

Section	Policy
40	44.05

Section Title: Benefits Administration – *Adjudication and Compensation*
Subject: Arising Out of and in the Course of Employment
Effective Date: October 1, 2006 to December 31, 2022

A. GENERAL INFORMATION

Under *The Workers Compensation Act*, benefits and services are available to workers who suffer a compensable workplace injury or illness. To be compensable, it must have been the result of an accident arising out of and in the course of the worker's employment.

Generally, an injury or illness is said to have "arisen out of employment" if the activity giving rise to it is causally connected to the employment—that is, if it is caused by some hazard which results from the nature, conditions or obligations of the employment. To have occurred "in the course of employment," an injury or illness must have occurred within the time of employment, at a location where the worker may reasonably be, and while performing work duties or an activity incidental to employment.

The Workers Compensation Act provides that when the accident arises out of employment, it will be presumed the accident occurred in the course of employment unless the contrary is proven; and when the accident occurs in the course of employment, it will be presumed that the accident arose out of employment unless the contrary is proven.

While workers are on the employer's premises, they are subject to all the environmental hazards associated with the employment and are entitled to compensation for accidents arising out of the employment premises.

When a worker, during the course of employment, provides assistance to a member of the general public in distress, it will not be considered to be a removal from the employment if it can reasonably be shown that the worker's assistance was necessary and would have, if possible, been sanctioned or directed by the employer.

Workers who are on special assignments including courses, conventions, and training exercises as well as work assignments will be deemed to be in the course of their employment while directly or indirectly involved in activities under the control and direction of the employer. However, workers on special assignment who are involved in personal or leisure activities are not considered to be in the course of their employment.

When travelling is a requirement of the worker's employment and the employer has some control over the method of transportation, then the worker is considered to be in the course of employment while travelling for employment purposes.

Accidents arising out of purely personal sources over which the employer has no control are generally not compensable. Even if an accident occurs in the course of the worker's employment, when a worker is engaged in personal activities not related to or required by his or her employment the resulting injury would not be compensable. However, if the obligations or conditions of that employment contribute substantially to an accident or aggravate a situation, then any resultant injury may be compensable.

The concept of "arising out of and in the course of employment" is fundamental to the adjudication of claims. Claims for compensation are decided on their individual merits after all reasonable effort has been made to obtain all available evidence. A number of policies have been developed to address specific situations as they relate to compensability. Please refer to the following policies for more information:

44.05.20	General Premises
44.10.20.10	Pre-Existing Conditions
44.10.20.40	Shoulder Dislocations
44.10.30.10	Drunkenness and Intoxication
44.10.30.30	Serious and Willful Misconduct
44.10.50.10	Transportation Controlled by the Employer
44.10.50.50	Travelling on the Job
44.10.50.60	Special Assignment Coverage
44.10.60.40	Accidents Occurring in Lunchrooms
44.10.70.50	Public Interest Emergency Actions
44.20	Disease/General
44.20.30.60	Laryngeal Cancer
44.05.30	Adjudication of Psychological Injuries
44.20.65	Gastrointestinal Cancer

B. REFERENCES

The Workers Compensation Act, subsections 4(1), 4(5), and 60(2)(b)

Related WCB Policies:

22.00, *Decision Making*
 44.05.20, *General Premises*
 44.10.20.10, *Pre-Existing Conditions*
 44.10.20.40, *Shoulder Dislocations*
 44.10.30.10, *Drunkenness and Intoxication*
 44.10.30.30, *Serious and Willful Misconduct*
 44.10.50.10, *Transportation Controlled by the Employer*
 44.10.50.50, *Travelling on the Job*
 44.10.50.60, *Special Assignment Coverage*
 44.10.60.40, *Accidents Occurring in Lunchrooms*
 44.10.70.50, *Public Interest Emergency Actions*
 44.20, *Disease/General*
 44.20.30.60, *Laryngeal Cancer*
 44.05.30, *Adjudication of Psychological Injuries*
 44.20.65, *Gastrointestinal Cancer*

History:

1. Policy 44.05 established by Board Order 33/06 on September 28, 2006, to describe the concept of "arising out of and in the course of employment" as stated in *The Workers Compensation Act*, effective October 1, 2006.
2. Minor formatting and wording changes were made to the policy, June 27, 2012.
3. March 2014 - Reference section revised to refer to Policy 44.05.30 *Adjudication of Psychological Injuries* rather than 44.20.60 *Psychological Conditions*.
4. October 2019 - Reference section revised to add Policy 22.00, *Decision Making* and remove two repealed policies (44.10.20.20, *Ganglia* and 44.10.40.10, *Insect Bites*).
5. October 2019 - Policy revised to parallel changes made to policy 44.10.70.50, *Public Interest Emergency Actions*.
6. Minor formatting changes were made to the policy, April 2021.
7. Policy amended by Board Order No. 28/22 on September 29, 2022 effective January 1, 2023.

The amendments more closely align the policy to The Workers Compensation Act and more clearly explain the application of the presumption in section 4(5) of the Act and remove references to several repealed policies. The previous policy version was removed from the policy manual and archived December 31, 2021.

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