

# Injury Management Program



Coal Mines Insurance

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## Important information

The information set out in this document has been designed to assist Coal Mines Insurance (CMI) customers in understanding injury management and employer obligations regarding the NSW coal industry workers compensation scheme.

# Who we are

Coal Services is a Specialised Health and Safety Scheme that provides an integrated suite of services to help identify, assess, monitor and control risks inherent in the NSW coal mining industry.

## Our purpose

### To protect

Our preventative and responsive services in the areas of workplace health and safety, workers compensation, emergency response and training help to deliver on our purpose, 'to protect'.

## Our vision

### To partner with industry for a safe workplace and a healthy workforce

We are owned by industry for industry, through the NSW Minerals Council and the Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU). Our purpose, vision and values are aligned to focus on the safety and health of our industry and its workers.

Coal Mines Insurance (CMI) is a specialised insurer responsible for managing and administering the workers compensation scheme for the NSW coal industry.

The NSW workers compensation system provides unlimited 'no fault' protection to workers and their employers in the event of a work-related injury or illness. The cost of workers compensation in NSW is funded by the insurance premiums paid by employers. The NSW workers compensation system objectives apply to all employers and employees in NSW, irrespective of the type of insurance coverage.

Coal Services Pty Limited (and its subsidiaries) exercises its functions and derives its powers from S10(1) of the *Coal Industry Act 2001* (NSW). Under this legislation, CMI is a specialised insurer responsible for managing and administering the workers compensation scheme for the NSW coal industry.

## What we do

When incidents occur, CMI is here to support workers and their families, employers and all parties throughout the recovery and return to work process.

# Injury management program

It is a legislative requirement that all insurers have an injury management program, pursuant to Section 43 of the *Workplace Injury Management and Workers Compensation Act 1998* (WIM Act 1998). An injury management program is a coordinated and managed program that documents all aspects of injury management to achieve optimum return to work outcomes for workers. It includes treatment, rehabilitation, retraining, claims management and employment management practices.

As the insurer, CMI is required to develop and maintain an overarching injury management program for the NSW coal industry.

CMI's injury management program is designed to support the employer's workplace injury management by:

- ensuring commitment to promote return to work for all workers
- setting responsibilities and obligations of all stakeholders
- planning resources and key stakeholders to support return to work and rehabilitation
- outlining communication and decision-making protocols.

Employers must comply with their obligations under the CMI injury management program.



# Roles and obligations

We all play an important role throughout the injury management and return to work journey.

## Coal Mines Insurance (CMI)

As an insurer, CMI will:

- Contact the worker, employer and nominated treating doctor (NTD), where possible, within 3 days of being notified of an incident
- Develop an injury management plan within 20 working days from notification of a significant injury. CMI will review the plan at regular intervals and upgrade or re-issue the plan where necessary
- Inform the employer and worker of their obligation to comply with the injury management plan
- Consult with the worker, employer and NTD when referring to an approved workplace rehabilitation provider
- Make vocational rehabilitation and/or retraining available to a worker when a return to pre-injury duties and provision of suitable duties is no longer possible.

## Employers

Employers must:

- Notify CMI within 48 hours of becoming aware of a workplace injury
- Comply with CMI's injury management program
- Provide and support suitable duties/suitable employment where reasonably practicable while the worker is recovering from injury
- Participate in the development and application of the injury management plan including consultation with the worker, their CMI case management team and NTD
- Have a return to work program in place that supports and promotes injury management and return to work
- Pay weekly compensation as soon as possible. Depending on the arrangement with CMI, workers should remain on normal pay cycles unless they're paid directly by CMI
- Not to dismiss a worker because of the injury whilst the worker has an entitlement to accident pay.

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**Employers must notify CMI within 48 hours of becoming aware of a workplace injury**

## Workers

Workers must:

- Notify their employer immediately (or as soon as practicable) following a workplace injury and assist in enquiries regarding such notification
- Participate with all reasonable requests from their employer, their CMI case management team, NTD and appointed workplace rehabilitation provider
- Give consent for the NTD to provide relevant information to their employer and/or their CMI case management team for the purposes of developing a suitable injury management plan and return to work plan
- Participate in the development and application of their injury management plan
- Cooperate and comply with the injury management plan and return to work plan
- Cooperate with their employer so they can meet their return to work obligations
- Maintain regular contact with their employer regarding their recovery and return to work
- Immediately notify their employer and CMI case management team of any changes in their condition or employment circumstances.





