

Section	Policy
40	44.05.30

Section Title: Benefits Administration – Adjudication and Compensation
Subject: Adjudication of Psychological Injury Claims
Effective Date: For all claims with accident dates on or after May 1, 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 event occasioned by a physical or natural cause; or
- an event or condition, or cumulation of events or conditions, 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 "but for" standard of causation, which is described in that policy, applies to the adjudication of psychological injury claims with accident dates on or after January 1, 2022.

As is the case with all types of injuries, the WCB generally does not require a diagnosis before accepting a psychological injury claim. In some instances, a diagnosis may be necessary to establish that the worker suffered a personal injury, which is a prerequisite to claim acceptance.

I. Definition of Accident and Psychological Injuries, Exclusions

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

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

The definition of accident further confirms 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. In addition, some level of mental stress is endemic to life and, in most cases, does not constitute a personal injury as required by 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. If, however, such actions amount to workplace harassment or conduct that a reasonable person would perceive as egregious or abusive, they may be compensable as harassment or bullying as discussed in further detail below

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.

This concept is fundamental to the adjudication of all claims and is outlined in 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.

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.

The WCB considers a traumatic event to be an identifiable physical or psychological occurrence which:

- takes place in an discrete time frame;
- is not a series of minor occurrences; and
- is reasonably capable of causing serious physical or psychological harm consistent with an acute reaction.

Traumatic events include:

- (a) events involving direct exposure to actual or threatened violence or harm at a specific time and place; or
- (b) workload over a prolonged period of time that is excessive or unusual in intensity.

Determining whether excessive workload constitutes a traumatic event involves both a subjective and objective analysis. Not every instance of perceived excessive workload will give rise to a compensable claim. The WCB considers the worker's subjective statements and response to the workload. It must also determine that the workload is significantly different from the worker's or their coworkers' usual workload, and of sufficient intensity and duration, that a reasonable person in the worker's situation might be expected to suffer an injury.

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 as a triggering event for PTSD 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. Harassment and Bullying

The WCB accepts claims for psychological injuries caused by harassment or bullying. A claim for bullying and harassment may involve a single event, or a cumulative series of events.

Harassment means:

- (a) objectionable conduct that creates a risk to the health of a worker; or
- (b) severe conduct that adversely affects the worker's psychological or physical well being.

Bullying means:

Conduct that is intended to, or should reasonably have been known would, intimidate, demean, or humiliate, or isolate an individual or result in an individual's loss of dignity. Bullying often involves a real or perceived difference in authority between the parties.

Determining compensability for injuries caused by harassment and bullying involves both a subjective and objective analysis. To be compensable, the instances of harassment or bullying must be of sufficient severity that a reasonable person would suffer an injury.

V. 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.

VI. 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)
Manitoba Regulation 217/2006, *Workplace Safety and Health Regulation*

Related WCB Policies:

WCB Policy 22.00, *Decision Making*

WCB Policy 44.05, *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 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".