

**FIRST REVIEW OF THE WORKERS COMPENSATION  
SCHEME**

**Name:** Name suppressed  
**Date received:** 25 September 2016

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Partially  
Confidential

## NSW Upper House inquiry into Workers Compensation 2016.

### **My submissions are as under:**

#### ***RE: WCD vs Retraining Sec44A vs Sec53 of 1987 WCA***

##### **Brief case history:**

I was a Parking Patrol Officer in a Council of NSW

In Jan 2008 I was assaulted on the road. Angry customer threw unknown yellow liquid. It fell on my trousers and right hand resulting in burning sensation on hand & discolouring the trouser. The matter was reported to police. Police couldn't establish conclusively what actually the liquid was to proceed further.

Since then I have been **badly suffering from PTSD anxiety depression etc.**

So far 3 / 4 rehab providers worked with me. They tried to arrange work trials for me at \_\_\_\_\_, \_\_\_\_\_. Both hosts raised the issue of computer skills; which I had already told my level in these skills to rehabs. They discussed and put in their reports submitted to Insurer. But nothing was done to give it a practical shape. I wasn't briefed.

Neither, I was aware of insurer's obligation for **retraining** nor my **rights** to seek it as per rules. My condition was pathetically worse then.

##### **Cutting short:**

In 2015 I was a little bit stabilized, undergoing work-trial arranged by another rehab at St Vincent de Paul NSW- a charitable organization; when actually I become aware of Insurer's obligation about retraining and my right of seeking it.

I requested my rehab to ask insurer on my behalf. She was told by insurer, "*we have already spent so much , no more*".

Then, I myself sent a written request. Insurer replied, "ok we can consider it" followed by another reply to my query, "This need to be approved by WorkCover and advised they are asking rehab to put up your case". Rehab put up my case to VocProgram on Sec 53 form.

For some reason VocProgram returned asking insurer to re-submit. Insurer didn't, presuming that I have already sufficient computer/office skills.

Meanwhile, I had got admission in the light of positive signals from the insurer on my own; after duly vetted my GP and psychiatrist. Insurer formally rejected my case after about 4 months and advised me to appeal SIRA, if I wish.

##### **I appealed SIRA and its decision was as under**

*Regarding approval of an online Certificate III in Business Administration for me.*

##### **In this SIRA had observed:**

- my gaps in computer skills
- would be improved by participating in training
- training would improve my chances of securing employment in open market

##### **Also, SIRA had confirmed:**

- StateCover agreed to pay any cost associated with the course
- indicating that StateCover recognise that this training will develop my skills for seeking new employment

**SIRA also explained my obligations:**

- SIRA essentially supportive of the course to be a beneficial return to work strategy
- whilst you continue to meet your obligations including the need to successfully complete the course
- and continue to job seek

**Current Scenario:**

Just after 2 months of SIRA's decision, insurer took the WCD and sent me 3 months notice for stopping my weekly payments :

Under Sec44A & Sec38 (b) (c) that I have some work capacity but not working. That's obvious, I am doing an online course under Sec53. Had I, hadn't any work capacity I would not have asked for any retraining nor insurer/SIRA could have approved.

- My obligations to continue job seeking is concerned, I am doing it, and also completing course successfully.
- Other obligation of working 15 hrs and earning minimum \$ 178/pw, isn't currently fulfilled as I couldn't get any job.
- But, currently I do work 10hrs/pw as a volunteer with St Vincent de Paul Society NSW.

**My submission to SIRA is :**

- Once insurer has agreed to consider & puts up to SIRA for its approval, ***insurer must be bound to take it to its logical conclusion***; not to withheld it on their own for any reason;
- taking plea after some months; worker doesn't fulfill criteria of '**not having sufficient skills**'.
- In case SIRA overturns the insurer's decision; ***Insurer must be bound by SIRA's decision***.
- **Insurer must not stop payment invoking Sec44A ; Sec38 (b) (C) without taking into consideration Sec53 of Retraining Guidelines** which states :

**Eligibility**

Workers will not be considered for WorkCover funded retraining, equipment or workplace modification when:

- the worker has received notification from their insurer that their weekly payments are to cease. If retraining is to be used as a strategy to assist the work return to work following a work capacity decision ***the retraining is to be completed prior to cessation of payments***.

This becomes all the more important in cases of ***psychological injured*** workers; **suffering from PTSD** anxiety and depression etc.

**Latest update:**

I got the insurer's WCD decision reviewed internally by insurer. It upheld the early decision of insurer.

I have appealed for **Merit Review by Authority SIRA**. Its decision is being awaited anytime with my fingers crossed.

Submitted for your consideration & thanking you.

Sincerely yours