

Aids and appliances under sections 16 and 39

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Introduction

An employee can claim compensation for aids and appliances that will assist them with:

- their mobility
- undertaking activities of daily living.
- undertaking rehabilitation and return to work activities
- Improving their level of functioning

Under the SRC Act, in order for aids and appliances to be compensable they must:

- *assist in alleviating the employee's injury,*
- *assist the employee in performing basic personal or work functions, or*
- *support a return to work.*

Aids and appliances, and their repair or replacement, can be assessed as medical aids and appliances under section 16, or rehabilitation aids and appliances under section 39 of the SRC Act.

Some aids and appliances may be covered under both sections, but as a general principle, payment for these items should first be assessed under section 16 of the SRC Act. If you receive a request for an aid or appliance, speak with an Injury

Manager for further assistance. For further guidance on alterations and modifications refer to the [Alterations and Modifications under section 39](#) page.

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What are medical aids and appliances?

Under the SRC Act, medical treatment includes the supply, replacement or repair of medical aids and appliances.

Medical aids include a medical/surgical supply, curative apparatus, artificial limb or other similar aid or appliance that directly assist employees with their physical or bodily functioning.

For an aid or appliance to be considered a 'curative apparatus' within the meaning of 'medical treatment', the use of that device must cure, slow down or prevent the deterioration of the compensable condition.

This does not include aids or appliances that are recommended to prevent possible future injuries. It must be designed or adapted for use in medical treatment or the curative process.

Examples of medical aids include:

- hearing aids,
- surgical footwear - prescribed orthopaedic shoes,
- crutches,
- exercise equipment,
- prosthetic devices, and
- consultations and fittings.

Example 1: Wrist Splint

A physiotherapist seeks approval for reimbursement of the cost of a wrist splint under section 16 of the SRC Act. The wrist splint has been recommended for use by the employee to assist rehabilitation associated with the compensable wrist sprain.

The wrist splint may be considered a curative apparatus, under the definition of medical treatment, as the use of the splint by the employee provides a clear medical benefit in relation to their compensable condition.

However, while meeting the definition of medical treatment under the SRC Act, it would not automatically qualify for compensation under section 16, unless it was also reasonable for the employee to obtain the wrist splint and it was obtained at an appropriate cost.

Example 2: Motorised wheelchair

An employee suffering from paraplegia, due to a workplace accident, requests reimbursement for the purchase of a motorised wheelchair under section 16 of the SRC Act.

A motorised wheelchair while aiding an employee's mobility and independence does not cure or treat a physical injury (i.e., paraplegia). A motorised wheelchair is not designed for that purpose. Hence, it is unlikely to be defined as a curative apparatus.

However, it may be assessed as a rehabilitation aid under section 39 of the SRC Act.

Claims for clothing

Clothing is an ordinary item required by all persons, whether they have suffered an 'injury' or 'impairment', and requires replacement due to wear and tear or bodily changes (however occurring). There is no provision under the SRC Act that provides compensation for clothing or the replacement of clothing.

Claims for shoes

Claims for shoes must be assessed on the individual merits of the case and the medical information provided. Consideration must be given as to whether the claimed shoes fall within the definition of medical treatment under the SRC Act order for compensation to be payable.

There may be cases where shoes, such as ordinary runners, meet the definition of medical treatment when recommended in combination with prescribed orthotic inserts.

You will need to consider (and possibly seek further information from the treating practitioner) about whether a specific type of ordinary shoe is required, or whether any shoe will suffice.

A recommendation of a specific type/brand of shoe does not mean it is compensable under the SRC Act. It is only when the type/brand of shoe (usually coupled with orthotics) is recommended to improve the efficacy of medical treatment (i.e., orthotics) that compensation for the shoes should be considered.

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What are rehabilitation aids and appliances?

Rehabilitation aids and appliances are items that assist an employee, who has suffered an impairment associated with their compensable condition, to perform basic home or work functions, such as:

- grooming, dressing and personal hygiene
- eating and food preparation
- communication
- mobility
- maintaining correct posture.

Examples of what Comcare considers to be a rehabilitation aid or appliance:

- tap turners
- backrests
- over toilet aid
- shower chair
- non-slip mats
- door openers
- automatic recliner
- telephone aids
- kettle tippers
- special car cushions.

Examples of what Comcare does not consider to be a rehabilitation aid or appliance:

- general household items
- doonas
- toaster
- breast pumps
- baby car seats
- vacuum cleaners
- irons
- bed ensembles.

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Employer's responsibilities for aids and appliances under section 39

Under section 19 of the *Work Health and Safety Act 2011* (the WHS Act), a person conducting a business or undertaking (PCBU) has a primary duty of care to ensure the health and safety of workers in the business or undertaking.

Further, the *Disability Discrimination Act 1992* (the DDA) requires employers to make reasonable adjustments to the workplace or working arrangements, if necessary, for a person with disability to do their jobs.

In that sense, employers will generally be responsible for the cost of any aids and appliances that are required in the workplace to enable an employee to safely undertake their duties.

