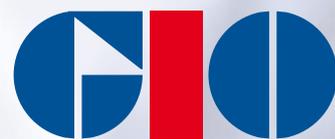


Injury Management Program



Contents

Introduction	4
Claims management principles	4
Injury management program.....	4
Stakeholder obligations, rights, and responsibilities	5
GIO	5
Employers	5
Workers	6
Nominated treating doctor	7
Change of nominated treating doctor	7
Return to work	8
The link between health and good work	8
Suitable employment.....	9
Return to work plan	9
Other support	10
Claims management	12
Giving notice of an injury	12
Assessing claims.....	13
Making contact	13
Worker’s consent.....	13
Working with the nominated treating doctor.....	14
Managing death claims	15
Liability.....	16
Provisional liability	16
Reasonable excuse.....	16
Disputing liability	16
Recurrence or aggravation.....	17
Additional or consequential medical conditions.....	17
Entitlements	18
Pre-injury average weekly earnings	18
Calculating PIAWE.....	18
Gross earnings	18
Shift and overtime allowances.....	19
PIAWE agreements	19
Interim PIAWE.....	19
Minimum PIAWE.....	19
Weekly entitlements.....	19
Reimbursement of weekly payments	21
Reduction of payments in compensation	21
Work capacity decisions	21
Reviewing a work capacity decision.....	21
Non-compliance management	22
Permanent impairment	22
Work injury damages	22
Commutation.....	23
Section 39 notification	23
Retiring age notification.....	24
Treatment and medical intervention	25
Reasonably necessary treatment.....	25
Medical payments.....	26
Section 59A notification.....	26
Independent opinions.....	26
Finalisation	29
Finalising a claim	29
Reopening a claim	29
Other matters	30
Information and records management	30
Privacy and confidentiality	30
Fraud	30
Factual and surveillance investigations	31
Claim handover	31
Recoveries.....	32
Medicare and Centrelink clearance	33
Quality assurance program	33
Provider management	33
Employment management practices	35
Injury prevention.....	35
Claims data analysis to identify opportunities for improvement	35
Providing education and information to employers	35
Injury management program communication	35
Feedback and complaints	36
EMBRACE customer program.....	36
If there is a problem	36
Dispute resolution	36
Litigation	36

Important information about this Injury Management Program

The purpose of this document is to provide employers with current and accurate information about the management of workers insurance claims as well as inform the employer's return to work program.

The information set out in this document applies to GIO and has been developed in developed in accordance with the following:

- [Workers Compensation Act 1987](#) (1987 Act)
- [Workplace Injury Management and Workers Compensation Act 1998](#) (1998 Act)
- [Workers Compensation Regulation](#) (2016 Reg)
- [Workers Compensation Guidelines](#) 2021
- State Insurance Regulatory Authority (SIRA) [Standards of Practice](#)
- State Insurance Regulatory Authority (SIRA) Injury Management Program: A Guide and Checklist for Insurers

To ensure you comply with your legal obligations, you should refer to the State Insurance Regulatory Authority (SIRA) [Guidelines for workplace return to work programs](#) and appropriate legislation.

Introduction

GIO acts on behalf of Insurance & Care NSW (icare) as a Generalist Claims Service Provider (CSP) for the Nominal Insurer (NI). GIO provides claims management services (managing physical and psychological claims) to employers and workers in NSW who are covered under icare's workers compensation scheme.

Claims management principles

The claims management principles apply generally across all aspects of claims management, to provide direction for the handling and administration of claims under the workers compensation system. These principles support the workers compensation system objectives outlined in [Section 3](#) of the *Workplace Injury Management and Workers Compensation Act 1998*.

Principle 1: Fairness and empathy

The management of claims will be undertaken in an empathetic manner intended to maximise fairness for workers by:

- ensuring that workers understand their rights, entitlements, and responsibilities, and making clear what workers and employers can expect from insurers and other scheme participants, and
- ensuring workers are afforded procedural fairness, and decisions are made on the best available evidence, focused on advancing the worker's recovery and return to work.

Principle 2: Transparency and participation

Workers, employers, and other scheme participants will be empowered and encouraged to participate in the management of claims by:

- ensuring transparent and timely communication of the reasons and information relied upon for decisions and facilitating right-of-reply, and prompt, independent review of decisions, and
- ensuring opportunities are provided to workers, employers, and other scheme participants to contribute information that can support and inform claims management decisions.

Principle 3: Timeliness and efficiency

Claims management decisions will be made promptly and proactively, and claims will be managed in a manner intended to reduce delays and costs and maximise efficiency by:

- promptly and efficiently processing claims, responding to inquiries, determining entitlements, and making payments
- progressing claims without unnecessary investigation, dispute, or litigation.

Injury management program

This Injury Management Program, which is managed by GIO workers insurance, provides important information for you about injured workers returning to work.

It explains how GIO will work with you, injured workers, and other key stakeholders (such as doctors and treatment providers).

The goal of the program is to safely achieve recovery at work for injured workers or, manage ongoing care and support if they are not able to return to work in the short or long term.

You should refer to this program when developing or reviewing the Return to Work Program for your organisation.

Stakeholder obligations, rights, and responsibilities

GIO

GIO's role is to guide and support workers to achieve the goal of returning to work. We do this by consulting, collaborating, and communicating with all stakeholders throughout the life cycle of a claim.

Our role is to:

- Develop the Injury Management Program with information about how claims will be managed.
- Contact you, the worker and (where necessary) the nominated treating doctor within three working days of being notified of a workplace injury.
- Develop an [Injury management plan](#) within 20 business days of identifying that a workplace injury or illness is likely to be considered a [significant injury](#).
- Ensure all aspects of injury management (including treatment, rehabilitation, employer practices and return to work) are coordinated and integrated to optimise outcomes.
- Organise support and assistance from third-party service providers in consultation with you, the worker and nominated treating doctor.
- Provide information to all stakeholders regarding their obligations.
- Provide help to facilitate recovery at work and to support you in finding work that the worker can do safely.
- Share and store medical and health information as per the *Health Records and Information Privacy Act 2002* and *Privacy and Personal Information Protection Act 1998*.

Employers

The relationship between you and your worker is critical to their recovery following a workplace injury. To ensure the worker is in the best position to achieve their recovery goals, your role is to:

- Ensure there is a workers compensation insurance policy in place covering all employees. [Category 1](#) and [Category 2](#) employers must have a current policy to avoid fines or penalties. NSW workers compensation insurance policies are issued by icare. To obtain a policy or confirm your existing cover visit www.icare.nsw.gov.au or contact icare on 13 44 22.
- Ensure the health, safety, and welfare at work of all workers and maintain a record of all work-related injuries.
- Provide information for workers that outlines how they can notify an injury and how to make a claim for workers compensation.
- Notify [SafeWork NSW](#) immediately if a serious injury or illness, death or dangerous incident occurs.
- Notify GIO within 48 hours of becoming aware that a worker has sustained an injury.
- Appoint someone with the relevant training, skills, and experience to perform the role and functions of a return to work coordinator (Category 1 employers) or nominate the person responsible for managing recovery at work (Category 2 employers).
- Have a [Return to Work Program](#) in place within 12 months of becoming a Category 1 or Category 2 employer consistent with this Injury Management Program.
- Provide suitable work to a worker in accordance with their certificate of capacity. If suitable work cannot be provided, GIO should be notified as soon as possible.
- Participate and cooperate in the development of an Injury management plan for a worker.

- Collect and share medical and health information in accordance with the *Health Records and Information Privacy Act 2002*.
- Cooperate and provide assistance to investigate common law and recovery claims.

Should you have any questions about a worker's recovery and/or expected return to work duration, you should contact GIO for support.

Workers

The primary role of the worker is to focus on recovery. If possible, they should aim to stay at work in some capacity. If that is not possible, they should aim to return to work as soon as possible.

Following a workplace injury, the worker's role is to:

- Notify you as soon as possible if they suffer a workplace injury.
- Participate in the development of the Injury management plan.
- Nominate a treating doctor to direct medical management and participate in the Injury management plan.
- Authorise the nominated treating doctor to provide all relevant information to key stakeholders.
- Notify GIO if they want to change their nominated treating doctor.
- Make reasonable efforts to return to their pre-injury role or other suitable work.
- Report any issues with the Injury management plan or suitable work to you, their nominated treating doctor, GIO, or workplace rehabilitation provider.
- Provide a certificate of capacity every 28 days or as agreed with GIO if a longer period is required.
- Actively participate in the development of the Recover at Work Plan.
- Participate in work focused activities in the event you are unable to provide suitable work and /or seek alternative employment if unable to return to any type of employment with you.
- Speak regularly with the people involved in their recovery, informing them of progress and any changes in capacity.
- Attend and actively participate in all appointments with medical practitioners, treatment providers and/or workplace rehabilitation providers.

