



ASBESTOS-RELATED DISEASES MEDICAL PRACTITIONER GUIDANCE MATERIAL

info



Disclaimer

This information is for guidance only and not to be taken as an expression of the law. It should be read in conjunction with the *Asbestos-Related Diseases (Occupational Exposure) Compensation Act 2011* (the Act) and any other relevant legislation. The Act and the Regulations can be found at www.thelaw.tas.gov.au

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INTRODUCTION

A person is entitled to compensation under the (the Act) if the person has an:

- asbestos-related disease; and
- the contraction of the disease is reasonably attributable to exposure to asbestos in the course of the person's employment; and
- at the time of exposure employment was connected with Tasmania.

An asbestos-related disease is defined as a medical condition that is attributable to the person having been exposed to asbestos.

The compensation scheme

The asbestos compensation scheme provides compensation under the Act to a worker who develops an asbestos-related disease as a result of exposure to asbestos during the course of their work in Tasmania.

The Act has four main objectives:

- to ensure the provision of fair and appropriate compensation, and the payment of certain expenses, in relation to the contraction by persons of asbestos-related diseases in the course of employment as workers in connection with this State;
- to provide for the prompt and effective resolution of applications under the Act for compensation or for the payment of certain expenses;
- to provide an effective and economical mechanism for resolving disputes relating to applications under this Act for compensation or for the payment of certain expenses; and
- to make provision in relation to certain judgements and agreements relating to the contraction by persons of asbestos-related diseases in the course of employment as workers.

You can find the Act and the Regulations at www.thelaw.tas.gov.au

The Act identifies the Asbestos Compensation Commissioner. The Asbestos Compensation Commissioner is responsible for making determinations regarding a worker's application for compensation. They will refer all cases to a Medical Panel for its determination as to whether a worker has an asbestos-related disease, the prognosis is imminently or non-imminently fatal, and the disease is reasonably attributable to exposure through work.

The Asbestos Compensation Commissioner will make a final determination as to whether the person is a 'worker' under the Act, and whether compensation is payable.

The Asbestos Compensation Commissioner cannot overrule a decision of the Medical Panel.

The compensation scheme will provide compensation to workers with an imminently fatal or non-imminently fatal compensable disease. Imminently fatal refers to a worker who has less than two years life expectancy from the time of correct diagnosis. Non-imminently fatal refers to a worker with more than two years life expectancy from the time of correct diagnosis.

The Medical Panel will consist of three relevant specialists drawn from a Register. The following questions will be determined by the Medical Panel in respect to applications made by the worker:

- whether the person has an asbestos-related disease or diseases;
- what is the asbestos-related disease or diseases;
- whether the contraction of the asbestos-related disease is reasonably attributable to exposure to asbestos

in the course of the person's employment;

- whether the person has an imminently fatal asbestos-related disease;
- whether the person has a non-imminently fatal asbestos-related disease.
 - for all non-imminently fatal asbestos-related diseases, the degree of impairment of the person; and
 - the degree of incapacity of the person; and
- whether the person may recover from the asbestos-related disease or has so recovered.

In addition to these medical questions, the Panel may also be asked any other medical question related to the health of the person that is relevant to their claim. For example, a question relating to whether or not an expense associated with a certain type of medical treatment is a reasonable expense and necessarily incurred.

The following questions are to be determined by the Medical Panel in respect to applications made by a member of the family of the deceased worker:

- whether the person had an asbestos-related disease or diseases;
- what was the asbestos-related disease or diseases;
- whether the contraction of the asbestos-related disease was reasonably attributable to exposure to asbestos in the course of the person's employment;
- whether the asbestos-related disease or diseases were likely to have been a significant factor contributing to the person's death;
- whether the person had an imminently fatal asbestos-related disease.

Medical evidence needed for a claim to be accepted

A worker must include an INITIAL Medical Certificate with their claim for compensation. Claims for compensation that are not supported by medical evidence cannot be accepted.

