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**Legal disclaimer**

This document is provided by EML for use by EML employees and customers.

This has been designed to provide information to assist injury management and provide general guidance in relation to employer obligations in accordance with those set by the NSW Nominal Insurer and Workers Compensation legislation.

This document was last updated 13th July 2017 and will be reviewed annually and as required.

REQUESTS AND INQUIRIES ABOUT REPRODUCTION AND RIGHTS SHOULD BE DIRECTED TO EML AT INFO@EML.COM.AU
1. INJURY MANAGEMENT PROGRAM

1.1 About EML

*We Help People Get Their Lives Back*

For over 100 years, EML has been helping Australians get their lives back after workplace injuries. As one of Australia’s oldest and most respected providers of workers compensation, we’re proud of our achievements to date.

Since our foundation in 1910 we’ve maintained a singular vision; to dedicate our services to improving work health and safety for the benefit of our members, workers and the broader community in which we support.

As the only workers compensation mutual in Australia we operate solely for the benefit of our employer members. We reinvest part of our profits back into Member Benefits, providing our members with access to a range of tools and services, designed to help them prevent and reduce workplace injuries.

Our story is one that has been shaped by the many lives we have touched and helped along the way. It is one that will continue to evolve, as we continue to play a leading role in making workers compensation easy for those we support.

Looking to the future, you can count on us to keep doing what we do best – delivering outstanding customer service and advice to *help people get their lives back*.

1.2 Our Customer Promise

Our customer promise details our commitment to our customers and how our people will continue to provide our many customers with exceptional levels of service.

**Our promise to you is:**

- We will listen to understand your needs
- We will work collaboratively with you to achieve the best outcomes
- We will keep you updated and informed
- We will treat you with dignity and respect
- We will take responsibility and deliver promptly on our promise to you
- We will always be open and honest in our dealings.

We set clear service standards and continuously improve them by valuing the feedback we receive and working constructively with our professional partners.

We provide training and ongoing support to our people, ensuring that they do the best job they can.
1.3 Our Injury Management Program

As an Agent for the Nominal Insurer (hereafter referred to as “icare workers insurance”) and the NSW Treasury Managed Fund (TMF), and as legislated under Section 43 of the Workplace Injury Management and Workers Compensation Act 1998 as a Scheme Agent, EML is required to ‘establish and maintain an Injury Management Program and must revise its injury management program from time to time’.

An Injury Management Program is defined by Section 42 as ‘a coordinated and managed program that integrates all aspects of injury management (including treatment, rehabilitation, retraining, claims management and employment practices) to achieve optimal results in terms of timely, safe and durable Return to Work (RTW) for Injured Workers. This program details our approach to claims and injury management and will serve as a guide to enable our policy holders to align their own RTW Program with the obligations and processes outlined in this document.

This Injury Management Program focuses on:

- Ensuring compliance with the legislative requirements
- Assisting our employers to provide a safe workplace and promote the health, safety and welfare of their employees
- Ensuring Injured Workers receive individual, prompt, proactive and effective treatment and management of their injuries to ensure a sustainable return to or recovery at work
- Compliance with all legislative and regulatory requirements.
2. WORKING WITH YOU

2.1 EML Obligations

EML have responsibilities and obligations when managing claims under the Workers Compensation Legislation. These include:

Helping everyone to understand their obligations and we do this by:

- Establishing this Injury Management Program and keeping it up to date in accordance with legislative requirements.
- Making sure the Injury Management Program is available to all stakeholders.

We do this through consultation and communication with all stakeholders throughout the life of the claim:

- Within three working days of being notified that a Worker has sustained a significant injury (where they are unable to perform their pre-injury duties for 7 or more calendar days), contact the Employer, Injured Worker and (where necessary) the Nominated Treating Doctor to discuss the claim. Subsequently, EML must develop an Injury Management Plan tailored specifically for the Injured Worker in line with timeframes outlined in this Injury Management Program.
- Consult with the Injured Worker, Employer and Nominated Treating Doctor as well as any required Third Party Service Providers in the development of the Worker’s Injury Management Plan.
- Provide the Injured Worker, Employer and Nominated Treating Doctor as well as any required Third Party Service Providers with information on the Injury Management Plan initially and as the plan progresses.

Inform the Injured Worker of their rights and benefits under the scheme:

- Have procedures in place for an Injured Worker to change their Nominated Treating Doctor and inform the Injured Worker of these requirements.
- Consult with the Injured Worker, Employer and Nominated Treating Doctor when referring to a Workplace Rehabilitation Provider. Advise the Injured Worker that they can choose a Workplace Rehabilitation Provider and inform the Injured Worker of the process to be followed when changing a Provider.
- Ensure Vocational Programs are used appropriately and provide Injured Workers with assistance to obtain employment with a new Employer if it is identified that a return to pre-injury duties or provision of suitable work with the old employer is no longer possible.
- Ensure accuracy of payment of weekly compensation payments in accordance with the pre-injury wage pattern as advised by the Employer and legislative requirements.
- Provide Injured Workers with information about their weekly compensation payments and entitlements and how they may change over time, providing suitable notice of changes.
2.2 Obligations as an Employer

Under NSW workers compensation legislation, every Employer is required to have workers compensation insurance, otherwise penalties will apply.

Immediately after a workplace injury has occurred we recommend that the Employer becomes actively engaged and is supportive of the RTW process. Various studies have proven that where an Employer is interested and involved in the RTW process the RTW outcome will be significantly better, lowering the cost of claims.

Employers who have a policy with EML are to:

- Ensure the health, safety and welfare of all Employees at work.
- Participate and comply with the requirements of EML’s Injury Management Program.
- Establish their own RTW Program in accordance with SIRA requirements and make details available to all Employees.
- Review and update their own RTW Program at least every two years to ensure it is amended in accordance with any potential legislation changes.
- Maintain a ‘Register of Injuries’ in which workers record details of work-related injuries.
- Workers Insurance NSW ‘Category One’ Employers with a basic tariff premium exceeding $50,000 annually must appoint a trained RTW Coordinator with the necessary qualifications, authority and resources to negotiate, develop and implement RTW policies and procedures and advise EML of the contact details of that person.
- As an Employer, a RTW Program must be in place within 12 months of establishing a business.

When an injury occurs:

- Notify EML within 48 hours of any work-related injury or illness to a Worker utilising online claim notification, phone, fax or hard copy claim form
- Instigate and facilitate the rehabilitation process of an Injured Worker
- Work with EML to develop and provide a RTW Plan within 5 days of injury notification
- Participate and comply with obligations of the Worker’s Injury Management Plan
- Provide suitable work (as far as reasonably practicable) when a Worker is able to RTW, either on a full time or part time basis.
- Provide suitable work that is (as far as reasonably practicable) the same as or equivalent to the work being performed at the time of the injury.
- Collaborate with the Injured Worker, EML and any other Third Party Service Provider to provide suitable work options in accordance with certified work capacity.
- Understand the rights and responsibilities of all stakeholders.
- If unable to provide suitable employment, to a Worker who has the capacity for work, notify EML immediately so that we can provide further assistance.
- Adhere to the relevant privacy laws when collecting and handling personal information of injured workers.
- Retain accessible records of all relevant communication with key stakeholders.

