



WORKING TO MAKE A DIFFERENCE

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Update 2007 – 3

**TO: HOLDERS OF THE *REHABILITATION SERVICES & CLAIMS MANUAL – VOLUME II***

This update of the *Rehabilitation Services & Claims Manual* contains amendments to the *Manual* implemented since update 2007 – 2.

This amendment includes:

- #13.30, *Mental Stress* – policy amended to remove a sentence regarding recurrence of injury

A summary of the amendment **effective April 1, 2007** is attached and the amended pages are included as part of the package.

If you have any questions regarding subscription information for updates to the *Rehabilitation Services & Claims Manual*, please call WorkSafeBC Customer Service at the following:

Local phone: 604-232-9704

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Roberta Ellis  
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Attachments

***Rehabilitation Services & Claims Manual, Volume II***

**SUMMARY OF AMENDMENTS – Update 2007 – 3**

Chapter 3      Pages 5 – 8                      Policy item #13.30 amended effective April 1, 2007

2. The acute reaction to the traumatic event must arise out of and in the course of employment.

An “acute” reaction means – “coming to crisis quickly”, it is a circumstance of great tension, an extreme degree of stress. It is the opposite of chronic. The reaction is typically immediate and identifiable. The response by the worker is usually one of severe emotional shock, helplessness and/or fear. It may be the result of:

- a direct personal observation of an actual or threatened death or serious injury;
- a threat to one’s physical integrity;
- witnessing an event that involves death or injury; or,
- witnessing a personal assault or other violent criminal act.

For the purposes of this policy, a “traumatic” event is a severely emotionally disturbing event. It may include the following:

- a horrific accident;
- an armed robbery;
- a hostage-taking;
- an actual or threatened physical violence;
- an actual or threatened sexual assault; and,
- a death threat.

In most cases, the worker must have suffered or witnessed the traumatic event first hand.

In all cases, the traumatic event must be

- clearly and objectively identifiable; and
- sudden and unexpected in the course of the worker’s employment.

This means that the event can be established by the Board through information or knowledge of the event provided by co-workers, supervisory staff, or others, and is generally accepted as being traumatic. The “arising out of” determination is discussed in policy item #14.00.

In considering the matter of work-relatedness, the Board must determine if there is a connection between the employment and the resulting acute reaction. This

requires consideration of personal factors in the worker's life, which may have contributed to the acute reaction. For compensation to be provided, the workplace circumstances or events must be of causative significance to the worker's mental stress. If there is no causal link to work-related factors, the worker's mental stress will not be compensable.

It is recognized that some workers, due to the nature of their occupation, may be exposed to traumatic events on a relatively frequent basis (e.g., emergency workers). If such a worker has an acute reaction to a sudden and unexpected traumatic event, compensation for mental stress may be provided even if the worker was able to tolerate past traumatic events.

In all cases concerning entitlement to compensation for mental stress, the worker's mental stress must be diagnosed by a physician or a psychologist as a mental or physical condition that is described in the most recent American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, at the time of diagnosis. A "psychologist" means a person who is a registered member of the College of Psychologists of British Columbia or a person who is entitled to practise as a psychologist under the laws of another province.

The Board may appoint a physician or psychologist to review a diagnosis of a worker's mental stress condition. When assessing all of the relevant medical evidence, the Board may consider that review in determining whether a worker is entitled to compensation for mental stress. A diagnosis of mental stress is not reviewed in every case. However, a review may be undertaken where, for instance, the Board receives medical evidence that conflicts with the diagnosis and which the physician or psychologist may not have possessed or been aware of when making the diagnosis.

There is no entitlement to compensation if the mental stress is caused by a labour relations issue such as a decision by 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 worker's employment.

Examples where there is likely entitlement to compensation for mental stress:

- A person commits suicide by jumping in front of a bus. The bus driver is not physically injured by the incident, but is unable to work due to mental stress arising from the event. The bus driver's physician or psychologist confirms the driver is suffering from a condition described in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, and requires time off and professional counseling.
- A worker directly witnesses a very serious accident to a co-worker. The worker suffers no apparent symptoms for the first two weeks after

- During a prison riot, inmates hold a guard hostage. The guard is subsequently diagnosed by a physician or psychologist as suffering from a mental condition described in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, and requires time off from work to recover.
- A female worker attends at work and is confronted by her male supervisor who sexually assaults her. As an immediate and direct result of the assault, the worker suffers an acute reaction and is subsequently diagnosed with a mental condition described in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*. In addition to a potential claim for physical injury, the worker may be entitled to compensation for mental stress.

Examples where there is likely no entitlement to compensation for mental stress:

- A worker is subjected to frequent sexual innuendo, humour in poor taste, practical jokes, and other forms of inappropriate attention from co-workers. One day the worker calls in to say the stress is too much, and he/she cannot work.
- A worker in a machine shop characterized by high levels of sudden noise calls in one morning to say he/she is unable to work due to mental stress. The worker also cites impossibly high production quotas, machine-pacing of work and constant threats of termination by the foreperson as reasons for the mental stress.

**Effective Date:** April 1, 2007

**Application:** Applies to all decisions, including appellate decisions, made on or after April 1, 2007.

**History:** December 31, 2003 – Revised to reflect amendments to section 5.1 of the *Act*.

## **#14.00      ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT**

Before a worker becomes entitled to compensation for injury under the *Act*, the injury must arise out of and in the course of employment.

Confusion often occurs between the term “work” and the term “employment”. Whereas the statutory requirement is that the injury arise out of and in the course of employment, it is often urged that a claim should be disallowed because the injury is not work related or did not occur in the course of productive activity. There are, however, activities within the employment relationship which would not normally be considered as work or in any way productive. For example, there is the worker’s drawing of pay. An injury in the course of such activity is compensable in the same way as an injury in the course of productive work.

Lack of control of a situation by the employer is not a reason for barring a claim otherwise acceptable. Control by an employer is an indicator that a situation is covered under the *Act* at a particular time, but if that control does not exist there may be other factors which demonstrate an employment connection.

No single criterion can be regarded as conclusive for deciding whether an injury should be classified as one arising out of and in the course of employment. Various indicators can be and are commonly used for guidance. These include:

- (a) whether the injury occurred on the premises of the employer;
- (b) whether it occurred in the process of doing something for the benefit of the employer;
- (c) whether it occurred in the course of action taken in response to instructions from the employer;
- (d) whether it occurred in the course of using equipment or materials supplied by the employer;
- (e) whether it occurred in the course of receiving payment or other consideration from the employer;
- (f) whether the risk to which the employee was exposed was the same as the risk to which the employee is exposed in the normal course of production;
- (g) whether the injury occurred during a time period for which the employee was being paid;
- (h) whether the injury was caused by some activity of the employer or of a fellow employee;