

JOB COVER6 - SUPPORTING RECOVERY AT WORK DURING THE COVID-19 PERIOD

INTRODUCTION

Research shows that work promotes recovery and reduces the risk of long-term disability and work loss. The NSW workers compensation system is focussed on supporting workers to recover at or return to work after work-related injury.

Section 53 of the *Workplace Injury Management and Workers Compensation Act 1998* (1998 Act) allows the State Insurance Regulatory Authority (SIRA) to develop, administer and coordinate vocational rehabilitation schemes for workers.

JobCover6 has been developed in recognition of the economic and business impacts of COVID-19 and can be accessed during the pandemic period.

PROGRAM BENEFITS

JobCover6 helps workers locate suitable work where ongoing employment cannot be secured with a new employer during the COVID-19 period. The program supports employers to offer employment for up to 6 months duration to a worker recovering from a work-related injury, where the worker is looking for new employment.

JobCover6 provides benefits to a new employer to help offset the costs of engaging and training a new worker. The benefits include:

- incentive payments of up to \$10,400 for up to 6 months
- exemption of the worker's wages from their workers compensation premium calculation for two years
- protection against the costs of changes to the worker's existing injury for up to two years.

The program benefits can be used individually, as a combination, or as a total package to meet the needs of the employer and worker.

Employer incentive payment

The payment is payable for up to 6 months of work to a maximum amount of \$10,400.

The weekly incentive payment is a maximum amount of \$400 per week.

Payments are calculated on a weekly basis. The amount paid will be either the gross weekly wage paid* to the worker, or \$400 per week should the gross wage exceed the weekly incentive payment amount.

Example 1: If the worker's weekly wage is \$750, the employer incentive payment will be \$400.

Example 2: If the worker's weekly wage is \$300, the employer incentive payment will be \$300.

* Does not include superannuation and allowances.

The employer may claim the incentive payment at the end of the placement. If the placement is 12 weeks or longer, the employer and insurer should negotiate a payment schedule which is easy to administer and will maximise the worker's recover at work outcome.

Wage exemption from premium calculation

Workers compensation insurance premiums are based on a number of factors, including the amount of wages an employer pays to their workers.

The program's wage exemption benefit provides protection to the new employer from an increase to their premium as a result of wages paid to the worker. This means the worker's wages are not included in the new employer's workers compensation premium calculations for two years (i.e. two policy periods).

Protection from costs associated with the existing injury

We recognise new employers may be concerned about the financial impact a worker's existing injury may have on their business should the worker's existing injury be affected while carrying out their new work duties. This may be avoided by arranging a workplace assessment before the job commences – refer to 'Suitability of the role' below.

A new employer is exempt from the costs of changes occurring to the worker's existing injury during the first two years of their employment.

Note: This exemption does not apply if, for example, the employer engages a worker with a shoulder injury and they later sustain a knee injury – the new employer is liable for the costs of the new injury (knee injury), and the costs would be included in their next premium calculation.

ELIGIBILITY

A worker is eligible if they:

- have capacity for work and they are looking for new employment.
- are receiving, or are entitled to receive, weekly workers compensation payments under the [Workers Compensation Act 1987](#) (1987 Act) or just prior to the COVID-19 pandemic they were engaged in suitable work with their pre-injury employer.
- haven't accepted a commutation or work injury damages settlement.

An employer may be eligible if they:

- have no workers compensation liability to the worker (are a different employer to the pre-injury employer)
- have offered employment to a worker for an agreed period
- hold a current workers compensation policy with an insurer or a self-insurer's licence
- are not grouped with the pre-injury employer for workers compensation insurance or insured under the same group self-insurer licence as the pre-injury employer.
- are not in receipt of any other wage subsidy for the worker
- can demonstrate adherence to their jurisdiction's workers compensation and workplace health and safety legislation.

