

Senate Standing Committee on Education and Employment

**QUESTIONS ON NOTICE
Budget Estimates 2014-2015**

Agency - Comcare

Department of Employment Question No. EM0740_15

Senator Bilyk provided in writing.

Question

Comcare - Section 30/31 calculations

Relating to an injured Commonwealth worker, Ms Katherine Heather Excell:

As part of the agreed process for resolving Ms Excell's claim, Comcare invited Ms Excell to 'consider the section 30 letter and advise whether she considers it to be correct, and if not, identify the areas of disagreement'. Ms Excell sent letters on 20 February (responded to on 6 March by Comcare requesting further information) and 16 March raising questions about that calculation. Comcare responded on 9 April that:

- Mr John Wallace's review states that she received her correct entitlements.
 - Comcare will not enter into any further discussion about this matter until Ms Excell makes a claim under section 31 of the Safety, Rehabilitation and Compensation Act 1988 (SRC Act).
 - If Ms Excell disagrees with her section 30 payment she should request a reconsideration.
1. What are the answers to the specific questions/issues Ms Excell raised in her correspondence of 20 February 2014 and 16 March 2014?
 2. Where are these questions/issues specifically addressed in Mr Wallace's report?
 3. The letter from Ms Excell's Claims Services Officer of 6 March offered her the opportunity to detail the areas in which she is seeking clarification about the calculation of her incapacity payments, including her redemption payment, between 1988 and 1992, to ensure that her issues are 'dealt with effectively'. When Ms Excell offered this detail why did Comcare not respond to all her specific questions as offered?

Answer

1. Comcare considers the specific issues raised by Ms Excell in her correspondence of 20 February 2014 and 16 March 2014 had been addressed by Mr Wallace's report and in further discussion on 27 November 2013 with Ms Excell, Mr Wallace, Mr Hulme (of Senator Bilyk's office) and Comcare. Mr Wallace has confirmed Ms Excell received her correct incapacity entitlements.

Ms Excell's questions in her letters indicate she continues to believe she has not received the correct entitlements.

The answer to Ms Excell's questions concerning increases or amendments to her incapacity payments under the various circumstances she put forward is therefore: Comcare stands by the determinations it has made in the past concerning Ms Excell's entitlements and the findings of Mr Wallace's report. Comcare does not consider there should be any variation to Ms Excell's previous incapacity payments.

Ms Excell is entitled to request a reconsideration of Comcare's determinations of her incapacity entitlements.

2. As per the above answer, Mr Wallace was provided with all documents held by Comcare, the Department of Human Services and the Australian Government Solicitor in relation to Ms Excell's claim. Ms Excell also submitted a 13 page letter outlining her concerns to Mr Wallace. As per page 16 paragraph 2.6 of Mr Wallace's report:

"In my opinion, based on the information used to assess Ms. Excell's weekly payments of compensation and the amount of superannuation pension payable to her, it appears that the correct formula was applied: however, there is the possibility that the amount of compensation paid to her pursuant to s. 30 of the SRCA may be incorrect...On my estimate it is likely that the amount redeemed may have been some \$211.15 more than it should have been."

3. Comcare's letter of 6 March 2014 requested Ms Excell provide further clarification on the specific aspects regarding her incapacity calculations (and any related points) in writing. The specific aspects raised by Ms Excell had previously been raised and considered as part of Mr Wallace's review. As per the answers above, Comcare considers Mr Wallace's report addressed Ms Excell's questions/issues concerning her incapacity entitlements and Comcare's letter to Ms Excell dated 9 April 2014 confirmed this.