

# WorkCover Scheme Modernisation

## FACTSHEET

### Why are these changes necessary?

The Scheme was created in 1985 with the aim of providing effective rehabilitation and suitable employment for injured workers to support their return to work.

The longer a person spends away from work, the less likely they are to ever return which, in turn, increases the risk of negative health outcomes for these workers.

WorkCover is no longer meeting the modern needs of those it was designed to assist more than 30 years ago.

Since 2010, WorkCover's claims liability has tripled, mainly driven by the increased cost of weekly income support and many workers staying on the scheme long-term.

The increase is partially driven by mental injury claims – now representing 16 per cent of new claims – which was never envisaged when the scheme was designed.

### Eligibility changes

#### Mental injury claims

After changes to modernise the WorkCover Scheme take effect, workers with stress and burnout claims will no longer be able to access weekly benefits from WorkCover – instead, they will be able to access provisional payments for 13 weeks to cover medical treatment, alongside enhanced psychosocial supports to help them return to the workplace or explore training pathways.

WorkSafe will continue to focus on preventing workplace injuries and supporting workers who make claims for physical injuries, workplace harassment, bullying and traumatic events such as those experienced by frontline workers.

### Claims lasting longer than two-and-a-half years

To align with other states and territories, WorkSafe will update the test for people who have been receiving weekly benefits for longer than two and a half years, to more objectively measure the degree of physical and mental impairment alongside work capacity.

After these changes take effect, a Whole Person Impairment of greater than 20% will be required alongside the capacity test for a worker to continue receiving weekly benefits beyond two and a half years.

Return to Work Victoria will support injured workers with pathways towards suitable work, including training and job placement incentives.

## More worker supports through Return to Work Victoria

We are establishing Return to Work Victoria to pilot prevention, early intervention and return to work programs – to ensure that every worker who is injured at work gets the support they need to as early as possible to rehabilitate and get back into work.

Return to Work Victoria's core purpose will be to prevent injuries from occurring in the first place, and take input from employers, workers and their medical practitioners to help workers get back to work as early and as safely as possible – because we know that work plays an important role in rehabilitation and promoting a better recovery.

Boosted assistance to help workers get back to their job, find a new position, or prevent them leaving in the first place is good for workers and businesses – helping avoid the negative health impacts of long-term unemployment, and helping keep business premiums lower.

## When will these changes take place?

We will continue to consult with unions, employers, and advocates as we develop the proposed changes.

Legislation is planned to be introduced in the second half of 2023, with planned changes to come into effect in 2024.

A legislated review will be required to take place no earlier than three years after the changes come into effect, to assess the impact of the reforms, on the Scheme's operations and finances, and to ensure the Scheme is operating as it should and workers are receiving the supports they need.

## EXAMPLES OF CLAIMS INTENDED TO BE INCLUDED

### MENTAL INJURY CLAIMS

#### Occupational violence

Maria is a teacher who lodges a claim as a result of several incidents of occupational violence from students.

She is diagnosed with an adjustment disorder with mixed anxiety and depression.

*Maria has been diagnosed with a significant condition resulting from a cumulative series of stressors that are traumatic experiences predominantly caused from work.*

#### Workplace bullying

Phuong is a finance manager who lodges a claim as a result of workplace bullying from a colleague.

Phuong is diagnosed with a major depressive disorder and PTSD.

*Phuong has been diagnosed with a significant condition resulting from a cumulative series of stressors that are emotionally shocking events, predominantly caused from work.*

### WHOLE PERSON IMPAIRMENT

#### Physical injury impairment

Tony is a truck driver who lodged a claim after twisting his right knee when he climbed out of his truck.

Tony underwent a total knee replacement six months post injury. He was left with a reduced range of motion of the knee, continued swelling of the joint and ongoing medication to manage pain.

*Tony would continue to receive weekly benefits after 130 weeks as he has been assessed with a 30% WPI due a knee replacement with a poor result.*

#### Mental injury impairment

Paul is a police officer who lodged a claim following years of witnessing highly traumatic events, including deaths from motor vehicle accidents.

*Paul would continue to receive weekly benefits after 130 weeks as he has been assessed with a 23% WPI for a diagnosis of PTSD with symptoms including depression, anxiety, flashbacks and sleep disturbance.*

## Who will these changes apply to?

Workers currently receiving weekly benefits, and who have received more than two-and-a-half-years of weekly payments, will continue under the current eligibility arrangements and will be subject to ongoing capacity tests. They will also be able to access Return to Work Victoria services to help them get the support they need to recover and find a pathway back to employment.

Workers on the Scheme who have not received two and a half years of payments when the legislation comes into effect will need to meet the new Whole Person Impairment threshold to continue to receive weekly benefits beyond two and a half years.

New mental injury claims submitted from the date the legislation comes into effect will need to meet the new eligibility threshold to be eligible to receive weekly benefits.

## What will happen to me if my Whole Person Impairment is 20% or less?

From its inception, the objective of the WorkCover Scheme has been to support injured workers' rehabilitation and provide safe employment to help them return to work safely.

The research shows that the longer a person is disconnected from work, the worse their health outcomes. Safe and suitable work is good for health, as it provides a sense of purpose and economic independence.

Through Return to Work Victoria, we will work with you to provide the supports you need to give you the best chance to return to employment. This could be by providing psychosocial supports, training or connecting you to suitable employment opportunities.

## What if my injury hasn't stabilised after two-and-a-half-years?

Further consultation will be undertaken to finalise how the Whole Person Impairment threshold will apply where an injury has not yet stabilised.

## Will this affect my common law rights?

No changes will be made to common law rights. You should speak to your legal advisors to understand what rights you may be entitled to at common law.

## How will I be supported if I'm suffering from stress and burnout?

Most jobs involve a degree of stress, and this will vary depending on the industry. Individuals will respond to stress in different ways, and the employment law system provides workers with sick leave and other forms of leave to allow them to recharge following periods of intense work pressure.

Our focus will be on supporting Victorians experiencing stress and burnout and providing them with early interventions so that they can remain connected to work in a safe way. Early treatment is vitally important, and we will continue to cover the reasonable cost of treatment and support for 13 weeks to help with your recovery.

Early treatment (or provisional payments) cover the cost of GPs who work with you to develop an action plan to support your recovery and include payments for: psychologists, counsellors, psychiatrists, cost of medication and travel to treatment and services. The cost of facilitated discussions are also covered to support you to identify and address barriers to return to work with your employer.

We will also work with unions and employer groups who have identified a range of initiatives to support prevention and early intervention. We will be consulting on these further and exploring options to ensure workers and employers get the help they need to identify the early signs of stress and address these before significant injuries emerge.

The introduction of the Psychological Health Regulations will also provide important protections for workers. The Regulations will amend the Occupational Health and Safety Regulations to provide employers with a clear framework to protect workers from psychological risk in the workplace.

Work is underway to assess the feedback provided during consultation and this will guide final drafting, supplementary materials to guide employers and implementation timelines.