



This factsheet has been prepared for general information purposes. It is not a legal document. Please refer to the *Workers Compensation Act* and the *Rehabilitation Services and Claims Manual, Volumes I and II* for purposes of interpretation and application of the law.

Factsheet #31
Updated: January 2013

COMPENSATION FOR PSYCHOLOGICAL CONDITIONS AND MENTAL DISORDERS

This sheet reflects the rules that are used by all decision-makers, including the Workers' Compensation Appeal Tribunal (WCAT) as of July 1, 2012

Can I claim benefits for a psychological condition?

WorkSafeBC may accept claims for psychological conditions. WorkSafeBC considers psychological conditions which develop as a result of an existing physical injury differently from "mental disorders" which arise out of work-related events or stressors and are unrelated to any physical injury.

Psychological conditions related to physical injury.

WorkSafeBC may accept a psychological condition resulting from an accepted physical injury or disease. If the accepted physical injury or disease was a significant factor in the development of the psychological condition, the psychological condition should be accepted as a compensable consequence of the original injury. For example, if WorkSafeBC has accepted that your work-related back injury led to chronic pain, and eventually you suffer from depression because of your ongoing pain problems, WorkSafeBC would probably agree to compensate the depression under the claim. The back injury would be considered a significant cause of the depression. For more information on this, please see the Factsheet called *Compensable Consequences of Work Injuries*.

Mental Disorders without other injury.

WorkSafeBC may also accept psychological conditions, such as *mental stress* or *Post Traumatic Stress Disorder* that do not result from any underlying physical injury or disease. These psychological conditions are called "mental disorders". A mental disorder may be accepted where the condition develops as a reaction to one or more traumatic work-related events or where it is predominantly caused by a significant work-related stressor, or a cumulative series of significant work-related stressors. In all cases, there must be an identifiable event or stressor and more than only the worker's subjective belief that an event was traumatic or a work situation was stressful.

For more information:
Website: www.labour.gov.bc.ca/wab



Lower Mainland/Fraser Valley/Kootenays: 1-800-663-4261
Northern & Central Interior: 1-800-663-6695
Vancouver Island: 1-800-661-4066

COMPENSATION FOR PSYCHOLOGICAL CONDITIONS AND MENTAL DISORDERS

The events have to be emotionally shocking and the stressors have to be excessive in intensity and/or duration compared to the normal pressures or tensions of employment. For example, bullying or harassment could qualify as significant work stressors if the behaviour is threatening or abusive. Whatever work stressors are claimed to be responsible, they must be the *most* important factor or factors in the development of the mental disorder.

WorksafeBC will only accept your claim for a mental disorder if the traumatic event was significant for the development of the mental disorder. In case of work-related stressors, WorkSafeBC will not accept your claim if work-related factors are no more significant than a number of non-compensable factors such as personal relationship problems or non-compensable physical health problems.

The work-related event or stressor must also be found by WorkSafeBC to have arisen out of and in the course of employment, which essentially means that it had to have happened at your job site while performing work-related activities. There is no entitlement to compensation if the mental disorder is caused by a decision of your employer relating to your employment. This includes a decision to change your work duties or conditions, to discipline or to terminate the employment.

How do I file a claim if I have a psychological condition or a mental disorder due to my employment?

You should:

- see your family doctor;
- report the nature of the problem and its cause to your employer;
- file an Application for Compensation with WorkSafeBC;
- get a referral from your doctor to a psychologist or psychiatrist for diagnosis and treatment, and;
- ask your doctor and psychologist or psychiatrist to send their reports to WorkSafeBC.

How do I prove that my physical injury resulted in a psychological condition, or that I have a mental disorder related to my work?

In case of a mental disorder that is not caused by a physical injury, the mental disorder needs to be diagnosed by a psychiatrist 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 the diagnosis. If you are seeking to have a *mental disorder* accepted, your psychiatrist or psychologist must identify the factors which he or she believes to be responsible for the mental disorder. In case of work-related stressors, you will also need the psychiatrist or psychologist to state that the predominant cause of the mental illness is, or are, factors which are clearly work-related.