# Making a claim

Employers are required to notify CMI within 48 hours of becoming aware that a worker has sustained a workplace injury or that an incident has occurred.

## Giving notice of an injury

Where an injury or incident occurs in the workplace, employers should report it to CMI within 48 hours of becoming aware of the injury or incident, preferably by email:

<b>Newcastle</b>	P: + 61 (2) 4948 3150 E: <a href="mailto:cmi.newcastle@coalservices.com.au">cmi.newcastle@coalservices.com.au</a> F: +61 (2) 4953 0543
<b>Singleton</b>	P: +61 (2) 6571 9999 E: <a href="mailto:cmi.singleton@coalservices.com.au">cmi.singleton@coalservices.com.au</a> F: +61 (2) 6571 1258
<b>Woonona</b>	P: +61 (2) 4286 5430 E: <a href="mailto:cmi.woonona@coalservices.com.au">cmi.woonona@coalservices.com.au</a> F: +61 (2) 4283 7163

Injury claim forms and guides are available from the [Forms and Downloads](#) section at [www.coalservices.com.au](http://www.coalservices.com.au).

The injury must be reported even if the worker doesn't intend to make a claim – employers can complete an [Employer's Incident Notification Form](#) for this purpose. This is important because if their injury becomes worse over time and they need to seek treatment, there will be a record of the incident which may assist the claims process. Reporting an injury also enables employers to track (and address) potentially hazardous tasks or equipment in the workplace.

Any workplace-related injuries and illnesses must also be recorded in the Register of Injuries, which all workplaces are required to keep.

## Lodging a claim

If a worker chooses to lodge a claim, they must (as soon as possible):

- Tell their employer or supervisor they have been injured
- See a doctor and ask for a State Insurance Regulatory Authority (SIRA) Certificate of Capacity
- Provide the SIRA Certificate of Capacity and a completed [Worker's Injury Claim Form](#) to their employer.

The employer must:

- Complete and submit an [Employer's Incident Notification Form](#) within 7 days of the worker advising that they are going to lodge a claim. This form should be completed by the worker's supervisor. It includes details of how the incident and injury occurred
- Send the worker's SIRA Certificate of Capacity and their completed [Worker's Injury Claim Form](#) to CMI within 7 days of the worker giving you these forms
- All workers have the right to utilise the services of an interpreter if English is their second language.





# Determining liability



All liability decisions are communicated to the worker and the employer in writing.

## Decision-making process

### Within 3 days

A case manager and injury management specialist will be assigned to the claim. CMI will contact the worker, employer and treating doctor (if required).



### Within 7 days

CMI will determine whether the claim is accepted, declined, reasonably excused or provisional payments (where provided for under legislation) are to commence.



### Within 21 days

If the claim is reasonably excused, a decision to accept or decline the claim will be made within 21 days. If further information is required, this period may be extended to **42 days**.

## Additional or consequential medical conditions

All claims for additional or consequential medical conditions will be investigated and determined based on appropriate medical evidence. A worker may be required to be assessed by an Independent Medical Examiner.

## Factual investigations

Depending on the circumstances surrounding the reported injury, the worker and policyholder representatives may need to subject themselves to undertake a factual investigation to document these details.

## Aggravation vs. recurrence

A claim will be reopened in the event of a recurrence. A recurrence occurs where a worker suffers a work-related injury, and there is a later, spontaneous re-emergence of symptoms needing treatment or causing incapacity.

A new claim will be created in the event of an aggravation. An aggravation occurs where the worker's employment was a contributing factor in exacerbating a pre-existing injury.



## Weekly benefits

Workers may be eligible for weekly payments in the following circumstances:

### Total incapacity

- If the worker is unable to perform any aspect of work, or where the work available is so limited that they would be regarded as being effectively 'totally incapacitated'.

### Partial incapacity

- If a worker is only fit for suitable duties and the employer is unable to provide these, then the worker may be compensated as if they were totally incapacitated for work
- Make-up pay may be available if the worker is unable to perform their full normal duties, or are unable to earn the same level of income as they would have earned before they were injured.

