

COVID-19 & workers' compensation



**Know
YOUR
Rights!**



NOTE: The information in this document relates to the NSW workers' compensation system and does not apply to employers or workplaces under the Comcare system, such as Ramsay Health Care. Please seek advice from your employer or contact the Association if you have any questions regarding your rights.



Transmission in the workplace

If you have contracted COVID-19 and transmission may have occurred in the workplace, you are entitled to make a claim for workers' compensation. There is currently a law in place that health workers in NSW are presumed to have contracted the virus at work or while working, unless there is evidence to the contrary. This means you do not need to prove the source of a COVID-19 infection when making a workers' compensation claim.

This law also covers casual workers, although compensation will depend on your earnings as a casual in the weeks prior to falling ill.

No employer should place any barrier to a worker making a workers' compensation claim, regardless of whether they believe the claim will be successful or not. The onus is on the employer's insurer to establish that COVID-19 was not contracted at work. If there is no evidence that transmission occurred outside of work, then generally the claim should be accepted by the employer's insurance company. Your employer does not decide your claim.



Proof of positive status

You will need to have a positive rapid antigen test (RAT) or PCR result as evidence of your positive status. A RAT result does not need to be verified by a PCR result.

RAT

You should record the date and time of a positive RAT.

At the workplace: If the test occurs in the workplace, then the employer will have a record of the positive result. Ask to take a photo of the test result on your mobile phone immediately, recording the date and time it was taken. This should be retained in preparation for any workers' compensation claim.

Personal: If the positive result arises from your personal testing, you should take a photo of the test result on your mobile phone immediately, recording the date and time it was taken. This should be retained in preparation for any workers' compensation claim.

PCR

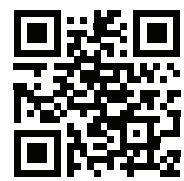
If your PCR test was through a NSW Health provider, you will need to obtain your results through your general practitioner or the treating clinician who requested the test. Ask for a copy of the results, including the date and time of the test, which is required to make a workers' compensation claim.

If the PCR test was through a private pathology, how your results are delivered may vary. If you receive your results by SMS you should take a screenshot of the message, including the date and time. What is important is that you obtain a copy of the results in whatever format the pathology uses, including the date and time of the test, so this can be submitted as part of your claim.

NOT A MEMBER OF THE NSWNMA?

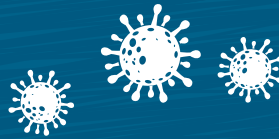
www.nswnma.asn.au

Being part of the Association means we have more collective power to deliver positive change on pay and conditions at your work.
Join us today and together, we can make our future stronger.





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Making a claim

To start the workers' compensation claim process you will need to get a *SIRA*

Certificate of Capacity from your doctor. This is the same documentation that a doctor would fill in for any workplace injury which indicates that the injury is likely to have resulted due to your work.

You should provide the completed form, with a copy of any evidence you have of the positive test, to your employer, who is obliged to forward this on to their insurer.

If you are COVID-19 positive at the time you will need to make a telehealth appointment with your doctor to obtain a *SIRA Certificate of Capacity*.

We recommend you also send a copy of your claim directly to your employer's insurer if you work in the public system, or to icare via their website if working in the private sector.

Whilst it is better to get the claim going as soon as possible after the positive test, a workers' compensation claim can be made retrospectively if you run into difficulties at the time, for example, if you're too unwell.

NOTE: Public health system

You may be requested to complete an incident form. This is not unusual as it is part of the public health system approach to injuries or incidents in the workplace. Take it as an opportunity to set out your belief that transmission is likely to have occurred in the workplace as there is no other cause of transmission that you are aware of in a non-work setting. If you have more specific details of when you believe transmission or exposure may have occurred in the workplace, put it down.



Claim process

A claim received from a worker should be provided immediately by the employer to their insurer.

The insurer will need to be reasonably satisfied that the worker contracted COVID-19 at work and that there is no evidence that it was contracted outside of work. The insurer has 21 days to decide liability. The insurer must start provisional weekly payments of compensation within 7 days of notification unless they have a reasonable excuse.

If the insurer does not subsequently accept your claim, you will not be required to pay back the provisional payments.



Leave already taken

Whilst you may be placed on sick (personal) leave initially, this should be recredited to you when the claim is accepted. Annual leave or long service leave already taken will generally not be recredited, but you can receive workers' compensation benefits as well as payment for annual leave or long service leave for the same period. Under some awards and agreements, annual leave or long service leave can be recredited with sick leave in certain circumstances, which in turn can potentially be recredited with workers' compensation benefits. Please contact the Association if you require advice regarding recrediting of leave.



Workers' compensation benefits

All the normal workers' compensation entitlements will apply, including medical expenses and weekly payments for time lost (for the first 13 weeks, 95% of average weekly earnings, capped at a maximum amount.)



Declined claim

If your claim is declined by the insurer, contact the Association and we can discuss and assist, and refer you to NEW Law for specialist workers' compensation advice and representation as needed.

This guide is a general summary but if you require further information or advice specific to you, please contact the Association on 1300 367 962.