

## Weekly Benefits – Statutory Benefits

If you're injured in a motor accident and are unable to resume your usual work duties, we may be able to pay you weekly benefits for any loss of earnings due to the motor accident while you recover your injuries.

This fact sheet will help you understand:

- If you may be entitled to receive weekly benefits
- What information we need from you to determine your entitlement
- When you can expect to receive payments and for how long they may continue
- What we mean by an 'Earner' and 'Pre-Accident Weekly Earnings' (PAWE)
- What an 'Entitlement Period' means

### Will I receive weekly benefits?

Generally, if you were working and receiving an income at the time of your accident, you will be considered an 'Earner' and if you are unable to work as a result of injuries from the motor accident, you will be entitled to weekly benefits.

To be considered an 'Earner' you need to have been at least 15 years old and at the time of the accident and you:

- Were employed or self-employed; or
- Had a documented arrangement to commence employment; or
- Commenced employment as a self-employed person; or
- Had been receiving payments for loss of income following another motor vehicle accident or NSW workers compensation claim.

If you were a full-time student at the time of the accident, you will be an 'Earner' from the time you complete the course you were studying and given you have reached the age of 15.

### What information supports that I am an "Earner"?

This depends on what your earning situation was prior to the accident. In most cases we will ask that you provide documentation from the past 12 months such as:

- Pay slips
- Payment summaries
- Taxation returns
- Contact of employment
- Offer of employment letter

If you were self-employed or about to be self-employed you can provide:

- Profit and Loss Statements.
- Business Activity Statements.
- Tax Returns.
- Group Certificates.
- Applications for Business registration.

- Bank Statements showing regular income.
- Invoicing records.

If you were a full-time student, you can provide:

- Pre-accident academic results/transcripts.
- Previous work experience.
- Confirmation of enrolment.
- Any other relevant material/documents.

### **Why do I need to provide this information?**

This information will help us calculate your Pre-Accident Weekly Earnings (PAWE). We can also, with your permission, contact your Employer directly and request this information from them.

If your Employer can provide this information, we will call you to discuss your status as an 'Earner.' We will tell you what your "Pre-Accident Weekly Earnings" are and explain how the calculation was made.

### **What are "Pre-Accident Weekly Earnings"?**

Pre-Accident Weekly Earnings, also referred to as "PAWE", is the weekly average of your gross earnings in the 12 months immediately before the day of your motor accident.

For example, if you were working full time on an annual income of \$52,000.00 gross, excluding superannuation, your PAWE would be \$1,000.00 gross per week.

The way that PAWE is calculated is set out by the Motor Accident Injuries Act 2017 and it takes into consideration a range of different earning situations. In some instances, your PAWE calculation may be different to what you expect. This would be the case in instances such as:

- If your earnings were not continuous over the 12-month period
- If you were a fulltime student at the time of the accident
- If there was a change to your employment such as a promotion, demotion or change in your regular hours
- If you had entered into an agreement to start new employment – in this case your PAWE would be calculated to what you would have gone on to earn in that role were it not for the accident.

### **Maximum Rate**

Depending on how much earned prior to the motor accident, your PAWE may be affected by the "maximum weekly statutory benefits amount". The NSW Government has set guidelines which state that there is a maximum amount that we can pay as a weekly benefit and we cannot pay weekly benefits to you above this figure.

If you are affected by this, we will call you and discuss prior to issuing your first weekly benefit payment.

### **Interim Rate**

Sometimes, we may be able to confirm that you are an “Earner”, but we may not have enough information to confirm your PAWE. If this is the case, we will be able to pay you an “Interim Rate” for the first 13 weeks following your motor accident or until we have the information that we need to determine your PAWE, whichever comes first. If we don’t receive this information from you during this 13-week period, we will no longer be able to the interim rate until you provide us with the information we need.

We will let you know if you are eligible for the interim rate. The interim rate is 12.5% of the current maximum weekly statutory benefits amount and this amount will change depending on the rates set by the Government. You may nominate a lower amount once we let you know what the current rate is if you know your PAWE will be less than this amount.

Once we have the information required to assess your PAWE, we will either pay any outstanding monies owed to you, or alternatively if we have overpaid you, request any monies be returned to us.

### **What if I do not agree with how my Pre-Accident Weekly Earnings has been calculated?**

We understand the importance of continuing to receive an income while you recover, for this reason we will make every effort to calculate your PAWE as accurately as possible. However, if you do not agree with our calculation please contact your Claims Advisor directly to discuss.