### Coal miners workers compensation entitlements for total incapacity:

<b>0-26 weeks</b>	Paid benefits in accordance with the applicable legislation and agreement/award made up of the current weekly wage plus accident pay and bonus if applicable.
<b>27-39 weeks</b>	Paid in accordance with the applicable legislation and agreement/award made up of the 1926 Act Statutory Compensation rate plus accident pay and bonus if applicable.
<b>39 weeks</b>	Bonus (if applicable) ceases. <i>CMI does not indemnify for bonus payments after 39 weeks which is stated in our policy terms.</i>
<b>40-78 weeks</b>	Paid in accordance with the applicable legislation and agreement/award made up of the 1926 Act Statutory Compensation rate plus accident pay and bonus if applicable. <i>Accident pay entitlements may differ from the first 39 weeks.</i>
<b>78 weeks</b>	Accident pay ceases. <i>CMI does not indemnify for accident pay after 78 weeks which is stated in our policy terms.</i>
<b>79-104 weeks</b>	Paid Statutory Compensation as per the 1987 Act rate.
<b>105 weeks onwards</b>	Paid Statutory Compensation as per the 1926 Act rate.

## Benefits on reaching retirement age

Weekly benefits cease when a worker reaches retirement age.

The Social Security Act prescribes the retirement age as follows:

Birthdate	Pension Age
01 January 1949 - 30 June 1952	65 years
01 July 1952 - 31 December 1953	65 years and 6 months
01 January 1954 - 30 June 1955	66 years
01 July 1955 - 31 December 1956	66 years and 6 months
From 01 January 1957	67 years

Note:

- *The above does not apply to claims with a date of injury prior to 1987.*
- *For claims with a date of injury prior to 2006, the retirement age is 60.*

## Medical benefits

A worker may be eligible for medical and related treatment expenses if the services are considered reasonably necessary because of the workplace injury.

Factors that may be considered when reviewing a request for treatment include the connection to the workplace injury, cost, effectiveness, and available alternatives.

Requests for treatment are considered on a case-by-case basis.



# Recovery and return to work

CMI works with employers, the worker and their treatment providers to deliver safe, effective and durable return to work outcomes.

## The link between recovery and return to work

Not all injuries result in time away from work. For those that do, more than 70 per cent of workers return to work within 13 weeks of sustaining their injury.

Evidence has shown that the earlier a worker returns to work, the better his/her chances of recovery.

If a person is off work for:

- 20 days (four weeks) they have a 70 per cent chance of returning to work
- 45 days the chance of returning to work is 50 per cent
- 70 days there is just a 35 per cent chance they will return to work.

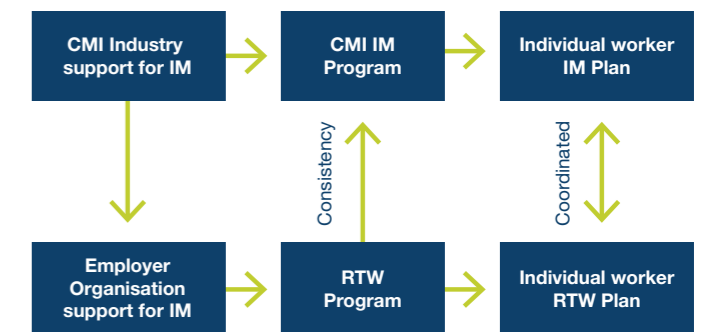
Recovery from physical injuries and a return to normal life can reduce stress and other mental health issues for the worker.

For employers, it can help to promote a positive work culture, improve attendance and performance and enhance productivity. Similarly, earlier return to work also helps to reduce claim and premium costs.