However, if an employee requires specialised aids or appliances specifically related to their compensable condition, the aids or appliances may be payable under the SRC Act.

Example: It would be a reasonable adjustment for an employer to provide an employee with a supportive ergonomic chair that meets the Australian Standard.

However, if the employee requires a specialised chair as a result of the compensable condition, it may be suitable to supply the chair under section 37 of the SRC Act (if there is a current rehabilitation program in place) or under section 39 if there is

no rehabilitation program.

Examples of reasonable adjustment

The following are examples of when an employer might be responsible for aids and appliances:

- standard keyboards
- standard monitors
- new mouse
- hands free set for the phone
- adjustable workstations
- ergonomic chairs.

The following are some examples of when an employer is generally not responsible for aids or appliances and, therefore, may be payable by Comcare:

- computer hire
- non-standard chair that is required due to the nature of the compensable condition i.e., would not have been required if the employee had not sustained the injury
- custom trolley.

Note: You should consult with your Assistant Director if they are unsure if aids or appliances should be the responsibility of the employer outside the SRC Act.

For more information on the responsibilities of the employer in relation to alterations to the workplace refer to the [Alterations and Modifications under section 39](#) page.

Voice activated software

Voice activated software is an example of equipment that may be purchased under the SRC Act or by the employer, depending on the circumstances. There are ownership implications depending on who purchases the equipment.

Where voice activated software is commonly used in an Agency, and may be used as an injury prevention tool, then it should be purchased by the employer.

Where voice activated software is required as a result of a compensable condition and there is a rehabilitation program in place, Comcare's preferred approach is for the rehabilitation authority to purchase the software as part of the employee's rehabilitation program (including training) and seek reimbursement from Comcare under section 37 of the SRC Act.

The license for the software should be issued in the employee's name and will be transferrable to other agencies (should the employee leave) and/or to the employee's home as it can also be considered as an aid to everyday living.

Where there is no rehabilitation program, the voice activated software can be paid by Comcare as an aid or appliance under section 39 of the SRC Act.

When purchased as part of a rehabilitation program (section 37 or 39), the aid or appliance will remain the property of the employee, even if they leave their employer.

Comcare is not required to pay for the software twice under either section 37 or 39 of the SRC Act.

Note: The ownership implications of whether an employer or Comcare purchases voice recognition software should be brought to an employer's attention before the software is purchased.

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Safety equipment, safety standards and insurance for aids and appliances

Safety equipment

Safety equipment that is legally required to operate an aid or appliance can be considered an integral part of an aid or appliance, where, without which, the device could not provide the support or relief to the employee.

If the device cannot be operated without the safety equipment, the equipment is compensable as the device is unable to legally provide the support or relief for which it was required in relation to an impairment associated with an employee's compensable condition.

Equipment that is recommended to operate an aid or appliance but is not legally required is not compensable.

Example: Comcare accepts liability for a mobility device, under section 39, for an employee with mobility issues arising from their compensable condition.

It is a legal requirement in the state in which they reside for a person using a mobility device to wear a safety helmet.

In this case, the mobility device could not legally provide the support or relief for which it was required without the safety helmet, so the safety helmet is compensable.

Safety standards

There are several Commonwealth and State standards that govern alterations to a building and the modification of vehicles that are used on Australian roads.

Suppliers and manufacturers of aids and appliances products must also meet product safety requirements under Australian Consumer Law and are legally obliged to comply with Australian safety standards and only market safe products.

It is the responsibility of the employee to purchase aids and appliances that meet the product safety standards. and the responsibility of the property owner to have any alterations or modifications carried out in accordance with the relevant standards and guidelines that apply.

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Batteries, servicing, insurance and operating costs for aids and appliances

Batteries and operating costs

Where an aid or appliance is battery operated, the battery is considered an integral part of the aid or appliance itself. Replacement batteries can be paid for under the provisions of the SRC Act as a repair/replacement of an aid or appliance.

Operating costs, such as electricity, are considered to be money spent by the employee to operate the aid or appliance but is not an integral part of the aid/appliance.

As operating costs are not an integral part of an aid or appliance and cannot be physically repaired or replaced, there are no provisions under the SRC Act to pay any associated costs incurred by the employee in operating the aid or appliance.

Example: A mobility device contains a chargeable battery to allow its operation. As the battery can be 'repaired' it can be considered part of the aid and therefore liability can be accepted for the repair or replacement of the battery.

However, the electricity used for charging the battery is non-compensable as it is not considered to be a part of the device but is instead an operating cost.

Servicing and maintenance

There is no provision to pay for servicing or maintenance of any aid/appliance, alteration, or modification. The SRC Act only allows for 'repair or replacement'.

If an employee has their aid or appliance serviced, and the provider has to repair or replace a part to ensure it is operating within its normal functional use for which it was made, then in this case the employee may be eligible for compensation for the specific repair/replacement costs (excluding the other regular servicing costs).

Insurance

There is no provision under the SRC Act to pay for insurance.

Example: Comcare accepts liability for a mobility device and the employee requests reimbursement for costs associated with third party insurance they decided to purchase.

