

Has the WCB expanded workers compensation coverage for psychological injuries?

Yes. On May 1, 2023, the WCB amended Policy 44.05.30, *Adjudication of Psychological Injury Claims* (Psychological Injury policy). The amendments extend coverage to psychological injury arising from excessive workload, if certain criteria outlined in the policy are also met.

I thought that these types of claims weren't allowed under *The Workers Compensation Act*. Is the Act changing?

No. The Act is not changing. The WCB cannot amend the Act on its own, only the Legislature can amend the Act. The Act does not allow compensation for mental stress injuries other than acute reactions to traumatic events. This will continue to be the case even after May 1, 2023.

Because the Act is not changing, the WCB has changed its policy to recognize that in certain circumstances, excessive workload over a prolonged period of time can constitute a "traumatic event."

Many people experience mental stress because of their workload. Do these changes mean that the WCB will automatically accept claims from all workers who are stressed out at work?

No. Some level of mental stress is unavoidable. Daily pressures that come from personal or workplace events are normal. Not all types of stress will meet the requirements set out in the Act. Each claim is considered on its own merits.

What level of workload is necessary to constitute workload as a "traumatic event"?

The workload would have to be excessive in nature, occur over a lengthy period of time, and be unusual in comparison to the pressures and tensions experienced in normal employment. In other words, the workload must be the type of workload that is significantly beyond the scope of maintaining employment from a reasonable person's perspective.

What does the WCB consider to be "a lengthy period of time?"

Each case must be evaluated on its own merits, but a short period of time (e.g., a few days, a couple of weeks, etc.) is unlikely to be enough.

The WCB will also consider the circumstances that led to the prolonged duration, such as whether the increased workload was unavoidable or unforeseen, and whether the employer has attempted to mitigate the prolonged duration.

Does the WCB take the worker's individualized experience into account when adjudicating these types of claims?

Yes. When adjudicating psychological injury claims involving excessive workload, the WCB considers the worker's individual experience and response to the workload.

However, it also considers the workload from the perspective of the "reasonable person." The WCB must determine that a reasonable person, in the worker's situation, might be expected to suffer some type of psychological injury as a result of the workload before it will accept the claim.

Does the evidence have to show that the excessive workload was the main cause of my psychological injury before the WCB will accept my claim?

No. As long as the criteria respecting excessive workload outlined in the *Psychological Injury* policy have been met, the WCB is satisfied that the excessive workload was a necessary cause of your psychological injury, and the WCB will accept your claim. The excessive workload does not have to be the sole or main cause of your injury.



I made a psychological injuries claim based on excessive workload before May 1, 2023 and the WCB denied my claim. Will the WCB re-adjudicate my claim now?

No. The revised policy only applies to accidents occurring on or after May 1, 2023. In the case of psychological injuries, the WCB deems the date of the accident to have occurred on the day that your function became impaired or your loss of earnings began.

If your psychological function was impaired or your loss of earnings began prior to May 1, 2023, the previous version of the *Psychological Injuries* policy will apply to you. That policy does not consider excessive workload to be a traumatic event.

Will a diagnosis be required before my psychological injuries claim can be accepted?

The WCB does not routinely require a diagnosis before accepting a psychological injury claim. However, in certain circumstances, a diagnosis may be required in order to help confirm that you have sustained a psychological injury, or make the connection between the psychological injury and your work.

Are there any other changes to the *Psychological Injuries* policy that I should be aware of?

While the WCB has always accepted psychological injury claims based on bullying and harassment, the previous *Psychological Injuries* policy did not define those terms. The revised policy now does, but it does not change the WCB's approach to adjudicating these types of claims.

