

# You and your worksafe claim

January 2013

## Decision making about your WorkSafe entitlements

The Department's WorkSafe Insurer CGU Workers Compensation (Vic) Ltd (CGU) is responsible for making liability decisions of WorkSafe claims on behalf of WorkSafe Victoria.

The WorkSafe scheme is a no-fault scheme. This means that an employee's entitlement to compensation is not linked to who is responsible for the injury or illness, but determined according to the Accident Compensation Act 1985.

CGU will advise you in writing as to whether or not liability for your claim has been accepted. For all claims for weekly compensation payments and medical and like services, CGU must advise you within 28 calendar days of receipt of your claim of their decision.

If CGU accept liability for a time lost claim any personal leave credits used after you ceased work and before liability was accepted will be re-credited by your school.

You have the right to appeal if CGU do not accept liability for your claim as explained in the claims liability dispute resolution section below.

## Management of your WorkSafe claim and the payment of weekly benefits

For claims that involve time off work and the payment of weekly benefits CGU **will**:

- Monitor and assess your ongoing entitlement to WorkSafe benefits and advise of any changes to your weekly benefit payments
- Receive and check the validity of your WorkSafe Certificates of Capacity
- Request that you attend independent medical examinations or worker interviews if necessary.
- Ensure that personal and health information is handled in accordance with WorkSafe's privacy policy.
- Provide you with support in returning to work

Your school will:

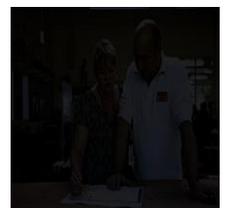
- Plan for your return to work in consultation with you, your treating health practitioners, your rehabilitation provider (if one has been engaged) and the CGU RTW Consultant
- As part of the planning of RTW, propose suitable duties that could commence when you have a capacity for work and prepare an offer of suitable employment for your return to work
- Forward your WorkSafe Certificates of Capacity to CGU Workers Compensation
- Ensure that you are paid correctly and on scheduled pay days while you are in receipt of weekly benefits.
- Ensure that personal and health information is handled in accordance with DEECD's privacy policy.

It is important to note that injured employees are required to:

- notify their employer of a work related injury or illness within 30 days of becoming aware of it
- participate in assessments of their capacity for work and approved rehabilitation programs and make reasonable attempts to return to work in suitable employment if they have an accepted WorkSafe claim
- provide evidence of current weekly earnings to both CGU Insurance and the school principal to ensure that the correct rate of compensation is applied
- cooperate with their employer's attempts to return them to work
- provide valid WorkSafe Certificates of Capacity if there is an entitlement to receive weekly compensation payments.

Where employees do not meet these requirements they may jeopardise their entitlement to compensation.

It should also be noted, that as part of the pre employment process, applicants are required to disclose any pre existing injury or illness that may be affected by the proposed duties of the position. Failure to disclose a pre existing injury or illness may jeopardise an



employee's entitlement to compensation if that injury or illness recurs as a result of their employment.

### Injured employees are also entitled to:

- Choose their own doctor or health care providers
- Be represented and supported during the return to work process. The support person can be a family member, friend, colleague or union representative
- Request CGU to conduct a 'senior officer' review of a claim decision if you disagree with a decision
- If you disagree with the review outcome refer the dispute to Accident Compensation Conciliation Service and if you disagree with the conciliation outcome appeal to the appropriate court

### Return to work planning and support

Injured employees do not have to wait until they are fully recovered before they can return to work. The CGU Return to Work Consultant will work with you, your principal, your treating doctor and an Occupational Rehabilitation Provider, if one is involved, to prepare and plan for your return to work.

When it is determined that you have a capacity for work, the WorkSafe legislation requires that you be provided with suitable employment during the first 12 months of your claim unless doing so would cause unjustifiable hardship to your employer.

If suitable employment can be provided you will be made an offer of suitable employment in a Return to Work Arrangements form that will document the duties and hours of work.

It is important that you respond to suitable employment offers and participate in return to work meetings and programs. Return to work support may involve assistance to help you find another position if you do not have the capacity to return to your pre injury job role. Ongoing appointment to a new position within the Department will depend on your successfully applying for an advertised vacancy on recruitment online or <http://careers.vic.gov.au/>

### Return to work issues resolution

If you have a complaint about some aspect of the return to work process you may request in writing to your

principal that the matter be resolved according to the school's return to work issues resolution process.

### The Role of the Occupational Rehabilitation Provider (ORP)

Occupational Rehabilitation Providers (ORPs) are registered by WorkSafe Victoria. Their role is to assist WorkSafe claimants with their rehabilitation and return to work by liaising with the employer, the injured worker, the injured worker's treating health practitioners and CGU RTW Consultants.

### Referral to an ORP

If an ORP is required to assist with your rehabilitation and return to work, CGU will initiate a referral when they accept liability for your claim.

At that time you will be offered a choice of ORPs from a list of at least 3 ORPs that are appropriate in terms of the nature of your injury, your work location and residential location.

If you are a member of a union you may contact your union organiser to liaise with the DEECD and assist with your return to work process.

### Entitlements to medical and like costs

If your claim is accepted by CGU Workers Compensation you will be entitled to compensation for reasonable medical and like costs directly related to your injury.

