Voluntary redundancy and workers' compensation

This fact sheet provides general information about how receiving a voluntary redundancy will affect your workers' compensation.

If you are applying for, or receiving, workers' compensation and are considering seeking or accepting a voluntary redundancy you should contact your EML case manager for information about how your workers' compensation may change.

How workers' compensation is affected by voluntary redundancy

A voluntary redundancy (VR) can affect some aspects of your workers' compensation, importantly:

- there are no changes to your medical and other expenses from a VR
- your rehabilitation program continues to be administered by the ACT Government
- your return-to-work program will be aimed at gaining suitable employment in the open labour market (no-longer limited to the ACT public sector)
- the incapacity payments (wage payments you receive instead of your salary as compensation for not being able to work) will depend on:
  - your capacity and ability to work
  - whether you have removed yourself from suitable employment that was offered and available
  - the status of your claim (accepted or undetermined)
  - your post-separation earnings and income sources.

More about incapacity payments

EML will decide if your incapacity payments will continue or are changed if you take a voluntary redundancy.

They will base the decision on medical evidence and your capacity for work at the time you will leave the ACT public sector.

Generally:

- voluntary redundancy does not automatically stop payments
- if you have no capacity for work you will continue to receive incapacity payments
- if you have partial capacity for work your payments may be reduced

Accepting a voluntary redundancy may affect your incapacity payments if it is determined that you have voluntarily left **suitable employment**. This means work that:

- you have the functional capacity to safely undertake, consistent with accepted medical restrictions **or**
- you have capacity to perform, or will be able to perform, within 3 – 6 months, based on your skills and experience and your suitability for rehabilitation and **vocational retraining.**

Suitable employment is assessed across the broader labour market, not just the ACTPS.

If you have capacity for work and access to suitable employment, accepting a VR can impact your ongoing entitlement to incapacity payments.

The case studies below provide more information about suitable employment and incapacity payments.

Additional factors

Across all scenarios, EML must also consider:

- earnings post-separation (e.g. DVA pensions)
- deemed earning capacity
- superannuation accessed (employer-funded component)
- Centrelink benefits (offset and reimbursement requirements).

More information

Contact your EML case manager or contact EML and ask to speak with someone about ACTPS voluntary redundancy and worker's compensation:

- telephone1800 365 227
- email: info@eml.com.au

Case studies

Situation	Outcome
Totally unfit for all work • employee has an accepted claim • medical evidence confirms no capacity for any work • employee accepts a voluntary redundancy.	Incapacity payments are likely to continue based on EML assessing the: • ongoing medical certification • absence of any work capacity. Because this employee had no capacity to work at the time of redundancy, they are not considered to have removed themselves from suitable employment.
Partial capacity for work • employee has an accepted claim • medical advice indicates capacity for suitable or modified duties • suitable employment may have been available within the ACTPS • employee accepts a voluntary redundancy.	EML will assess whether the employee removed themselves from suitable employment. If yes, EML may decide to reduce or limit payments based on what the employee could have earned, and the actual earnings (if working elsewhere) will also be considered. This is called deeming ability to earn. If an employee has capacity and access to suitable duties, accepting VR can impact their ongoing entitlement.
Claim yet to be determined (new claim) • employee has lodged a claim, but liability is not yet accepted • employee accepts voluntary redundancy before the claim is decided.	No incapacity payments are payable unless and until the claim is accepted. If the claim is accepted entitlement will be assessed retrospectively. EML will consider: • medical evidence of incapacity • work capacity at the time of redundancy • whether suitable employment was available. Voluntary redundancy does not guarantee future incapacity payments, even if the claim is accepted.

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