If you don’t agree with our PAWE decision made on your claim you can request an internal review of our decision. The details about requesting an internal review will be provided on the letter, but you may also contact your Claims Advisor who can assist you with this process.

Alternatively, should you be dissatisfied with our standard of service, you may make a complaint. Please contact your Claims Advisor to obtain their contact details or refer to the attached Complaints fact sheet.

### **When will my weekly benefits start?**

Once we determine you have an entitlement, your payments will start dependant on when you lodged your claim form and whether liability has been accepted.

Your payments will start from one of the following:

- If you submitted your completed claim form within 28 days of the accident you may be entitled to benefits from the date after the day of the accident
- If your claim is made after 28 days, we may commence payments from the date you lodged the form

We will let you know the exact date in writing when we determine your entitlement to weekly benefits.

### **How much is my weekly benefit payment per week?**

Once we determine that you are eligible for weekly benefits, it is not as straight forward as simply paying the amount we determined as your PAWE. Under the Motor Accident Injuries Act 2017 we also need to take into consideration:

- What entitlement period you are in, and
- Your earning capacity following the motor accident, and
- Whether you have been following your obligations under the Act

### What do we mean by “entitlement period”?

There are three entitlement periods we must consider when we make your weekly benefit payments: the first, second and third entitlement periods. The entitlement periods are counted from the date of your motor accident.

The three entitlement periods are as follows:

1. First entitlement period: week 1 to week 13
2. Second entitlement period: week 14 to week 78
3. Third entitlement period: week 79 onwards

Your entitlement amount depends on which entitlement period you are in and your capacity to work after the accident.

1. First entitlement period: you are entitled to 95% of (your PAWE less any earning capacity after the accident)
2. Second entitlement period:
  - a. If you have no capacity to work, you are entitled to 80% of your PAWE
  - b. If you have a partial capacity to work, you are entitled to 85% of (your PAWE less any earning capacity after the accident)
3. Third entitlement period: As you approach the end of the second entitlement period, we will contact you to discuss your entitlement after the second entitlement period.

We have provided some examples below to show you what we mean.

**Example - 1<sup>st</sup> Entitlement Period – Total Loss of Earnings** -*This means you are unable to work at all during this period.*

If your PAWE = \$1,000

Entitlement = \$1,000.00 x 0.95 = \$950.00

**Example – 1<sup>st</sup> Entitlement Period – Partial Loss of Earnings**- *This means you can return to work but not work your full hours.*

If your PAWE = \$1,000 and you are able to earn \$100 gross per week

Entitlement = (\$1,000 - \$100 = \$900) x 0.95 = \$855

**Example - 2<sup>nd</sup> Entitlement Period – Total Loss of Earnings** - *This means you are unable to work at all during this period.*

If your PAWE = \$1,000

Entitlement = \$1,000.00 x 0.80 = \$800.00

**Example -2<sup>nd</sup> Entitlement Period – Partial Loss of Earnings** -*This means you can return to work but not work your full hours.*

If your PAWE = \$1,000 and you are able to earn \$100 gross per week

Entitlement =  $(\$1,000 - \$100 = \$900) \times 0.85 = \$765$

### **Earning Capacity**

Throughout your claim, you will need to meet with your General Practitioner (GP) to obtain a "Certificate of Capacity" and to sign a "Employment Declaration" form. We need both of these forms to be completed by you and your GP in full to be able to consider making weekly benefit payments.

A Certificate of Capacity outlines your capacity to earn based on your GP's assessment of you and your motor accident injuries, we then use this certificate to help us determine how much your weekly benefit payments will be for that week.

An Employment Declaration form is a declaration completed by you to state whether you have or haven't received any further income above what was stated by your GP on the Certificate of Capacity.

If you do not provide us with both of these forms for the week your intending to claim for weekly benefits, we will not be able to make weekly benefit payments to you for that week.

Please refer to the enclosed Earning Capacity fact sheet for further information.

### **How long will I receive my weekly benefits?**

While you are unable to return to work, you will be eligible to receive weekly benefits for the first 52 weeks following the motor accident.

After this period, we will need to review your injury and the details of the accident to determine if your payments will continue. Under the Motor Accident Injuries Act 2017 we will not be able to continue to make weekly benefit payments to you if:

- You were at fault or most at fault for your accident
- Your injury is assessed as a threshold injury

Your Claims Advisor will contact you to discuss these assessments with you and ensure you understand what this means for your weekly benefits.

Please refer to the enclosed Threshold Injury fact sheet and the Liability fact sheet for further information.