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COMPENSATION LAWYERS



WorkCover lump sum compensation claims Queensland

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If you've had a workplace injury in Queensland and you have been paid statutory worker's compensation benefits like weekly payments and medical expenses, then you may also be entitled to what is called a 'lump sum offer' from Workcover Queensland (or if your employer is a 'self-insurer', then from them or their claims administrator).

Lump sum worker's compensation is a payment for permanent impairment.

If you have had a statutory worker's compensation claim in the past, and have not received an offer of lump sum compensation, then you have the right to contact Workcover (or the self-insurer) and request that they take steps to determine if you might be entitled to receive such an offer.

Eligibility for lump sum compensation after a workplace injury in Queensland

Injured workers are entitled to receive an offer of lump sum compensation if their work-related injury has left them with a 'permanent impairment' of any part of their body.

A lump sum is able to be paid in relation to both physical injuries and psychological (stress) claims. In fact, in some cases, an injured worker will be entitled lump sum compensation for both their physical and an associated psychological injury (especially when the nature of the physical injury is such that it impacts upon the worker's state of mind).

How is worker's compensation permanent impairment determined?

A permanent impairment assessment process is a ‘medical’ one, not an assessment of how a particular injury impacts the injured person’s ability to work or do other everyday things (such as cooking or cleaning the house, driving a car, etc).

Whether an injured worker who has an accepted worker’s compensation claim for weekly payments, medical expenses and/or other benefits might also have a permanent impairment claim will depend entirely on the opinion of a medical practitioner. When seeking lump sum compensation for permanent impairment, a medical practitioner will be required to review your situation (the specifics of your injury) and make an assessment of any actual bodily impairment you have sustained.

When would I expect an offer of a worker’s compensation lump sum benefit?

Any offer of lump sum benefit can only be made when you are assessed for ‘permanent impairment’. An injured worker can only be assessed for permanent impairment when their injury is considered ‘stable and stationary and not likely to improve with further medical treatment’.

This is something only a qualified medical doctor can determine. That is, it is not something that your Workcover claims officer/representative is able to decide.

The majority of Workcover claims involve only relatively minor injuries which tend to resolve over the course of a week or two. But a good proportion of claims are more significant and can go on for months, if not years in some of the more serious cases. These more significant injury claims will usually involve a degree of ‘permanent impairment’ that is capable of being assessed by a medical doctor.

It’s important to note that it won’t be for a number of months (and sometimes over a year or more) before an injury, which might be serious enough to be assessed for permanent impairment, will be at a point where it is considered ‘stable and stationary’, making it eligible for a lump sum compensation offer.

How much is paid for WorkCover lump sum claims?

The amount of worker’s compensation lump sum offer will be based on the degree of permanent impairment which is assessed by the medical doctor, or in some cases the Medical Assessment Tribunal (‘MAT’) (more on that later).

Here’s an example of a lump sum payment calculation

If you are assessed at, say, 10% whole-person-impairment, then the lump sum offer will be 30% of the maximum amount that can be paid by Workcover.

This ‘maximum amount' changes as the years go on (that is, it is indexed at regular intervals).

As at March 2024 (the date of this blog), the maximum amount payable for a lump sum

> benefit for a work injury in Queensland is $380,575.31.
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> So, continuing with the above example, if the worker's injury is assessed at 30%, they will be offered $38,57.50.

For some claimants, additional lump sum amounts are added to this initial figure. This is a complicated area of law and one that we cannot go into detail on in this article. However, if your injury is such that you are being assessed at percentages high enough to attract these additional lump sum payments, you should be getting proper legal advice about your situation, from a lawyer experienced in Queensland worker's compensation law.

FREE ADVICE FROM A WORKER'S COMPENSATION LAWYER: 07 3310 8729

Worker's compensation common law damages claims – careful decisions need to be made

Where injuries sustained in a workplace accident were due to the negligence of another person or entity (for example, your employer), you may also be entitled to common law damages. A successful common law damages claim can pay a significant sum of money.

However, without doubt, the most important thing you need to know about offers of worker's compensation lump sum benefits (as discussed earlier in this blog) is:

> **If the offer of lump sum compensation is based on an assessment of permanent impairment of less than 20% whole person impairment ('WPI'), and you accept that offer, then you cannot sue your employer for common law damages.**

There is absolutely no ability to 'reverse' your decision once made. If you accept a lump sum offer based on a permanent impairment assessment of under 20% WPI, and then down the track, decide that you want to sue your employer for damages for the injury you suffered, you will be unable to do so.

Whilst you need to establish 'negligence' in order to be able to recover common law damages, this is usually not a high bar to clear, and the amount of damages that are able to be recovered in a common law claim, can often be substantially higher than any lump sum offered (based on a permanent impairment of less than 20%).

Get help from a worker's compensation lawyer

When considering your options in relation to a worker's compensation offer for a lump sum benefit, the 'golden rule' is to always consult with an experienced worker's compensation lawyer to discuss your options and decide on the best way to go. Seeking experienced legal advice early, will protect any entitlement you may have to the more substantial payments available with a common law damages claim.

Quite often, a significant work injury can impact substantially on a worker's ability to earn income, and if that is the case, and the

injury was due to negligence on the part of the employer (which often it is), then a common law claim will invariably be the best option to take.

We can provide you with free advice and run claims on a ‘no win no fee’ basis.

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