Nominated treating doctor

If injury prevents the worker from doing their normal job for seven days or more, they must nominate a treating doctor.

The nominated treating doctor must be prepared to work with others in the worker's support team (including you, GIO, treatment and workplace rehabilitation providers) to manage the worker's injury and implement the injury management plan.

The worker must authorise their nominated treating doctor to provide relevant information to you and GIO for the purposes of an injury management plan for the worker. They can do this by signing the [certificate of capacity](#).

The nominated treating doctor can help facilitate a worker's treatment and recovery from a work-related injury/illness by:

- Educating them on their injury and recovery options.
- Recommending treatment to help in their recovery.
- Acting as the primary contact for treatment and recovery information for you, GIO and other parties involved in the management of the injury.
- Working with you and GIO to develop an injury management plan.
- Reviewing their condition and capacity for work regularly.
- Completing the certificate of capacity.
- Applying the principles of the [Clinical framework](#) for the delivery of health services and promoting the [health benefits of good work](#).

Change of nominated treating doctor

It is the worker's right and responsibility to nominate a treating doctor who is prepared to participate in the workers recovery at/ return to work.

Consistent medical care is essential to the worker's recovery at/return to work after an injury.

Changing nominated treating doctors can interrupt good medical care, however there may be a good reason for change, including:

- the doctor has moved or has ceased practicing in the worker's local area, and they are no longer able to see them, or
- there is evidence that the management the doctor is providing is not helping the worker's recovery and safe return to work.

If there is reason to change nominated treating doctors, the worker must inform GIO and/or you, as the employer.

If there is evidence that the nominated treating doctor is not assisting you and your worker with a safe recovery at/return to work, GIO may:

- ask a doctor experienced in workplace rehabilitation (injury management consultant) to review the management of the worker's injury, and discuss the best course of action with the worker, the doctor and you, or
- ask the worker to nominate another treating doctor who is prepared to manage their recovery and assist you and the worker with a safe recovery at/return to work.

Return to work

Several factors are involved in the return-to-work process. These include assessments, services, and programs to help workers recover in their current workplace or a new workplace.

The link between health and good work

Studies support the health benefits of good work. Working is beneficial to both physical and mental health, as well as general wellbeing, and has been shown to help those with ongoing health conditions. It can also assist in recovery from injury and reduce the risk of long-term incapacity.

When developing workplace procedures to support your workers, consider the following principles:

Fundamental principles

01

The provision of good work is a key determinant of the health and wellbeing of workers, their families and broader society.

02

Long-term absence from work, disability and unemployment may have a negative impact on health and wellbeing.

03

All workplaces should strive to be both healthy and safe.

04

Providing access to good work is an effective way to reduce poverty and social exclusion.

05

With active assistance, many of those who have the potential to work, but are not currently working, can be enabled to access the benefits of good work.

06

Safe and healthy work practices, understanding and accommodating cultural and social beliefs, a healthy workplace culture, effective and equitable injury management programs and positive relationships within workplaces are key determinants of individual health, wellbeing, engagement, and productivity.

07

Good outcomes are more likely when individuals understand and are supported to access the benefits of good work, especially when entering the workforce for the first time, seeking re-employment, or recovering at work following a period of injury or illness.

Suitable employment

For most workers with an injury, time off work is not medically necessary. Supporting them to stay at work in some capacity provides the best chance of a good outcome following a work injury.

If a worker is not able to immediately return to their normal duties, you are obligated to accommodate them with suitable employment.

Suitable employment means employment in work for which the worker is currently suited, having regard to the nature of the injury and medical information available, and the age, education, skills, and experience of the worker.

Suitable employment can include one or more of the following:

- Modified tasks and duties (including the provision of equipment to help with the modification of tasks and duties)
- Different hours or days of work
- An alternate position in the same workplace
- Training to expand a worker's skill set
- A different job location.

When offering suitable employment to a worker, you should consider:

- The nature of the worker's capacity (as set out in the certificate of capacity)
- The worker's age, education, skills, and past work experience
- Any workplace rehabilitation services available to the worker
- Any current Injury management plan.

If you have any difficulty in identifying suitable employment, contact GIO as soon as possible for assistance.

The employer has obligations in respect to recovery at work even where there is a dispute as to liability (s41A of the *Workplace Injury Management and Workers Compensation Act 1998*).

Failing to provide suitable employment to a worker where they request it may impact the cost of your workers compensation premium.

You may also be in breach of your obligation to provide suitable duties, and the State Insurance Regulatory Authority (SIRA) may issue of an improvement notice, a financial penalty or both.

Return to work plan

A Recover at Work or Return to Work Plan is specific to the individual worker and provides information about their recovery at or return to work.

The plan is completed by you, in consultation with the worker and their supervisor, and takes account of medical information provided by the nominated treating doctor and any other treatment providers.

The return to work process should start as soon as possible after the workplace injury occurs.

In the early stages, the most important thing you can do is have early and regular contact with the worker.

A plan should be developed for all workers who are certified as having a capacity to work and have returned to work on anything other than their full pre-injury duties.

Even if the worker currently has no capacity for work, it is essential to look at opportunities in readiness for their return.

The plan should include:

- The worker's pre-injury duties
- The worker's recover at work goal
- Details of the current certificate of capacity
- Details of suitable work that is available
- A review date for the plan
- Agreement to the plan by the worker and their supervisor.

A copy of the plan should be provided to the worker's nominated treating doctor and any other treatment providers.

Other support

Workplace rehabilitation providers

Where the worker's return to work is more complex, specialist providers may be engaged.

Workplace rehabilitation providers can offer help regarding suitable employment options and return to work planning.

Their services are usually delivered at the workplace and may involve:

- Assessing a worker's capacity to perform duties safely
- Negotiating and liaising with you, the nominated treating doctor and other health professionals
- Identifying work that supports improvements in the worker's capacity for work
- Identifying options to help reduce work demands (including providing advice about equipment, job, or workplace modifications)
- Identifying and addressing risks that may impact the worker's recovery at work or return to work
- Implementing and monitoring a plan to achieve an agreed recovery at work goal.

Unfortunately, there may be times where a worker will not be able to return to the pre-injury employer following an injury. If this is the case, a workplace rehabilitation provider may be engaged to support the worker to seek alternative employment.

Programs and incentives

The State Insurance Regulatory Authority (SIRA) has a range of programs and incentives available to help workers remain in the workplace while recovering or getting back to work following an injury.

Recover at work assist for small business

This [program](#) helps small employers overcome financial hardship when providing suitable work to help their workers recover at work after a work related injury or illness.

Work trial program

The [work trial program](#) is a voluntary short-term work arrangement that provides a worker with suitable work when the pre-injury employer is unable to provide suitable duties.

Equipment and workplace modification program

This [program](#) can be used to purchase equipment or make modifications to help a worker recover at work or start work with a new employer.

Training program

This [program](#) can help a worker develop new skills and qualifications for a different role with their pre-injury employer or start a new job with a new employer.

JobCover placement program

The [JobCover placement program](#) provides incentives to new employers for up to one year when they employ a worker who cannot return to work with their pre-injury employer.

Transition to work program

This [program](#) helps pay for immediate or short-term costs that might prevent a worker from starting work with a new employer.

JobCover6

The [JobCover6 program](#) provides incentives to new employers for up to six months when they employ a worker who cannot return to work with their pre-injury employer.

Connect2work

[Connect2work](#) is a voluntary short-term work placement with a host employer that supports recovery at work for workers where their pre-injury employer is unable to offer suitable work, or the worker is looking for new employment.

More information about these programs is available on the SIRA website www.sira.nsw.gov.au

Case conferencing

A [case conference](#) is a face-to-face meeting, teleconference or videoconference that brings together the worker and their nominated treating doctor with any or all of the following parties – employer, workplace rehabilitation provider, GIO, injury management consultant or other treating practitioner(s) delivering services to the worker.

A case conferences aims to facilitate and support a worker's recovery at or return to work.

The types of issues that may be discussed at a case conference include:

- the worker's capacity for work
- the worker's progress and treatment plan
- the duties you can provide to the worker (suitable duties)
- any workplace support and modifications the worker may need to return to work
- any factors that may be delaying the worker's recovery or return to work, and any treatment or support that may assist to address these barriers.

When GIO arranges the case conference, we will provide a statement of the purpose and agenda for the case conference to all parties involved.

