

Pre-injury average weekly earnings (PIAWE) reference guide

Gross earnings

$$\frac{\text{Relevant earning period (weeks)}}{\text{Relevant earning period (weeks)}} = \text{PIAWE}$$

Note: PIAWE is subject to the minimum PIAWE amount of \$155 and the statutory maximum amount.

Use this as a guide for calculating PIAWE for injured workers who sustain an injury on or after 21 October 2019.

PIAWE is generally the weekly average of a worker's gross earnings over the 52 weeks prior to their date of injury.

Gross earnings

This is the earnings for each job that a worker was working in at the time of injury.

What is included in gross earnings?

Income received by the worker for work performed in any employment, including:

- wages, including paid leave and loadings.
- shift, overtime and other allowances.
- commission and piece rates.
- the amount of the JobKeeper payment received for work performed.

Where a worker has the use of a non-monetary benefit (for example, a motor vehicle) and after the injury they no longer have the use of that benefit, its cash value included.

What is not included in gross earnings?

- Compulsory superannuation contributions made by the employer.
- Workers compensation or other compensation payments for loss of earnings.
- The monetary value of any non-monetary benefit (while the worker continues to have access to the benefit following injury).
- Any payment made without obligation by the employer (for example, discretionary bonuses).

Relevant earning period

This is the period of 52 weeks immediately before the injury, unless adjusted as per the steps below:

Step 1: When did the worker commence employment?

If the worker commenced employment less than 52 weeks before the injury, adjust the relevant earning period to start on the day the worker first commenced employment (see also short term worker provisions if less than four weeks).

Step 2: Was there a financially material change to earnings?

If there was an ongoing and financially material change to a workers earnings during the relevant earning period (for example, arising from a change in role, a promotion, or a change from full-time to part-time work), adjust the relevant earning period to start from the date the change took effect.

Step 3 (optional): Is it easier to align to the worker's pay period?

The relevant earning period may be aligned to the worker's pay period (subject to the insurer being satisfied this would not result in a lower PIAWE).

Step 4: Did the worker take unpaid leave?

When the worker had a period of seven or more consecutive days of no earnings, commencing with a day of unpaid leave, this period is to be excluded from the relevant earning period.

Step 5: Did the worker experience a financially material reduction in earnings between 23/3/20 and 14/6/20 due to the COVID-19 pandemic?

The entire period may be excluded from the relevant earning period. The excluded period may be extended if no earnings were paid or payable to the worker for at least two days commencing on 15/6/20. The excluded period ends on the day before earnings once again become payable or on 27/9/20, whichever is sooner.

Workers with multiple jobs

Where a worker had more than one job at the time of their injury, the average weekly earnings for each job are included in a worker's PIAWE. The earnings and relevant earning period for each job are determined separately, and then added together to determine PIAWE.

Apprentices, trainees and young people

PIAWE is to be recalculated at each age or stage in accordance with what the worker would have been entitled to receive had they not been injured and continued in that employment.

Short term workers (less than four weeks)

Workers who have been employed for less than four weeks before the injury may have their PIAWE calculated by having regard to the weekly earnings they could have expected to earn in that employment in the 52 weeks after the injury.

Insurer work capacity decisions

An insurer may calculate PIAWE using earnings and leave information gathered from the employer. The calculation is communicated to the worker as a work capacity decision.

What if the insurer does not have enough information?

- Where the insurer has insufficient information to calculate PIAWE, they can determine an 'interim PIAWE' work capacity decision using the best available information. The insurer should then recalculate the worker's PIAWE as soon as possible following receipt of the necessary information.

Can a worker request a review of a work capacity decision?

- A worker can request an optional review by the insurer, or lodge a dispute with the Personal Injury Commission.
- Information for a worker to request a review of the decision is outlined in the notice of the decision.

To ensure workers receive prompt payment of their entitlements, PIAWE should be determined as soon as possible.

There are two main pathways for determining PIAWE:

1. PIAWE by agreement, where the worker and the employer agree on the amount to be used for PIAWE.
2. Insurer work capacity decision, where the insurer uses available relevant information to calculate PIAWE.

PIAWE agreements

What do the worker and employer need to do?

- If the worker and employer reach an agreement about PIAWE, they need to apply to the insurer for approval of the agreement within five days of initial notification of injury.
- The application must be in writing and contain certain information (including for example the agreed amount, the date of the agreement, and supporting information).

What does the insurer need to do?

- Upon receipt of an application for approval of an agreement, the insurer has seven days to either approve, or refuse to approve, the application. Note that the timeframes vary if the insurer has a reasonable excuse not to commence provisional weekly payments.
- Provisional weekly payments can commence by day seven from initial notification of injury using the agreed amount even where the insurer has not yet approved the application. This is an 'interim payment decision.' This allows the insurer to make weekly payments based on the agreed amount until the application for approval of the agreement has been determined.
- The insurer is to consider whether the agreed PIAWE reasonably reflects the worker's PIAWE, and is fair and reasonable.
- If the insurer refuses to approve the agreement, the insurer is to make a work capacity decision to determine PIAWE.
- An insurer cannot approve an agreement for a person under legal incapacity; and applications for approval of an agreement must be refused if a work capacity decision about a worker's PIAWE has already been made.

Can the worker or employer withdraw from the agreement?

- A worker or employer may withdraw from the agreement at any time by providing written notice to the insurer and the other party.
- Within seven days, the insurer is to give notice of the withdrawal to both parties and determine PIAWE by making a work capacity decision.

Can the agreement be varied?

- Generally, only one agreement can be made. However the agreement may be varied where the worker no longer has the use of a non-monetary benefit (for example, no longer has access to the motor vehicle following injury).

Don't forget...

PIAWE recalculations

Where PIAWE is recalculated via a work capacity decision, and the new PIAWE amount is higher than what was previously agreed or determined, the worker is entitled to an adjustment payment to make up the difference. The insurer is to pay the worker the adjustment payment within 14 days.

Indexation

After PIAWE is calculated, it is to be indexed on 1 April and 1 October each year after the date the worker first became entitled to weekly payments for the injury.