

**Operational
Policy**

Section

Claims - In the Course of and Arising Out of

Subject

Traumatic Mental Stress

Policy

A worker is entitled to benefits for traumatic mental stress arising out of and in the course of the worker's employment.

A worker is not entitled to benefits for traumatic mental stress caused by decisions or actions of the worker's employer relating to the worker's employment, including a decision to change the work to be performed or the working conditions, to discipline the worker or to terminate the employment.

NOTE

Additional guidelines apply to first responders and other designated workers who are claiming entitlement for posttraumatic stress disorder, see 15-03-13, Posttraumatic Stress Disorder in First Responders and Other Designated Workers.

Purpose

The purpose of this policy is to provide entitlement guidelines for claims for traumatic mental stress.

Guidelines

Definition

Workplace harassment

Workplace harassment occurs when a person or persons, while in the course of the employment, engage in a course of vexatious comment or conduct against a worker, including bullying, that is known or ought reasonably to be known to be unwelcome.

Traumatic mental stress

A claim for traumatic mental stress (as described below) is distinct from a claim for chronic mental stress. For information relating to claims for chronic mental stress, see 15-03-14, Chronic Mental Stress.

A worker will generally be entitled to benefits for traumatic mental stress if an appropriately diagnosed mental stress injury is caused by one or more traumatic events arising out of and in the course of the worker's employment. For more information see 15-02-02, Accident in the Course of Employment.

In order to consider entitlement for mental stress related to one or more traumatic events, the WSIB decision-maker must identify that one or more traumatic events occurred. A traumatic event may be a result of a criminal act or a horrific accident, and may involve actual or threatened death or serious harm against the worker, a co-worker, a worker's family member, or others. In most cases a traumatic event will be sudden and unexpected.

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In all cases, the event(s) must arise out of and occur in the course of the employment, and be

- clearly and precisely identifiable, and
- objectively traumatic.

This means that the event(s)

- can be established by the WSIB through information or knowledge of the event(s) provided by co-workers, supervisory staff, or others, and
- is/are generally accepted as being traumatic.

Traumatic events include, but are not limited to

- witnessing a fatality or a horrific accident
- witnessing or being the object of an armed robbery
- witnessing or being the object of a hostage-taking
- being the object of physical violence
- being the object of death threats
- being the object of threats of physical violence where the worker believes the threats are serious and harmful to self or others (e.g., bomb threats or confronted with a weapon)
- being the object of **workplace harassment** that includes physical violence or threats of physical violence (e.g., the escalation of verbal abuse into traumatic physical abuse), and
- being the object of **workplace harassment** that includes being placed in a life-threatening or potentially life-threatening situation (e.g., tampering with safety equipment; causing the worker to do something dangerous).

The worker must have suffered or witnessed the work-related traumatic event(s) first hand, or heard the work-related traumatic event(s) first hand through direct contact with the traumatized individual(s), e.g., speaking with the victim(s) on the radio or telephone as the traumatic event(s) is/are occurring.

Cumulative effect

Due to the nature of their occupation, some workers, over a period of time, may be exposed to multiple traumatic events. If a worker experiences traumatic mental stress because of the most recent traumatic event, entitlement may be in order even if the worker may experience these traumatic events as part of the employment and was able to tolerate the past traumatic events. A final reaction to a series of traumatic events is considered to be the cumulative effect.

The WSIB recognizes that each traumatic event in a series of events may affect a worker psychologically. This is true even if the worker does not show the effects until the most recent event. As a result, entitlement may be accepted because of the cumulative effect, even if the last event is not the most traumatic.

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In considering entitlement for the cumulative effect, decision-makers will rely on clinical and other information supporting that multiple traumatic events led to the worker's current psychological state. Also, there may be evidence showing that each event had some effect or life disruption on the worker, even if the worker was not functionally impaired by the effect or life disruption.

Standard of proof and causation

In all cases, the WSIB decision-maker must be satisfied, on a balance of probabilities, that the traumatic event(s), or the cumulative effect of a series of traumatic events,

- arose out of and in the course of the worker's employment, and
- caused, or significantly contributed to, an appropriately diagnosed mental stress injury.

Diagnostic requirements

Before any traumatic mental stress claim can be adjudicated, there must be a diagnosis in accordance with the Diagnostic and Statistical Manual of Mental Disorders (DSM) which may include, but is not limited to,

- acute stress disorder
- posttraumatic stress disorder
- adjustment disorder, or
- an anxiety or depressive disorder.

In most cases the WSIB will accept the claim for adjudication if an appropriate regulated health care professional provides the DSM diagnosis. However, in complex cases, for example where there is evidence that a non-work-related stressor(s) may have caused or contributed to the injury, the WSIB decision-maker may require a further assessment, including an assessment by a psychiatrist or psychologist, to help clarify initial or ongoing entitlement.

Pursuant to the *Regulated Health Professions Act, 1991*, regulated health care professionals who are qualified to provide a DSM diagnosis are

- physicians
- nurse practitioners
- psychologists, and
- psychiatrists.

Pre-existing, non-work-related psychological condition

For information on the effect (if any) of a pre-existing, non-work-related psychological condition on a claim for traumatic stress see 15-02-03, Pre-existing Conditions.

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There is no entitlement for traumatic mental stress caused by an employer's decisions or actions that are part of the employment function, such as

- terminations
- demotions
- transfers
- discipline
- changes in working hours, or
- changes in productivity expectations.

However, workers may be entitled to benefits for traumatic mental stress due to an employer's decisions or actions that are not part of the employment function, such as

- violence or threats of violence, or
- conduct that a reasonable person would perceive as egregious or abusive.

Application date

This policy applies to all accidents on or after January 1, 2018. This policy also applies to the claims identified in the "**Transitional provisions**" section, below.

Transitional provisions**New claims (accidents on or after April 29, 2014)**

If a worker has traumatic mental stress which occurs on or after April 29, 2014, and the worker has not filed a claim with the WSIB for the traumatic mental stress before January 1, 2018, the worker or the worker's survivor may file a claim for the traumatic mental stress with the WSIB, as long as such claim is filed on or before July 1, 2018.

Pending claims (as of January 1, 2018)

For the purposes of this policy, "pending claims" means claims for traumatic mental stress that are pending before the Workplace Safety and Insurance Board (WSIB) or the Workplace Safety and Insurance Appeals Tribunal (WSIAT) on January 1, 2018. For further clarity, these are claims in which, as of January 1, 2018,

- a traumatic mental stress claim has been filed, but the WSIB has not yet made a decision
- there is a right to file a notice of objection in respect of a traumatic mental stress claim following an initial entitlement decision and the notice of objection is or has been filed within the appropriate time frame
- there is a right to file a notice of appeal to the WSIAT in respect of a traumatic mental stress claim following a final decision of the WSIB, and the notice of appeal is or has been filed within the appropriate time frame, or
- the worker has filed a notice of appeal to WSIAT and a traumatic mental stress claim is pending before the WSIAT.

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The WSIB applies this policy and makes a decision in all pending traumatic mental stress claims, regardless of when the worker's traumatic mental stress occurred.

Policy review schedule

This policy will be reviewed within five years of the application date.

Document history

This document replaces 15-03-02, dated April 7, 2016.

This document was previously published as
15-03-02, dated October 12, 2004
15-02-02, dated April 11, 2003.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended
Sections 2(1), 13, 13.1, 159

Minute

Administrative
#2, December 18, 2017, Page 554