Following the case conference, outcomes will be documented and timeframes for actionable items and the parties responsible will also be provided to all case conference attendees.

Injury management planning

An Injury management plan is a written plan developed to identify the goals and actions of all parties in helping the worker recover from their injury and recover at/return to work.

The Injury management plan is developed by GIO in collaboration with you, the worker and nominated treating doctor and extended health team.

The plan is shared with you, providing the worker remains your employee.

GIO will commence injury management planning immediately on notification of a significant injury (a workplace injury where the worker will have incapacity for work (whether total or partial) for a continuous period of more than seven days) and a plan will be developed within 20 working days.

The plan will be tailored to the worker, will be consistent with medical and treatment information and will include a statement about how and when the plan will be reviewed as well as the rights and obligations of all stakeholders.

More information can be found in the [Workers Compensation Claims Management Guide](#) on the SIRA website.

GIO will regularly review the workers progress against the goals outlined in the Injury management plan to determine whether the actions in place are producing successful outcomes for all stakeholders.

Where adjustments to the Injury management plan are required, such as when further treatment is approved, new services are required or there are changes to the recovery at work goal, the plan will be updated.

GIO is required to proactively engage with all relevant parties when developing, reviewing, and updating the injury management plan and you should notify GIO of any changes that may affect the plan.

Claims management

GIO acts as a Claims Service Provider (CSP) managing claims for icare workers insurance, the Nominal Insurer (NI), providing claims management services to the workers and employers of New South Wales. GIO provides generalist claims management services (managing physical and psychological claims) under icare's claims management service model and aims to deliver fair and equitable outcomes for both injured workers and employers.

Giving notice of an injury

Where an injury occurs in the workplace, employers must notify GIO within 48 hours of being made aware of the injury.

If an employer does not report the injury within 5 days of being made aware of it, a claims excess payment may be payable. This excess payment will be the equivalent of one week of the injured worker's weekly payments.

You also need to update your Workplace Register of Injuries. If you do not, a penalty may apply.

If a death, serious injury or illness, or dangerous incident occurs, it is a notifiable incident. You will need to notify both icare (as set out above) and SafeWork NSW on 13 10 50.

To notify us of an injury, go to the [GIO website](#).

Information to lodge a claim

Worker's details

- name
- address
- telephone number

Employer's details

- company name
- company address

Nominated treating doctor details

- name
- telephone number
- hospital details (if applicable)

Injury details

- date and time of injury
- description of injury
- how the injury occurred

Notifying person details

- name
- telephone number
- relationship to worker or employer

Additional information

The following information may also be requested:

- the worker's date of birth
- the employer's ABN or workers insurance policy number
- details of any time off work
- a copy of the certificate of capacity
- details of the worker's capacity to return to work and expected due date
- employer's ability to support worker's recovery at work in suitable employment
- worker's pre-injury average weekly earnings.

Providing this information as soon as possible can speed up the processing of a claim.

For more details about the minimum requirements for notifying a claim, refer to [Part 1](#) of the *Workers Compensation Guidelines*.

Assessing claims

At GIO, we want to ensure we achieve optimal outcomes for our customers. We understand that every injury is different and the time it takes for individual workers to recover is different.

We also know that the level of support each worker requires will differ depending on the nature of their injury, as well as social and psychological factors, and the presence of other known diseases or health conditions.

We collect the relevant information and align it with the claim to assess the support required.

The worker's nominated treating doctor will issue a certificate of capacity and you should forward this document to us as soon as possible.

GIO will assist with the management of a claim from beginning to end and our claims management process is supported by Claims Advisors, Injury Management Advisors, and Technical Advisors.

Making contact

Where a worker needs time off work or ongoing treatment for their injury, GIO will contact both you and the worker within three days of notification of the injury.

During contact if the worker asks for an interpreter, indicates a preference for communicating in their own language, does not appear to understand questions or is not easily understood the services of a qualified interpreter will be engaged.

GIO will also contact the treating doctor if any further information is needed.

The reason for making contact at this early stage is to:

- see how the worker is managing and what their treatment needs are
- request further details about the injury and current work status
- identify any risks and barriers to recovery at work

- when there is time loss, request wage information to assist in the calculation of pre-injury average weekly earnings
- answer any questions about the claims process
- establish a recovery at work goal and put likely recovery timeframes in place
- arrange any necessary support services.

It is important for you to also stay in touch with your worker following the injury. Reassure them that you are there for them and will support them in their recovery. Keeping them in the loop about what is happening in the workplace is a great way to help them stay connected and can assist in facilitating a safe and timely return to work.

Worker's consent

A worker's personal and health information must always be protected in accordance with the NSW privacy legislation. SIRA's [Standards of Practice](#) indicate what actions GIO must take prior to collecting, storing, using, and disclosing a worker's personal and health information, including obtaining a worker's consent.

The worker must be informed of how their personal and health information will be used prior to providing their consent. They should be advised about what information may be collected, stored, used, and disclosed and their rights to withdraw and modify their consent. GIO will also inform the worker of what may happen should they withdraw or modify their consent.

GIO will obtain written, signed consent from the worker.

- SIRA's [Worker's injury claim form](#) asks the worker to provide consent to release any personal and health information related to their work injury.
- GIO will consider whether a worker's consent is valid if they receive a request from a third party to release a worker's personal and health information.

Working with the nominated treating doctor

The nominated treating doctor will provide a certificate of capacity, which sets out information about how you can support the worker's return to work and their recovery needs. The certificate will also certify the worker's capacity for employment.

- A worker signs a consent when completing a certificate of capacity. In the absence of a claim form or authority to release information, a certificate of capacity is only valid as consent for the period the certificate is for.

When certifying capacity for employment, the nominated treating doctor will advise if the worker:

- is fit for their pre-injury duties
- has capacity for selected duties (with specified restrictions), or
- has no capacity for any kind of work.

Research shows that returning to work during the recovery process can reduce the harmful physical and psychological effects experienced by a person injured at work.

By providing the nominated treating doctor with information about your workplace and the range of duties available, you'll positively impact recover at work or return to work for your injured workers.

Useful information includes:

- Contact details for the injured worker's supervisor, employer and return to work coordinator
- A description of the injured worker's pre-injury duties, including the functional demands of the role
- Details of other suitable duties, including the functional demands of each task

Managing death claims

If a workplace death occurs, you must notify [SafeWork NSW](#) immediately on 13 10 50.

Significant penalties apply if you fail to notify SafeWork NSW of an incident.

You must also notify GIO within 48 hours of the incident occurring.

If a work injury results in a worker's death, compensation is payable. A notification may be lodged by you or your broker, a family member of the worker or their legal representative, a medical practitioner or other person. A workplace death may be investigated without a formal claim being lodged, depending on the circumstances of the incident, and a claim for death benefits may be lodged immediately following an incident or at a later date.

Fatality notifications and claims are managed by a dedicated Claims Advisor who is experienced in supporting families and workplaces following a workplace death. SIRA's Standards of Practice require that our Claims Advisor contact the worker's family within five working days of being notified of the death. Providing contact information for the worker's family as quickly as possible will allow our Claims Advisor to offer counselling and support information about GIO's role.

The impact of a loss not only impacts the family of the worker, but your other employees may also be affected by the loss of their workmate. Our Claims Advisor will also talk with you about supporting your workplace following a fatality and how to access help if you need it.

Our Claims Advisor will help you by:

- Providing an experienced, empathetic, single point of contact throughout the claim
- Explaining the claims investigation process and information required to make a liability decision
- Providing monthly progress updates throughout the investigation
- Providing a liability decision verbally, and in writing

Our Claims Advisor will require information to confirm the worker's employment status, cause and circumstances of the incident leading to the fatality, and employers and employees may be required to participate in a factual investigation.

The length of time to investigate a fatality depends on the type of incident and the availability of information from multiple sources which may include the family of the worker, medical practitioners and specialists, hospitals and ambulance, the NSW police, legal providers and in some instances, the coroner.

Investigations vary in length and complexity, and your Fatalities Claims Advisor will keep you updated regularly.

If liability for a fatality claim is accepted, the worker's dependents or estate are entitled to:

- A lump sum death benefit
- Weekly benefits for dependent children up to 16 years old, or if a student, 21 years old
- Reasonable funeral expenses up to the maximum statutory amount

The amounts payable are indexed periodically and can be found in SIRA's [Workers compensation benefits guide](#).

Fatality claims are not premium impacting, but employers who experience a worker fatality may be required to make a one-off Catastrophic Claim Contribution. If it is determined that a contribution is payable, icare will contact you directly to discuss.

