

Superannuation & your rights when JobKeeper ends

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Since its introduction in March 2020, JobKeeper has supported many Australian businesses to retain their employees and stay afloat through the COVID-19 pandemic. However, the subsidy is scheduled to end next month and many struggling businesses will face increased financial strain.

Sadly, it's often people with injuries or illnesses who are first to lose their jobs when businesses decide to cut back on costs. If you or someone you know is in this situation, it's important to understand you will likely have access to insurance benefits through your super fund.

What happens when JobKeeper ends?

While we don't know exactly what the end of JobKeeper will mean for Australian workers, many economists expect a significant spike in unemployment.

Following the GFC, there was an increase in Total Permanent Disability (TPD) claims. TPD claims generally require the claimant to be permanently unable to do their usual job, or any other job they are reasonably suited for as a result of their past education, training or experience.

In part, the number of claims grew due to a rise in people experiencing mental health conditions, and as the economic impacts of COVID-19 continue and JobKeeper ends we expect that this is likely to occur again.

How can your super fund protect you?

Whether you can't go back to work when JobKeeper ends due to an injury or illness, or you are dismissed from your role and can't find new work for the same reason, it's important to know that you might be covered through your super.

Most super funds are legally required to take out disability insurance to cover their members which is called 'default cover'. This cover is usually provided automatically as long as you're a fund member and:

- you are 25 years or older or work in a hazardous occupation for which your fund has arranged special cover
- your account has sufficient funds in it (usually \$6,000).

Often these default insurance policies cover you if you're unable to work as a result of injury or illness as well as in the event of your death. We know that this is the only form of life insurance for many Australians and they often do not even know that they are paying premiums out of their super account for this important insurance cover.

The two main types of 'default cover' that may help you if you find yourself unable to work due to an injury or illness are:

- **Income Protection:** A percentage of your pre-disability income (usually 75%, up to an agreed amount), usually paid to you as a monthly benefit (for either two years, five years or until you turn 65) if you temporarily cannot perform one or more of the important duties of your usual job because of an injury or illness;
- **Total and Permanent Disability (TPD):** a lump sum benefit payable to you in the event that you have suffered an injury or illness that means you permanently cannot work in your usual job or in another job for which you are reasonably suited by reason of your past education, training or experience.

Your disabling condition does not have to be work-related. You generally don't need to be a covered member when you make your claim **as long as you had cover when you ceased work**.

Not many people are aware of the details of their coverage so we can check your insurance for free. If you have stopped work, we also offer a free and no-obligation conversation with one of our legal experts. We may be able to assist you to make a claim for Income Protection benefits or a TPD benefit on a 'no win, no fee*' basis.

Rejected claims: Know your rights

While both Income Protection and TPD insurance cover should provide you protection when you need it most, there can be a number of barriers to a successful claim. In recent years, many insurance companies tightened their policy terms and thresholds which has made it harder for consumers to make a successful claim.

*Conditions apply

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Potential issues that may impact your claim include:

- **Restrictive policy terms.** A number of policies state that you must have stopped work **solely** due to a medical injury or illness. In these cases, insurers may reject your claim if you were made redundant or resigned even though your injury or illness is what is actually preventing you from finding a new job.

A number of policies also say that if you are not working full time when you stop work - even if your hours were reduced because of the impact of COVID-19 on your business - then your TPD claim will be assessed against a harsher definition. For example, some policies say that if you are a casual employee or working fewer than 15 hours per week, then you must prove that you are permanently unable to do at least two of the five listed "Activities of Daily Living", such as eating, drinking, showering and dressing yourself. We know that the majority of claims assessed against these harsher Activities of Daily Living TPD definitions are rejected by insurance companies.

- **COVID-19 protections have ended.** Last year, life insurers agreed not to reject claims simply because someone had lost their job, was stood down, or had reduced working hours as a result of COVID-19. However, this agreement ended on 1 January 2021, leaving many people who make claims in a vulnerable position with substandard cover and more likely to have their claims rejected.
- **Barriers for mental health claims.** In our experience, when insurance companies are assessing claims and the impact of your illness or injury on your ability to work, they will typically focus more on your physical capabilities. This can make it more difficult for people suffering from mental health conditions to prove that their illness is permanently impacting their ability to work.
- **Cover ceasing because you withdrew your whole account balance.** Your insurance cover may stop if your super account balance has been drained during the Government's COVID-19 early access program. Most super funds require the balance to meet a minimum threshold to have default cover so if your account falls below this threshold, you likely won't be eligible to claim for a disability benefit if you have to stop work **after** your cover ended.

How Maurice Blackburn can help

We are experts in making successful disability insurance claims through your superannuation. We know what loopholes are often used to reject legitimate claims and we've had considerable success in having these decisions overturned over our long and proud history acting for consumers.

If you lose your job or are unable to return to work due to an illness or injury, seek legal help as soon as possible to understand your options. Likewise, if you've had a claim rejected by an insurance company, we can review your claim and let you know what your rights are for free. We may also be able to assist you to make a claim or challenge an insurers decision to reject your claim on a 'no win, no fee*' basis.

[Get in touch online](#) or give us a call today on 1800 196 050.

*Conditions apply | Information correct as at March 2021

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