## Integrated injury management and return to work

CMI encourages an integrated approach to injury management and return to work, which promotes consistency and coordination:

### NSW Coal Industry Injury Management





## Injury management

Supporting recovery and return to work takes a collaborative approach, founded on the following elements:

- 1. Early reporting of injuries**  
Contacting CMI as soon as possible after an injury ensures timely access to the services required to engage the right treatment to assist a worker's recovery.
- 2. Injury management**  
Injury management covers all aspects of managing workplace injury and illness in order to achieve an effective return to work.
- 3. Assistance with return to work**  
Providing suitable duties is key to improving a worker's chances of recovery. A workplace rehabilitation provider can assist the employer in developing and implementing a program of upgrading suitable duties. They can also help to facilitate the design and implementation of alternative work-related activities.
- 4. Communication**  
It is vital that employers, the worker, their case management team, treating doctors and other treatment providers continue to communicate throughout the process to ensure appropriate treatment and work options are in place to assist recovery and return to work.

## Collaborative injury management planning

CMI undertakes a number of collaborative measures to assist in planning for a successful return to work and return to health.

- 1. Collaborative claims reviews**  
The multi-disciplinary claims and injury management team within CMI review all facets of the claim to ensure a sound strategy is developed in consultation with stakeholders to facilitate a safe and durable return to work.
- 2. Nominated treating doctors case conferences**  
CMI will consult with the nominated treating doctor, the worker and potentially a rehabilitation provider to develop an injury management strategy.
- 3. File handovers**  
In the event of a change in Case Manager/Injury Management Specialist, a detailed handover will be undertaken.

## An injury management plan is tailored to the specific needs of the worker.

## Injury management plan

An injury management plan is tailored to the specific needs of the worker. It outlines the activities, services and individual responsibilities required to safely assist the worker back into suitable employment following workplace injury. It includes treatment, rehabilitation and retraining of the worker.

It is essential that all parties collaborate throughout the development of this plan to ensure it is suitable for the worker and that the employer is aware of all aspects that may impact on their return to work.

An injury management plan is developed by the worker's CMI case management team in consultation with all parties. It outlines activities and obligations for each involved party to assist with recovery and return to work including:

- providing and performing duties
- attending treatment
- communications and meetings

The injury management plan works hand-in-hand with the employer's return to work plan.

Both the employer and worker must comply with the obligations under the injury management plan.

The injury management plan will be developed and sent to the worker, employer and treating doctor within 20 working days from notification of a significant injury. An injury management plan will not be developed following early contact if the worker has returned to work on pre-injury duties.

## Return to work program

A return to work program is developed by the employer in consultation with the workforce to support and promote injury management and return to work. A return to work program is common to all workers and includes procedures relating to early notification of injury through to return to work duties or redeployment into alternative employment.

- The **return to work program** is developed by the **Employer**
- It outlines the policies and procedures for managing injury in the workplace. It is common to all workers
- It aligns to and must comply with the obligations outlined in the CMI injury management program
- It is developed in consultation with the workforce and union representatives.

## Return to work plan

A return to work plan is a written document that outlines how the employer will help a worker to return to work as soon as possible, or how the employer will help them to stay at work while they recover.

Together, the return to work plan and the injury management plan outline how a worker will progress toward a final return to work outcome. The documents should indicate what actions are being undertaken to improve the worker's health status and overcome any barriers identified in the claim, whilst performing suitable duties.

### Return to work plans must:

- Outline the type of support necessary for effective recovery at work
- Be tailored to the individual needs of the worker in relation to their injury and capacity to work
- Be produced by the employer in consultation with the worker, CMI and treating doctor
- Be regularly monitored, reviewed and updated by the return to work coordinator or provider
- Work in conjunction with CMI's injury management plan
- Be developed in line with the worker's current SIRA Certificate of Capacity and should contain:
  - ✓ the worker's name, job title and location, and supervisor's details
  - ✓ agreed purpose or goal of suitable duties
  - ✓ hours and days to be worked, commencement date, length of plan and review date
  - ✓ duties including capacity, restrictions or specific duties to be avoided
  - ✓ multiple stages which reflect how specified work tasks and treatments will improve work capacity
  - ✓ arrangements to attend treatment or medical appointments
  - ✓ agreement signed by the worker and employer representative.

The employer may choose (but is not obligated) to have the return to work plan signed by the treating doctor and/or a union representative if applicable.

The employer should forward a signed copy of the return to work plan to CMI within 7 days of completion.

## Suitable employment

CMI encourages employers to provide suitable duties in accordance with their obligations under NSW workers compensation legislation as it applies to coal miners.