Workplace fatalities are distressing events for all involved and our Claims Advisor is available to provide information and support to you and those impacted by the death.

Liability

The amount of time GIO has to make a decision about a claim for liability will depend on whether we have accepted provisional liability.

Where provisional liability has been accepted

Where GIO has started making provisional payments and has notified the worker, we must determine liability before the provisional payments end (i.e. before the worker has received weekly payments for up to 12 weeks or has been paid for medical expenses up to \$10,000).

Where provisional liability has not been accepted

If provisional payments have not started and GIO has received a formal claim for workers compensation, the claim must be determined, either by accepting liability and commencing weekly payments or disputing liability, within 21 days of the claim being made.

Provisional liability

Provisional payments allow GIO to start paying weekly payments and medical expenses while we fully assess the claim.

These payments may include:

- weekly payments for up to 12 weeks, and
- the payment of medical expenses up to \$10,000.

After one of these thresholds is reached, GIO is required to make a full liability decision on the claim.

If the worker's injury has resulted in a loss of earnings, GIO must start paying weekly provisional payments within seven days of being notified of the injury unless there is a reasonable excuse not to.

Reasonable excuse

A reasonable excuse indicates that GIO does not have sufficient information to assess the worker's claim.

GIO may apply reasonable excuse to delay the commencement of provisional weekly payments if:

- there is insufficient medical information

- the injured person is unlikely to be a worker
- we have been unable to contact the worker
- the worker refuses access to information
- the injury is not work related
- there is no requirement for weekly payments, or
- the injury is notified after two months.

A reasonable excuse may apply to provisional weekly payments, but not to provisional medical payments. Reasonably necessary treatment may be funded during this period.

If provisional weekly payments do not start because of a reasonable excuse, GIO must notify both you and the worker in writing of the reasons for this. GIO must do this within seven days of being notified of the injury.

GIO will also provide the worker information about how to make a formal claim. More information about reasonable excuse can be found in [Part 2](#) of the *Workers compensation guidelines* on the SIRA website.

Disputing liability

If GIO decides to dispute any aspect of liability on a claim, notice of the dispute will be given to both you and the worker.

You and the worker will receive an outline of the reasons why liability is being disputed and the evidence relied upon to make the decision will be attached.

Should you disagree with a liability decision made, you have the opportunity to request an independent review of a liability decision via the icare Dispute Resolution and Litigation team.

The worker will also have the opportunity to request a review of GIO's decision. Information on how to request an independent review of a liability decision will be included in GIO dispute notice.

icare's Dispute Resolution and Litigation Team will be required to respond to the independent review request within 14 days.

The worker may also contact the Independent Review Office (IRO) at iro.nsw.gov.au or SIRA at www.sira.nsw.gov.au for assistance.

Recurrence or aggravation

GIO must have regard to the facts and medical evidence to properly determine whether an injury is a recurrence of a previously accepted workplace injury, or a new injury to a body part previously injured at work.

A recurrence occurs where, after a worker suffers a work-related injury, there is a later increase in symptoms or a re-emergence of symptoms needing treatment or causing incapacity.

If a worker suffers a new work-related injury to a body part that has previously been injured at work (i.e. an aggravation), GIO will decide which of the two injuries caused or materially contributed to the incapacity or need for treatment.

The distinction between a recurrence of an injury and a new injury can be significant for workers and employers.

GIO's decision will impact the calculation of a worker's benefits and may impact your premium. Determining whether the claim should be treated as a recurrence, or a new injury requires evaluation of the evidence.

Additional or consequential medical conditions

As claims progress, it is not uncommon for additional medical conditions or consequential conditions to be added to a certificate of capacity. This may have an impact on the management of a claim including:

- the need for treatment,
- entitlement to weekly payments, and
- the worker's degree of permanent impairment.

GIO will proactively review certificates of capacity to ensure workers continue to receive appropriate compensation and support.

If a worker makes a claim for treatment or weekly payments for the additional or consequential medical condition, GIO will make a liability decision within 21 days from the receipt of the certificate of capacity.

If the additional or consequential medical condition is not work-related, prompt action to decline liability for that condition by GIO enables the treating doctor to appropriately manage the non-work-related medical condition.

Entitlements

There will be instances where a worker will be unable to immediately return to work, or if they have returned to work following the injury, they may continue to experience a loss of earnings.

Pre-injury average weekly earnings

If a worker is unable to perform their pre-injury job because of a work-related injury, any weekly compensation that might be payable to them is calculated by reference to their pre-injury average weekly earnings (PIAWE).

PIAWE is generally the weekly average of a worker's gross earnings over the 52 weeks prior to their date of injury.

The calculation of PIAWE is essential to making sure that a worker receives accurate weekly payments. Unless there is a reasonable excuse not to, these payments are to commence within the first seven days of notification of an injury and will need to be reassessed if new information is later received.

Calculating PIAWE

For workers injured before 21 October 2019

PIAWE is the sum of:

- Ordinary earnings during the relevant period (either their base rate of pay or actual earnings, any amounts paid or payable as piece rates or commissions, and the monetary value of non-financial benefits), and
- Any permissible shift and overtime amounts.

Special consideration is given to workers employed by more than one employer at the time of injury. Schedule 3 of the *Workers Compensation Act 1987* sets out the method to determine PIAWE where a worker was employed by more than one employer at the time of injury.

For workers injured on or after 21 October 2019

PIAWE is the sum of:

- A worker's gross weekly earnings over the 52 weeks before their date of injury

There are some exceptions to this definition, including:

- If the worker has not been continuously employed in the 52 weeks before the injury.
- If the worker had an ongoing financially-material change in earnings in the 52 weeks before the injury (e.g. because of a permanent promotion or demotion).
- If it is simpler to align to the worker's usual pay cycle.
- If the worker has taken extended periods of unpaid leave (7 or more consecutive days) in the 52 weeks before injury.
- To take into account a financially material reduction in earnings due to the COVID-19 pandemic in the prescribed periods.

If a worker is employed by more than one employer at the date of injury, the earnings for all jobs are considered when determining PIAWE.

Gross earnings

For workers injured on or after 21 October 2019, earnings can include wages, shift and other allowances, overtime amounts, commissions, the value of non-monetary benefits (if a worker no longer has the use of the benefit) and piece rates.

Income does not include:

- the individual superannuation guarantee shortfall ('superannuation guarantee amount')
- a non-monetary benefit if the worker continues to be entitled to the use of the benefit after the injury
- compensation for loss of earnings under an insurance or compensation scheme (this includes workers compensation payments made during the relevant earning period)

- any discretionary payment made without obligation by the employer (this can include incentive bonus payments), or
- any additional payment subsidised by the JobKeeper scheme.

Shift and overtime allowances

For injuries prior to 26 October 2018 shift and overtime allowances are only included in the PIAWE calculation for the first 52 weeks of entitlement. After that, they are removed.

For injuries on or after 26 October 2018, any calculation of overtime and shift allowances will remain in PIAWE beyond 52 weeks.

PIAWE agreements

A worker and employer may enter into an agreement about the PIAWE amount that will be used when calculating PIAWE. An [application](#) to use an agreed amount must be provided to GIO within 5 days of the initial notification of injury.

GIO will approve or not approve the agreement within 7 days of receiving the application. GIO will approve the agreement if we are satisfied that the agreed amount reasonably reflects the worker’s PIAWE, and the agreement is fair and reasonable.

Interim PIAWE

Where a worker and employer do not make an application for an agreement on PIAWE and GIO does not have sufficient information to complete a PIAWE calculation (e.g. payslips or other evidence of a worker’s earnings), GIO may commence weekly payments using an interim PIAWE amount based on the best available information.

GIO will inform the employer and worker that all the information required to make a complete PIAWE calculation should be provided to us as soon as possible. GIO will recalculate PIAWE within 5 working days of receiving PIAWE information and review for any adjustment payments.

Minimum PIAWE

The minimum PIAWE is \$155 and is set by clause 6 of the *Workers Compensation Regulation 2016* (2016 Regulation).

If a worker’s PIAWE is calculated to be lower than the minimum PIAWE (\$155), then the worker’s PIAWE is deemed to be the minimum amount of \$155 (clause 2 of Schedule 3 of the *Workers Compensation Act 1987*).

