

Earners

Published: December 2019
Version 1.0

This guidance note relates to the *Motor Accident Injuries Act 2017* (the Act) and the Motor Accident Guidelines made under that Act published by the State Insurance Regulatory Authority (SIRA). It provides information and guidance for insurers on determining if a person who has made a claim is an 'earner'. This information is guidance only and cannot be used for legal advice.

Earner

A person who has been injured as a result of a motor accident in NSW may be entitled to weekly statutory benefits if they have had a partial or total loss of earnings.

For the first 78 weeks after the accident (known as the first and second entitlement periods), the person must also meet the definition of an 'earner' (see [Schedule 1](#) clause 2 of the Act).

An earner is a person who was at least 15 years of age at the time of the accident and had not retired permanently from all employment and:

- was employed full time, part time, casually, on a contract or was self-employed and for the duration specified below or;
Note: The person may have had more than one job at the time of, or before, the accident
- had entered into an arrangement to undertake employment or to start up their own business before the motor accident or;
- was, immediately before the motor accident, receiving a weekly payment or other payment in respect of loss of earnings under the Act or under the [Workers Compensation Act 1987](#).

To be an earner, an employed or self-employed person must have been employed for the following duration:

- at any period of time during the 8 weeks immediately before the date of accident, or
- for at least 13 weeks in the 52 weeks before the date of accident, or
- for at least 26 weeks in the 104 weeks before the date of accident.

Required information

It is the person's responsibility to provide sufficient information so that the insurer can determine if they are an earner, however, the insurer should provide assistance to the person to understand what information is required.

The information required to determine if the person is an earner will vary depending on the situation. Examples include:

- pay slips
- payment summaries
- taxation returns
- contract of employment
- letter from an employer confirming employment with other supporting information
- statutory declaration from an employer
- business and taxation information that supports self-employment and/or income.

The insurer must carefully consider the information provided by the person to comply with their statutory obligations to promptly pay correct weekly benefits and to detect and deter fraud.

Review of documents

The insurer will review all available information to decide if the person is an earner. The insurer may request further information to assist in this decision. Once the insurer has decided that the person is an earner, the insurer will then review the documents to calculate the person's pre-accident weekly earnings (PAWE). The insurer will then confirm whether the person has a total or partial loss of earnings and make weekly payments of statutory benefits as appropriate.

Examples

1. Chloe is a mother of two who was on her way to the shops when she was injured in a motor accident. She looks after her family and has no source of income except for a Centrelink benefit. She is not an earner.
2. Vaneshri is employed as a part-time chef and was involved in a motor vehicle accident while riding her motorcycle. She lodged her claim 2 weeks after the accident and submitted her last four payslips from her employer to the insurer that confirmed she had been working for the last 8 weeks. She is an earner.
3. Giacomo is a 54-year-old casual music teacher who travels regularly. Giacomo was not working at the time of his motor vehicle accident. His last job was for 3 weeks, 3 months ago. Giacomo's insurer asked him to provide details of how often he had worked over the last year. Giacomo was able to provide evidence that he had worked for a combined total of 11 weeks in the last year. Giacomo's insurer determines they do not yet have the evidence that Giacomo is an earner and ask for evidence of how often Giacomo had worked over the last 2 years. Based on the evidence Giacomo supplies, the insurer finds that he has worked for a total of 29.5 weeks over the last 2 years and determines that he is an earner.

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