COMPENSATION FOR PSYCHOLOGICAL CONDITIONS AND MENTAL DISORDERS

If the psychological condition developed as a result of compensable physical injuries, the medical opinion must identify how the physical injuries were a significant factor in the development of the psychological condition. It is always important that your psychiatrist or psychologist describes the reasons for his or her opinion.

What should I expect while WorkSafeBC is deciding on my claim?

WorkSafeBC will look at all areas of both your personal and work life. Be prepared for detailed questions about your personal life and relationships, as well as questions about your medical and psychological history.

In addition, keep in mind that your employer has the right to appeal a decision or participate in your appeal, and once an appeal is begun, the employer has the right to full disclosure of the information on your WorkSafeBC claim.

The decision about your claim will follow the usual WorkSafeBC procedure for personal injury claims. However, because psychological claims are complicated, there may be delays in getting a decision.

What benefits will I receive if my claim for a psychological condition or mental disorder is accepted?

WorkSafeBC may provide critical incident intervention or health care benefits to cover the cost of medical and psychological treatment. WorkSafeBC may also pay temporary wage loss benefits if you have provided medical and psychological evidence that you are unable to work because of your condition. You may receive help finding suitable work if your psychological condition requires you to change jobs. If you have an accepted permanent psychological disability, WorkSafeBC will consider a permanent disability award.

What do I do if my condition recurs or worsens after WorkSafeBC has closed my claim?

If your accepted condition recurs or worsens, WorkSafeBC may re-open your claim. WorkSafeBC may provide health care, temporary disability benefits, vocational assistance benefits or reassess your permanent disability award.

For more information please see the Factsheet on *Reopening*.

What if I believe that my psychological condition is related to another injury accepted by WorkSafeBC?

If WorkSafeBC did not previously deny that your psychological condition is related to another condition accepted under a claim, you may ask for a decision on whether the psychological condition developed as a consequence of the other injury or condition.

COMPENSATION FOR PSYCHOLOGICAL CONDITIONS AND MENTAL DISORDERS

What if I believe that my mental disorder relates to a previous work situation?

It may also be possible to have a mental disorder accepted if it was a reaction to a traumatic event or if it was predominantly a consequence of a previous work situation, if it has never been decided by WorkSafeBC before. You will still need a psychological diagnosis and opinion as discussed. Please note that any claim for compensation must be filed within one year (See our Factsheet: *Late Application for Workers' Compensation*).

If WorkSafeBC denied my claim for mental stress under previous law and policy, is it possible to have that decision changed?

Under the law and policy in effect prior to June 30, 2002, WorkSafeBC would have been very unlikely to accept a claim for mental stress. The law and policy described in this sheet has been effect since July 1, 2012. Stress caused by specific work activities, by the labour relations atmosphere, or by the general nature of your employment was not considered compensable.

Under the law and policy in effect from June 30, 2002 to June 30, 2012, WorkSafeBC would allow mental stress or PTSD claims in very limited circumstances. The mental stress condition could only be accepted if it was found to have arisen as a result of an acute, or immediate, reaction to a traumatic event. "Traumatic events" were required to be severely emotionally disturbing, including such things as receiving a death threat or witnessing a murder.

You may have had your claim denied under previous law and policy when that same claim would be accepted today. If your denial was relatively recent and you have a Review or Appeal in process, your Review or Appeal will be decided under the new law and policy. However, if you did not seek a Review or file an Appeal when you were within time to do so, it is unlikely that you will be able to change that decision now. You would have to seek and be granted an Extension of Time (to either review or appeal). You must request this in a letter which explains the special reason or reasons why your appeal was late, and why it would be unjust not to grant your request for an extension. The simple fact that you would have been unlikely to be successful under the old legislation is unlikely to be a sufficient "special reason".

If your claim was already denied by the Workers' Compensation Appeal Tribunal, that decision is final and binding.

Is there anything else I should do if I feel I have been a victim of harassment?

Other resources include the RCMP, the Employment Standards Branch of the Ministry of Labour, a union representative, or a lawyer.

COMPENSATION FOR PSYCHOLOGICAL CONDITIONS AND MENTAL DISORDERS

What if I disagree with a WorkSafeBC decision?

If you do not agree with WorkSafeBC's decision, you have the right to request a review. You must request a review within **90 days**. If you disagree with the Review Division decision you have **30 days** to file an appeal to the Workers' Compensation Appeal Tribunal.