For further information please refer to icare employer assist at:

2.3 Obligations as an Injured Worker

- Engage in safe work practices to prevent workplace injuries to themselves and co-workers.
- Notify the Employer of an injury or illness within the workplace as soon as practicable.
After a workplace injury:
Workers must also comply with obligations defined by the Injury Management Program to enable proactive case management and injury management to commence as soon as possible. Such actions include:

- Actively engage with EML and the Employer to facilitate recovery at work
- Participate and cooperate in the establishment of an Injury Management Plan if the injury is significant.
- Designate a Nominated Treating Doctor to direct medical management and participate in Injury Management and RTW Planning.
- Comply with RTW obligations and make reasonable efforts to RTW in suitable employment or pre-injury employment at the worker’s place of employment or at another place of employment.
- Authorise the Nominated Treating Doctor to provide all relevant information to EML or other key parties.
- Adhere to the capacity advised by the Nominated Treating Doctor both at work and away from the workplace.
- Comply with legislative obligations to ensure prompt payment of benefits.

Throughout the life of the claim:

- Keep EML and the Employer informed of progress and report changes in capacity for work immediately.
- Report any issues with the Injury Management Plan or Suitable Employment provided immediately to the Employer, EML and if required the Workplace Rehabilitation Provider.
- Attend relevant appointments with Medical Practitioners, Treatment Providers and Workplace Rehabilitation Providers for any medical examinations or assessments arranged.
- Actively participate and cooperate in assessments for the determination of capacity for work.
- Comply with requests made by EML within seven days (this may include, although is not limited to, obtaining a certificate of capacity or completing a claim form).
- Seek suitable employment with an alternative Employer if medical evidence and/ or certified capacity does not support a return to pre-injury duties.

It should also be noted that failure to reasonably comply with such requirements and the RTW Plan may result in the suspension of the entitlement to weekly compensation payments.

2.4 Responsibilities of the Nominated Treating Doctor

- Actively participate in the responsibilities outlined in the Injured Worker’s Injury Management Plan.
- To support the Worker to return to, and where possible to recover at work, through appropriate clinical intervention and management.
- To contribute to RTW and recover at work planning in collaboration with everyone involved in the Injured Worker’s RTW. This includes EML, the Employer, other treatment providers and the Workplace Rehabilitation Provider.
- Provide updated Certificates of Capacity in line with legislative requirements and at intervals not greater than 28 days.
2.5 How We Keep Stakeholders Informed

The Injured Worker, Employer and Third Party Service Providers are all able to access and view this Injury Management Program on our website: www.eml.com.au

All parties are informed of their obligations through the following strategies:

- For Employers – when commencing a policy with EML through EML New Starter Kit which includes information on obligations and a summary of EML Injury Management Program. EML engage with the TMF Agencies regarding proactive return to work and injury management strategies as required, and in accordance with the agreed schedule in each Business Profile. The Business Profile outlines the key injury management communication practices between EML and Agencies of: early contact within 3 business days of notification to commence recovery and return to work planning, discussion of potential suitable duties based on Agency provided job descriptions and potential suitable duties lists, as well as joint case conferences with the worker, NTD and treatment providers (as required). EML regularly engage in strategic claim review forums with each Agency to agree claims management strategies to progress the injured worker’s return to health.

- During completion of ‘initial contact’ following a claim, all parties are informed of how the process works approval requirements and their obligations.

- As part of development of the Injury Management Plan (IMP) in the case of a significant injury. The IMP outlines all stakeholders’ legislative and specific requirements during the workers compensation and RTW processes.
3. HOW WE HELP YOU MANAGE YOUR CLAIM

3.1 EML’s Case Management Model

EML’s Case Management Model is the basic framework which forms the foundation of our approach to Case Management. The framework is standardised and consists of prescribed activities and review points throughout the lifecycle of the claim which have been established to assist our Case Managers to strategically manage a claim. The process captures EML’s current and proven best practices. The same model is used across all EML businesses nationally, irrespective of the state scheme. This methodology allows adjustments and modifications to be made to the structure to allow us to accommodate variations in legislation and contractual requirements between jurisdictions.

In each step of the process Case Managers are supported with principles, tools and templates to guide our involvement to ensure necessary information is obtained and key decisions are made. Underpinned by the concept of capacity management, the model has a strong focus on maximising capacity for employment, as well as maintaining independence and health outcomes for longer term Injured Workers. Our Case Management Model assists us in achieving our purpose of “helping people get their lives back”

This model supports EML to:

• Deliver a common customer experience for injured workers, employers and regulators
• Tailor strategies that drive early intervention and RTW outcomes
• Align our people and their experience to enhance the service to our clients.
• Undertake a segmented approach to claims management, bound by timeframes with specific activities and review to drive claim strategically.

Claims are separated into a series of ‘segments’ bound by time or capacity for review and assessment of Injured Worker needs and support.

The Case Management Model underpins our claims and injury management processes and procedures and is developed in line with icare’s Claims Management Principles:

• Focus on work
• Effective communication
• Evidence based decisions
• Tailored, cost-effective approach
• Timely intervention.

3.2 Authorisation Framework

The EML Authorisation Framework details the authorisation limit and review process for key case management activities including liability, payments, referral to external providers, surgery, disputes, and Workplace Rehabilitation cost approvals.

This process ensures appropriate control of the decision-making process. Having experienced staff review critical actions and decisions assists to ensure all decisions made are soundly based and in accordance with regulatory and internal requirements.

The authorisation process also provides the opportunity for the reviewer to provide feedback and coaching to the Case Manager regarding their decision making to assist in their ongoing development.
3.3 Early Intervention, Notification and Reporting

EML acknowledges that early intervention is critical to achieving positive RTW outcomes. For this reason, it is critical and we encourage our Employers to report all incidents and injuries to EML within 48 hours of first becoming aware of the incident or injury. Early reporting by the Employer ensures that critical information is provided to EML which can facilitate prompt processing of the claim and enable early decision making. This means that injury management can commence quickly and that the worker will have access to medical treatment promptly.

3.3.1 Initial Notification

An injury can be notified by the Injured Worker, the Employer or some other person acting on their behalf. There are several ways in which a notification of injury can be made to EML:

- **Our Website – Online Notification**
  
  www.eml.com.au

- **Phone –**
  
  EML Workers Insurance NSW
  
  02 8251 9000 or Toll free 1800 469 931

  Treasury Managed Fund
  
  02 8071 3400 or Toll Free: 1800 365 401

- **Fax –**
  
  Claims Management – EML Workers Insurance NSW
  
  02 8251 9495

  General Enquiries and Claims Management – Treasury Managed Fund
  
  02 8251 9495

- **Mail –**
  
  GPO Box 4143, SYDNEY NSW 2001 or
  
  DX 10175 Sydney Stock Exchange

To enable the incident notification to be processed quickly, a minimum amount of information about the Worker and the injury is required. To assist in the collection of this information, our standardised injury report form (which can be downloaded from our website, or completed online) contains all of the information that we require. Where the notification is incomplete EML will follow up within 3 working days and explain what additional information is required for a liability decision to be made.

All Injured Workers are advised in writing at the first available opportunity of their obligations. A copy of the brochure “Information for Injured Workers” is enclosed with the liability letter sent to each Injured Worker.

3.3.2 Late Reporting of Injury - Employer Excess

If the Employer does not report the injury to EML within 5 calendar days of becoming aware of the workplace injury, the employer may pay a claims excess payment. The excess is usually the equivalent of one week’s worth of the Injured Worker’s weekly payments. Late reporting will be confirmed and discussed when the Case Manager makes initial contact with the Employer.
3.3.3 Triage and Segmentation

Triage and segmentation assist us to identify specific factors which may impact the successful recovery and RTW of the Injured Worker.

