

## **SA Employment Tribunal (SAET) review processes.**

If a claim for compensation in the form of income maintenance and medical expenses is rejected by SAFECOM the injured worker has a legal right to have the decision reviewed by the South Australian Employment Tribunal (SAET). The determination issued by SAFECOM will state that the injured worker has the right to have the decision reviewed under section 99 of the Return to Work Act 2014. The injured worker should seek advice and advocacy from the Union as soon as practicable after receiving the correspondence. On receiving the injured workers instructions the Unions Workers' Compensation Advocate will lodge an application for review.

SAET will, in the first instance, acknowledge in writing to the injured worker and to the Union that they have received the Application for Review. SAFECOM then has 10 days to reconsider the determination that they issued.

The reconsideration must be carried out by a person who had no involvement in the original decision and that person has the authority to vary the decision or to confirm the decision. If the original decision is varied the injured worker can accept the variation or continue with the dispute. If it is confirmed the Tribunal will set down an Initial Directions Hearing approximately three weeks after the confirmation.

These days this type of conference is carried out through a telephone hook up with the Commissioner, SAFECOM, and the Union Advocate.

At an Initial Directions Hearing the parties outline to the Tribunal their respective positions. There may be a request for discovery of certain documents that are known to the parties to exist but have not previously been disclosed. The Tribunal may also be advised that the injured worker will be consulting with a specialist doctor to assist in the conciliation processes.

At the completion of the Initial Directions Hearing a conciliation conference will be set down for 3-4 weeks after the hearing for conciliation to commence.

Between one and three conciliation conferences may be held before a matter is resolved or it is accepted by the Tribunal and the parties that it cannot be resolved by conciliation. In this case the matter is referred to judicial determination so that the President or Deputy President can adjudicate on the dispute. Generally, this may take a period of 10 weeks.

A listing for a judicial determination for a full hearing to take place can take around 6-12 months depending on the complexities of the dispute and time constraints of SAET.

On average 66% of disputes that go to SAET are resolved through conciliation. Of the remaining 34% that are referred to judicial determination only a very small number are finally adjudicated in this way because the parties reach some resolution between when it leaves conciliation until it gets to a possible final full hearing by a judicial officer.

The process to a large degree has been designed to be friendly to injured workers so that they are not intimidated or overawed by having to front up to a court.

In the majority of disputes at the Tribunal an injured worker may be required to attend a hearing. However, they can seek through their Union Advocate that they be excluded from a hearing.

The Unions Advocate will attend all hearings to represent the injured worker and report back either by a telephone call or email the outcome of all hearings.

Under *Section 97 of the Return to Work Act 2014 – Reviewable Decisions* there is a listing of all decisions that are reviewable. For example, a decision about the nature or scope of recovery/return to work services provided or to be provided for a worker.

It is in the interest of the injured worker to contact the Union for advice, and advocacy as soon as practical if their claim is rejected or it concerns any other potential reviewable decision.