

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.

Updated: March 2018

## OCCUPATIONAL DISEASES: AN INTRODUCTION

### What is an occupational disease?

Workers' compensation does not extend to all diseases, but rather only to those are due to the employment. WorkSafeBC designates or recognizes certain diseases as occupational diseases based on medical and scientific evidence and on its experience in dealing with these diseases. For example, if you suffer a loss of hearing as a result of your exposure to loud industrial machinery for long periods, your hearing loss is an occupational disease. An activity-related soft tissue disorder that results from performing repetitive physical tasks or exposure to mechanical vibrations at work is also an occupational disease. A miner exposed to silica dusts at work may develop the lung disease, silicosis, as an occupational disease.

An occupational disease may also be caused by exposure to toxic materials in the workplace. For example, a farm worker suffers an occupational disease if they are poisoned through pesticide exposure at work. An industrial plant worker exposed to toxic chemicals such as lead, mercury, cadmium, or manganese may also develop an occupational disease if his or her health problems exist because of that exposure.

If you contract a contagious disease because of the nature of your work, this may also be considered an occupational disease. For example, if you are a health care worker and you contract a disease such as hepatitis B while caring for others with the disease, then your infection may be classified as an occupational disease.

### Can I get workers' compensation if I have an occupational disease?

Under the *Workers Compensation Act*, compensation is payable for an occupational disease that is due to the nature of the employment. This does not mean that employment-related factors must be the sole cause or even the main factor. Compensation should be paid where employment-related factors significantly contribute to causing or aggravating an occupational disease. If your disease is due to the nature of your employment but you have not lost time from work, you can claim for medical costs and treatment for the occupational disease.

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WorkSafeBC may pay wage loss benefits, give you vocational rehabilitation assistance, and a permanent disability benefit if:

- Your disease is due to the nature of your employment; and
- You are unable to earn your full wages as a result of the disease.

There are exceptions for certain diseases. With non-traumatic hearing loss, asbestosis, silicosis and pneumoconiosis, you do not have to be disabled from earning full wages from your job in order to get benefits other than health care.

If a worker dies of an occupational disease, then the worker's dependent spouse or children may claim workers' compensation.

### **Do you have a specific disease or disorder?**

In order to answer this question, WorkSafeBC must receive a doctor's diagnosis confirming that you have the disease or disorder.

Getting a diagnosis is not always simple. Some occupational diseases may be difficult to diagnose because they require proof that a particular substance was of causative significance and the substance does not remain in the body (e.g., poisoning by organic solvents). Sometimes there is not enough medical or scientific evidence to arrive at a diagnosis. This makes it difficult to get a claim accepted. Be sure to speak to your doctor about your symptoms. Additional tests or information may increase the odds of being accurately diagnosed.

### **Is your disease or disorder caused by work?**

WorkSafeBC must establish whether or not your disease is occupational, that is, whether your work activities or circumstances were of causative significance in the development of the disease.

WorkSafeBC divides occupational diseases into three groups:

1. Diseases listed in Schedule 1 of the *Workers Compensation Act*;
2. Diseases recognized by Regulation as occupational; and
3. Diseases not previously recognized as occupational (individual cases).

The group your disease is in determines how WorkSafeBC decides your claim. The three groups are explained as follows.

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## *1. Diseases listed in Schedule 1*

In the *Workers Compensation Act* there is a list, called Schedule 1, which names various types of occupational diseases that WorkSafeBC accepts as being caused by doing certain kinds of work. Schedule 1 lists, beside each disease, the type of industry or work process that WorkSafeBC acknowledges as causing the disease. For example, Schedule 1 recognizes cancer of the larynx as an occupational disease if you work in an environment where you are exposed to airborne asbestos dust.

WorkSafeBC will need a medical diagnosis of your disease. After receiving the opinion of your doctor or specialist, WorkSafeBC will then gather information from you and your employer about the nature of your work to find out if it fits the description in Schedule 1.

If you have a disease listed in Schedule 1 and your work situation fits the description in Schedule 1, then WorkSafeBC will presume that your disease is occupational, unless proven otherwise.

If you have a disease or disorder listed in Schedule 1, but your work situation is not the same as what is listed in Schedule 1, you can still make a claim for compensation. However, WorkSafeBC will not presume your disease is occupational. You need a written statement from your doctor or specialist saying that your work was a significant cause of the disease or disorder, and explaining why they think so.

If your claim has been denied because your work does not fit the kind of work listed in Schedule 1, you may have good reasons for an appeal if your doctor can provide evidence that your job was most likely a significant cause of your disease.

## *2. Diseases recognized by Regulation as occupational*

There are other specific diseases or disorders that WorkSafeBC recognizes as sometimes caused by work, but that cannot be conclusively related to a particular industry or work process.

If you have one of these diseases or disorders, WorkSafeBC **does not presume** that your disability is caused by work (as with Schedule B diseases), but it does recognize that it is often **medically likely**. You will need to show how your work was of causative significance for the development of the disease. You should obtain a written opinion from your doctor or specialist stating that your work was likely a significant cause of your disease or disorder, and explaining their reasons for saying so.

## *3. Diseases not previously recognized as occupational (individual cases)*

If you have a disease not listed in Schedule 1 or recognized by regulation, you can still file a claim. WorkSafeBC will decide your case on an individual basis, based on information from you, your employer, and other sources (including scientific studies about occupational diseases or your particular disease).

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You will need to obtain a written opinion from your doctor or specialist stating that your disease is due to your work and outlining their reasons for that opinion.

If satisfied that the chances are at least 50 percent that you suffer from an occupational disease due to your work, WorkSafeBC will accept your claim.

### **Who makes WorkSafeBC decisions about claims for occupational diseases?**

A special unit called Occupational Disease Services (ODS) at WorkSafeBC makes most decisions about claims for occupational diseases. ODS is centralized because of the need for staff to have access to specialized training, resources, and medical advice.

A WorkSafeBC officer may come to your workplace to investigate before making a decision.

### **When should compensation for an occupational disease start?**

Usually, WorkSafeBC treats the date on which you are unable to earn your full wage as the start of your disability or as "the date of injury", where the law or work policy refers to that concept. That date is the one from which your compensation for lost wages or a permanent partial disability benefit starts. You can get health care benefits even if you are still able to earn your full wages.

### **Can I get vocational rehabilitation if I have an occupational disease?**

If your claim for an occupational disease is accepted and you are unable to return to your regular job because of your occupational disease, you may be able to get occupational assistance from a Vocational Rehabilitation Consultant to find suitable work.

### **What can I do if WorkSafeBC denies my claim for an occupational disease?**

You should discuss the cause of your occupational disease with your doctor or specialist. If your doctor thinks your work was of causative significance for your condition, you will need:

- a diagnosis of a specific occupational disease found in Schedule 1 or recognized by regulation, or a clear diagnosis and a very detailed report about how your disease relates to your work; and
- a detailed account of any physical activities, as well as exposures to chemical or infectious substances, that you experience at work that are relevant to your disease.

### **What if I disagree with a decision?**

If you do not agree with WorkSafeBC's decision, you have the right to request a review. You must file your request for a within **90 days** of the date of the decision. If you disagree with the Review Division

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decision, you have **30 days** from the date of the decision to file an appeal to the Workers' Compensation Appeal Tribunal.