

Work Capacity Assessments (WCA)

In June 2012 the NSW O'Farrell Government introduced changes to the NSW Worker's Compensation Scheme. As a result injured workers are now subject to "work capacity assessments" effective as of January 1, 2013.

The work capacity assessments provisions do **not** apply to those workers who are police officers, paramedics and fire-fighters, people injured working in or around coal mines, volunteer bush fire fighters, emergency and rescue service volunteers or people with a dust disease claim under the Workers Compensation (Dust Diseases) Act 1942, system or

Seriously injured workers, as defined by section 32A of the 1987 Act are not required to undergo a work capacity assessment unless the worker requests it and the insurer considers such an assessment appropriate.

Your employer's insurer now assesses your work capacity.

A work capacity assessment is an assessment conducted by the insurer of a worker's current work capacity in accordance with section 44A of the 1987 Act.

The insurer may conduct a work capacity assessment at any stage throughout the life of a claim. The insurer assesses your work capacity through a continual process of gathering and reviewing information about your claim. It is not a one-off 'test'.

The WCA is a review of the worker's functional, vocational and medical status and helps to inform the insurer about the worker's ability to return to work in his or her pre-injury employment or suitable employment with the pre-injury employer, or at another place of employment.

All claims made prior to 1 October 2012 - the insurer will commence making an initial assessment and decisions on your work capacity as of January 1, 2013.

If you are assessed as having some capacity to work, you must make reasonable efforts to do so; otherwise, your weekly payments may be suspended or cease.

The new legislative guidelines require an injured worker must “attend and participate in any evaluation required as part of the work capacity assessment. If the worker does not attend or participate their weekly payments may be suspended until the assessment has taken place”

- As a minimum, the insurer must commence a review of the worker’s capacity for work once the worker has received a cumulative total of 78 weeks of weekly payments.
- If a worker has an ongoing entitlement to weekly payments beyond 130 weeks, the insurer will conduct a work capacity assessment at least once every two years after this point, until such time as the worker’s entitlement ceases.

If you require any further information please contact:

Workers Health Centre on 02 97497666 or admin@workershealth.com.au

Injured Workers Support Network on 02 97497566 or Injuredworkerssupport.org.au

Your Union organiser or Unions NSW on 1800688919

Your legal representative

Work Cover Claims Assistance Service 131050 or www.workcover.nsw.gov.au

Work Cover Independent Review Officer or wiro.nsw.gov.au or call 13 94 76

This information is guidance material only and should not be used to replace legal information provided by your solicitor or by Work Cover NSW.

