

RECOVERY OF CLAIM OVERPAYMENTS TO WORKERS

Purpose

This operational instruction outlines the procedure to be followed by the Scheme Agent when an overpayment to a Worker has been detected.

It does not cover circumstances where the overpayment is the subject of an order by the Workers Compensation Commission or where a Worker has been ordered by WorkCover to refund overpayment as a result of fraudulent or false Claim(s). Overpayments in these specific circumstances are expected to be pursued by the Scheme Agent in accordance with the statutory provisions of the *Workers Compensation Act 1987* and the *Workplace Injury Management and Workers Compensation Act 1998*.

Reimbursement by the Worker

Where the Scheme Agent detects an overpayment to a Worker, the Scheme Agent is expected to exercise sensitivity when pursuing any recovery from the Worker.

The Scheme Agent is expected to:

- Contact the Worker and explain the circumstances of any overpayment;
- Negotiate a repayment plan that does not place any undue hardship on the Worker.

If this cannot be achieved the Scheme Agent should advise the Nominal Insurer to enable consideration of whether any further action is required in the circumstances.

Claim overpayments should not be categorised as Claim costs for the purposes of an Employer's Premium – that is, the correct cost of claims should be used for premium calculation purposes. This is regardless of whether such overpayments have been recovered or not, or currently the subject of a repayment plan.

It is recognised that a significant proportion of Claim overpayments result from incorrect wage information provided by the Worker and/or the Employer. The Scheme Agent is expected to have processes in place that attempt to verify such details.

Reimbursement by the Scheme Agent

The Nominal Insurer can require reimbursement by the Scheme Agent for any payment of benefit that was not paid in accordance with the requirements of the Deed, even if the Scheme Agent is unable to immediately obtain repayment of the benefit from the relevant party.

In practice however, any demands by the Nominal Insurer for reimbursement by the Scheme Agent are expected to be only in exceptional circumstances, where the Scheme Agent error has resulted in significant overpayments.

References

Deed, Clauses 33.2, 33.3; Schedule 2, Clauses 2.2.10

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