

INFORMATION FOR EMPLOYERS

Employer's Obligations

Employers have certain obligations under the Workplace Injury Management and Workers Compensation Act 1998. These include:

- Forwarding claims to CMI 48 hours of receipt
- Any further information requested by the CMI is to be forwarded by the employer within 7 days of request
- Pay compensation as soon as possible
- An employer **should not admit liability** without the consent of CMI

Reporting of Injuries

- The employer of an injured worker must notify the insurer **within 48 hours** after becoming aware that a worker has received a workplace injury that seems to be a **significant injury** (a significant injury is an injury where it is likely that the worker will be absent from work for 7 days or more).
- If a workplace injury does not seem to be a significant injury, the employer must notify the insurer within 48 hours after becoming aware that the worker has received the injury.

Action by employer in respect of claims, injuries and compensation

- An employer who receives a claim or any other documentation in respect of a claim must, within 48 hours after receiving the claim or documentation, forward it to CMI.
- An employer who receives a request from CMI for specified information in respect of a claim or notified injury, or documentation in respect of a claim or notified injury, must, within 7 days after receipt of the request provide CMI with the specified information or documentation.
- An employer who has received compensation money under the Act from CMI must, as soon as practicable, pay the money to the person entitled to the compensation.

Completion of Forms:

Form M is the injured worker's claim for compensation to be completed by the worker personally. The employee must submit this form to CMI within 48 hours of receipt.

An employer must also complete submit the following two forms to CMI in order for a claim to be duly made:

- Form D (Employer Report Form – Part 1) is to be completed by the supervisor or mine deputy and includes details of how the accident and injury occurred.

- Form L (Employer Report Form – Part 2) is to be completed by the employer’s Administration Department and includes details such as the employee’s employment particulars.

All forms are to be forwarded to CMI on the day they are completed, enclosing copies of any medical certificates and/or claims for expenses received to date.

Injury Management

An employer must comply with the obligations imposed by the 1998 Act, which include prompt notification of injury, co-operation in the establishment and carriage of the injury management plan, and providing suitable duties where practicable.

The employer’s designated Rehabilitation Co-ordinator as representative of the employer must: -

- Assist the employer to implement the injury management requirements under current legislation
- Assist injured workers to return to work as soon as practicable, and ensure there is a current “return to work” plan in place
- Initiate and maintain contact with the nominated treating doctor
- Maintain open communication with all the relevant participants

An employer’s injury management plan obligations

- An employer must participate and co-operate in the establishment of an injury management plan for an injured worker.
- An employer must comply with obligations imposed by or under an injury management plan for an injured worker.

Injury Management

Injury management is part of the claims management process which focuses on *returning injured workers to work* and on ensuring *the appropriate medical management* of claims.

Coal Mines Insurance supports this concept and promotes and supports its implementation in the New South Wales coal industry. Injury Managers work together with Claims Managers in all CMI’s regional offices in order to optimise recovery and return to work options for workers.

Program Statement

Coal Mines Insurance will :-

- Ensure that injured persons return to work as soon as practicable
- Ensure that the employer where practicable will provide suitable duties for the injured worker as an integral part of the return to work process
- Consult with employees to ensure the program operates effectively
- Encourage retraining where appropriate

What are the benefits of injury management

Optimal medical and vocational recovery of the injured worker

- The best result for all parties is where a worker is returned as closely as possible to their pre-injury duties in the shortest possible time
- It is in the best interests of all parties that the worker receives their entitlements, their needs are met and they suffer the least disadvantage possible as the result of their injury.

What is an Injury Management Program?

The 1998 Workplace Injury Management and Workers' Compensation Act required each insurer to develop an injury management program.

An injury management program means a co-ordinated and managed program that integrates all aspects of injury management, including treatment, rehabilitation, retraining, claims management and employment management practices. It services the purpose of achieving optimum results in terms of timely, safe and durable return to work for injured workers.

Injury Management and Suitable Duties

Employer must provide suitable work

- If a worker who has been totally or partially incapacitated for work as a result of an injury is able to return to work (whether on a full-time or part-time basis and whether or not to his or her previous employment), the employer liable to pay compensation to the worker under the Act must at the request of the worker endeavour to provide suitable employment for the worker
- The employment that the employer must provide is employment that is both suitable employment and so far as reasonably practicable the same as, or equivalent to, the employment in which the worker was at the time of the injury.
- The employer is not obliged to provide suitable duties if:
 - it is not reasonably practicable for the employer to provide the suitable employment, or
 - The worker voluntarily left the employment of the employer after the injury happened, or
 - The employer terminated the worker's employment after the injury happened, other than for the reason that the worker was not fit for employment as a result of the injury.

Employers in NSW are required to establish "workplace" based return to work programs. These programs should include the provision of "suitable duties" for injured workers who are not fit for their normal work.

Australia's most progressive companies use suitable duties as a rehabilitation strategy because:

- the speed and likelihood of full recovery improves by maintaining the link with the workplace;
- it's costly to lose the skills and contribution of workers you have already trained and who know your organisation;
- managing a workplace injury is like managing other aspects of your business - the results reflect the effort you put into it;
- offering suitable duties is a demonstration of commitment to the recovery and rehabilitation of workers injured or ill through work;
- workers maintain their salary and motivation and recover faster.

What are suitable duties?

They are duties for which the injured worker is medically suited whilst recovering. They will vary according to factors such as the type of injury sustained, medical restrictions, level of education or skills, pre-injury duties and hours of work. Suitable duties are meant to be a short term graduated arrangement that may include:

- parts of the job the injured worker was doing before the injury;
- the same job, but on reduced hours;
- different duties in the same or another section altogether.

Suitable duties do not include:

- work that is merely of a token nature, that is not useful for your trade or business;
- work that is demeaning to the worker or has no employment prospects.

Tips for finding suitable duties

- List the duties of the worker's normal job by talking to the worker and their supervisor, or from their job description. If necessary go and look at the work they usually do.
- Determine if any restrictions apply from the medical certificate. If not stated confirm with the doctor that none apply. Consider how they prevent the worker from performing their normal duties. If you have any questions, ring the treating doctor. It can also help to talk to the injured worker .

- Determine the maximum hours the worker can work and which parts of their usual job or other duties they can undertake while they are recovering.
- Consider how the selected duties and hours may affect their supervisor's work routine and that of other workers. Everyone will need to be supportive for a successful return to work.
- Is there any other work in the worker's usual site that doesn't get done because there isn't time in the day to complete it?
- Is there a training opportunity for this particular injured worker while they are recovering from their injury?
- List the proposed duties in a Return-to-Work Plan. Include a starting date and a review date. Make sure the relevant parties confirm their agreement by signing the plan
- Obtain a medical clearance from the treating doctor for the proposed duties listed in the Return-to-Work Plan.
- Review and upgrade the Return-to-Work Plan according to medical advice.
- Research has shown that the employer's attitude and care in offering suitable duties is one of the more important factors in Return-to-Work outcomes. Be sure that workers are aware that you are making every effort to assist their recovery and safe return to work.

What if there are no "Suitable Duties"?

Some Return-to-Work Coordinators have set up good working relationships with coordinators in other organisations.

The success of a Return-to-Work program depends on good communication between the treating doctor, the injured worker, co-workers, the worker's supervisor, the union, the rehabilitation provider and CMI.