

PRACTICE DIRECTIVE # C3-3

TOPIC: Mental Stress
ISSUE DATE: July 10, 2006
AMENDED: July 29, 2009, Effective April 30, 2009, and Oct. 13, 2010

Objective

This practice directive provides guidance in determining a worker's entitlement to compensation for mental stress that does not result from an injury. Clarification is provided on specific terminology used in section 5.1 of the *Workers Compensation Act* (the "Act").

Law & Policy

Section 5.1 of the *Act* provides that a worker will be compensated for mental stress that does not result from an injury, but only if the worker's mental stress is:

- an acute reaction to a sudden and unexpected traumatic event arising out of and in the course of the worker's employment;
- diagnosed by a physician or a psychologist as a mental or physical condition that is described in the most recent (at the time of diagnosis) American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* ("DSM"); and,
- not caused by a decision of 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.

Policy item #13.00, *Mental Stress*, of the *Rehabilitation Services and Claims Manual, Vol. II* ("RSCM"), provides a two-part test to determine whether a worker is entitled to compensation for mental stress. First, the worker must experience an acute reaction to a sudden and unexpected traumatic event. Second, the sudden and unexpected traumatic event must arise out of and in the course of employment.

It is worth noting that in certain situations, a single incident may result in a worker establishing claims under both sections 5(1) and section 5.1. For example, a night clerk at a convenience store is assaulted during a robbery. The assault results in a physical injury (facial laceration), which is compensable under section 5(1). The worker also suffers an acute stress disorder as a result of the traumatic incident (violent robbery). Since the worker's mental stress did not arise directly from the facial laceration (physical injury), it is not adjudicated as a

compensable consequence of the injury.¹ Rather, the worker's mental stress is adjudicated under section 5.1.

Adjudicative Guidelines

(A) Acute Reaction

As stated in Policy item #13.00, the term 'mental stress' is intended to describe conditions such as *posttraumatic stress disorder* and other associated disorders. As a result, in determining whether a worker's reaction is 'acute' (i.e., coming to the most severe and critical stage quickly), consideration should be given to the nature of the worker's diagnosed impairment or condition.

Policy item #13.00 defines an acute reaction as "coming to crisis quickly", a circumstance of great tension or extreme degree of stress. The reaction is considered 'acute' because it can be established as causing a severe or significant effect on the worker. Policy indicates that the reaction is typically, but not necessarily, immediate and identifiable.

Notwithstanding the general characterization of an acute reaction, it is possible that the disabling effects of a traumatic event may not be immediately evident. Policy confirms that a 'delayed' onset of disabling symptoms will not preclude the acceptance of a claim for mental stress.

Generally, a worker's reaction (impairment) will be considered acute if it occurs within four weeks of the traumatic event. This timeframe is consistent with an essential element of *acute stress disorder*, where symptoms manifest within one month after exposure to an extreme traumatic stressor.

(B) Delayed Acute Reaction

In certain cases, a worker's reaction may still be characterized as 'acute' even though it is not fully apparent within four weeks of the traumatic event. For example, the diagnostic features of *posttraumatic stress disorder*, as described in the American Psychiatric Association's *DSM*, require the symptoms to be fully present for at least a month. The *DSM* also recognizes that there can be delayed onset of *posttraumatic stress disorder*, where at least six months will have passed between the traumatic event and the onset of symptoms.

Where the worker's symptoms do not appear within four weeks of the traumatic event, establishing the necessary connection between the employment and the

¹ Policy item #22.33, *Psychological Problems*, of the RSCM provides compensation in respect of psychological problems arising from a physical injury (e.g., a worker may develop depression due to the loss of a limb following a workplace accident).

resulting impairment presents additional challenges. Consideration should be given to the expected development or progression of the condition. A temporal connection between the traumatic event and the reaction helps to establish the evidentiary link between the event and the worker's diagnosed condition. In all cases, the evidence must demonstrate the onset of mental stress is due to a sudden and unexpected traumatic event, which arose out of and in the course of employment. The requirement that there be an acute reaction to a specific identifiable event reflects the requirements of section 5.1 and distinguishes between compensable mental stress and non-compensable chronic stress.

(C) Traumatic Event

In order to be compensable a worker's mental stress must be caused by a sudden and unexpected traumatic work event. Policy defines a "traumatic event" as an "emotionally shocking event."

Most often there will be evidence that the worker experienced the event first hand, however this is not a requirement. If the worker did not experience the event first hand, a direct connection between the event and the worker must be obvious in order for the claim to be compensable. For example, a worker employed as an air traffic controller makes an error which causes two passenger planes to collide and crash resulting in a large number of casualties. The event was emotionally shocking and the worker suffered from severe depression as a result. Although the worker did not actually see the two planes collide, he knew the crash was the result of his error, and the connection between the traumatic event and the worker in this scenario is obvious.

The occurrence of the traumatic event must be clearly and objectively identifiable. This may be established through information provided by the worker, co-workers, supervisory staff, the employer or others.

