



What to do if Comcare ceases your worker's compensation claim

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The [Federal Comcare worker's compensation scheme](#) is quite unique in terms of the process to dispute a decision to stop or cease, or indeed not to accept an application for compensation in the first place. In this blog, we examine some of the more important things to keep in mind if you are considering disputing Comcare's decision to stop or cease your claim for worker's compensation.

How is an adverse Comcare decision disputed by the injured worker?

Unlike most state or territory worker's compensation schemes, the Comcare system doesn't have an independent review body to consider disputes about decisions relating to a worker's Comcare claim.

Instead, the Act that governs Comcare claims (the Safety Rehabilitation and Compensation Act) provides that a worker aggrieved by a decision of Comcare (or a self-insurer) needs to ask Comcare to 'reconsider' its decision. In other words, the worker has to ask the very decision maker to basically consider why it should overturn its own decision. This, as you might well imagine, doesn't result in too many original decisions being overturned.

Submitting a request to Comcare to review a decision is called a "Reconsideration Request". The request must be submitted using Comcare's ["Reconsideration Request Form"](#).

Time limits to dispute a Comcare decision

The Act provides that a claimant (the injured worker) needs to make a formal request to Comcare/self-insurer to 'reconsider' their own decision within 30 days of receiving the original decision.

In most instances, Comcare or the self-insurer makes their decision to either cease/stop a worker's compensation claim or not accept it in the first place, based on certain medical opinions they have obtained themselves, usually from an 'independent medical specialist'. This usually means that unless the worker is able to get another medical report (usually from their treating GP or Specialist) to provide a different opinion to the Comcare specialist, then typically, their 'Reconsideration Request' is doomed.

The 30-day time limit is difficult for injured workers to meet if they are seeking a medical report from their own treating practitioner.

Requesting an extension of the 30-day time limit to dispute a Comcare decision

Where an injured worker chooses to have their own GP/specialist provide a medical report in support of the claim, this will usually take more than the 30 days.

In such instances, the claimant should contact Comcare to indicate that they are in the process of getting their own medical report to address the opinion of Comcare's specialist and that they need more time to allow the doctor to undertake an assessment and provide their written opinion.

Comcare will always give due consideration to a request for an extension of the 30 days in which to get the Reconsideration Request submitted.

But, even if the worker is able to get a medical report/letter from their treating GP/specialist to counter the views of the Comcare doctor, in the vast majority of cases, Comcare (for a variety of reasons) will simply determine that it still prefers the views of their own doctor, and 'confirm the original decision'.

Options if there is no change after a Reconsideration Request?

In the vast majority of cases, a Reconsideration Request will simply confirm the original decision to cease/stop (also not to accept) payment of Comcare worker's compensation entitlements.

Your option now is to proceed with an appeal to the Administrative Appeals Tribunal (AAT). It's crucial, at this point, that you seek legal advice.

[FREE ADVICE FROM A COMCARE LAWYER: 07 3310 8729](https://www.comcarelawyer.com.au)

Time limits to apply to the AAT for a review of a Comcare Reconsideration Decision

It is very important to note that you only have 60 days from the date you receive a Comcare Reconsideration Decision in which to lodge an application with the AAT.

We can lodge your appeal with the AAT for you. However, it's important not to delay once you receive the Reconsideration Decision from Comcare/self-insurer (employer).

What if I lose my appeal at the AAT?

The process of appealing a Comcare decision before the AAT is not straightforward, and frankly, if you were considering doing so and you have a worthwhile case to run, then you need an experienced lawyer to act for you.

If your lawyer is acting for you on a no-win-no-fee basis, and you lose your appeal before the AAT, then you would not have to pay your lawyer for their legal services. And because of a peculiar rule provided in the Act, if you lose, then you do not have to pay Comcare's legal costs of successfully defending your appeal.

In other words, there are 'no adverse costs consequences' of appealing a Comcare decision to the AAT. In some instances, claimants might have to meet the cost of obtaining a further specialist medical report to help the lawyer establish their case before the AAT. Otherwise running a case in the AAT can be done without the stress of having to pay large sums to Comcare if you are not successful.

Get help from a Comcare worker's compensation lawyer

At CHC Lawyers, you will receive our realistic assessment of your prospects of being successful with an appeal to the AAT and having your claim reinstated (or accepted in the first place if it was rejected completely at the outset).

If we are of the view that you have reasonable prospects of success before the AAT, then we will usually agree to act for you on a no-win-no-fee basis. We also provide free initial advice, so it costs you nothing to find out where you stand.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.