Whether a cost is reasonable or not will depend upon the amount charged for the service and on how appropriate the service is for your particular injury and circumstances.

WorkSafe has a maximum fee structure for medical and like services. If your health practitioner charges more than the set maximum WorkSafe will only reimburse you to the level of the set maximum.

To find out whether a particular cost is reasonable check with your CGU Workers Compensation Case Manager before you receive the treatment or service.

'Medical and like' accounts should be sent to CGU Workers Compensation for payment to the service provider or for reimbursement if you have already paid an account.

## WorkSafe weekly benefits and how they are calculated

WorkSafe weekly benefits are calculated as a percentage of your average gross weekly wage for the 12 months prior to your injury. The percentage rate that applies to your weekly benefits will depend on CGU Workers Compensation assessment of your capacity for work and how long you have been off work.

The rates applicable to weekly benefits for employees who have not returned to work are:

- For the first 13 weeks you are off work, 95% of your pre injury wage to a maximum \$2,000\*.
- then**
- From 14 to 130 weeks 80% of your pre injury wage to a maximum of \$2,000\* if you have no capacity for work, or if you have a capacity for work but are still off work and have not been provided with suitable employment.

Employees with a capacity for work who have returned to work on modified or alternative duties are entitled to a weekly benefit of 80% of their pre injury pay less 80% of what they are currently earning a week to a maximum of \$2,000\* a week.

Weekly compensation payments may continue after 130 weeks if you are assessed as having no capacity for work.

\*Please note that these maximum amounts are adjusted annually in accordance with Consumer Price Index changes.

## Make up pay and weekly benefits

As a DEECD employee you are entitled to make up pay. Make up pay is a 'top up' of the difference between your weekly WorkSafe compensation payments and what you would have been paid had you not been injured.

The make up pay period applies for 1984 hours of absence (or a prorated number of hours for part time employees) while you continue to be employed by the DEECD.

During the make up period your total weekly pay will be the same as your usual pay for the applicable period and will comprise weekly benefits and make up pay.

If you return to work during the make up pay period you will be entitled to make up pay if the total of your WorkSafe weekly compensation payments plus the current weekly earnings for your return to work duties is less than what you would have been paid had you not been injured.

### Please note:

- There is no entitlement to make up pay if your employment with the Department ceases.
- If, after your injury, you change your work time fraction, your make up pay will then be calculated on the pay that is applicable to the changed time fraction.

## Other make up pay period entitlements

The following entitlements continue to accrue during the make up pay period:

- Personal leave
- Long service leave
- Annual leave loading
- Recreation leave (non-teaching staff)
- Employer superannuation contributions

If you have salary packaging arrangements these can continue for the duration of the make up pay period.

After the make up pay period ends, employees are deemed to be on unpaid leave for the purpose of accrual of service entitlements.

## Payroll deductions

While you are receiving weekly WorkSafe benefits payroll deductions will continue to be made as normal unless you authorise cessation of the deductions or the deduction exceeds the make up pay component.

## What happens after the make up pay period?

If your entitlement to WorkSafe weekly compensation payments continues beyond the make up pay period you will only receive as a salary payment the amount of your weekly WorkSafe benefit.

Please also note that deductions including salary packaging arrangements will cease when the make up pay period ends.

## Termination of WorkSafe weekly benefits

If you have not returned to work your entitlement to weekly benefits will cease at 130 weeks if you have been assessed as having a capacity for work.

WorkSafe weekly benefit entitlements may cease at any time if:

- CGU Workers Compensation determines that you are no longer suffering from a work related injury.
- You are assessed as having the capacity to resume your pre injury duties
- You refuse to return to work and the suitable duties are deemed to be suitable and within your capacity to perform or refuse to cooperate with attempts to return you to work.

If your benefits have been ceased you should discuss with your principal the options available to you, which may include:

- Returning to your pre-injury work
- Continuing on personal leave with appropriate medical certificates
- Taking other accrued leave
- Leave without pay for a predetermined period
- Temporary disability benefits

## Superannuation and WorkSafe

You should contact your superannuation fund to obtain advice on how WorkSafe leave affects your superannuation entitlements.

It is also important that you seek advice on the options available to you under your superannuation scheme if it is possible you will not have the capacity to return to your pre injury duties.

The [ESSSuper](#) contact phone number is: 1300 655 476

The [VicSuper](#) contact phone number is: 1300 366 216.

## Claims liability dispute resolution

If you disagree with the decision CGU has made concerning your WorkSafe claim you may request CGU to conduct a 'senior officer' review of the claim decision.

If you disagree with the outcome of the review, you then have the right to refer the dispute to the Accident Compensation Conciliation Service. If you disagree with

the Conciliation outcome you may appeal to the appropriate court.

Advice concerning conciliation can be obtained from the Accident Compensation Conciliation Service on 9940 1111, or toll free on 1800 635 960 or from the CGU Case Manager who is managing your claim.

**This information sheet is a general guide only. If you have queries concerning the specific circumstances of your WorkSafe claim you should contact your CGU Workers Compensation Case Manager.**

## Workers injury claim form

Complete and sign the Worker's Injury Claim Form and make two copies. Keep one copy for yourself and give the original and a copy to your principal together with your WorkSafe Certificate of Capacity and any accounts for medical treatment.

## [Workers Injury Claim Form](#)