The claim owner considers whether the event was traumatic (i.e. emotionally shocking) for that particular worker. Policy does not require the event be generally accepted as traumatic. The determination of whether an event is traumatic is done on a case specific basis with consideration to how that particular worker experienced the event. The fact that a worker may be at greater risk of finding a particular event "emotionally shocking" than the average person is not a bar to compensation. Because Policy item #13.00 requires that the event be clearly and objectively identifiable, it must actually have occurred. An anticipated event, which did not occur, does not qualify as a "traumatic event" within the meaning of policy.

The evidence must support that the traumatic event was of causative significance in producing the worker's diagnosed condition.² A speculative possibility that the

² Claim owners should consider the guidance on weighing evidence set out in RSCM Policy items #97.00 to 97.60.

traumatic event might have contributed to the worker's mental stress is not sufficient. The connection between the event in question and the worker's diagnosed condition must be evident in order for the condition to be compensable.

(D) Sudden and Unexpected

According to Policy item #13.00, the traumatic event must be sudden and unexpected and arise out of and in the course of the worker's employment. The policy test is not whether the traumatic event would be considered surprising and without warning by the average person, but rather whether the event is one that could be characterized as sudden and unexpected for someone employed in that particular occupation. The "sudden and unexpected" in the course of the worker's employment criteria is a key element of the policy and provides a context for assessing the nature and degree of the stressors in question. The relative threshold for characterizing a specific traumatic event as "sudden and unexpected" for workers in high stress occupations such as policing, air traffic control, or emergency medical aid, may well differ from other types of occupations.

For example, the sight of blood during an operation would not be objectively viewed as "sudden and unexpected" for an operating room nurse. The event would be considered frequent and/or predictable for that occupation. In contrast, getting shot at would be viewed as "sudden and unexpected" for a police officer since the event is generally considered an infrequent or uncommon part of the job.

Policy item #13.00 does recognize that some workers, due to the nature of their occupation, may be exposed to traumatic events on a relatively frequent basis (e.g. emergency care workers). The policy reference is intended to emphasize that employment in a high stress occupation is not a bar to compensation under section 5.1 of the *Act*. Similarly, the fact that a worker may have previously received training to help manage work-related emergency situations, would not preclude a specific traumatic event as being considered sudden and unexpected once it occurs. 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 similar traumatic events in the past. Again, it must be determined that the most recent traumatic event experienced by the worker is objectively considered sudden and unexpected in the course of the employment.

(E) Diagnosis

Section 5.1 of the *Act* enables WorkSafeBC to appoint a physician or psychologist to review a diagnosis of a worker's mental stress condition. It is not necessary to undertake a review of a mental stress diagnosis in every case. A

review may be undertaken where, for instance, WorkSafeBC receives medical evidence that conflicts with the diagnosis and which the diagnosing physician or psychologist may not have possessed or been aware of when making the diagnosis.

WorkSafeBC may require a worker to attend a psychological assessment to assist in clarifying a possible cause and diagnosis of a mental stress condition. While it is rare that a worker would be upset by a psychological assessment, there are sometimes extenuating circumstances that make this a legitimate concern. In such cases, the issue can often be resolved by explaining the purpose and process of the assessment to the worker and providing reassurance. In the rare circumstance that the assessment should not proceed, the Psychology Advisor may attempt to obtain the required information from a current counselor, or other sources.

(F) Chronic Stress

Chronic stress that develops over time is not compensable, even where it is due to general workplace conditions. Every type of employment has some degree of stress associated with it. However, Policy item #13.00 confirms that section 5.1 of the *Act* is not intended to compensate psychological impairments/conditions caused by mental stressors (such as workplace conditions) acting over time (chronic stress).

(G) Labour Relations Issues

Labour relations issues or minor interpersonal conflicts that occur at work do not meet the policy requirements for compensable mental stress. Section 5.1(1)(c) explains that compensable mental stress “is not caused by a decision of 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.”

There may be situations that fall outside these “routine” employment issues that may give rise to a compensable psychological injury, such as targeted harassment or another unusual, emotionally shocking workplace event.

(H) Federal Workers – GECA

Section 5.1 and Policy item #13.00 do not apply to federal workers’ claims. Compensation for federal workers is determined by the *Government Employees Compensation Act* (“GECA”). Although WorkSafeBC administers these claims, provincial law and policy is only applicable in so far as it is consistent with GECA. Section 5.1 restricts compensation for mental stress to injuries caused by sudden and unexpected traumatic events but there is no similar requirement in GECA.

As a result, mental stress claims for federal workers are not adjudicated using section 5.1 or policy item #13.00.³

CROSS REFERENCES:

See Policy item 13.30 of the RSCM.

HISTORY:

This item replaces Practice Directive #39, *Mental Stress*.

APPLICATION:

This item is intended to clarify existing corporate practice. Section 5.1 of the *Act* became effective June 30, 2002. Amendments to this section were made effective December 31, 2003, to include reference to a psychologist's diagnosis of mental stress. Further amendments were made effective April 30, 2009 to reflect changes made to Policy #13.30 regarding the definition of a traumatic event. Housekeeping changes were made October, 13, 2010 to reflect changes to chapter 3 of the RSCM and in particular, the renumbering of the mental stress policy effective July 1, 2010.

³ See Review Division decision #R0089993.