Weekly entitlements

Entitlement period	Calculations before 21/10/2019	Calculations on or after 21/10/2019
First (0-13 weeks) Section 36 of the 1987 Act	<p>Weekly payment for a worker who has no current work capacity:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 95%) – deductions, or • The statutory maximum – deductions <p>Weekly payment for a worker who has current work capacity:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 95%) – any earnings and deductions, or • The statutory maximum – any earnings and deductions 	<p>Weekly payment for a worker who has no current work capacity:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 95%), or • The statutory maximum <p>Weekly payment for a worker who has current work capacity:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 95%) – any earnings, or • The statutory maximum – any earnings

Entitlement period	Calculations before 21/10/2019	Calculations on or after 21/10/2019
<p>Second (14-130 weeks)</p> <p>Section 37 of the 1987 Act</p>	<p>Weekly payment for a worker who has no current work capacity:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 80%) – deductions, or • The statutory maximum – deductions <p>Weekly payment for a worker who has current work capacity and has returned to work for less than 15 hours per week (or who has not returned to work):</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 80%) – any earnings and deductions, or • The statutory maximum – any earnings and deductions <p>Weekly payment for a worker who has current work capacity and has returned to work for 15 or more hours per week:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 95%) – any earnings and deductions, or • The statutory maximum – any earnings or deductions 	<p>Weekly payment for a worker who has no current work capacity:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 80%), or • The statutory maximum <p>Weekly payment for a worker who has current work capacity and has returned to work for less than 15 hours per week (or who has not returned to work):</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 80%) – any earnings, or • The statutory maximum – any earnings <p>Weekly payment for a worker who has current work capacity and has returned to work for 15 or more hours per week:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 95%) – any earnings, or • The statutory maximum – any earnings
<p>After second</p> <p>Section 38 of the 1987 Act</p>	<p>Weekly payment for a worker has no current work capacity and is likely to continue indefinitely to have no current work capacity:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 80%) – deductions, or • The statutory maximum – deductions <p>Weekly payment for a worker who has current work capacity:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 80%) – any earnings and deductions, or • The statutory maximum – any earnings and deductions 	<p>Weekly payment for a worker has no current work capacity and is likely to continue indefinitely to have no current work capacity:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 80), or • The statutory maximum <p>Weekly payment for a worker who has no current work capacity:</p> <ul style="list-style-type: none"> • The lesser of (PIAWE x 80%) – any earnings, or • The statutory maximum – any earnings

[Section 34](#) of the 1987 Act outlines the maximum weekly compensation amount (statutory maximum). The maximum weekly compensation amount payable is adjusted on 1 April and 1 October each year. See the [Workers compensation benefits guide](#) on the SIRA website for the latest figure.

Reimbursement of weekly payments

Where weekly compensation benefits might be payable, GIO will pay benefits to the employer unless agreed otherwise within 7 calendar days of the claim being lodged for the initial payment and at a frequency agreed upon for any further payments. The employer should continue to pay the worker in line with their usual pay cycle.

Further payments are payable on receipt of a valid certificate of capacity provided by the worker and any additional information in respect of earnings.

Where an employer has a current Wage Reimbursement Agreement in place, payment for weekly compensation will be reimbursed in accordance with the terms of the agreement.

In cases where it is necessary for GIO to process weekly payments directly to the worker, GIO will consult the employer and worker before commencing those weekly payments and advise the employer and worker in writing within 5 working days after commencing weekly payments.

Reduction of payments in compensation

Workers need to be kept informed about their claim, particularly where their entitlements are to be stepped down due application of the legislation. The application of legislative step-downs may depend on the circumstances of the worker, where they were injured and their work status.

GIO will notify the worker and employer (where the employer is making weekly payment directly to the worker) 15 working days prior to any reduction in payments.

Work capacity decisions

A work capacity decision is a decision made by GIO about, (but not limited to) one or more of the following:

- whether the worker has current work capacity
- what is considered suitable employment
- how much the worker can earn in suitable employment

- the worker's pre-injury average weekly earnings (PIAWE)

A work capacity decision can be made at any time during the life cycle of a claim.

A worker's capacity will be assessed throughout the life of a claim whenever new information about the worker's capacity (such as a certificate of capacity) is received which may impact on a worker's entitlement to, or the amount of weekly payments.

Where a work capacity decision reduces or stops a worker's weekly payments, GIO will issue a written decision notice to the worker with the relevant notice period as per [section 78](#) and [section 80](#) of the 1998 Act and will be provided the relevant

Where a worker's weekly payments are reduced or stopped, your liability to pay compensation will not necessarily cease. The worker may need to continue to be supported through the return-to-work process and provided with the medical care they need for their ongoing recovery.

If the worker's circumstances change, GIO may make a new work capacity decision and the worker's weekly payments may recommence.

A work capacity decision will also be made when required to determine a worker's pre-injury average weekly earnings (PIAWE).

Work capacity decision are not applicable for [exempt workers](#).

Reviewing a work capacity decision

A worker has the right to ask for a review of a work capacity decision.

If they disagree with the decision, they have the option to request a review by GIO by completing an application for internal review form.

This is an optional review which is an independent process and must be completed by GIO within 14 days.

Alternatively, or if they disagree with the internal review outcome, a worker can lodge a dispute directly with the [Personal Injury Commission \(PIC\)](#).

An employer may also request an internal review of a work capacity decision.

Non-compliance management

[Section 48](#) of the 1998 Act sets out that, in order to receive weekly payments, an injured worker who has capacity to work must make reasonable efforts to return to work.

If they do not, GIO will contact key stakeholders and discuss the reasons for non-compliance or non-participation and will try to resolve any barriers.

Where there are barriers, these will be included in the worker's [injury management plan](#).

Where resolution is not able to be achieved, the worker will be informed of the impact on the entitlement to weekly benefits. This may include a written warning, timeframe to comply, suspension of weekly payments or termination of weekly payments if the non-compliance or non-participation continues.

Permanent impairment

If a worker has sustained a workplace injury or illness that is permanent in nature, they may be entitled to receive a lump sum payment as compensation. This is in addition to weekly payments, medical and related expenses that may generally be available through the workers compensation system.

Claims for lump sum compensation for injuries that occurred on and from **1 January 2002** are based on an assessment of a worker's permanent impairment.

If a worker's claim for lump sum compensation was made on or after **19 June 2012**, a threshold of more than 10% permanent impairment for physical injury (including hearing loss) must be reached to access a permanent impairment lump sum.

The threshold for a primary psychological injury lump sum payment remains at 15% permanent impairment.

Workers are not entitled to make multiple permanent impairment compensation claims. Only one claim can be made for permanent impairment compensation in respect of an injury.

However, if a claim for permanent impairment was made before **19 June 2012**, the worker may be entitled to make one further lump sum compensation claim if their condition has deteriorated.

Assessments for permanent impairment are only to be conducted when the worker has reached Maximum Medical Improvement (MMI). This is considered to occur when the worker's condition is well stabilised and is unlikely to change substantially in the next year with or without medical treatment.

Negotiation on degree of permanent impairment

Where appropriate, parties will be encouraged to consider negotiating and agreeing the degree of permanent impairment.

Seeking to reach an agreement on the degree of permanent impairment can reduce time, costs, and the likelihood of disputes.

Work injury damages

If a worker is injured in circumstances where the employer was negligent, the worker may have a right to sue for modified common law damages, known as work injury damages.

For a worker to be able to claim work injury damages, they must show:

- The work injury was the result of employer negligence
- The injury has resulted in at least 15% whole person impairment
- At least six months have elapsed between the date of injury and the issuing of proceedings
- A claim for lump sum compensation is made before or at the same time as the claim for work injury damages.

To establish negligence, the worker must be able to show:

- The employer owed the worker a duty of care
- There was a breach of the duty of care
- The employer's negligence caused the worker to suffer loss; and
- There was a foreseeable risk of injury associated with the work they were doing.

Commutation

A commutation is a settlement of a worker's entitlement to weekly benefits and medical expenses by way of a single lump sum payment. This payment is a voluntary agreement made between GIO and the injured worker.

The payment removes GIO's liability to pay future weekly payments and or medical expenses.

A worker with a catastrophic injury can commute their weekly payments, however they cannot commute their medical, hospital, and rehabilitation entitlements.

A commutation must be approved by State Insurance Regulatory Authority (SIRA) and registered with the Personal Injury Commission (PIC).

SIRA must be satisfied that the following preconditions have been met:

- The worker's injury has resulted in permanent impairment of at least 15%
- Payment for permanent impairment has been paid to the worker
- It has been more than two years since the worker first received weekly payments for the work-related injury
- All opportunities for injury management and return to work have been fully exhausted
- The worker has received weekly payments throughout the previous six months
- The worker has an existing and continuing entitlement to ongoing weekly payments
- The weekly payments have not been terminated because of the worker not complying with their return-to-work obligations.

