How to reconsider a claim

If you receive a written request from an employee to reconsider a determination, you must respond within 60 days from the day you receive the request to reconsider your decision. If you have not reconsidered your decision within 60 days, you are taken to have rejected the claim. This period may be extended by written request to the Seacare Authority.

Once you have received a written request from your employee to reconsider a decision you must arrange for an employee to reconsider a determination, you have 60 days from the day you receive the request to reconsider your decision. If you receive a written request from an employee to reconsider a determination, you must arrange for the employee to reconsider the decision within 60 days. If you have not reconsidered the decision within this period, you are taken to have rejected the claim. This period may be extended by written request to the Seacare Authority.

Review by the Administrative Appeals Tribunal (AAT)

If your employee disagrees with your reconsideration decision, they can apply to have the reconsideration reviewed by the AAT. The AAT provides an independent review of a reconsideration decision based on all the facts and evidence and will provide a legally binding and enforceable decision. A review by the AAT involves a number of steps to resolve the dispute. This can include pre-hearing conferences, conciliation and where necessary a hearing.

Employee request for information

Your employee is entitled to obtain any documents in your possession that relate to their workers’ compensation claim. If an employee requests, in writing, documents related to their claim, you must provide the requested documents to your employee unless you have a reasonable excuse for not doing so.

Accepted claims

Payment of compensation

If you accept a claim for workers’ compensation, you should pay your employee compensation as soon as possible. If you accept a claim for permanent impairment or death benefits, compensation must be paid within 30 days of the decision. If interest is payable on the compensation amount, the employee must be paid for the period from the end of the 30-day period until the day the compensation is paid (currently 5 per cent).

How much compensation do you pay?

In general, workers’ compensation is designed to keep an employee in the same financial position they would have been if they hadn’t suffered the injury. Accordingly, you will be liable to pay compensation for all the costs and expenses reasonably incurred by an employee as a result of their injury, including loss of income, medical treatment and expenses and the cost of rehabilitation.

You must notify your employee as soon as there is any change in the amount of compensation they will receive and provide an explanation for the change.

Please refer to Seacare brochure 1—Workers’ Compensation Guide for details of entitlements under the Seafarers Act.

Stage 1: reconsideration

If your employee disagrees with your reconsideration decision, they can apply to have the reconsideration reviewed by the AAT. The AAT provides an independent review of a reconsideration decision based on all the facts and evidence and will provide a legally binding and enforceable decision.

Stage 2: reconsideration

The Seacare Authority will then provide you with advice on how to proceed. This can include pre-hearing conferences, conciliation and where necessary a hearing.

Stage 3: reconsideration

If an employee is assessed as capable of undertaking a rehabilitation program, you must arrange for the employee to undertake an appropriate rehabilitation program provided by a Comcare approved rehabilitation provider. Prior to doing so, you must consult with your employee about the selection of the rehabilitation provider and the development of an appropriate rehabilitation program. The cost of any rehabilitation program must be paid by you.

If your employee is undergoing or has completed a rehabilitation program, you must take all reasonable steps to provide your employee with suitable employment or help your employee find suitable employment.

Further information is available from:

The Seacare Authority
GPO Box 9905
CANBERRA ACT 2601
Telephone: (02) 6275 0070
Email: seacare@comcare.gov.au
Website: www.seacare.gov.au

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Purpose of this guide
This brochure provides an outline of the workers’ compensation process in the Seacare scheme and details the rights and responsibilities of employers.

Employer workers’ compensation responsibilities
As an employer in the Seacare scheme, you have a number of workers’ compensation responsibilities under the Seafarers Rehabilitation and Compensation Act 1992 (Seafarers Act), including:

• ensuring that you have a valid and current workers’ compensation policy for all of your employees covered by the Seafarers Act;
• providing your employees with access to information about the scheme, including access to brochures and Seacare claim forms;
• ensuring that your employees are aware of their obligation to report all accidents and injuries;
• dealing with claims for compensation within the prescribed time frames;
• managing claims for compensation effectively and efficiently and ensuring that injured employees are correctly compensated;
• facilitating rehabilitation and return to work for injured workers as early as practicable;
• providing information to the Seacare Authority, including the provision of claim and rehabilitation details.