Form 1: Asbestos-Related Diseases – Claim for Compensation – Worker (GF022), Form 9b: ONGOING Medical Certificate for Asbestos-Related Diseases Compensation (GF030) and Form 9a: INITIAL Medical Certificate for Asbestos-Related Diseases Compensation (GF038) are available at www.asbestos.tas.gov.au

A specialist in the field to which the asbestos-related disease relates must complete the INITIAL Medical Certificate (Form 9a), which includes the diagnosis and life expectancy.

A General Practitioner or Medical Specialist may complete the ONGOING Medical Certificate (Form 9b).

Medical evidence that must be included with a worker's application for compensation includes relevant test results, x-rays and scans. The worker must be provided with these or they may be forwarded, preferably electronically, to the Asbestos Compensation Commissioner.

INFORMATION FOR MEDICAL PRACTITIONERS (NON-SPECIALIST)

If it is suspected that a person has an asbestos-related disease, the person should be referred to a medical specialist in the field to which the asbestos disease relates. Medical specialists will determine a number of medical questions, the answers to which will be used by the Asbestos Compensation Commissioner to determine whether or not the person is entitled to compensation under the Act.

Medical questions which may be determined by a (non-specialist) medical practitioner

Medical practitioners may determine medical questions relating to incapacity/fitness for work and the current medical treatment summary in **Form 9b: ONGOING Medical Certificate for Asbestos-Related Diseases Compensation (GF030)**. This form is available at www.asbestos.tas.gov.au

Once a claim has been determined, the Asbestos Compensation Commissioner will pay for reasonable expenses necessarily incurred as a result of the person having an asbestos-related disease. This includes expenses relating to medical services (including the provision of medicines by a pharmacist), hospital services, nursing services or ambulance services, constant attendance services, and rehabilitation services.

Under the legislation, the Asbestos Compensation Commissioner may also pay for reasonable expenses necessarily incurred by a person who attends the compensable person while he or she is travelling for the purpose of obtaining medical services. This may include undergoing a required examination or test, or obtaining hospital services or rehabilitation services. A medical practitioner must certify in writing, that it is necessary that the compensable person be accompanied by another person while travelling.

INFORMATION FOR MEDICAL SPECIALISTS

Medical questions to be determined by a medical specialist

Medical questions relating to current clinical symptoms, the diagnosis, prognosis and causation are to be determined by a medical specialist who examines the worker.

Following the examination, the medical certification must be completed in **Form 9a: INITIAL Medical Certificate for Asbestos-Related Diseases Compensation (GF038)**. This Medical Certificate is also available in **Form I: Asbestos-Related Diseases – Claim for Compensation – Worker (GF022)**. These forms are available at www.asbestos.tas.gov.au

This medical certificate is provided to the Medical Panel as a part of evidence.

INFORMATION FOR ACCREDITED IMPAIRMENT ASSESSORS

Impairment assessment under the is required in order to determine the amount of compensation to which a person is entitled. Accredited impairment assessors will determine the degree of whole person impairment of a person who has a non-imminently fatal asbestos-related disease.

Impairment assessments are conducted by medical practitioners who are accredited under the to perform impairment assessments. Refer to the which can be downloaded from the WorkCover Tasmania website at www.workcover.tas.gov.au and search for 'IAS'.

Under the legislation, accredited impairment assessors must determine the degree of impairment of the relevant person within 10 business days of the person being referred for assessment.

APPLICATIONS BY MEMBERS OF THE FAMILY OF DECEASED WORKERS

A member of the family of a deceased worker, this includes spouse and children (under 22 years of age), may also be entitled to compensation under the scheme in certain circumstances. Accordingly, the Asbestos Compensation Commissioner may ask medical practitioners for any medical evidence to assist in determining the following questions:

- whether the deceased worker had an asbestos-related disease or diseases;
- what was the asbestos-related disease or diseases; and
- whether the asbestos-related disease or diseases were likely to have been a significant factor contributing to the worker's death;
- whether the worker had an imminently fatal asbestos-related disease.

