute, discussing them and trying to reach a mutually acceptable agreement. It is fair, informal, quick and is a free service.

#### Who is involved?

The worker, the insurer and a mediator. In some cases the employer, a union representative or support person may also be involved.

#### Worker's role

This is an opportunity for the worker to present their case to the insurer in an impartial and informal atmosphere. If there is any additional information that may assist the claim, the worker should provide this to the mediator.

#### Insurer's role

To listen to the worker, to provide explanation and information to the mediator regarding the decision under dispute, and to consider any new information that is provided.

#### Mediator's role

The mediator is required to be independent, fair and impartial. The mediator will assist discussion, keep control of the process and assist the parties to reach agreement. If required, the mediator may make recommendations to assist either party to resolve the issue under dispute.

#### The mediation process

After NT WorkSafe receives the request for mediation, a mediator is appointed within 7 days. On appointment, the mediator has 21 days to progress and complete the mediation process.

Once the request for mediation is lodged the worker **must** ensure that they are available during the 21 days for the mediator to conduct a mediation conference, if necessary.

The mediator may contact the worker regarding any additional information that may be available to assist in resolving the dispute. This additional information will be passed on to the insurer. The insurer may reconsider the claim, taking into account the additional information provided.

The insurer must also provide to the mediator all the information that was relied upon when reaching the decision. There may be times when legal professional privilege may apply to some information.

If the claim is still in dispute, and in the opinion of the mediator, a conference would help resolve the matter then the mediator will invite both parties to attend a mediation conference. **Participation at the conference is compulsory.**

### **Interpreter**

If the worker speaks another language other than English, or speaks English as a second language, the worker, insurer or mediator can request NT WorkSafe to arrange an interpreter.

### **The mediation conference**

The conference will usually include the worker, the insurer, the mediator and where appropriate, the employer. If because of distance, it would be impractical for all parties to attend, the mediation conference may be conducted by a telephone conference.

The worker may bring a friend or union representative to the mediation conference. Lawyers are not permitted to attend mediation conferences except where agreed to by the mediator.

At the conference, the worker will be asked to explain why they disagree with the insurer's decision. The insurer will be asked to explain the reasons for their decision. Following this, the mediator will assist in identifying the matters actually in dispute; then, with both parties, endeavour to resolve those issues and, if possible, bring about agreement.

### **Outcome of mediation**

Mediation may result in:

- the reasons for a decision becoming clearer or better understood by the worker;
- the decision being changed;
- an undertaking by the insurer to reconsider their decision on receipt of further information; or
- no change to the decision.

The worker will be advised in writing, by the mediator, of the outcome of the mediation including any recommendations. The written advice of the mediator is referred to as a Certificate of Mediation.

### **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.

### **Dissatisfied with the mediation outcome?**

If a worker is dissatisfied with the outcome of the mediation process, they may then make an application to the Work Health Court.

The application to commence court proceedings should be made within 28 days from the date of receipt of the Certificate of Mediation.

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

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