Workers’ compensation entitlements under the Seafarers Act
When is workers’ compensation payable?
In general, workers’ compensation is payable to an employee if they have suffered an injury or illness:
• while on board a vessel on which they are employed;
• while they are temporarily absent from a vessel on which they are employed on an ordinary break in their employment;
• while they are travelling between their place of residence and workplace;
• while they are undergoing a required course of training.

An employee will be entitled to workers’ compensation payments if their injury or illness was materially caused by or contributed to by their employment.

Workers’ compensation benefits
If an employee is injured at work they may be entitled to workers’ compensation benefits under the Seafarers Act for:
• medical treatment and related expenses;
• loss of earnings where a seafarer is incapacitated for work;
• permanent impairment;
• non-economic loss;
• household and attendant care services;
• the cost of replacing or repairing an artificial limb or similar aid;
• hospital maintenance;
• death benefit;
• funeral expenses.

If an employee is injured at work
Recording and reporting
As soon as you become aware of an accident or serious incident you should provide an incident report or incident alert to the Australian Maritime Safety Authority (AMSA).

Once you have received a claim for workers’ compensation you should register or record receipt of the claim. You should also confirm that it is fully completed, signed and dated by your employee and that all necessary attachments and information are included, such as a medical certificate from a qualified medical practitioner.

Determining a claim
As an employer, it is your responsibility to determine an employee’s claim for workers compensation and to compensate an entitled employee.

If you are the party responsible for correctly compensating an employee’s claim for workers’ compensation you are entitled to:
• ask your employee to provide further information or documents they may possess or have access to that are relevant to determining their claim;
• require an employee to undertake a medical examination (however you will be responsible for the costs associated with the examination, including reasonable travel).

Time limits
The Seafarers Act states that you must determine a claim for workers’ compensation within the following time limits:

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<tr>
<th>Claim type</th>
<th>Time limit for decision</th>
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<tbody>
<tr>
<td>Incapacity</td>
<td>12 days from the day you receive the claim</td>
</tr>
<tr>
<td>Loss of, or damage to, property</td>
<td>12 days from the day you receive the claim</td>
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<tr>
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<td>Death benefit</td>
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</tbody>
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You must also report all workers’ compensation determinations to the Seafarers Authority. You are required to provide the Seafarers Authority with a copy of:
• a copy of the employee’s claim form as soon as you receive it;
• a ‘Report on the Employer’s Determination of a Claim’ as soon as a determination is made;
• a Claims Update Report every six months.

Further information
If you require further information to accurately determine an employee’s claim for workers’ compensation you are entitled to:
• require an employee to undertake a medical examination.

Extension of time
You may also obtain an extension of time to determine a claim by written request to the Seafarers Authority. To obtain an extension of time in this manner, the Seafarers Authority must grant an extension of time within the above time limits. Therefore if an extension of time is required, you must provide a written request to the Seafarers Authority as soon as possible after you receive a claim for workers’ compensation.

Dispute of your decision
Reconsideration of a decision
If your employee disagrees with your determination, they can request a reconsideration of your decision. A request for reconsideration must be made by the employee in writing within 30 days of the date the employee is notified of your decision.

You may also reconsider a claim at any time on your own motion.

All references to ‘days’ in this brochure mean calendar days.

If you have not determined the claim for workers’ compensation within the above time limits, you are taken to have rejected the claim. In this event, your employee is entitled to request a reconsideration of your rejection as soon as the time limit expires.

Extensions of time
The above time limits can be extended when a written request for further relevant information is given to an employee within the above time limits. In these circumstances the time limit will effectively “freeze” until you have received the requested information.

You may also obtain an extension of time to determine a claim by written request to the Seafarers Authority. To obtain an extension of time in this manner, the Seafarers Authority must grant an extension of time within the above time limits. Therefore if an extension of time is required, you must provide a written request to the Seafarers Authority as soon as possible after you receive a claim for workers’ compensation.

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