

Refunding private health and income protection insurers after a personal injury claim settlement

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Upon settlement of personal injury claims in Queensland, depending on the type of claim, insurers may be entitled to request a refund of benefits they have provided. In this blog, we look at settlement refunds that private health insurers and income protection insurers may expect following the successful completion of a personal injury claim.

It is important to note that, depending on the terms of the insurance policy, regardless of the kind of insurance claim made, insurance providers may require notification of any personal injury claim settlement or receipt of settlement funds as soon as possible.

Importantly, however, not all insurers have the same rules surrounding settlement refunds and notification obligations. Each policy can have varying impacts on an insured person's obligations at the time of settlement.

If you are uncertain about the process for your personal injury claim or how to progress your claim, it is imperative you consult a personal injury lawyer.

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Refunding income protection insurers after a successful personal injury claim

Income protection insurance is generally available to insured individuals who experience loss of salary or wages due to illness or injury. Usually, claims do not require the injury to be a specific kind (for example, the injury does not need to be work-related). In general, this insurance will cover both physical and psychological injuries once the waiting period/probation period expires, but the particulars of the insurance policy will define coverage and differ depending on the specifics of the insurance provider.

Often, income protection insurance is provided through superannuation funds (alongside Total and Permanent Disability insurance). If you are unsure if you have access to this type of insurance, it may be worth giving your superannuation fund a call to find out

whether this may be available to you.

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When might settlement amounts be refundable to income protection insurers?

Any benefits provided to the insured person in relation to income protection payments can be subject to refund upon settlement of a personal injury claim. Income protection insurance covers most of the insured's weekly earnings (can be anywhere from 70-87%) for a temporary period (usually 1-2 years but also sometimes through to 65). The benefits depend on the provider's specific policies.

If an injured person is claiming "past economic loss" through the personal injury claim and the income protection insurer has covered some of this loss leading up to the settlement, this may need to be repaid to the insurer by the injured person at settlement. This is because the insurer's policy may prevent the injured worker from receiving "double dip" compensation for that period of lost income.

A review of your income protection insurer's policies will be critical to identifying the scope of benefits you're entitled to and what potential income protection payments the insurer might seek to recover by way of refund after settlement of your personal injury claim.

Refunding private health insurers after a successful personal injury claim

Similar to refunds to income protection insurers, private health insurers may be entitled to refund amounts post-settlement. As with most insurance matters generally, the policy and rules of the private health insurance fund will indicate whether they are entitled to any amounts. Typically, this will include costs associated with treatment or any other costs paid on the insured person's behalf from the time of the injury or accident.

Like with income protection insurance, if this insurance cover is available to an injured person, they may have been compensated for some of their claim-related treatment through their private health insurance, even before a settlement is reached in their personal injury claim. Therefore, if the personal injury claim settlement also includes payment of an amount for that treatment, the injured person may be required to pay back to the private health insurer.

Some settlement claim amounts can run into issues with insurers where these amounts include payments for future treatment that may be covered by private health insurance. However, each claim must be considered on a case-by-case basis as insurance policies and rules differ, and factors associated with the type of injury must also be considered.

Further, private health insurers may request refunds from settlement funds if benefits overlap or are also covered by another scheme, such as WorkCover or motor vehicle accident claims.

For example, if WorkCover provides funds to pay for the same treatment the private health insurance covered, the private health

insurer may be entitled to obtain a refund associated with that treatment. This is the general principle underlying any entitlement of an insurance provider or other entity to obtain a refund; to prevent double-dipping.

An example to demonstrate insurance refunds payable after a successful personal injury claim

The scenario

Sarah was injured in a motor vehicle accident, and she commenced a CTP compensation claim.

Sarah injured her knee and needed a year off work.

Before the accident, she was making $1,000.00 per week, and her income protection insurance paid her $700.00 per week for the year she was off work.

In total, Sarah's income protection insurer paid her $36,400.00 ($700.00 for 52 weeks) for the time she had off work due to her motor vehicle accident injuries.

To help with the knee injury recovery, she also had two knee surgeries costing $5,000.00 each.

Sarah's private health insurer paid $4,000.00 for each of the surgeries ($8,000.00 in total).

Motor vehicle accident claim compensation paid

Past economic loss of $52,000.00 ($1,000.00 of lost wages for 52 weeks

Past special damages in the sum of $10,000.00 for her two knee surgeries. Sarah actually only paid $2,000.00 for those surgeries because the other $8,000.00 was paid by her private health insurer. so her private health insurer may require her to pay the $8,000.00 back to them.

What refunds might be payable to the income protection insurer and private health insurer?

Sarah had already received $36,400.00 from her income protection insurer throughout the year that she was off work. As she was paid $52,000 in CTP weekly benefits, her income protection insurer will likely require her to refund the $36,400.00.

As the CTP (motor vehicle accidents) scheme covers the cost of surgery (and any other medical treatment) related to the transport accident, Sarah will likely have to refund the $8,000 of surgery costs contributed by her private health insurance.

Get help from a personal injury lawyer

Refund obligations after a successful personal injury claim are not always straightforward. It's important for claimants to understand both their entitlements and their obligations.

If your insurer is requesting refunds after a personal injury settlement, you should seek advice from a lawyer experienced in compensation claims to ensure those refund requests are legitimate.

Got a query about other refund requests?

You may have received requests from other organisations, for refunds after a personal injury claim. You can read further information in our earlier blogs:

- Refunding Medicare after a personal injury claim settlement
- Refunding NDIS after a personal injury claim settlement

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.