



# What do Medicare and Centrelink have to do with my compensation claim?

When an injured person pursues a claim for compensation arising out of an accident, there may be a right of recovery by Centrelink and Medicare for any monies paid to the injured person which relate to injuries sustained in the accident.

The insurer for the negligent party cannot release any settlement funds to the injured person until a clearance has been received from Centrelink and a notice of charge is received from Medicare or a 10% advance payment is made to Medicare. This is a statutory obligation under the provisions of the Health and Other Services Compensation Act 1995 and the Social Securities Act 1991.

## Right of Recovery by Medicare

During the course of an injured person's compensation claim, a request will be made to Medicare for a History Statement which will list all the Medicare benefits claimed by the injured person since the date of the accident. The injured person then needs to identify the treatment items that are related to the accident and complete a declaration.

Upon return of the completed statement and declaration, Medicare will determine the sum of money owed to Medicare and provide a Notice of charge to the respondent to the claim and the injured person. The amount of the charge is added to the injured person's claim for compensation and forms part of the claim for past medical expenses.

The Notice of Charge is valid for six months and needs to be updated every six months until finalisation of the claim. Should a valid Notice of Charge not be in existence at the time of resolution of the claim, an advance payment of 10% of the settlement sum needs to be paid to Medicare by the Respondent. Once Medicare determines its Charge, the balance of the 10% advance payment after deduction of the applicable charge will be paid to the injured person.

A settlement sum of \$5000 or less does not attract any charge from Medicare and if no compensation is received by the injured person the charge is not payable to Medicare.

## Right of Recovery by Centrelink

If an injured person has received Centrelink payments which are classified as income payments following the accident and makes a claim for economic loss as part of the compensation claim, Centrelink will have a right of recovery.

Once a settlement is reached, the respondent to the claim needs to notify Centrelink of the settlement sum. Centrelink will then determine a preclusion period which will run from the date of injury.

A preclusion period is a time where you're not entitled to Centrelink payments due to you subsequently receiving compensation for economic loss from a negligent party. The purpose of a preclusion period is to avoid "double dipping" with respect to income payments.

The preclusion period is calculated by taking half of the total settlement sum and dividing this sum by the state average weekly earnings. The result of this calculation will be the number of weeks that make up the preclusion period which period runs from the date of injury.

Any Centrelink income payments received by the injured person during the preclusion period will be repayable to Centrelink. The preclusion period is based on the amount of the settlement. The larger the settlement sum the larger the preclusion period. With larger settlements the preclusion period may extend into the future during which time the injured person cannot receive Centrelink payments.

Centrelink will only determine a preclusion period and seek recovery of monies when past or future economic loss has been claimed so as to avoid the injured person receiving Centrelink income payments and also receiving compensation from the respondent to the claim.

Even if there is no preclusion period and no repayment to Centrelink as no economic loss was claimed, the lump sum settlement may impact an injured person's entitlement to ongoing Centrelink payments and the injured person should advise Centrelink of the compensation payment.

## How can Andersons help?

If you have been injured in an accident where you may be entitled to compensation, it is important to seek legal advice about your entitlements. We offer a free first appointment of 30 minutes to discuss your personal situation and ascertain the likelihood of a successful claim.

If you'd like to speak to a lawyer, please contact us on 8238 6666 or email [enquiry@andersons.com.au](mailto:enquiry@andersons.com.au)