Critical to effective triage and segmentation is appropriate screening of claims. This refers to the process through which we can make an early identification of the needs, risks and possible barriers to achieving RTW outcomes. Effective and timely claims screening ensures key information is identified early so that the claim can be allocated to a suitably qualified Case Manager. Once claim allocation has occurred, targeted injury management planning and case management strategies can be implemented immediately.

Claims are then identified as significant, possibly significant or non-significant (as defined by section 42 of the Workplace Injury Management and Workers Compensation Act 1998) and are allocated to a claims team for further review and action. Case Managers are advised immediately by e-mail of the allocations of significant and possibly significant injuries, as well as the last date early contact can be initiated.

Note that:

Claims classified as significant at notification regardless of the time lost as they have a high potential of becoming significant include: head injuries, psychological injuries, fractures, hernias, amputations, likely surgery, nature and conditions claims.

The claim characteristics considered when allocating claims to Case Managers include: liability issues, recovery potential and injury severity (red flags), nature, duration and presence of psychosocial factors (yellow flags) as well as existing Employer or Broker relationships.

This model ensures our claims are managed by a suitably qualified Case Manager, based on the complexity of the claim, from notification through to finalisation.
4. CASE MANAGEMENT

4.1 Initial Contact

In all cases of significant injury, the Case Manager completes contact with the Injured Worker, Employer and (where required) the Nominated Treating Doctor within three business days of the injury notification being received by EML in accordance with the Workplace Injury Management and Workers Compensation Act 1998.

If contact is not able to be established via the telephone by the third business day, written correspondence (via email, fax or post) is sent requesting the Stakeholder to contact EML as soon as possible. EML will then continue to follow up on a regular basis until meaningful contact is established.

The purpose of early contact is to:
- Establish positive rapport and working relationships with stakeholders to work together on an action plan to help the Injured Worker recover from their injury and RTW as soon as possible.
- Gather relevant information to assist with liability determination.
- To commence immediate injury management and RTW planning and where appropriate provide approval of reasonable necessary treatment or investigations.
- Establish a rehabilitation goal which essentially will guide the RTW planning.

4.2 Non-significant Injuries

When an Injured Worker has been able to resume their pre-injury duties within 7 calendar days the claim is considered non-significant. In these circumstances the Case Manager will contact the Injured Worker and Employer and confirm the information provided. A liability decision will then be made and communicated to the Stakeholders within 7 days.

4.3 Use of Interpreters

EML have access to a range of providers for document, telephone and face to face interpreting services. When working with stakeholders from a non-English speaking background Case Managers are encouraged to use professional interpreters for all interactions to ensure clear communication and understanding is achieved. EML have not developed a preferred panel relationship with a particular interpreting service although frequently use Associated Translators and Linguists (ALT), Community Relations Commission, On call Interpreters and Translators Agency, Translating and Interpreting Service as well as T&T Interpreting Services.

4.4 Determining Liability

EML applies a structured approach to determining claim liability, in accordance with the appropriate Acts and Guidelines.
Our approach to liability determination is to ensure all required information is received promptly and reviewed critically to allow a soundly based decision to be made within the legislative timeframes. All liability decisions are communicated in writing to all stakeholders.

4.4.1 Provisional Liability
Provisional liability enables EML to commence weekly compensation payments for up to 12 weeks as well as implement injury management strategies without a decision on ongoing liability. Under provisional liability, interim payments can commence for reasonably necessary medical expenses up to a maximum which is currently $7500.00.

EML will determine provisional liability within 7 calendar days of receipt of an initial notification of a significant injury (on a without admission of liability basis) unless a ‘reasonable excuse’ applies.

4.4.2 Reasonable Excuse
In circumstances where a ‘reasonable excuse’ is applied, there is usually a lack of information available about the circumstances surrounding the injury or insufficient detail provided in the initial notification.

A Reasonable Excuse may be applied in the following circumstances:
- Insufficient medical information
- Inability to contact the Injured Worker
- Failure by the Injured Worker to report the injury to the Employer within 2 months
- The Injured Worker is unlikely to be a ‘worker’ under the Act
- The Injured Worker refuses access to information (privacy)
- The injury is not work related
- The injury is not likely to be ‘significant’
- No requirement for weekly payments.

EML will provide notice that a claim has been reasonably excused with 7 calendar days of receipt of injury notification.

If the relevant information or evidence is supplied after a reasonable excuse has been applied, EML can make a liability decision based on the evidence provided.

Provisional liability or full liability may then be accepted within 7 calendar days of receiving all the required information (as per the SIRA Guidelines for Claiming Compensation 2016)

4.4.3 Accepting Liability
When notified of a significant injury EML will determine ongoing liability within 21 days of being notified or at the expiry of the provisional liability period (whichever is the later date).

The Case Manager will ensure:
- Determination of liability is communicated verbally and confirmed in writing to the Employer and Injured Worker.
- Weekly compensation payments are commenced within the legislative timeframe unless a reasonable excuse is applicable.
• Approval for reasonably necessary costs (including non-invasive investigation and rehabilitation costs) prior to the determination or acceptance of liability as provision medical expenses in accordance with legislation.
• Initial medical expenses paid by the Employer and Injured Worker are reviewed in accordance with NSW requirements and gazettes
• Other service provider fees and expenses are reviewed and approval determined in accordance with NSW requirements.

4.4.4 Disputing All or Part of a Claim
When liability is to be disputed for all or part of the claim, this decision is reviewed internally to confirm a soundly based decision is applied. If the dispute decision is supported by the Reviewer, the Case Manager will contact the Injured Worker to advise and discuss the decision. The Case Manager will then issue the Injured Worker with a Section 74 Dispute Notice. If there are concerns regarding the Injured Worker’s or their community’s safety regarding the issuing of a Section 74 notice, then this notice may be released via a third party such as the Nominated Treating Doctor or Solicitor.

The Section 74 notice will outline the reasons for which liability has been disputed and have attached the relevant reports that have been relied upon to make the decision.

Should an Injured Worker require further information or wish to dispute EML’s decision they can:
• Request EML review the decision (this review will be undertaken by a different person, separate from the initial decision)
• Contact icare Customer Service Centre on 13 10 50 or www.icare.nsw.gov.au/workers-compensation-claims/disputes/declined-liability
• Seek assistance from their Union or Solicitor or the Independent Legal Assistance and Review Service (ILARS) provides funding to pay for costs incurred by some Injured Workers when disputing decisions made by the insurer. Contact ILARS on 13 94 76 or email them at ilars@wiro.nsw.gov.au
• Contact the Workers Compensation Independent Review Office (WIRO) on 13 94 76 if there is any dissatisfaction at any stage throughout the process.
• Lodge an application with the Workers Compensation Commission or call them on 1300 368 040.

4.5 Claims Estimating

EML is required to estimate all claims in accordance with the Claims Estimation Manual. This manual is developed by SIRA and applies to all open, reopened and new workers compensation claims.

