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LawTalk Blog

Workers compensation
& lump sum payments



Frequently asked questions about your lump sum claim for workplace injury

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If you've suffered an injury and lodged a workers compensation claim in South Australia that has been accepted, you may also have an entitlement to a claim for permanent impairment. This claim is made under section 58 of the *Return to Work Act 2014* ("the Act") and comes in the form of a lump sum payment.

In today's blog, we've put together a number of frequently asked questions by workers compensation clients we've seen over the years.

Is there a time limit for making a claim for a lump sum payment?

There is no time limit for making a claim pursuant to Section 58. As long as your injury has reached "[maximum medical improvement](#)" you can make the claim at any time. This is the case even if the [two year period](#) for receiving weekly payments has ended.

Will a lump sum affect my entitlement to workers compensation weekly payments or compensation for medical expenses?

A lump sum payment for permanent impairment (non-economic loss) is intended to compensate an injured worker for the “human” or “quality of life” aspects of their injury. This entitlement is in addition to any other type of compensation available under the Act.

A lump sum payment will not affect your entitlement to receive weekly payments or payment of medical expenses.

How do I know if I have reached “maximum medical improvement”?

Ask your doctor. If you are still getting workers compensation medical certificates regularly, when you next see your doctor ask him or her whether, in their view you have reached “maximum medical improvement”.

If they think you have, ask them to note this on your certificate.

If you are no longer getting regular workers compensation certificates, arrange to see the doctor who treated you in relation to your work injury and ask him/her if they are able to say whether you have reached “maximum medical improvement”.

If they are unable to do so, you may need to ask the workers compensation insurer to arrange for you to be assessed by an accredited assessor to secure an assessment of whether you have reached “maximum medical improvement”.

Alternatively, speak to one of the solicitors in the Andersons workers compensation team who can assist by arranging for you to see a suitable medical expert who can provide an opinion in this regard.

How do I go about making a claim for lump sum compensation under Section 58?

Once your doctor confirms that you have reached “maximum medical improvement” you will need to advise your workers compensation insurer (preferably in writing) that you wish to proceed with a claim for lump sum compensation pursuant to Section 58 of the Act. We recommend that you seek assistance from a suitably qualified lawyer to act on your behalf in relation to this.

The insurer might ask you (or your lawyer) to provide evidence that you have reached “maximum medical improvement”.

If your doctor has stated on a workers compensation certificate that you have reached “maximum medical improvement” you should give this certificate to the insurer. If your doctor has just told you verbally, it may be necessary for the insurer to ask that doctor to provide a medical report. Alternatively your lawyer can get a medical report from your doctor.

Once the insurer is satisfied that you have reached “maximum medical improvement”, they should send you (or your lawyer) a list of accredited doctors and ask you to choose which doctor/s you wish to assess you. If your work injury has led to a number of different conditions affecting different body parts, it might be necessary to be assessed by a number of different doctors who have specific expertise with each body part or condition.

You have the right to choose the assessing doctor from the list provided. It is an important right and you should not give it up.

Do not tell the insurer that you don't care who assesses you. If you allow them to choose the assessor they may choose a doctor who they believe will give a more conservative assessment. If you need help choosing the appropriate doctor, you can contact one of the workers compensation lawyers in the Andersons team for assistance.

Once you've selected the assessing doctor/s, the workers compensation insurer should arrange an appointment with the selected doctor. During this appointment the assessing doctor should examine you and ask you questions about your symptoms and condition.

After the assessment, the doctor will send a report to the workers compensation insurer who is required to provide a copy to you or your lawyer.

If the doctor concludes that you have suffered a permanent impairment of at least 5% whole person impairment, the workers compensation insurer should issue a decision outlining your entitlement to a lump sum payment.

Do I need a lawyer to make a claim for lump sum for my workplace injury?

Strictly speaking you do not need a lawyer to make a claim for lump sum compensation however this is not our recommendation. It is not uncommon to encounter difficulties during the various stages of making a claim.

Many people find that it is preferable to have a lawyer during the process simply because they find the process of making, and progressing a claim, confusing and intimidating and they would prefer to put their energy into getting better.

Experienced and specialised legal representation will ensure that your claim encompasses all potential body parts and conditions, and might maximise the compensation you ultimately receive. Furthermore, being legally represented can provide you with comfort in knowing that, if any problems or issues arise, they will be dealt with promptly and professionally.

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