Note:

A Commonwealth or interstate employer may be eligible for the program however they are not eligible for the premium exemption due to the different insurance arrangements between Australian jurisdictions

Dual employment

If a worker is injured when working with more than one employer, the employer that is not associated with the workers compensation claim may be eligible to utilise the program if they can offer additional hours of work and meet eligibility requirements.

Concurrent programs

If a worker obtains employment with two employers at the same time, the worker is only eligible to use either the JobCover placement program (JCPP) or JobCover6 with one employer.

If an employer seeks to utilise either JCPP or JobCover6 for more than one worker at the same time, each worker should be working to their maximum certified capacity and the employer is to demonstrate they are able to provide adequate training and supervision.

Ongoing employment

If an employer offers ongoing employment after the end date of JobCover6, the employer may be eligible to transfer to the JobCover placement program for a further 6 month period.

Change of employer

The benefits of the program are not transferable between employers. However, if employment ceases and the worker remains eligible for the program, the program may be offered to a new employer.

PRINCIPLES

An application for the JobCover6 program must meet the following principles.

The work:

- is appropriate to the worker’s skills, functional and work capacity and is the most suitable option for the worker’s circumstances
- will assist the worker to remain engaged and active and supports their recover at work plan
- is safe and suitable for the worker.

PREPARING FOR THE PROGRAM

The worker, insurer, employer or an approved workplace rehabilitation provider (provider) may determine that JobCover6 is a suitable strategy to help a worker recover at work in new employment during the COVID-19 pandemic.

If an employer or workplace rehabilitation provider believes the program will assist a worker to recover at work, they should discuss eligibility with the insurer as soon as possible.

The insurer should confirm the worker’s eligibility for the program by including it in the worker’s injury management plan (IMP). The insurer is responsible for notifying the worker and provider if eligibility for the program changes.

SIRA has a range of [programs to support recovery work](#). If an employer or worker do not meet the eligibility criteria for this program, the worker may be eligible for another program to support their recovery at work.

Where a worker’s long term return to work goal is employment with a new employer, the JobCover placement program may be a more suitable program to support the worker’s return to work. More information is available on the [website](#).

Suitability of the role

A variety of employment arrangements are considered suitable. These include:

- full or part-time work
- casual, labour hire or contract arrangements where there is a formal agreement with the employer
- temporary employment, where there is a fixed-term agreement.
- seasonal work

Confirmation should be obtained in writing from the new employer (eg a letter of offer of employment or contract).

Establishment of a small business or other self-employment arrangement is not considered suitable under the program

Workplace assessment

In some circumstances, a provider will conduct a workplace assessment to match the capacity of the worker to the essential job requirements and assess the worker's ability to perform the tasks safely.

Where an assessment is required this may occur remotely however the provider must ensure that the employer has adequate controls in place to manage worker safety. This includes managing social distancing requirements.

Where equipment or workplace modifications; and/or certification or licences are required, the provider must ensure that these requirements are in place prior to commencement of employment. The provider should discuss the needs with the insurer.

Any [Equipment, education or training](#) requests must be made with reference to the principles and requirements outlined in the relevant guidance material.

Conflict of interest

Where there is either a professional or personal relationship between the proposed new employer and the worker, or a business relationship between any of the parties involved which may give rise to a conflict of interest, the provider should outline why the program should be approved. This should include the strategies that will be implemented to address the conflict of interest.

The application will need to be endorsed by SIRA to proceed if there is a conflict of interest identified.

Insurance

The provider must ensure the employer has the necessary insurance coverage before developing a JobCover6 proposal.

CONFIRMATION OF AGREEMENT

Once the worker and new employer's eligibility is confirmed, a [JobCover6 – agreement](#) should be completed and signed by the worker, new employer and the insurer before the worker commences employment.

The provider or insurer should ensure all parties:

- understand the program benefits being used
- agree to their roles and responsibilities
- have completed and signed the form
- receive a copy of the signed agreement form and a copy of this guidance material.