The manual sets out a range of rules and approaches to estimating a claim. It states that EML must:
• Keep claim estimates up to date, even in between scheduled and event driven review points;
• Build claims estimation into the organisation's routine case management and review processes;
• Use the amounts specified in this Manual unless there is evidence otherwise, then use a soundly based decision making process to estimate claims;
• Maintain accurate estimates on claims to ensure the premium is correctly calculated;
• Ignore the possible effect of inflation when estimating and always use current amounts;
• Where the estimate is constantly being changed, review the claim for accuracy in its entirety;
• Exclude payments already made, unless otherwise directed in the relevant section in this Manual;
• Exclude recovery or adjustments arising from Input Tax Credit or Decreasing Adjustment Mechanism; and
• Maintain an appropriate estimate on the claim until it is finalised

4.6 Entitlement to Weekly Payments – Benefit Payment Process

Once a decision has been made to accept liability for weekly compensation payments on the claim, timely and accurate payment of benefits ensures Injured Workers can focus on their recovery and RTW. Issues arising with delayed payment of their entitlements can potentially result in disengagement of the Injured Worker from the RTW process.

Case Manager compliance with the payment of benefits to Injured Workers is achieved through training and structured internal systems to manage the payment process so that payments are accurate and timely.

Our payment process is as follows:

• Calculation of pre-injury average weekly earnings (PIAWE) is peer reviewed and verified for accuracy
• All payments are entered in our claims system. This activates a system automated workflow tool to ensure that payments are made regularly and timely
• All weekly compensation payments require coverage by a current Certificate of Capacity
• Where there is a "Wage Reimbursement Schedule (WRS) Agreement" in place, the payment is made in accordance with the accurate schedule received from the Employer within 10 business days of receipt
• Weekly compensation payments outside of the WRS arrangement will be paid within five business days of the receipt of a certificate of capacity and/or earning information such as payslips
• All weekly compensation payments are peer reviewed and authorised by Case Managers within set authorisation limits
• The tasks of generating a payment and authorising a payment are completed by two separate people to ensure accuracy.

4.7 Injury Management Plans

If a Worker has sustained a significant injury, EML will develop an Injury Management Plan in collaboration with the Employer, Worker and Nominated Treating Doctor.

The Injury Management Plan is a written plan which outlines the key aspects of the claim that relate to treatment, rehabilitation and RTW of the Injured Worker. The Injury Management Plan in conjunction with the RTW Plan is aimed at assisting to facilitate the timely, safe and durable RTW for an Injured Worker.

The Case Manager develops an Injury Management Plan to communicate the case management goal and actions to be undertaken by each stakeholder to assist in achieving the goal. The Injury Management Plan reflects relevant information that is available at the date the plan is issued, it includes:
• Key participants in the management of treatment and RTW (Injured Worker, Employer, Nominated Treating Doctor/ Specialist, Workplace Rehabilitation Provider and other Treatment Providers)
• RTW goals (which will be the most likely goal that can be established given the information available at that point in time).
• Legislative obligations and responsibilities of each stakeholder
• Actions for completion, responsibilities and timeframes
• Review date

A revised Injury Management Plan is developed and issued in circumstances where the goal has changed or new information in relation to the injury, treatment or RTW is received.

**Timeframes:**

**Initial Injury Management Plan** – within 20 business days of notification of a significant injury for an Injured Worker who has not returned to pre-injury duties, and who is not expected to do so, within 20 business days of becoming aware that this injury is significant.

**Revised Injury Management Plan** - within 10 business days of EML being notified of information which indicates a change in injury management, RTW or treatment activity, or there has been a change in the expected RTW status.

**4.8 Reasonably Necessary Treatment**

EML utilise the principles of evidence based practice when determining if requested treatment is reasonably necessary. Specifically, we apply the criterions of 'reasonably necessary' specified in the SIRA Guidelines for Claiming Workers Compensation to review treatment requests and ensure treatment is evidence based, facilitates recovery and durable RTW of the Injured Worker.

Case Managers will access Specialist resources or relevant decision support tools to assist in making decisions to fund treatment and if further information is not able to be obtained from the Treating Provider, Doctor or Specialist, then an independent opinion may be sought.

Reasonably necessary medical expenses can be claimed during specific entitlement periods:

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<th>Criteria</th>
<th>Compensation period</th>
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<td>Workers with no permanent impairment or permanent impairment assessed between 0 and 10%</td>
<td>2 Years from the last date of weekly benefits paid or from the date of notification</td>
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<tr>
<td>Workers with permanent impairment assessed as 11%- 20%</td>
<td>5 years form the last date of weekly benefits paid or from the date of notification</td>
</tr>
<tr>
<td>Worker assess with permanent impairment more than 20% or • Where an approved medical specialist who has declined to make an assessment as the worker has not reached maximum medical improvement • Where the insurer is satisfied, the worker is likely to have a permanent impairment of more than 20%</td>
<td>Life</td>
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4.9 Use of Independent Opinions

In circumstances where liability and reasonably necessary treatment or medical management needs are not clear, the Case Manager will initially assess the available evidence and work in partnership with the Treating Parties to obtain the required information. If after seeking further information the evidence remains unclear, in accordance with SIRA Guidelines the Case Manager may refer for an independent opinion.

**Independent Medical Examinations**

If after requesting further information from the treating parties the information provided is inadequate, unavailable or inconsistent, the Case Manager may arrange a referral for an Independent Medical Examination (IME) with an appropriately qualified medical specialist with the expertise to provide a professional opinion on the issue.

When an IME is required EML will arrange such an assessment in accordance with the Guidelines on Independent Medical Examinations and Reports, specifically:

- Reason for referral will be very clear and the Nominated Treating Doctor, Injured Worker and Employer will be advised of the referral in writing at least 10 working days before the appointment.
- The Case Manager will consider the use of the EML panel for preferred providers.
- If the referral is a dispute of causation or treatment, the IME will be in current clinical practice.

Following receipt of the opinion, if it is determined that the requested treatment or procedure is reasonably necessary, the Case Manager will accept the request and notify all Stakeholders.

If the IME does not support the request as reasonably necessary, the Case Manager will address the report with the Treating Party and in some cases, provide a copy of the report to the Treating Party to justify the rationale. If an agreement cannot be achieved the Case Manager will provide written notice to the Injured Worker and inform the Treating Party outlining the reasons for the decision. The notice will also provide information for the Injured Worker regarding the process for requesting a review of the decision.

**Independent Consultants**

The Case Manager may utilise Independent Consultants when there are questions regarding the reasonable necessity of ongoing allied health treatment. Independent Consultants can provide advice and peer support to Treating Therapists as well opinion to Case Managers. SIRA approve consultants in the areas of Physiotherapy, Chiropractic, Osteopathy as well as Psychology and Counselling.

**Injury Management Consultant**

Differences may arise between the Nominated Treating Doctor (NTD), Employer, Injured Worker and Insurer about issues of RTW such as capacity for work, suitability of duties or the ongoing RTW goal.

The Case Manager will first attempt to resolve any issues through consultation, collaboration and negotiation with the Stakeholders.

Depending upon the situation, but in cases where there are ongoing workplace, interpersonal or human resource issues, the Case Manager may refer to an external provider for mediation.

If there remains unresolved disagreement, the claim will be referred to an Injury Management Consultant (IMC) in accordance with the Guidelines on Injury Management Consultants.
IMC's assist in providing clarification or attempt to mediate a solution about the RTW for the Injured Worker. The IMC will either undertake an examination of the Injured Worker or a file review of the claim documentation.

