

# FAQ: worker assistance program

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## what is section 39 of the Workers Compensation Act 1987?

Section 39 of the *Workers Compensation Act 1987* (1987 Act) provides that a worker has no ongoing entitlement to weekly payments after 260 weeks, unless the worker has been assessed at greater than 20% whole person impairment.

### WORKERS COMPENSATION ACT 1987 - SECT 39

Cessation of weekly payments after 5 years

- (1) *Despite any other provision of this Division, a worker has no entitlement to weekly payments of compensation under this Division in respect of an injury after an aggregate period of 260 weeks (whether or not consecutive) in respect of which a weekly payment has been paid or is payable to the worker in respect of the injury.*
- (2) *This section does not apply to an injured worker whose injury results in permanent impairment if the degree of permanent impairment resulting from the injury is more than 20%.*  
**Note:** *For workers with more than 20% permanent impairment, entitlement to compensation may continue after 260 weeks but entitlement after 260 weeks is still subject to section 38.*
- (3) *For the purposes of this section, the degree of permanent impairment that results from an injury is to be assessed as provided by section 65 (for an assessment for the purposes of Division 4).*

## how will I know if my payments are going to continue after 260 weeks?

Your case manager will make contact with you over the phone and provide written communication outlining the number of weeks of weekly payments you have received and the current evidence as to the degree of your whole person impairment (if applicable). Your case manager will also inform you if your weekly payments are expected to cease at 260 weeks.

## if my weekly payments cease am I still entitled to benefits such as medical or hospital treatment and rehabilitation?

Entitlements to compensation for costs of medical or hospital treatment and rehabilitation services that are determined to be reasonably necessary, are available for a period of time once weekly payments cease.

The period of time is based upon your assessed whole person impairment percentage and is outlined as follows:

Whole Person Impairment	Medical, hospital and rehabilitation entitlements
21%-30%	Reasonably necessary expenses for life
11%-20%	Reasonably necessary expenses up to 5 years after weekly payments cease
0%-10%	Reasonably necessary expenses up to 2 years after weekly payments cease

## what happens if my weekly payments cease after 260 weeks?

There will be additional support services and information provided to guide you through this process. Your case manager can provide further information regarding what assistance will be available.

## when does my case manager start counting my 260 weeks of weekly payments from?

This depends on when your claim was lodged as explained below:

- If you made your claim prior to the 1/10/2012 then your week count starts on the 1/1/2013.
- If you made your claim on or after 1/10/2012 then your week count starts from the first day of incapacity (your first weekly payment).



### **how will my case manager count weekly payments to confirm when I will reach 260 weeks?**

Your case manager will be required to count the number of weeks in which a payment of weekly compensation was made on your claim. Any week in which a payment of weekly compensation has been received (including part of a day, or a full day) will be counted as one week of entitlement.

### **how does my case manager count 260 weeks if I have broken periods of weekly compensation payments?**

Only the weeks in which a payment of weekly compensation has been received are counted. For example, if you receive three weeks of compensation payments because you had time off work, you then work full-time for the next two weeks and receive wages from your employer, and then receive a subsequent week of compensation, then only four weeks are counted toward your 260 weeks, not six. Any week for which a weekly payment of compensation is paid to you will be counted towards your 260 weeks.

### **why am I being referred for a whole person impairment assessment?**

To assess whether or not you will have an entitlement to weekly payments after 260 weeks. If you do not fully understand the reasons for the referral, you should seek further advice from your case manager in the first instance. Alternatively you may contact SIRA's Customer Service Centre on 13 10 50, WIRO on 13 94 76, your union representative or a lawyer.

### **what if I do not want to attend the medical examination that has been arranged for me?**

If you choose not to attend the medical examination then a current degree of whole person impairment cannot be established. If this is the case, your entitlement to weekly payments will cease once the 260 week limit is reached, as you will not be considered to have more than 20% whole person impairment. If you do not fully understand the reasons for the medical examination, you should seek further advice from your case manager in the first instance. Alternatively you may contact SIRA's Customer Service Centre on 13 10 50, WIRO on 13 94 76, your union representative or a lawyer.

### **can I bring a support person to the independent medical examination?**

You are able to bring a support person to the medical examination. Arrangements for this will need to be clarified with the medical examiner to

confirm if a support person will be allowed during the actual medical examination. Your case manager will confirm in writing, once the appointment has been scheduled, and will include information related to your option of taking a support person with you.

### **who will pay for the costs for travel to the medical examination?**

In instances where an appointment requires you to travel across a meal time or extensive travel is required further assistance can be provided for you. Your case manager will discuss the options available to you and assist you with making the required arrangements.

### **what happens if I want to submit my own whole person impairment assessment?**

You should seek the advice of a lawyer if you wish to submit your own whole person impairment assessment. WIRO on 13 94 76 can assist you in locating a suitable lawyer who will represent you at no charge to yourself. You may still need to attend an independent medical examination arranged by your case manager.

### **can I use this assessment to claim for lump sum compensation for whole person impairment under section 66 of the Workers Compensation Act 1987?**

You may be able to use this assessment to claim for lump sum compensation. For further information and/or to discuss the options available to you please contact your case manager for assistance. You may also contact SIRA's Customer Service Centre on 13 10 50, WIRO on 13 94 76, your union representative or a lawyer.

### **what should I do if I do not agree with the whole person impairment assessment result?**

If you do not agree with the degree of whole person impairment assessed you should seek further advice from your case manager in the first instance. Alternatively you may contact the numbers below. You are also entitled to lodge a dispute directly with the Workers Compensation Commission. Instructions and forms associated with lodging a dispute are located at [wcc.nsw.gov.au](http://wcc.nsw.gov.au)

Who can I talk to?	
WIRO 13 9476	Your Union
SIRA 13 1050	Your Lawyer
Your Case Manager	Advisory and Assistance Service 13 9053

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# fact sheet: 260 week count

Counting your weekly payments



## the legislation

In June 2012 changes were introduced to the Workers Compensation Act 1987 (The Act), which limited workers entitlements to weekly payments to a maximum of 260 weeks, unless they have a permanent impairment of greater than 20%.



## when does the 260 week count start from?

The date from which the count of 260 weeks starts will depend on the date your claim was received by the scheme agent.

### • Claims received before 1/10/2012

If a claim was received before the 1/10/2012, then weekly payments made before 1/1/2013 cannot be counted toward the 260 week limit. The count towards 260 weeks of weekly payments starts from 01/01/2013.

### • Claims received on or after the 01/10/2012

If the claim was received on or after the 01/10/2012, the weekly payments will be counted from the first day of paid incapacity (that is the first day a worker received or was entitled to receive weekly payments).



## how do scheme agents count weekly payments?

Any week in which a payment of weekly compensation was made will be counted as 1 week toward the total of 260 weeks.

The payment of weekly compensation may be for a part of a day, or a full day in that week, however the week is counted as a full week.



## how do scheme agents count weekly payments if there had been broken periods of weekly compensation payments?

If a worker has not received a weekly compensation payment in a particular week, that week will not be counted.



## what does aggregate mean in determining if a worker has reached the 260 week limit?

The aggregate period of 260 weeks could be consecutive (for example a worker has received payments every week for 260 weeks) or it could be non-consecutive (for example a worker may have returned to work for period of time and not received weekly payments). Only weeks that the worker should have received weekly payments will be counted.



## who can I contact for further assistance?

Further assistance can be provided by contacting your case manager who can provide you with a list of weekly payments that includes the amounts and dates paid to show how they have counted 260 weeks.



## what if I don't agree with the count of the weekly payments?

You should contact your case manager to discuss.

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