

## FUNDING OF EQUIPMENT AND WORKPLACE MODIFICATIONS FOR INJURED WORKERS

For some workers, specific equipment or modifications to the physical environment of the workplace may be required to achieve a safe and durable return to work. Sometimes, the equipment or modification may be required to safely and successfully participate in retraining.

### Principles for funding of equipment and workplace modifications

The fundamental principles underlying the funding of equipment and workplace modification are:

- it is particular and specific to the injured worker's functional requirements in allowing them to return to work or to safely participate in retraining
- it is essential and other alternatives have been explored and found inappropriate
- the existing equipment or lack of the required item was not a contributing factor to the initial injury (where the worker is returning to the pre-injury employer)
- it is not an item that should be provided by the employer as part of their obligations under the *Occupational Health and Safety Act 2000*
- it will return the worker to durable employment
- it is a cost-effective intervention in terms of reduction in weekly benefits
- it is solely or mainly for the use of the injured worker
- the cost is reasonable
- it will be used for a reasonable period of time
- where the equipment required for retraining is not particular to the worker's functional restrictions, but the worker cannot access the same equipment through the training institution or in the community in a similar way to other students (because of the injury).

The purchase or hire of computer hardware and/or software will generally not be funded. During retraining, workers are expected to use the facilities available at training institutions and in community centres, such as libraries.

Funding is not available for the establishment costs of a small business or other self-employment arrangements.

### Eligibility for funding of equipment and workplace modification

To be considered for WorkCover-funded equipment or workplace modification, injured workers must meet certain criteria. They must have sustained a work-related injury and are unable to return to work without the equipment or workplace modification.

They must also be:

- receiving, or eligible to receive, weekly benefits under the *Workplace Injury Management and Workers Compensation Act 1998* or the *Workers Compensation Act 1987*, or
- waiting for determination of their claim through the Workers Compensation Commission.

Injured workers will not be considered for WorkCover-funded equipment or workplace modification when:

- their workers compensation claim has been settled under the *Workplace Injury Management and Workers Compensation Act 1998* or the *Workers Compensation Act 1987*
- they accept a common law settlement or commutation, or
- their claim is covered under the *Coal Insurance Act 2001*.

Generally, retrospective applications are not considered.

### **Application process for WorkCover-funded equipment and workplace modifications**

An accredited rehabilitation provider or return to work coordinator must apply for funding by submitting a Section 53 – Equipment and Workplace Modifications Submission: General Details/Professional Declaration, together with:

- a return to work plan
- a workplace assessment report from a suitably qualified professional, addressing the principles of equipment funding or workplace modification, as outlined above
- confirmation from the training provider or employer – in the case of equipment required for retraining or workplace modification
- any other supporting reports or documents.

In the first instance, all applications for funding should be sent to the employer's workers compensation insurer.

In NSW, the six licensed insurers (and new agents) that are regulated by WorkCover to administer workers compensation insurance policies, and the Treasury Managed Fund, which handles the workers compensation claims for NSW State Government employees, coordinate and approve applications for funding that cost less than \$10,000.

Self-insurers, who carry their own underwriting risk and control their own claims administration, and specialised insurers, who carry the underwriting risks specific to a particular industry, class of business or employers, coordinate and approve applications for funding that cost less than \$2,000.

WorkCover approves and manages applications for funding that exceed these amounts – or when the injured worker has a claim that is in dispute. Applications for funding where claims are in dispute require specific documentation (outlined above), together with written confirmation from:

- the rehabilitation provider/return to work coordinator that they will remain involved in the return to work plan
- the solicitor or Workers Compensation Commission that the injured worker is pursuing the worker's entitlement to weekly benefits.

All applications will be assessed within 10 working days. Approval will be notified in writing by returning the signed General Details/Professional Declaration form to the rehabilitation provider /return to work coordinator. If an application is rejected, the rehabilitation provider/return to work coordinator may request a review of the decision by writing to WorkCover. If the Director of the Workplace Injury Management Branch confirms the original decision, an appeal may be lodged with WorkCover's Chief Executive Officer.

### **Payment for equipment and workplace modification**

The organisation approving the equipment – ie. the insurer or WorkCover – will manage the payment to the supplier. Payments are made when a signed Claim for Payment form is submitted, together with supporting documentation, such as invoices or receipts.

### **Installation of equipment and workplace modification**

Following approval, the rehabilitation provider/return to work coordinator will confirm that the equipment or workplace modifications are installed correctly, and the worker has been adequately trained in using the equipment or modifications.

### **Ownership and maintenance of equipment and workplace modification**

If the equipment is small, customised or movable, it will belong to the injured worker. Larger items, such as permanent fixtures or modifications to the workplace, will be owned by the employer – but they may be asked to contribute to the costs.

Should the injured worker be re-employed elsewhere within the first six months and still require the equipment, WorkCover will cover reasonable and necessary transport costs to relocate the equipment to the new employer.

The employer will be responsible for normal maintenance and repairs as provided by the *Occupational Health and Safety Act 2000*, which states that an employer has a responsibility to 'provide or maintain equipment and systems of work that are safe and without risks to health'.

### **Change in worker's circumstances that could affect eligibility**

The rehabilitation provider/return to work coordinator must notify the insurer or WorkCover within five working days of becoming aware of any significant changes to the worker's circumstances that may affect their eligibility for funding, or their return to work plan. Changes in a worker's circumstances include:

- resigning from the job
- not commencing, or withdrawing from, the course that required equipment
- the claim being disputed or settled (for equipment approved directly by WorkCover only).

### **What happens to the equipment when the worker no longer requires it?**

If the equipment is no longer required within six months from the date of issue and the rehabilitation provider is still in contact with the injured worker, re-issue of the equipment to another worker may be negotiated.

If the worker is no longer in contact with the rehabilitation provider, the injured worker should contact WorkCover on **13 10 50**.

### **Further information**

Section 53 claim for payment

Section 53 equipment submission

*Workers Compensation Act 1987*

*Workplace Injury Management and Workers Compensation Act 1998*

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## **Disclaimer**

This publication contains information regarding occupational health, safety, injury management or workers compensation. It includes some of your obligations under the various workers compensation and occupational health and safety legislation that WorkCover NSW administers. To ensure you comply with your legal obligations you must refer to the appropriate Acts.

This publication may refer to WorkCover NSW administered legislation that has been amended or repealed. When reading this publication you should always refer to the latest laws. Information on the latest laws can be checked at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) or contact (02) 9238 0950 or 1800 463 955 (NSW country only).

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