If agreement is achieved, a new RTW plan is developed which reflects agreed outcomes and is then implemented. If the issue or dispute remains unresolved further referral to another IMC or an IME may be indicated to seek further medical evidence. However, failure to reach agreement may lead to an injury management dispute being heard at the Workers Compensation Commission (WCC). WCC proceedings may involve; conciliation, arbitration, medical assessment, mediation or expedited assessment. The WCC may also arrange for an Approved Medical Specialist (AMS) to make a final decision.

IMC's are not able to provide an opinion on treatment, causation of injury, liability or any aspect of the claim or injury other than as above.
5. RTW PRACTICES AND PLANNING PATHWAYS

5.1 Certificate of Capacity

The Certificate of Capacity is the formal communication tool completed by the Nominated Treating Doctor to convey information such as the diagnosis of the injury sustained, proposed treatment, recommendations and the Injured Worker’s capacity to work. The Certificate of Capacity has been developed to provide a focus on what the Injured Worker can do, rather than what they cannot do.

The information contained in this document will provide the Employer and/or Workplace Rehabilitation Provider with guidance when it comes to identifying suitable work options for the Injured Worker.

Using the recommendations contained in the certificate will help the Worker recover at work sooner. The information communicated on the Certificate of Capacity can also help in formulating the Injured Worker’s Rehabilitation Goal.

The Certificate of Capacity will outline capacity defined as one of the following:

- Fit for pre-injury duties – the Worker is able to perform all aspects of their pre-injury role. There are no physical or psychological limitations relating to the work injury that are impacting the Worker’s ability to perform their full role.
- Capacity for some type of employment - the Worker has a capacity to engage in some form of employment. Specific capabilities and any limitations will be outlined on the Certificate of Capacity. It may mean the Worker can perform all elements of their pre-injury role, but on reduced hours, or fit to perform some, but not all aspects of their pre-injury role.
- No current work capacity – the Worker is unable to participate in any work at that time.

5.2 Establishing RTW Goals

In relation to RTW planning, it is pertinent to work towards an end goal. As such, injury management requires the establishment of an end goal that all parties can actively work towards. Primarily, the goal of returning the Worker to the same job as at the time of injury is preferable. However, given the diagnosis of the injury or the nature of the work, this may not always be possible. The RTW hierarchy assists in identifying the starting point for RTW planning and provides the following options:

- Same Job/ Same Employer
- Different job/ Same Employer (i.e. suitable employment)
- Same Job/ Different Employer
- Different Job/ Different Employer (i.e. suitable employment)

The initial goal is established and agreed to by all Stakeholders once the Nominated Treating Doctor has provided a diagnosis of the injury and a prediction of the prognosis. This goal can be changed and updated dependent upon the ongoing needs and capacity of the Injured Worker.

Wherever possible, the initial RTW focus will be with the goal of RTW to pre-injury duties and employment with the same employer, or a different job with the same employer. Although achieving this goal is not always possible and suitable employment may need to be explored with a different
Employer – this is known as redeployment. EML will work with Stakeholders to identify suitable employment goals and support Injured Workers to achieve a return to suitable employment through appropriate, tailored workplace rehabilitation.

5.3 Identification of Suitable Employment

Under Section 49 of the Workplace Injury Management and Workers Compensation Act 1998, Employers are required, so far as reasonably practicable, to provide suitable employment which is the same as or similar to the Injured Worker’s pre-injury role. Suitable employment enables the Injured Worker to remain active and recover at work. Recovery at work speeds healing, reduces symptoms, promotes an active lifestyle and fosters connectedness with the workplace. As endorsed by the Australasian Faculty of Occupational and Environmental Medicine ‘work is good for people’, ‘work is generally good for health and wellbeing’ and the acknowledgement that ‘long term work absence, work disability and unemployment have a negative impact on health and wellbeing’. Employers can have a positive impact on health and well-being by ensuring a positive workplace safety culture. The utilisation of vocational programs and identification of modified equipment can assist with accommodating ill or Injured Workers to remain in the workplace where possible.

The following factors should be considered when the Employer is identifying suitable employment options within the workplace:

- Nature and severity of the Injured Worker’s injury
- Duties are deemed safe and in line with certified physical and psychological capacity
- Contain as many tasks as the Injured Worker’s normal role as possible
- May be provided in different ways (same or different workplace, same job with different hours, modified duties, different job altogether or a combination of the above).
- Discuss possible work options with the Worker and Supervisor and if they have any ideas about suitable work options available.
- Thought about how the workplace could potentially be modified or if equipment can be prescribed to accommodate the Injured Worker.

If the Employer is experiencing difficulties in identifying suitable work options within the workplace, the Employer must contact EML as soon as possible for assistance. If the Injured Worker does have some work capacity, not offering suitable employment can contribute to escalating workers compensations costs for the Employer.

5.4 Developing the RTW Plan

The RTW Plan is a formal document individualised for the Injured Worker which explains the RTW Goal, fitness for work and lists the duties in the workplace that the worker has the certified capacity to perform. An example template can be found in appendix A, other key points found in this document include:

- Modifications made to the workplace or equipment prescribed to enable return to work
- Other terms and conditions – workplace support/ breaks
- Type and frequency of treatment to be undertaken
- Work hours and days
- Often includes a staged progression where duties or work hours are upgraded at regular intervals as the Worker recovers to tolerate full duties.
The Injured Worker, Supervisor and Treating Doctor must all agree to the RTW Plan.

The RTW Plan will need to be updated regularly so that it complies with conditions or upgrades in the capacity outlined in the most recent medical certificate.

### 5.4.1 Monitoring Progress

Once the Injured Worker has returned to suitable employment and is participating in the RTW Plans regular reviews in the workplace ensures adherence to the plan and prevents problems and difficulties arising before they need to be escalated or become a dispute or complaint. It is important that any issues or problems with suitable employment or the RTW Plan are raised with EML as soon as possible.

### 5.5 Management and Support for Workers who are Job Seeking

By the time the Injured Worker has reached 13 weeks post injury and is ready to transition to the second entitlement period; a RTW goal should have been clearly established. The goal would either be a sustainable return to pre-injury duties or securing alternative, suitable employment. If the goal remains unclear, the Case Management Model methodology provides tools for the Case Manager to action case specific strategies including Employment Decision Pathways, Employment Direction Panel Reviews as well as Suitable Employment Tests.

Where it has been determined that the Injured Worker does not have the capacity to return to pre-injury duties and the Employer cannot offer suitable employment, the Injured Worker will be required to seek alternative employment with a new Employer. In this instance EML will provide targeted and specific support in job seeking and redeployment.

When it is identified that the Employer is unable to provide suitable employment the following is undertaken:

- Injured Worker is reminded of their obligations under Section 48 of the Workplace Injury Management and Workers Compensation Act 1998
- Regular follow-up of job seeking evidence is obtained, in order to continue entitlement to, and payment of, weekly compensation payments
- Where there are changes to the actions or service provisions the IMP is updated and reissued to the key parties

The ability to effectively manage the participation of Injured Workers in job-seeking programs is positively influenced by proactive Case Management and decision making to identify future potential sources of suitable employment. This also includes engaging an appropriate Workplace Rehabilitation Provider to undertake targeted RTW services and ensure that an Injured Worker has the skills and knowledge to effectively job seek and gain durable employment in a timely manner.