Before entering into a commutation agreement, the worker must receive independent legal advice. The legal adviser must certify in writing that the worker has been advised of the following:

- The full legal implications of the agreement
- That it is in the worker's best interest to get independent advice about any financial consequences before entering into the agreement.

The worker will also be required to confirm in writing that they have received and understood the legal advice.

Once the agreement has been registered by Personal Injury Commission (PIC), GIO must pay the worker within seven days of the registration and or within a longer period if so specified in the agreement.

Section 39 notification

The intent of [section 39](#) of the 1987 Act is that all workers will cease weekly benefit entitlement at 260 weeks paid unless there is an assessment that confirms their Whole Person Impairment (WPI) is greater than 20%.

Workers who are determined to be affected by this limitation, will be provided notification 13 weeks prior to the cessation of weekly benefits which also details their last date of payment, their medical entitlements, their entitlement to vocational and return to work programs as well as information on who to contact for further information and Centrelink details.

Workers may continue to receive medical entitlements following the cessation of their weekly payments for a limited time as prescribed by [section 59A](#) of the 1987 Act.

The limitation of section 39 does not apply to exempt workers.

Retiring age notification

Workers may be entitled to receive weekly payments up to their retiring age plus 12 months, or in cases when their injury occurred after their retiring age, they may have entitlement to weekly payments for a maximum period of 12 months.

Workers affected by this will be provided with written notification 13 weeks the cessation of weekly payments. The written notice will include the last date of payment.

Providing early notification before cessation of weekly payments helps to ensure that workers have sufficient time to prepare for cessation and make any necessary arrangements.

Treatment and medical intervention

Reasonably necessary treatment

Following an injury at work, a worker may need medical treatment or care.

Under workers compensation legislation, GIO can only cover medical and related expenses for approved treatment and services that are considered to be reasonably necessary. Therefore, it is important to seek approval from GIO before incurring any expenses.

The factors that may be considered when reviewing a request for reasonably necessary treatment or care include:

- Relationship to the injury – How is the treatment related to the workplace injury?
- Appropriateness – How does the treatment help improve the worker’s functioning and participation in daily life?
- Cost – Is the treatment cost effective?
- Effectiveness – What is the actual or potential effectiveness of the treatment? How will it benefit the worker?
- Whether treatment is contributing to the worker’s goals and outcomes.
- Alternatives – Are other treatments available?
- Acceptability – Do medical experts consider the treatment to be effective and reasonable?

Requests for treatment are considered on a case-by-case basis. What is considered to be reasonably necessary for one worker may not be considered to be reasonably necessary for another worker with a similar injury.

Some treatment providers must be approved by the State Insurance Regulatory Authority (SIRA), including physiotherapy, chiropractic, exercise physiology, psychology, and counselling.

A list of providers approved by State Insurance Regulatory Authority (SIRA) is available at www.sira.nsw.gov.au.

There are some treatments and services that do not require pre-approval from GIO. These treatments and services are outlined in Part 4 of the [Workers Compensation Guidelines](#) and include:

- Initial treatment within 48 hours of the injury occurring
- Consultation or case conferencing for the injury with the nominated treating doctor
- Services provided in a public hospital emergency department
- Standard x-rays referred by the treating doctor within two weeks of the date of the injury
- Prescription and over-the-counter pharmacy items prescribed by the nominated treating doctor within one month of the date of the injury
- Up to eight consultations with a State Insurance Regulatory Authority (SIRA) approved treatment practitioner, with treatment starting within three months of the date of the injury.

Where possible, GIO will provide pre-approval for treatment as soon as possible after becoming aware of the requirements.

Before making a decision about the approval of services, GIO will determine whether:

- the service provider is appropriately qualified to provide the service
- the proposed fees are appropriate and consistent with workers compensation fees orders, and
- the services requested align to appropriate billing/payment codes.

When approving services from workplace rehabilitation providers, GIO will ensure that the services are consistent with the [Guide: Nationally consistent approval framework for workplace rehabilitation providers](#) and the [NSW Supplement to the Guide](#).

Medical payments

Payments are made to workers or health service providers for various reasons within the workers compensation scheme.

The SIRA Standards of Practice outline the principle that workers and providers will receive prompt payment of invoices and reimbursements for medical, hospital and rehabilitation services. GIO is required to comply with this principle.

Expectations include:

- Payment no later than 10 working days (or within a provider’s terms, whichever is later) from receipt of a valid invoice or receipt of relevant documentation for approved treatment
- Rates and items align with approvals
- Rates do not exceed the maximum amount prescribed by any relevant workers compensation fees order
- Invoices contain all relevant information, including application of GST where appropriate
- Where invoices or receipts are illegible, contain insufficient information or submitted more than 12 months after treatment or the expenses was incurred, GIO will inform the relevant party of the reason for the delay within 10 working days and the anticipated resolution time.

Section 59A notification

The period for which medical and related treatment can be claimed is determined by the degree of whole person impairment.

Assessed permanent impairment	Compensation period from when weekly payments stop, or from the date of claim in no weekly payments have been made.
0 – 10% or no assessment made	Two years
11 – 20%	Five years
>20%	For life

The limitation on medical benefits does not apply to exempt workers, home or vehicle modifications, or the provision of hearing aids, hearing aid batteries, crutches, artificial limbs, eyes or teeth and spectacles. Workers whose medical benefits are due to cease will be provided with a written notification at least 13 weeks before cessation of benefits.

Independent opinions

icare Medical Support Panel (MSP)

The aim of the [Medical Support Panel](#) is to leverage specialist medical expertise to improve health outcomes and the experience for workers and employers.

By reviewing case information, the MSP medical specialists can make timely treatment and medical causation recommendations, assisting case managers in the comprehensive medical management of a worker’s claim and facilitating faster approval for medical interventions.

Independent Medical Examiner

An [Independent Medical Examiner](#) is a registered medical professional who provides an impartial opinion about liability, treatment, causation of injury or illness, and permanent impairment.

GIO will initiate a referral to an Independent Medical Examiner when:

- information about their injury from the worker’s nominated treating doctor or specialist is inadequate, unavailable, or inconsistent
- GIO has been unable to resolve issues after discussion with the worker’s support team, or
- an assessment of permanent impairment is required.

When referring a worker to an Independent Medical Examiner, GIO will select an appropriately qualified medical practitioner with expertise in the worker’s type of injury. If an opinion is required about the cause of the worker’s injury or treatment needs, the Independent Medical Examiner must be in current clinical practice.

GIO will:

- ensure that an appointment can be made within a reasonable period of time (usually four weeks) and within the worker's travel restrictions
- provide all relevant information available to assist the Independent Medical Examiner's assessment
- seek the worker's consent if the Independent Medical Examiner records (audio or video) consultations

GIO will make subsequent referrals to the same Independent Medical Examiner unless the Independent Medical Examiner has ceased to practice, they no longer practices in a convenient location to the worker, the specialty required to assess the worker's injury has changed, or the parties agree that a different Independent Medical Examiner is required.

Injury Management Consultant

An [Injury Management Consultant](#) is a medical practitioner who is experienced in workplace rehabilitation and will be engaged to assist workers identified as at risk of delayed recovery and when there is a specific injury management issue.

They liaise with the worker, employer and nominated treating doctor to overcome barriers and identify strategies and solutions to assist a worker to return to work.

GIO, the employer, worker, nominated treating doctor or other treating practitioner can refer to an Injury Management Consultant when there is a specific return to work or injury management concern relating to things like:

- the complexity of the injury or the workplace environment
- poor communication
- a conflict between the nominated treating doctor's recommendations and the workplace requirements
- unexplained changes in work capacity
- a disagreement regarding the suitability of duties offered to a worker
- the worker is not upgrading at work

The referral may be made for a file review or a face-to-face consultation.

Before making a referral to an Injury Management Consultant GIO will contact the worker to discuss the referral, explain the role of the Injury Management Consultant and the reason for referral.

If a file review is being considered, then the worker will be asked if they wish to be involved via telephone or face-to-face.

GIO will advise the treating doctor that a referral has been made, provide the reasons for the referral, and let them know that they can be paid for time taken to communicate with the Injury Management Consultant.

When referring a worker to an Injury Management Consultant GIO will always ensure that any special requirements of the worker are accommodated, the injury type is considered, and conflicts of interest between the Injury Management Consultant, nominated treating doctor or employer are avoided.

When referring the worker to attend an appointment they will also ensure that the location of the Injury Management Consultant is within the worker's travel restrictions, the appointment is within a reasonable timeframe and seek the worker's consent if the Injury Management Consultant records (audio or video) consultations.

