

Section	Policy
40	44.05.30

Section Title: Benefits Administration – Adjudication and Compensation
Subject: Adjudication of Psychological Injuries
Effective Date: For all claims with accident dates on or after January 1, 2022 to April 30, 2023

A. POLICY PURPOSE

This policy describes the approach the Workers Compensation Board (WCB) uses when deciding whether workers are entitled to compensation for psychological injuries that do not arise as a consequence of a physical injury.

More specifically, the policy outlines:

- how the definition of accident in *The Workers Compensation Act* (the Act) applies to psychological injuries, and what this means in adjudicative practice; and
- how the Act's rebuttable presumption for Post-Traumatic Stress Disorder (PTSD) works.

B. POLICY

Compensable, stand-alone psychological injuries can be caused by:

- a chance traumatic event occasioned by a physical or natural cause;
- a wilful and intentional act that is not the act of the worker; or
- a traumatic event, or cumulation of traumatic events, related to the worker's work or workplace.

The WCB uses the decision-making framework outlined in WCB Policy 22.00, *Decision Making*, to determine entitlement to compensation. The dominant cause standard of causation, which is described in that policy, and which applies to occupational diseases, does not apply to the adjudication of psychological injury claims with accident dates on or after the date on which applicable legislation comes into force. Instead, the "but for" standard of causation applies.

It is often more difficult to establish a work-related cause for such psychological injuries than physical injuries because both work-related and non-work-related factors frequently contribute to the psychological injuries. As a result, only certain types of psychological injuries are compensable under the Act.

Note: a diagnosis is not necessary for a psychological injury to be compensable under the Act, except in the case of PTSD claims adjudicated under the presumption, as described below.

I. Definition of Accident and Psychological Injuries, Exclusions

Like all injuries, psychological injuries must meet the Act's basic criteria to be compensable. These are:

- there was an accident;
- the worker suffered an injury; and
- the injury was caused by the accident.

The term "accident" is defined in section 1(1) of the Act. The definition focuses on discrete workplace events and acts, or combinations of events and acts:

- i. a chance event with a physical or natural cause;
- ii. a wilful and intentional act by someone other than the worker; or
- iii. an event or condition, or a combination thereof, related to the worker's work or workplace.

The definition of accident further specifies that an acute reaction to a traumatic event and PTSD both constitute personal injuries under the Act.

Subsection 1(1.1) of the Act also excludes certain other events and acts from being accidents. These exclusions are:

Non-Traumatic Mental Stress

A non-traumatic event or series of non-traumatic events that produce mental stress, such as the daily pressures of work and life, are not accidents under the Act.

Events and actions originating in the employer-employee relationship

Everyday workplace events between an employer and a worker involving actions such as discipline, transfer, demotion, or any other change in a worker's employment situation taken by the employer, are not accidents under the Act.

II. Arising Out of and In the Course of Employment

Section 4 of the Act stipulates that accidents must "arise out of and in the course of employment" in order to be compensable. As a result, accidents arising out of personal events or actions over which the employer has no control are generally not compensable.

This concept is fundamental to the adjudication of all claims and has its own policy, WCB Policy 44.05, *Arising Out of and in the Course of Employment*. This policy is especially important for establishing a causal connection between the injury and employment/work. For example, a psychological injury resulting from a voluntary personal relationship that originated in a workplace is not compensable. While the personal relationship may have originated in the workplace, the relationship itself, and the events occurring within the relationship, are not related to the work.

III. Acute Reaction to a Traumatic Event

Psychological injuries may be caused by a traumatic event, or cumulative series of traumatic events, related to a worker's work or workplace. Traumatic events typically involve direct exposure to actual or threatened violence or harm at a specific time and place. Traumatic events are events that would reasonably be expected to create an acute reaction, and are most often sudden, unexpected, or shocking.

A cumulative series of traumatic events can result in a psychological injury, even if the WCB is unable to determine which of these events caused the injury. The traumatic event leading to a psychological injury does not have to be identified in the *Diagnostic and Statistical Manual of Mental Disorders* ("DSM"), unless the WCB is applying the PTSD presumption described below.

The Act also refers to an "acute reaction" to a traumatic event. This is a reference to the severity of the response to the traumatic event, whenever it occurs. Acute does not necessarily mean immediately following the event.

IV. Date of Accident

In psychological injuries there may be a latency period between the traumatic event(s) causing the injury and the onset of symptoms, making it more difficult to establish a clear, unambiguous date of accident. As a result, the WCB will deem the accident to have occurred on the day on which the worker's function became impaired or loss of earnings began, similarly to what is done with occupational diseases under subsection 1(12) of the Act.

V. Presumption Regarding Post-Traumatic Stress Disorder (PTSD)

The Act contains a legislative presumption for PTSD. Like other presumptions in the Act, the PTSD presumption helps decision makers in situations where identifying a causal connection between a worker's injury and their work/employment is difficult. In such situations, the PTSD is presumed to be caused by the worker's employment unless the contrary is proven (i.e., is rebutted).

For the presumption to apply the PTSD must have arisen out of events related to the worker's work or workplace, there must have been a diagnosis of PTSD by a physician or psychologist on or after January 1, 2016, and the diagnosis must meet the standard of the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders*, published by the American Psychiatric Association.

C. REFERENCES

The Workers Compensation Act, subsections 1(1), 1(1.1), 1(12), 4(1) and 4(5.8)

Related WCB Policies:

WCB Policy 22.00, *Decision Making*

WCB Policy 44.05.30, *Arising Out of and in the Course of Employment*

History:

1. Directive dated February 15, 1984, established procedure for psychological conditions.
2. Board Order 114/84, *Psychological Conditions*, approved August 30, 1984. Established circumstances under which psychological conditions were compensable, and that responsibility could not be accepted for chronic stress.
3. Policy amended by Board Order 22/86, *Psychological Conditions*, effective January 29, 1986, for clarification, including the term "chronic stress". Board Order 114/84 rescinded.
4. Policy re-written and approved by Board Order 9/91 on June 19, 1991, for inclusion in the Policy Manual as Policy 44.20.60, *Psychological Conditions*.
5. Policy correction approved by Board Order 14/95 to re-incorporate provisions of Board Order 22/86 into the policy statement and to reflect legislative changes. No change to existing policy or practice.
6. The Adjudicative Guidelines were deleted from this policy – December 2002.
7. Policy 44.20.60, *Psychological Conditions* was repealed and replaced by this Policy effective November 1, 2012. Policy confirms that psychological injuries are adjudicated like physical injuries and explains the various components of the definition of "accident". Policy was approved on October 30, 2012, by Board Order 24/2012, effective November 1, 2012.
8. Policy amended by Board Order 54/2015 on December 17, 2015. Policy was revised to reflect the legislative presumption regarding Post-Traumatic Stress Disorder (PTSD).
9. Policy rewritten and approved by Board Order 29/2020 on November 26, 2020 effective for all claims with accident dates on or after January 1, 2022. Policy rewritten to reflect legislative changes, in particular the definition of "accident".

10. Policy was amended by Board Order 27/22 on September 29, 2022 effective for all claims with accident dates on or after May 1, 2023. Policy amended to clarify the definition of "traumatic event".

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