Key activities that will be reviewed to support an Injured Worker include:

- Referral to an accredited Workplace Rehabilitation Provider
- Review of the need for Vocational Assessment
- Agreement to new suitable employment goals
- Job seeking skills training
- Where required utilisation of Vocational Programs in accordance with Section 53 of the Workplace Injury Management and Workers Compensation Act 1998.
5.5.1 RTW Assistance with a Workplace Rehabilitation Provider

There are times when expert assistance is required to assist with an Injured Worker’s RTW. EML have developed service level agreements with a panel of local and national Workplace Rehabilitation Providers (WRP) to assist with this task. WRP’s are usually allied health professionals such as Occupational Therapists, Physiotherapists or Rehabilitation Counsellors with expertise in occupational rehabilitation. They are engaged to assist Employers, as required, to identify suitable employment and provide guidance on the development and management of RTW Plans if an Employer is unable to do so independently or if there are several presenting RTW barriers. Case Managers make referrals to WRP panel members except in cases where the Employer or Injured Worker chooses to nominate their own preferred provider.

The WRP and Case Manager will identify and implement targeted and tailored rehabilitation solutions to assess, gain agreement to and obtain suitable employment goals. These solutions, where appropriate, will include utilisation of the Vocational Programs.

When tailored and targeted rehabilitation has not resulted in a RTW the Case Manager will have been able to gather the evidence to allow a soundly based work capacity decision to be made.

5.6 Work Capacity Assessments and Decisions

A work capacity assessment is a comprehensive review of all information relevant to an Injured Worker’s functional, vocational and medical status to determine their ability to RTW in their pre-injury employment or suitable employment with the same or a different employer. Work Capacity Assessments and Decisions do not apply to Workers who are exempt from the 2012 legislation amendments.

A work capacity assessment is coordinated by EML and may be completed at any point in time throughout the life of a claim. When conducting a work capacity assessment to determine current work capacity, the key first step to a successful decision will always be the determination of what constitutes suitable employment for that Worker. Case Managers review suitable employment in line with Section 32A of the Workers Compensation Act 1987.

Suitable Employment will have been identified and agreed to during the targeted RTW process.

A work capacity decision is a discrete decision that can be made at any point in time and can be about any one of the factors set out in the legislation.

At a minimum, an assessment of work capacity must commence once the Injured Worker has received a cumulative total of 78 weeks of weekly payments. Should the Injured Worker have an ongoing entitlement to weekly compensation payments beyond 130 weeks, a work capacity assessment must be made at least once every two years after this point until such time that the Injured Worker’s entitlement to weekly compensation payments ceases or they have been assessed with a Whole Person Impairment (WPI) in excess of 30%. The work capacity assessment may result in a work capacity decision.

A work capacity decision is different to a work capacity assessment. The assessment is a review process that may or may not lead to the making of a work capacity decision.

The first work capacity decision on a claim is determining the Pre-Injury Average Weekly Earnings (PIAWE) as per Section 43 (1)(d) of the Workers Compensation Act 1987.
If an Injured Worker does not agree with the Work Capacity Decision that has been made, they are able to:

- Request EML internally review the decision (this review will be undertaken by a different person, separate from the initial decision)
- Seek assistance from the Union or Solicitor; or
- Following the Merit Review, seek a procedural review of EML’s decision making process via contact with the Workers Compensation Independent Review Office (WIRO) on 13 94 76

5.7 Management of Non-Participation in RTW, Workplace Rehabilitation or Job Seeking Activities

Section 48A of the Workplace Injury Management and Workers Compensation Act 1998 supports that should an Injured Worker have capacity and not make reasonable efforts to RTW then the Insurer may suspend weekly payments and this may lead to termination of weekly payments.

Prior to suspending or terminating an entitlement to weekly compensation payments, EML will contact the Injured Worker (or if contact is not able to be established request that the Injured Worker contact the Case Manager). In this contact the Case Manager will attempt to discover the reasons for the non-compliance or non-participation and if appropriate, a new plan and obligations may be developed.

If non-participation continues, a warning notice will be sent advising that the entitlement to weekly compensation payments are at risk of suspension and provide the Injured Worker detailed requirements and a timeframe within which to comply. Should the Injured Worker fail to comply within the required timeframe then the entitlement to weekly compensation payments will be suspended. Should the Injured Worker continue to fail to actively participate then the entitlement to weekly compensation payments may cease and not be reinstated. Periods of suspended benefits may not be payable if at a later date the Injured Worker becomes compliant.

Please note that Injured Workers who are exempt from the 2012 legislative amendments can refer to Section 57 of the Workplace Injury Management and Workers Compensation Act 1998

5.8 Recoveries

Section 151Z of the Workers Compensation Act 1987 allows for an Employer to recover all or some of the compensation which it pays in relation to an Injured Worker’s workers compensation benefits if they can establish negligence/fault on behalf of another party.

When recovery potential is identified the Case Manager works with the Recovery Specialist and Legal Specialist team to put in place strategies to advance the claim. The Case Manager will retain responsibility for the active management of the claim, which includes management of the recovery component. If the claim remains open only to pursue or finalise recovery, the claim transfers to the Recovery Specialist to follow up and finalise the claim.
5.9 Determination of Permanent Impairment

Whole Person Impairment (WPI) involves an assessment of the degree of permanent impairment that has arisen from the work-related injury. When an Injured Worker has reached maximum medical improvement (MMI) they may be assessed by a qualified medical specialist who utilises clinical assessment as well as SIRA and American Medical Association’s (AMA) Guides to evaluate the WPI. This impairment is calculated as a percentage loss and equates to a monetary figure.

EML has a team of Permanent Impairment Specialists who are dedicated to assessing permanent impairment claims in line with the regulatory framework provided by SIRA and the timeframes prescribed by the relevant legislation. Our Specialists are experts in the interpretation and application of the various methods to assess Permanent Impairment and have developed strong working relationships with both applicant and respondent legal firms. Our expertise allows us to achieve cost-effective and timely outcomes for all parties and we endeavour to manage our claims within the Model Litigant Policy.

5.10 Common Law Claims and Work Injury Damages

A claim for Work Injury Damages is a one-off lump sum to compensate an Injured Worker for past and future economic losses resulting from an injury. Unlike workers’ compensation rights that arise by virtue of statute, the right to sue for damages derives from a common law right to be compensated for the injury suffered, usually due to negligence for breach by an Employer of the duty of care owed to the Employee. The Workers Compensation legislation limits common law rights to work injury damages. Only Workers who have 15% or more Whole Person Impairment are entitled to pursue a claim for work injury damages. On payment of Work Injury Damages an Injured Worker ceases to be entitled to workers compensation. Similarly, if a Worker receives damages from another party in relation to the same injury (e.g. an occupier, motor vehicle insurer), they will generally cease to be entitled to further workers compensation benefits. In many instances EML recover payments of compensation made. A claim for Work Injury Damages cannot be made unless a claim for lump sum compensation is made before or at the same time.

Following notice of a claim, a Pre-filing Statement is issued with the draft statement of claim. All evidence that the parties seek to rely upon must be proffered at the pre-filing stage. Fully informed, the parties attempt mediation of the claim in the Workers Compensation Commission prior to court proceedings being commenced in the District Court of NSW or the Supreme Court of NSW. Although Work Injury Damages claims are limited to economic loss, a Worker will often be prepared to forgo future medical expenses in favour of a lump sum payment. Work Injury Damages or Common law is the third largest expense to the scheme. These claims usually contain complex legal issues and multiple parties. EML utilize internal Legal Specialists to manage the litigation. The Case Manager retains primary responsibility for management of the claim, including the injury management obligations. The single most effective way to reduce the size of a damages claim is to upgrade an Injured Worker’s capacity and/or to secure a RTW.