For file reviews, GIO will let the worker know they will be provided with a copy of the report along with other parties involved in the injury management consultation.

GIO will make subsequent Injury Management Consultant referrals to the same Injury Management Consultant unless the Injury Management Consultant has ceased to practice, no longer practices in a convenient location to the worker, or the parties agree that a different Injury Management Consultant is required.

Independent Consultant

An [Independent consultant](#) is an allied health practitioner approved by SIRA to provide an independent peer review of allied health practitioner (physical or psychological) treatment.

A referral to an independent consultant should be considered if there is any concern about:

- the treatment duration, frequency and/or whether treatment is reasonably necessary

- the fact that treatment has continued for an extended period without
- any improvement in functional outcomes, particularly in relation to a worker's capacity
- the treatment approach most likely to achieve positive work outcomes for the worker
- barriers to recovery at work and/or psychological risk factors for delayed recovery and work loss.

Finalisation

Finalising a claim

A claim is finalised when the injury no longer impacts the worker's ability to participate in suitable employment or pre-injury employment and no further treatment is required.

Finalisation of a claim may also include:

- A return to pre-injury duties
- A return to suitable employment with no wage loss or further treatment needs
- A work capacity decision that results in no entitlement to weekly payments and no ongoing medical treatment is required
- A common law settlement or commutation
- The recovery of damages by the injured worker from a third party
- A refusal of ongoing liability
- The termination of weekly payments and no ongoing medical treatment is required
- The cessation of weekly payments under statute due to the passage of time.

When finalising a claim, GIO will notify all relevant stakeholders and ensure any outstanding costs are reimbursed.

Written notification of closure of the claim will be provided two days post the finalisation of the claim. This letter will include information on the date the claim was closed, medical benefits cessation date and what to do if the claim needs to be re-opened.

Reopening a claim

In certain circumstances, it may be necessary to reopen or reactivate a claim that was previously finalised.

When a request to reopen or reactivate a claim is received, GIO will conduct a thorough review of the worker's claim and decide if there is any further entitlement to benefits.

GIO will also communicate a liability decision to all stakeholders about whether further benefits are payable.

Other matters

Information and records management

The SIRA Standards of Practice outline that a worker should be informed of ‘their right to access their personal and health information’ held by GIO.

In accordance with NSW privacy legislation and privacy principles, a worker’s personal and health information should be made available to a worker at their request.

- There may be some limited circumstances where exceptions may apply to the provision of a worker’s personal and health information.
- Access requests from a worker should be responded to within 10 working days in accordance with SIRA’s Standards of Practice.
- Reports from third party providers may be released to the worker if the report is about the worker.

Privacy and confidentiality

GIO is committed to protecting the privacy of our customers, employees, and members of the public.

This includes our Board directors, ongoing and temporary employees, contractors, consultants, and others who may be temporarily assigned to perform work or services for GIO.

GIO will not disclose personal or health information unless this is permitted by legislation.

Individuals have the right to access and correct their personal and health information held by GIO. Information on how to do this can be found in the [GIO Worker Compensation Privacy Statement \(NSW\)](#).

In circumstances where GIO may refuse an individual access to their personal and health information, GIO will provide reasons for the refusal in writing.

The Statement also includes information about how an individual can make a complaint about a breach of the Australian Privacy Principles and how GIO will deal with such a complaint.

Individuals with an unresolved enquiry, or complaint about GIO can contact the [Independent Review Office](#) (IRO).

Employers or other stakeholders with an unresolved enquiry or complaint can contact [SIRA](#).

For more details

For more information about our privacy practices including accessing or correcting an individual’s personal information or making a complaint:

- Visit www.gio.com.au/privacy
- Contact GIO on 13 10 10
- Email wc.complaints@suncorp.com.au

Fraud

Fraud involves making a false or misleading statement while claiming workers compensation, with the intention of obtaining money or gaining financial advantage. This is considered a serious offence and it can carry significant penalties.

For more details:

Email	intelligence@suncorp.com.au icarefraud@icare.nsw.gov.au contact@sira.nsw.gov.au
Phone	13 10 10
Mail	Compliance, Investigations & Prosecutions Locked Bag 2905 LISAROW NSW 2252

Factual and surveillance investigations

The SIRA Standards of Practice ([standard 24](#)) indicate a factual investigation can be undertaken when the required information cannot be obtained by other less intrusive means.

A factual investigation can involve interviews, scene inspection and document review such as gaining access to information not limited to personnel records or wage records.

GIO is required to inform the worker if they are requested to participate in a factual investigation:

- the purpose of the factual investigation
- the anticipated duration of the interview (should not exceed two hours)
- the worker can nominate the place of the interview
- the worker can have a support person present at the interview, including a union representative
- the worker can request an interpreter if required, who does not count as a support person
- the worker will receive a copy of their statement or transcript within ten working days of the interview
- the worker can identify witnesses to be considered to assist the investigation and
- the worker is not obligated to participate in the factual investigation; however, the factual investigation will be used to help determine liability for their claim.

Surveillance can play an important role in the workers compensation scheme but can significantly erode worker trust. GIO is expected to use it judiciously when all other avenues have been exhausted.

The SIRA Standards of Practice ([standard 25](#)) outlines the expectations and benchmarks for GIO when considering whether to conduct surveillance on a claim.

Prior to undertaking covert surveillance, GIO must make an application to the icare Disputes and Litigation Team for approval.

GIO will only conduct surveillance of a worker when:

- there is evidence that the worker is exaggerating an aspect of the claim or providing misleading information in relation to a claim, and GIO reasonably believes that the claim is inconsistent with information in GIO's possession, or GIO reasonably believes that fraud is being committed, and
- GIO is satisfied that it cannot gather the information required through less intrusive means and that the benefit of obtaining the information outweighs the intrusion into the worker's privacy, and
- the surveillance is likely to gather the information required.

Note: GIO is to rely on sound information when identifying the need for surveillance and is not to rely on hearsay, innuendo, or rumour.

GIO is also required to ensure that any surveillance activity meets the requirements set out in the SIRA Standards of Practice.

Claim handover

Claim handover is the transfer of a claim from one claim owner to another or from one claims service provider (CSP) to another.

A claim handover process facilitates efficient and effective transfers and ensures maintenance of momentum and continuity of care. It ensures that stakeholders will not be disadvantaged when claim handover occurs.

Prior to transfer the claim owner will undertake key actions and notify stakeholders of the claim handover. The previous claim owner will provide key information to the new claim owner and ensure the strategy is shared.

Upon receipt of the claim file, the new claim owner will review the information received and obtain any additional information required to assist with the management of the claim.

Monitoring is undertaken by GIO to ensure that claims are allocated to the correct segment and to assess the movement of claims.

Recoveries

GIO is responsible for identifying, investigating, and initiating recoveries actions. These include:

- Third Party Recoveries
- Excess
- Overpayments

Third Party Recoveries

Claims for recovery may be pursued against the third party.

Claims for recovery can arise from, but are not limited to motor vehicle accidents, public liability (including slip & falls), occupier liability, labour hire placements and assaults.

[Section 151Z](#) of the 1987 Act provides a statutory basis for a GIO to take action against negligent third parties to recover workers compensation benefits paid under workers compensation legislation.

GIO will complete an early screening to determine recovery potential within the first 21 calendar days of receipt of a new claim.

If recovery potential is identified, GIO will determine what investigation is required to pursue the recovery.

Excess

Claims for excess can arise when employers fail to notify the GIO after 5 calendar days of becoming aware of the injury.

GIO is responsible for confirming the date of injury AND the date the employer was notified of the injury occurring AND the date the employer notified GIO.

If the employer then failed to inform GIO after 5 calendar days of being notified themselves, then excess is applicable as prescribed under [section 160](#) of the 1987 Act.

Where weekly benefits are paid directly to the employer, excess will be automatically deducted from these payments.

Where weekly benefits are paid directly to the worker, employers will be invoiced for excess.

In circumstances where PIAWE is required to be recalculated which results in a change to PIAWE effective during the initial weeks' weekly payment,

then the applicable amount of excess will also be adjusted.

Overpayments

Overpayments can occur when the payment amount was incorrect, payment was made to the incorrect payee or payment had already been reimbursed for the same service/dates/amount (duplicate payment).

GIO will monitor overpayments and will review all treatment invoices exceeding SIRA gazetted fee order amounts.

Recovery will be pursued if:

- A GIO error was caused by inaccurate information provided by the worker, employer, or service provider
- the inaccuracy was known or ought to have been known by the worker, employer, or service provider
- if consideration of the worker's personal circumstances identifies recovery of the overpayment would not result in undue hardship.

