



ANDERSONS
S O L I C I T O R S

LawTalk Blog



Comcare - disputing a decision about your claim

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If you are an employee of one of the organisations covered by [Comcare](#) (whether employed full-time, part-time or casual), and you suffer an injury at work, you can claim compensation under the *Safety Rehabilitation & Compensation Act 1988* (Cth).

When a worker lodges their claim, often the assigned case manager has to perform some detailed investigations before responding to your claim. This investigation can include:

- Speaking to the worker's colleagues and supervisors about the incidents that caused the injury or disease;
- Obtaining the worker's medical records from the GP and other treating specialists (this often corroborates the worker's assertion that the injury/disease was caused by the workplace, but can also be damaging if the medical records show that non work related factors caused the injury/disease);
- Sending the worker for an independent medical examination with a specialist of the case manager's choice;
- Video surveillance of the injured worker; etc...

Unfortunately, once a claim is lodged, the law does not provide time limitations on Comcare or the employer to respond to the claim for compensation. However responses usually occur after about a month. If you feel that there have been unreasonable delays in relation to receiving a response to your claim, you should seek advice from an experienced lawyer immediately to ascertain the reasons for the delay and attempt to speed up the decision making process.

If your claim is rejected or you are unsatisfied with the decision regarding your claim, you have appeal rights. At first instance, you can request a 'reconsideration' of the decision, and this request needs to occur within 30 days of the decision. You should definitely seek legal advice regarding this request for reconsideration, because these requests can often involve a very careful and complex analysis of the law and facts surrounding the injury.

Often the reconsideration does not result in a change to the original decision. If you are still dissatisfied following the reconsideration process, you can instruct your lawyer to dispute the matter through the Administrative Appeals Tribunal ("AAT"). This is a complex process and you should not attempt to appeal the decision on your own. Appeals to the AAT should be made within 60 days of the reconsideration, which is also known as the 'reviewable decision'.

Other decisions apart from a rejection of the claim can also be disputed, including decisions to cease your benefits if your claim has previously been accepted, or a decision not to pay for certain medical treatment or pay you lump sum compensation for your permanent impairment. Furthermore, the case manager or employer may make unreasonable decisions about a Return to Work plan or your rehabilitation program, and this can also become the subject of a review.

The individuals managing your Comcare claim can and do make mistakes regarding legal entitlements, so you should not simply accept their findings if you are unhappy with the outcome. The Comcare system is very complicated, and the law is constantly evolving with new litigation being disputed all the time.

If you are injured or suffer a disease caused by your employment, and your employer is covered by the Comcare system, you should seek legal advice as soon as possible from a lawyer experienced in [workers compensation](#) claims.

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to Australian Federal legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.