OBLIGATIONS

Under the legislation a medical question may be referred to a medical professional. A medical professional under the legislation includes a medical practitioner (including a specialist) and an accredited impairment assessor.

If a question is referred to a medical professional, the medical professional may require the person to undergo an examination or test specified in a notice at the specified time. The **notice must specify** that if the person refuses or fails (other than on reasonable grounds) to undergo an examination or test, the Asbestos Compensation Commissioner must refer the matter to the Asbestos Compensation Tribunal and the Asbestos Compensation Commissioner may refuse to deal with the application until advice or a determination is received from the Asbestos Compensation Tribunal.

Such an examination or test may only be conducted if the medical professional considers it is necessary to determine the medical question.

A medical professional who is referred a question, may require the person to answer questions, or to produce relevant documents or information, or to consent to the production of relevant documents or information by another person. If this requirement is imposed on a person, **you must advise** the person that if they refuse or fail to comply with the requirement, the Asbestos Compensation Commissioner must refer the matter to the Asbestos Compensation Tribunal and the Asbestos Compensation Commissioner may refuse to deal with the application until advice or a determination is received from the Asbestos Compensation Tribunal.

In order to assist with the obligations of medical professionals under the Act, an information sheet is available and may be provided to a worker where they are required to undergo an examination or test. The information sheet may also be provided to a worker where they are required to answer questions, or to produce relevant documents or information, or to consent to the production of relevant documents of information by another person.

Refusal by person to assist medical professional

Medical professionals **must advise** the Asbestos Compensation Commissioner if any of the following occurs. A person:

- unreasonably refuses or fails to attend an examination or test at a place and time of which they have at least 5 business days notice;
- refuses or fails to undergo an examination or test that the person is required to undergo;
- obstructs an examination or test that the person is required to undergo;
- unreasonably refuses or fails to answer questions asked by a medical professional;
- unreasonably refuses or fails to produce relevant documents or information, or to consent to the production of relevant documents or information when required by a medical professional.

Representation before medical professional

You are not entitled to be represented by a person when attending an examination or test unless a medical professional allows you to be represented. However, you are entitled to be accompanied by a person of your choice when you attend an examination or test.

Person not to overcharge for services

A person who provides services, knowing that the Asbestos Compensation Commissioner may be required to pay the expenses, must not charge a fee in excess of the amount prescribed for those services under , or if no fee is prescribed in relation to those services, the fee that the person would normally charge for those services.

Asbestos Compensation Commissioner may obtain information

The Asbestos Compensation Commissioner may serve a person a notice in writing, requiring that person to provide the Asbestos Compensation Commissioner with the information the Asbestos Compensation Commissioner specifies in the notice that is reasonably required to enable the Asbestos Compensation Commissioner to carry out his or her functions. A person who is required to provide information, must not fail, without reasonable excuse, to provide the information to the Asbestos Compensation Commissioner within the period specified in the notice.

BILLING OPTIONS

If your patient's claim has been accepted by the Asbestos Compensation Commissioner, you may directly bill the Asbestos Compensation Commissioner at PO Box 56, Rosny Park. Alternatively, you may bill the patient who will then forward the invoice to the Asbestos Compensation Commissioner for payment.

If the Asbestos Compensation Commissioner disputes a claim relating to expenses, you will be notified that the claim for expenses is disputed and the reason for the dispute.

The Asbestos Compensation Commissioner is also liable to pay the costs of any examination or test required under the legislation.

FURTHER INFORMATION

Further information about the asbestos compensation scheme can be obtained by contacting the Asbestos Compensation Commissioner:

Asbestos Compensation Commissioner
Workplace Standards Tasmania
Phone: 1300 366 322 (inside Tasmania) or (03) 6233 7657 (outside Tasmania)
Email: acc@justice.tas.gov.au
Post: PO Box 56, ROSNY PARK TAS 7018
Internet: www.asbestos.tas.gov.au