Recovery will NOT be pursued if:

- reimbursement of medical and related expenses reasonably incurred by the worker exceeds maximums set by SIRA
- the weekly benefit overpayment is a result of a change in PIAWE following an interim PIAWE being applied and the new PIAWE amount is now lower than the interim PIAWE previously applied
- the recipient is unable to repay an overpayment and consideration has been given to the recipient's individual circumstances

Where the payment is to the worker, the SIRA Standards of Practice ([standard 23](#)) outlines the principle for recovery of overpayments due to an error made by GIO.

Risks relating to overpayment or duplication of payments to workers will be mitigated where practicable while ensuring efficient management of claims, and overpayments will be managed in a fair and transparent manner. GIO is required to comply with this principle.

Expectations outlined in the SIRA Standards of Practice include:

- advise the worker of the details of the payment(s) and clearly describe the error and the impact to the worker in writing
- where a repayment arrangement has been negotiated with the worker, GIO must demonstrate the individual circumstances of the worker have been considered, including potential financial hardship.
- this must be outlined in writing to the worker; and the worker's informed consent for repayment must be obtained in writing before commencement of any repayment arrangement.

Medicare and Centrelink clearance

Medicare

When a worker has had a judgment or settlement in their favour and is currently (or has in the past) receiving eligible benefits provided through a government program such as Medicare or nursing home benefits, residential care or home care subsidies, and those benefits relate to treatment and care costs where GIO is liable (i.e. for the compensable injury / illness), GIO must advise the Department of Human Services within 28 days from the date of a judgment or settlement:

- About the judgement
- The settlement, and
- Reimbursement arrangement.

Notice of Charge / Medicare History Statement:

- Proactive engagement with the Department of Human Services and correct attribution of medical costs helps to ensure prompt payment of entitlements and reduces the risk that a worker will be inadvertently subject to recovery action from Medicare.
- A Notice of Past Benefits lists the medical services the worker had claimed under Medicare from the date of injury and the total amount of eligible benefits paid, relating to the compensable injury/illness if any.

- Once the Notice of Charge is reviewed, payment is processed to the Department of Human Services. The amount to be paid is in addition to the compensable amount relating to the percentage of whole person impairment.

Quality assurance program

The Workers Compensation Claims Quality Management Framework is critical in underpinning the Workers Compensation operations. It ensures that the work performed is consistent, transparent, and helps icare identify and apply continuous improvements in a systematic way.

Quality Assurance (QA) reviews provide useful insights into relevant claims management issues and themes which can then be used as inputs into a continuous improvement process (along with other inputs such as customer feedback, complaints and return to work results).

The Workers Compensation Claims Quality Assurance Framework (QAF) and associated activities focus on:

- informing management of the qualitative aspects of performance
- identifying trends and issues relating to quality of key claims management activities
- supporting effective claims and injury management practices
- providing assurance over management of key risks
- managing performance, improving quality, and continuous improvement of services
- fine tuning QA and other assurance activities.

Provider management

icare has established direct contractual arrangements with a range of third-party service providers to ensure effective and quality services for workers and employers. These contracts and associated SIRA regulations and fee orders govern service, organisational, insurance and reporting requirements, enabling icare to ensure quality around service delivery and outcomes.

Each service provider is required to achieve and maintain any required registration status for the term of the contract and maintain the required level of insurance for workers compensation, professional indemnity, and public liability.

GIO is committed to ensuring quality service provision for all stakeholders and that services provided meet the requirements of the service provider's contractual arrangement with icare.

GIO engage a wide range of service providers under different arrangements to deliver a broad range of services to meet customer needs. We have a dedicated provider management team who undertake activities such as performance monitoring, communications, and issues management aiming to optimise:

- Service outcomes
- Cost-effectiveness, and
- Customer experience.

Employment management practices

Injury prevention

GIO is committed to working in partnership with workers and employers to achieve improved and sustainable health outcomes.

We partner with employers to drive continuous improvements to their worker's compensation program. Our engagement and governance framework may include executive and operational reviews, business planning, and service level commitment.

GIO has a Risk Management Team to assist employers better manage their Work, Health and Safety and Injury Management systems and obligations.

Claims data analysis to identify opportunities for improvement

GIO provides a range of monthly and online reporting tools designed to help employers track claims performance and assist in identifying risk management strategies, including:

- Claims Financial Total (CFT) which summarises basic claims and financial data by policy period
- Customer Experience Report (CER) which provides a national, high-level executive review and operational snapshot of performance to assist in managing claims and trends
- The icare website has a range of tools and reference materials to assist employers better understand their claims performance for claims managed on icare's system.

Providing education and information to employers

GIO provides employers with access to a comprehensive range of training programs designed to assist businesses to prevent workplace injuries and reduce associated costs.

Injury management program communication

Regardless of the size of an employer, the information contained within this injury management program can be used by employers to develop their return-to-work program. Employers can access this injury management program by contacting GIO.

Feedback and complaints

EMBRACE customer program

The GIO EMBRACE customer program is designed to bring the voice of our customers' into our everyday actions to make the process of claiming compensation as simple and easy as possible.

GIO's EMBRACE program includes best practice processes and routines to ensure alignment to our customers' evolving needs.

Customer satisfaction is measured through a CSAT (Customer Satisfaction) score whereby interactions with our workers and employers are surveyed at random. The feedback provides insights into any pain points and drives continuous improvement.

Where there is uncertainty or disagreement, we make use of a robust internal service recovery process with additional support services where required.

If there is a problem

GIO is committed to doing things the right way and keeping our customers happy. Unfortunately, disputes and complaints arise, and when this happens, we aim to resolve the issue as quickly as possible.

If there is a problem with a claim, you are encouraged to contact the claim owner managing the to discuss and agree on a resolution. If the claim owner needs to take further action to resolve the issue/s, they will respond within set timeframes.

Unresolved complaints

If you are not satisfied that your complaint or enquiry has been resolved:

- Workers with an unresolved enquiry or complaint about GIO can contact the [Independent Review Office](#) (IRO) by calling 13 94 76 or complaints@iro.nsw.gov.au
- Employers or other stakeholders with an unresolved enquiry or complaint about any aspect of a workers compensation claim can

contact SIRA on 13 10 50 or contact@sira.nsw.gov.au

Dispute resolution

The legislation allows a worker to request a review of liability, pre-injury average weekly earnings calculation or work capacity decision that is disputed by a worker before it is referred to the Personal Injury Commission (PIC) for determination.

Employers who disagree with GIO's liability or work capacity decision can also ask for a review by completing and submitting an [application for review](#).

GIO is responsible for undertaking independent internal reviews of pre-injury average weekly earnings calculations and work capacity decision.

icare's Dispute Resolution and Litigation Team is responsible for undertaking liability reviews on behalf of GIO.

The assigned reviewer must conduct and notify the outcome of the review within 14 calendar days after the request is received.

Litigation

Litigated matters are disputes that have been escalated to the Personal Injury Commission (PIC) or the Courts for resolution.

GIO will determine the actions to be taken on litigated matters.

Employers can contribute information to assist in defending the litigation, participate in discussions between GIO and our appointed legal service provider, and attend hearings.

GIO is required to participate in Personal Injury Commission (PIC) hearings in accordance with the SIRA Standards of Practice. This means GIO is required to have a person available to participate and provide instructions to our appointed legal service providers.

Where there is uncertainty or disagreement, the following support services are available:

Service	Contact
<p>Independent Review Office (IRO)</p> <p>IRO is an independent statutory office whose role includes dealing with complaints, as well as managing the provision of legal assistance to injured workers.</p>	<p>13 94 76</p> <p>www.iro.nsw.gov.au</p>
<p>State Insurance Regulatory Authority (SIRA)</p> <p>State Insurance Regulatory Authority (SIRA) regulates the workers compensation system in NSW and provides information to claims service providers (CSP's), workers and employers on the rights, roles, and obligations of everyone involved in the workers compensation system.</p>	<p>13 10 50</p> <p>www.sira.nsw.gov.au</p>
<p>Personal Injury Commission (PIC)</p> <p>The PIC is an independent statutory tribunal that resolves workers compensation disputes between injured workers, employers, and claims service providers (CSP's).</p>	<p>1800 742 679</p> <p>www.pi.nsw.gov.au</p>

AAI Limited trading as GIO – Agent for the Workers Compensation Nominal Insurer
ABN 83 564 379 108/003 also known as icare workers insurance
31/03/2023