The insurer must:

- confirm both the worker and employer meet the eligibility criteria

- endorse the use of the program by signing a completed agreement form
- give a copy of the signed form to the worker and employer before the worker starts work

There is a risk that the employer may not receive the expected program benefits if the insurer has not confirmed that all requirements have been met before the worker starts work.

If the program is not approved, the insurer must advise the worker and employer of the [SIRA review process](#).

Note: Use the [JobCover6 program checklist](#) to ensure all requirements outlined in this guidance material have been considered.

ACCESSING THE INCENTIVE PAYMENT

The incentive payment is claimed by (and paid directly to) the new employer using the [JobCover6/ JobCover placement program – employer incentive payment claim form](#)

Up to \$400 per week incentive payment will be paid based on the number of weeks the worker participates in employment as per the JobCover6 agreement form (up to a maximum \$10,400). The amount paid will be either \$400 per week or the worker's weekly wage if the worker's wage is less than \$400 per week.

The new employer must:

- complete a [JobCover6/ JobCover placement program – employer incentive payment claim form](#)
- attach a copy of the signed [JobCover6](#) agreement form as well as evidence of the worker's weekly gross wage for each week in the employment period being claimed
- submit the payment claim no more than 12 weeks from the last day of each employment period
- only claim for wages paid to the worker, this includes paid annual/recreational/sick leave
- not claim any other employer incentive payment for the worker from another agency (e.g. another labour market wage subsidy program or any other employer incentive payment programs).

Employers should consult their accountant or the Australian Taxation Office about how the incentive payment should be treated for taxation purposes.

The employer should submit the documents to:

- the insurer who signed the agreement form where the pre-injury employer's insurer is a Nominal Insurer scheme agent, or an agent for icare Insurance for NSW² or
- SIRA at vocprograms@sira.nsw.gov.au where the pre-injury employer's insurer is a self-insurer or specialised insurer¹.

Note: An employer cannot claim for payments made to the worker when the worker is absent from work and in receipt of weekly workers compensation payments.

Insurers must have controls in place to prevent duplicate payments being made and claimed. Payment should only be made where there is evidence of payment of the worker's wages.

Insurer/agent reimbursement

Insurers can request reimbursement from SIRA for the program costs. Insurers and agents are to ensure that all claims for reimbursement can be substantiated. Substantiated means programs are approved and supported by appropriate evidence of the expenses.

CHANGE IN CIRCUMSTANCES

The insurer determines if a provider is needed to monitor the worker during this period of employment. The length of the placement and a worker's ability to secure durable employment after JobCover6 should be considered.

Eligibility should be assessed throughout the program. The insurer must be notified if circumstances change that affect the eligibility of the worker and/or the employer.

If there is a significant change in circumstance that may affect eligibility for the program (for example, the worker resigns from the new employer or the new employer ceases trading), the pre-injury employer's insurer must be notified within seven days of becoming aware of the change.

If employment arrangements change, the employer incentive payment will be calculated on the number of weeks that the worker was engaged in employment.

Where a worker's weekly payments cease after the program commences, the program may continue and the employer will still be eligible for all of the agreed benefits.

If ongoing claim liability is disputed following program commencement, or the worker accepts a commutation or work injury damages settlement, the insurer must advise SIRA immediately. If this occurs, it is up to SIRA to decide whether to continue to make incentive payments to the employer.

ACCESSING WAGE EXEMPTION FROM PREMIUM CALCULATION

This benefit is accessed when the employer declares wages at the end of their workers compensation policy period.

The worker's wages are exempt from the employer's workers compensation premium calculation for a period of two years. The employer is not required to include the worker's wages in the wage declaration to the insurer.

The employer should retain a copy of the completed [JobCover6/ placement program – agreement](#) and wage records for every worker they engage under the program as evidence that the program has been used. The employer should contact their insurer for further information regarding premium calculation.

REVIEW PROCESS

If there is disagreement about eligibility or use of JobCover6 program, the worker and/or employer should try to resolve the matter with the insurer in the first instance.

For information on what to do when a request to use a SIRA funded program has not been approved, find out [how to request a review of a program decision](#).