The insurance is 'optional' and not required to operate the device. Without insurance, the device can still be used for the purpose for which it was provided and used by the employee to provide the support or relief for which it was purchased.

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How does an employee claim for aids, appliances, alterations, and modifications?

It is preferable that a claim be made in writing prior to the employee making a purchase of an aid or appliance or contracting a service provider to undertake alterations or modifications.

The amount of compensation payable under section 16 or 39 of the SRC Act, for the purchase of an aid or appliance or for alterations or modifications, is payable by Comcare to, or in accordance with the directions of, the employee.

This means that an employee can be either reimbursed if they have paid an amount themselves, or the employee can direct Comcare to pay the provider or supplier of an aid, appliance, alteration, or modification.

Such compensation must be reasonable in respect of costs incurred.

Requests can be received in writing from:

- the employee requesting payment for an account associated with the purchase of an aid or appliance using the:
 - [claim for aids and appliances excluding hearing aids](#) form, and
 - endorsed by a treating practitioner, Approved Rehabilitation Provider (ARP) or a Legally Qualified Medical Practitioner (LQMP).
- the employee requesting payment for an alteration or modification using the:
 - [claim for alterations to a place of residence/work or modifications to a vehicle/article](#) form, and
 - endorsed by a treating practitioner, ARP or a LQMP
 - this may or may not include a request for payment of an account.
- the employee requesting hearing aids using the [Hearing Aid Request](#) form
- an ARP who has completed a home assessment, initial needs assessment or workstation assessment
- a LQMP, who has made a recommendation on a medical certificate or in a medical report, or
- the employee otherwise requesting payment for an account.

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Reasonably required aids appliances, alterations, and modifications

An alteration, modification, aid, or appliance must be reasonably required, having regard to the nature of the employee's impairment and the requirements of the rehabilitation program, where appropriate.

An alteration, modification, aid, or appliance:

- may be considered reasonably required where it alleviates pain and increases safety while driving (*Pollanen and Comcare [2004] AATA 134*)
- would generally not be considered reasonably required where its purpose is to assist the employee in a leisure or recreational activity (*D'Costa and Comcare [2000] AATA 1109*)
- would generally not be considered reasonably required where it is unsuitable to use because of the nature of the impairment (*Birch and MRCC [2005] AATA 894*).

Other relevant matters for consideration may be whether the employee:

- has difficulties with independence (e.g., communication, mobility, personal hygiene) and how the aid, appliance, alteration, or modification assists them in these functions
- could reasonably access the aid or appliance through other means, and
- safety, or that of their family or carers, could be compromised without the aid, appliance, alteration, or modification.

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Independent Living Centres

There are occasions where the treating doctor or rehabilitation provider recommends that the employee attend an Independent Living Centre (ILC), to assist in the selection of aids and appliances, that will assist the employee with their return to work.

The objective of ILCs is to provide an environment where varying aids and appliances are displayed and are able to be compared by the employee.

These visits are generally arranged by the rehabilitation provider as part of the rehabilitation program, however, there are occasions where the visit may be arranged by you.

If you need to arrange a visit, an Occupational Therapist (OT) assessment for rehabilitation aids should be arranged.

Any fees associated with the visit would be covered by the existing Return to Work Plan (RTWP).

Details of selected aids and appliances, where relevant, would then be listed and provided to Comcare for consideration under section 39 of the SRC Act for aids, appliances, alterations, and modifications.

Referral and approval

A referral of support must be provided by the employee's treating practitioner prior to the visit, and any recommendations made by the ILC's qualified provider (usually an OT) must be provided in writing to Comcare for approval.

Aid or appliance recommendations must indicate how the item will assist with improving an employee's independent functioning and enhance their return-to-work options.

Reasonable cost of services

The cost for this service is payable based on the same hourly rate for services applicable to approved rehabilitation providers (ARPs), or OTs in each state.

This cost should be shown separately when the claim for aids and appliances is made.

However, where the ILC merely provides assistance by pointing out aids and appliances or has photocopied information sheets, an hourly rate will not apply, and you will be required to determine a reasonable cost commensurate with services provided.

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Occupational Therapist Assessments

When assessing a claim for an aid, appliance or for alterations or modifications it may be necessary to arrange for an Occupational Therapist (OT) to conduct an assessment of the suitability and benefits of the proposed aids, appliances, alterations, or modifications.

The types of assessments that can be arranged include:

- worksite assessments
- functional capacity evaluations
- driving assessments, and
- activities of daily living (home assessments).

Example 1: Modifications to a car such as modification to driving controls.

You may require an assessment of the employee's driving capabilities to ensure that the modifications are appropriate and, the employee will be able to operate the vehicle safely once the modifications are complete.

Example 2: Alterations to a place of residence such as bathroom and kitchen alterations.

You may require an OT to assess the benefit of the requested alterations in relation to an employee's impairment associated with their compensable condition, or alternatively aids or appliances that may be of most benefit in the employee's circumstances at that time.

For more information on alterations and modifications refer to the [Alterations and Modifications under s39](#) page.

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