

AMENDED April 22, 2003

PRACTICE DIRECTIVE #39

MENTAL STRESS

Effective March 3, 2003

The Legislature has enacted the *Workers Compensation Amendment Act (No. 2), 2002* ("Bill 63"), which amends the *Workers Compensation Act* (the "Act"). As a result this practice directive was amended on March 3, 2003.

BACKGROUND

On June 30, 2002, the *Workers Compensation Act* (the "Act") was amended by the *Workers Compensation Amendment Act, 2002* ("Bill 49"). Section 5.1 was added to the Act concerning mental stress. As a result, the Panel of Administrators approved related amendments to the Board's policies.

Rehabilitation Services and Claims Manual ("RSCM") Policy item # 32.20 *Physical and Emotional Exhaustion* has been deleted and RSCM Policy item #13.30 *Mental Stress* has been added to RSCM Volume II.

EFFECTIVE DATES AND TRANSITION RULES

The effective date of the new legislation is June 30, 2002. Therefore, where a worker experiences an acute reaction to a sudden and unexpected traumatic event *on or after* June 30, 2002, any resulting claim for mental stress will be adjudicated in accordance with the new legislation and policies.

Where a worker experienced an acute reaction to a sudden and unexpected traumatic event *before* June 30, 2002, any resulting claim will be adjudicated under the legislation and policies that existed prior to June 30, 2002.

Reopenings: Where, on or after June 30, 2002, there is a reopening of a mental stress claim that was considered compensable prior to June 30, 2002, existing benefits are not impacted. However, in order to be compensable, the reopening criteria under s.96 (2) & (3) of the Act must be met, as well as the criteria outlined in the section 5.1 of the Act.

For example, a worker may have been awarded a \$200.00 pension many years ago for a mental stress claim (i.e., that was considered compensable prior to June 30, 2002). If one of the reopening grounds has been met (e.g., there has been a significant change

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in the worker's compensable medical condition) on or after June 30, 2002, the next step would be to determine whether the criteria outlined in section 5.1 of the *Act* have been met. If the criteria in section 5.1 have not been met, existing benefits would not be affected. The worker would continue to receive a \$200.00 permanent disability award and no additional compensation would be payable. However, if the criteria in section 5.1 have been met the worker may be eligible for additional benefits (to be calculated in accordance with the newly amended *Act* as outlined in Practice Directives #32, 33, 38 & 40).

ADJUDICATIVE GUIDELINES

- It is possible that the effects of a traumatic event may not be immediately evident. A worker's psychological impairment may be delayed by a period of time before it surfaces. In such cases, the evidence must demonstrate that the mental stress is due to a sudden and unexpected traumatic event, which arose out of and in the course of employment.
- These types of claims will be adjudicated by Case Managers in the SDLs and will not be referred to Occupational Disease Services for a separate decision under Section 6 of the *Act*.

Policy item #13.30 is self-explanatory and provides clear guidance. Additional direction to Board officers is therefore not felt to be required at this time. However, further directives may be issued at a later date based on adjudicative experience.