Where a worker is unable to return to their pre-injury employment but can undertake suitable duties, CMI aims to reintegrate the worker into the workforce in the following order of priority:

- 1.** Return to same employer, different role.
- 2.** Return to same industry, suitable role.
- 3.** Return to alternate industry, suitable role.

Where suitable duties are provided, they should facilitate a graduated return to full pre-injury duties.

Where appropriate, referral to an approved workplace rehabilitation provider for case management will occur and documented in the injury management plan and return to work plan.

## Management of non-compliance by worker

If a worker fails to reasonably comply with their injury management and return to work obligations, then weekly compensation payments may be suspended and/or terminated under S57 of the WIM Act 1998 as it applies to coal miners.

Prior to suspending or terminating weekly payments CMI will contact the worker to determine the reason for non-compliance. If contact isn't established, CMI will request that the worker contact their case management team. Depending on the worker's explanation, a new plan may be developed.

If non-compliance continues a warning notice will be sent to the worker. The notice will state that entitlements to weekly payments are at risk of suspension unless the worker complies with detailed requirements within a certain timeframe.

If the worker fails to comply within the required timeframe then weekly compensation payments will be suspended. Periods of suspended benefits may not be payable if the worker later becomes compliant.

## Independent opinions

Independent medical assessments should be sought when:

- There is doubt as to the validity of the claim
- It is felt that the worker could do other duties as work
- There is a need to monitor progress of ongoing medical status
- Discrepancies between treatment requested and capacity for work exist

### Injury management consultant (IMC)

An IMC assists in resolving problems that arise in relation to a worker's capacity for work, suitability of duties or the ongoing RTW goal.

### Independent medical examiner (IME)

An IME provides an independent opinion regarding the worker's injury and treatment. This can assist in decisions about liability, rehabilitation, return to work and entitlements to compensation. An IME is also used for the assessment of permanent injury.

A worker must attend a medical assessment at the request of CMI or their weekly payments may be suspended until the examination has taken place after appropriate warning is provided. CMI will pay for reasonable costs associated with attending the medical assessment.

### Independent consultant (IPC)

An independent physiotherapist, psychologist or chiropractor can provide a review of treatment. The IPC will either:

1. Review the file and make recommendations about current or proposed treatment
2. Review the file and contact the treatment provider to discuss treatment
3. Provide physical assessment of the worker and contact the treatment provider with a report of recommendations to CMI.

# Dispute prevention and resolution

Any decision to decline liability on a claim is to be evidence-based and undergoes an internal review process prior to the decision being made.

The process involves a review of the claim by a claims lead or equivalent role who is not directly involved in the management of the claim.

If CMI declines any aspect of liability on a claim, written notice will be given to the employer and worker. However, where sensitive information or medical evidence has been relied upon, the employer will not receive copies of that evidence in order to protect the worker's privacy. If supplying a decision to a worker would pose a serious threat to the life or health of the worker or any other person, the decision may be provided to a medical practitioner nominated by the worker for that purpose or to a law practice representing the worker.

The dispute notice will outline:

1. The reason CMI is disputing liability
2. Any further information that is deemed relevant to the disputed claim
3. Information on how to request a review
4. Information to the effect that the worker can also seek advice or assistance from any employee representative group, relevant Union or legal provider.

The worker will have the opportunity to request a review of the decision, verbally or in writing. The review will be conducted within 14 days by a representative of CMI, other than the original decision-maker.

The worker is entitled to commence proceedings through the Residual Jurisdiction of the District Court in respect of the issues raised in the dispute notice.

In the event of litigation, CMI will obtain legal advice from either our panel solicitors or internal Legal Services team. CMI will discuss legal strategies with the employer but retains the right to make the final decision regarding litigation and claim settlements as per the CMI workers compensation insurance policy.



# Finalisation



Prior to finalising a claim, the employer and worker will be advised in writing of CMI's intention to finalise the claim. CMI will wait 14 days for any response before proceeding with the finalisation.