5.11 Commutation

A commutation is an agreement to pay out all of an Injured Worker’s future entitlements in a lump sum form. The commutation results in no further payments for the subject injury.
The agreement is made between the Injured Worker, the Employer and EML however, SIRA must certify that the commutation meets all the criteria set out in Section 87EA of the Workers Compensation Act 1987.

If a Case Manager believes that an Injured Worker would benefit from Commutation they discuss this strategy with their Team Leader and proceed to work with the internal Senior Technical and Legal Specialists in negotiating the commutation with the Injured Worker and their legal representative prior to obtaining icare Approval.

5.12 Finalisation of Your Claim

Finalisation of a claim will occur when the injury is no longer impacting an Injured Worker’s ability to participate in suitable employment and no further treatment is being undertaken. This may include:

- A RTW to pre-injury duties
- A return to appropriate suitable employment with no wage loss
- Retirement or withdrawal of claim
- A Work Capacity Decision which results in a nil benefit entitlement
- Commutation, Work Injury Damages or Common law settlement
- Settlement of a claim for the same injury by another party (eg: an occupier, motor vehicle insurer)
- Declinature of ongoing liability
- Weekly compensation payments are terminated under s48A (6)

5.12.1 Claim Reopening

Within the Case Management Model EML have a dedicated team of eligibility specialists that focuses on the appropriate management of re-opens, reactivations and recurrences. Where requests are received to re-open or reactivate claims that have been previously closed, this specialist team is responsible for gathering and assessing the required information to determine whether re-open is appropriate. This includes determining an Injured Worker’s entitlement to further benefits in accordance with the legislation prior to any re-open, as well as ensuring a clear liability decision is made and communicated appropriately to relevant stakeholders on the claim. When further benefits are deemed payable, the claim is either then paid and reclosed or sent to the appropriate claims segment for ongoing management.
6. HOW WE ASSIST OUR POLICY HOLDERS

Providing education and information to employers about their obligations:

- Through client meetings – to discuss areas of concern around employer obligations such as offering suitable duties, wage reimbursement schedules, PIAWE calculation; provide information on any identified performance trends/ matters/ risks identified through claims management.
- Claim reviews – a formal forum to discuss specific claims and agree upon strategy. This forum allows for education regarding offering suitable employment and how an employer can support RTW.
- Policy welcome packs at policy renewal or for new clients at policy inception.
- As part of Member Benefits there are many tools and resources available including a free member training calendar and access to EMSafe and EMLearning.
- Education and dissemination of resources to our policy holders for information in relation to legislative reforms to premium or claims management or injured worker benefits.

Claims data analysis to identify opportunities for improvement:

- Through offering a suite of performance reporting
- Specific reports to identify trends or developed in line with client’s needs; reporting on measure the client needs to report back to their board.
7. MANAGEMENT OF THE SUPPLIER RELATIONSHIP

In our quest of helping people to get their lives back, we are often required to rely on our third-party service provider panels to provide specialist services and advice outside the areas of our expertise. Some of these service providers include Workplace Rehabilitation Providers, Medical Providers, Legal Providers and Investigators.

We acknowledge that effective and efficient provider relationships are vital to our success. Whilst we purchase a range of services to support our various business units, we do not adopt the same procurement method in all cases. We do however, aim to always achieve value for money, and to identify and work with best practice suppliers in the marketplace. Prior to appointing a supplier to our panel, we undertake a rigorous tender process. This may involve seeking proposals, asking for formal bids or tenders or conducting negotiations with prospective suppliers. In each case our objective is to minimise cost and maximise value. In addition to this, we aim to ensure that the approach we adopt is fair and clearly understood by our potential and current suppliers. Once a supplier is selected a Service Level Agreement (SLA) is developed which includes areas such as servicing expectations, KPI's, fee structures and other relevant aspects as per the NSW guidelines/Deeds.

The performance of all suppliers is monitored through regular activities which include:

- Data Analysis: monthly performance data is obtained from our panel and Employer preferred providers and benchmarked against KPI's to ascertain performance progress.

- Auditing: regular audits of all service types through use of standardised auditing tools in order to ensure quality of services purchased from the third-party service providers.

- Survey: internal claims teams are surveyed to obtained feedback regarding user experience of services purchased and customer service received whilst working with the provider.

Regular performance reviews (in line with the NSW guidelines) are undertaken with all suppliers to provide feedback gathered from the data analysis, auditing and surveys. During such meetings, any performance / engagement issues are identified and action plans are put in place with clear timeframes and monitoring arrangements. For suppliers that are identified to be experiencing significant difficulties in delivering services as per the SLA, Performance Improvement Planning is undertaken and subsequent actions are completed to facilitate desired improvement. Ad-hoc performance reviews are also undertaken for urgent matters when identified through internal / external stakeholder feedback and or business as usual activities.

In addition to the above, EML maintains records of (including, but not limited):

- Complaints (which are managed in line with the Complaints Management Protocols),
- Supplier service areas,
- Supplier staff registry
- Supplier due diligence documents (i.e. Certificate of Currency)
8. MANAGEMENT OF COMPLAINTS AND COMPLIMENTS

Our Commitment
EML have a team of dedicated and experienced professionals who are trained to provide advice and guidance for Employers, Injured Workers and other customers.

Any concern or dissatisfaction about a process or service provided should be reported to us, because we are committed to getting things right.

How to lodge a concern or complaint:
A dedicated Case Manager, Underwriter, or Primary Contact is the first point of contact for all enquiries, concerns or complaints. If the initial response is not satisfactory we encourage further formal contact using one of the following options:

- **Email:** info@eml.com.au
- **Telephone:** NSW (02) 8251 9000 or SA (08) 8127 1100
- **Mail:** Feedback Officer c/o- EML GPO Box 4143, SYDNEY NSW 2001
- **Internet:** [www.eml.com.au](http://www.eml.com.au) Click on ‘Contact Us’ and then ‘Feedback’

What will we do when we receive a complaint?
We will acknowledge the complaint. This will be done by phone, post or email, within two business days on receipt of the complaint. We will also provide the name and contact details of the person managing the complaint.

How we resolve customer feedback by:
**Phone:** We are committed to contact via telephone. One of our managers will take responsibility to resolve the concern.

**Email or letter:** All complaints will be followed up with an email or letter; this will confirm that the concern or complaint has been satisfactorily resolved. The email or letter will be sent by the manager responsible for assisting in the resolution of the complaint.

How long might it take to resolve a complaint?
Wherever possible we will aim to satisfactorily resolve a complaint within two business days where practicable.

We are committed to making contact within two business days on receipt of the complaint to acknowledge and establish a timeframe for resolution.

If additional information or time is required due to the nature of the complaint, we will immediately advise the reason as to why it is taking longer and ensure an alternate date is provided by which a resolution can reasonably be expected and we will provide updates as required.