A claim will be finalised when the injury no longer impacts the worker's capacity for employment, no further treatment is required, and all approved claims costs have been paid. This may include:

- A return to pre-injury duties
- A return to suitable employment with no wage loss
- A redemption or common law settlement
- The worker recovers damages from another party (e.g. CTP or public liability insurer)
- Ongoing liability is declined
- Retirement or withdrawal of claim
- Weekly payments are terminated due to non-compliance

In most instances, a claim will remain open for 4 weeks to ensure a sustainable return to work and/or payment of all claims related expenses.

If a claim has been declined it will remain open for 3 months from the date of decline as the decision may be reviewed or referred to the District Court for a determination. If proceedings are commenced in the District Court, the claim will remain open until the matter has been determined.

## Reopening

In certain circumstances it may be necessary to re-open or reactivate a claim that was previously finalised. When this occurs, CMI undertakes a thorough review of the available information to determine the appropriate course of action.

Once a decision has been made in accordance with the legislation, the employer and worker will be notified in writing.

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**In most instances, a claim will remain open for 4 weeks**



## Privacy and confidentiality

Protecting privacy and maintaining the confidentiality of personal and sensitive information is important to us.

CMI acts in accordance with the requirements of the *Privacy Act 1988* (Cth), *Health Records and Information Privacy Act 2002* (NSW) and Australian Privacy Principles, which govern the collection, use and disclosure of personal and private information.

The worker's consent to the collection, use and disclosure of their personal and private/health information is obtained when they sign the Injury Claim Form and/or Certificate of Capacity.

CMI maintains the privacy of all personal and sensitive information collected by:

- only collecting information required to manage the claim
- only using or disclosing information about a worker or employer for the purpose that this information was collected or where a lawful exemption applies

For further information, the Coal Services Privacy Statement is available at [www.coalservices.com.au](http://www.coalservices.com.au). You can also contact:

Privacy Contact Officer  
Coal Services Pty Limited  
GPO Box 3842, Sydney NSW 2001  
T: +61 2 8270 3200  
E: [pco@coalservices.com.au](mailto:pco@coalservices.com.au)

### Requests for access to information

- The worker can request access to information in relation to the claim and update their personal information at any time
- Employers can request access to information regarding the claim so far as it is necessary to assist with return to work. This includes access to Certificates of Capacity and injury management plans. However, to protect the worker's privacy, sensitive information or medical evidence will not be released without specific consent from the worker.

## Complaints handling

CMI has in place a Complaints Management Policy for the purpose of providing a structured approach to the resolution of complaints encompassing all aspects of CMI operations.

A complaint may be communicated via, phone, letter, fax, email or in person. Upon receipt of a complaint it will be reviewed and appropriate action undertaken to address the complaint. A response with confirmation of action undertaken will be provided within 7 days unless otherwise agreed.

If a resolution is unable to be reached by the initial contact then it should be referred in the first instance to the CMI Claims Lead or CMI Group Lead.

If a complaint is unable to be resolved to the satisfaction of the complainant, they are able to take further action and review by:

1. Head of Operations Management
2. Deputy General Manager
3. General Manager

The complainant may also seek advice from their union representative or a suitably qualified solicitor. Assistance may also be sought from the State Insurance Regulatory Authority (SIRA) Claims Assistance Service: telephone 13 10 50.

## Fraud

Fraud involves a financial advantage obtained through deception or dishonesty. This is a serious offence and carries significant penalties.

All allegations of fraud in respect to workers compensation claims will be investigated and, where substantiated, reported to the appropriate authorities.

## Injury prevention

CMI's team of Account Managers works with employers to understand their business, people and processes. Using insights from claims data, they assist employers in identifying injury trends and facilitating risk mitigation initiatives to reduce workplace injuries and their impact on production time and insurance premiums.





## CMI contact details

<b>Newcastle</b>	P: + 61 (2) 4948 3150 E: cmi.newcastle@coalservices.com.au F: +61 (2) 4953 0543
<b>Singleton</b>	P: +61 (2) 6571 9999 E: cmi.singleton@coalservices.com.au F: +61 (2) 6571 1258
<b>Woonona</b>	P: +61 (2) 4286 5430 E: cmi.woonona@coalservices.com.au F: +61 (2) 4283 7163

Call **1800 WORKER** (1800 967 537) if you need help to report an injury or if you have questions about claims.



# 1800 WORKER



Coal Mines Insurance