How will we assess a complaint?
We will ensure that the complaint is managed:
- Professionally and with a sense of urgency;
- In a timely and efficient manner;
- Within legal and legislative parameters; and
- Based on sound and objective decision making.
Unresolved complaints or issues
If a complaint or issue cannot be resolved with us the matter can be referred to the following industry bodies that can help:

- **icare NSW**: icare manages escalated complaints about service if the complaint cannot be resolved with us. The Customer Service Centre contact details are:
  
  **Telephone:** 13 44 22  
  **Email:** enquiries.workersinsurance@icare.nsw.gov.au

- **State Insurance Regulatory Authority (SIRA)**: SIRA has a complaints solution service for workers and employers who are unhappy with decision we make. An online enquire form is available at their website or alternate contact details are listed below:
  
  **Telephone:** 13 10 50  
  **Email:** contact@sira.nsw.gov.au  
  **Web:** www.sira.nsw.gov.au

- **Workers Compensation Independent Review Office (WIRO)**: WIRO provides an independent complaints solution service for workers who are unhappy with a decision we make. WIRO also provides funding for legal advice. WIRO contact details are:
  
  **Telephone:** 13 94 76  
  **Website:** www.wiro.nsw.gov.au

- **Workers Compensation Commission (WCC)**: The WCC is an escalation option for workers compensation disputes involving liability, medical and work injury management. The WCC contact details are:
  
  **Telephone:** 1300 368 040.

- **New South Wales Ombudsman**
  
  **Telephone:** 02 9286 1000  
  **Toll Free (outside Sydney metro)** 1800 451 524  
  **Web:** www.ombo.nsw.gov.au  
  **Email:** nswombo@ombo.nsw.gov.au  
  **Fax:** 02 9283 2911
9. DISPUTE RESOLUTION

EML’s dispute process is in line with SIRA’s Guidelines for Claiming Workers Compensation. If there is any kind of decision made on a claim, the Injured Worker will be advised formally, in writing. The Injured Worker is given the opportunity to provide additional information or evidence; or to request for EML to reconsider the decision. An internal review application form is provided with the written notice and we encourage the Worker to complete this form and return to EML with any additional information to be considered. We will complete this review within 14 days of receipt.

The Injured Worker does also have the right to seek review by any of the following independent options:

- Seek advice / assistance from your trade union organisation or from a lawyer, however we note that Injured Workers are responsible for their own legal costs;

- Contact icare’s Customer Service Centre on 13 44 22 or visit their website at www.icare.nsw.gov.au;

- State Insurance Regulatory Authority (SIRA) on 13 10 50

- Seek independent advice from the Workers Compensation Independent Review Office (WIRO). The WIRO has also established the Independent Legal Assistance and Review Service (ILARS). ILARS can facilitate access to free independent legal advice to in circumstances where there is a disagreement regarding entitlements. For more information call WIRO on 13 94 76 or visit their website at www.wiro.nsw.gov.au.

- Disputes can also be referred for determination by the Workers Compensation Commission. Matters that may be referred to the Commission are limited to matters specified in a dispute Notice. The Workers Compensation Commission may not allow introduction of any information not previously notified as in dispute. Such a dispute can be referred by lodging an Application to Resolve a Dispute form to the Registrar of the Commission located at Level 20, 1 Oxford Street, Darlinghurst NSW 2010. The email address of the Registrar of the Commission is registry@wcc.nsw.gov.au.

Legal Proceedings

In the event of litigation, if the situation warrants, we will obtain legal advice from our panel solicitors or respond independently. EML will discuss recommendations made with the Employer and obtain their agreement regarding action to be taken. EML retain the right to make the final decision regarding litigation and claim settlements.
10. FRAUD

EML has a zero tolerance to fraud and is committed to minimising the likelihood of fraud occurring.

Our staff attend regular information and training sessions on fraud awareness. Each business unit has an allocated Fraud Liaison Officer who will assist staff in reporting any fraud activity to the required authorities. All allegations of fraud will be investigated and, where substantiated, the cases will be pursued thoroughly and reported to the appropriate authorities.
10. PRIVACY AND CONFIDENTIALITY

In the course of claims management, EML will handle confidential information about a Worker in accordance with section 243 of the Workplace Injury Management and Workers Compensation Act 1998. Personal and health information relevant to the management of the claim will only be shared with relevant parties after the Worker has provided written consent to authorise the release of such confidential and sensitive information.

Furthermore, storage and use of personal and private information is critical in the workers compensation Scheme and it is part of the underlying structure and culture at EML to ensure that the interests of all customers are respected and protected.

The Privacy Act:
EML is bound by the Privacy Act 1988 and Australian Privacy Principles which govern the collection and handling of personal and sensitive information to ensure that organisations clearly outline what type of information they hold, the reasons this information is held, the way in which it is used and in what circumstances it is disclosed.

In addition to the provision of the Privacy Act, we are also bound by the relevant workers compensation legislation, regulation and guidelines in the collection, use and disclosure of information relating to workers compensation claims.

EML respects the Injured Worker’s right to privacy and values the trust placed in us to handle personal and sensitive information. Maintaining the privacy of all personal and sensitive information entrusted to us is paramount, and we do this by:

We only collect information that we require to provide a service to an Injured Worker. For the purposes of Workers Compensation premium and claims management services, generally we keep a record of:

- Basic identity information such as name, address, employer details and information concerning employment relationship arrangement.
- Sensitive information directly related to a Worker’s claim
- Information provided by other service providers collected for assessing and managing a Workers Compensation claim.
- Banking and taxation details.
- Information in connection with policy or claims management

Usually we will collect information directly from the Injured Worker, if we need to collect personal or sensitive information from third parties we seek the Injured Workers consent to do so, unless we are otherwise permitted by law to make the collection.

How we use or disclose personal information provided by the Worker:
For the purpose of assessing and managing workers compensation claims, including determining liability, or
- In providing reasonably necessary clinical services (such as medical treatment, rehabilitation, medical investigations, tests or procedures); or
- If we are required or authorised by law to do so.
Stakeholder Rights
EML aims to ensure that the personal information we hold is accurate, complete, relevant, up-to-date and not misleading.

If the Injured Worker would like to update any personal information that we currently hold in our systems; access their personal information or have concerns about the way that we have managed the information, we encourage the Worker to contact us. In the second instance, by contacting the EML Group Privacy officer:

   Email: privacy@eml.com.au

For further information, the EML Privacy Statement and the EML Privacy Policy are available on request via our website. There is a dedicated Privacy Officer in each business unit to champion privacy and help ensure compliance with legislation.
12. QUALITY ASSURANCE

Quality assurance is the responsibility of every staff member and is achieved through incorporating the following concepts into key policies and procedures:

<table>
<thead>
<tr>
<th>Delegation</th>
<th>Provide people with the opportunity to take responsibility in line with their experience and skills.</th>
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<tbody>
<tr>
<td>Review</td>
<td>A formal review process links the manager to their ongoing responsibility for outcomes.</td>
</tr>
<tr>
<td>Feedback</td>
<td>A system of continuous improvement requires feeding back lessons learnt to improve practices.</td>
</tr>
<tr>
<td>Measures</td>
<td>What gets measured gets managed.</td>
</tr>
</tbody>
</table>
APPENDICES

- Injury Management Plan (*known as the “My Recovery Plan”*)
- EML’s RTW Planning template
REFERENCES

- The Australasian Faculty of Occupational and Environmental Medicine (AFOEM) of The Royal Australasian College of Physicians (RACP) Consensus Statement ‘The Health Benefits of Work’
- SIRA Guidelines for Claiming Workers Compensation 2016
- The Workers Compensation Act 1987
- The Workplace Injury Management and Workers Compensation Act 1998
- The Workers Compensation Regulation 2010
- Guidelines on Independent Medical Examinations and Reports 2012
- Guidelines on Injury Management Consultants 2012
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