



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: August 2018

RESIPRATORY ILLNESSES

Respiratory illness can be accepted by WorkSafeBC as injury or occupational disease. Please read the factsheet *Occupational Diseases: An Introduction* for basic information about workers' compensation for occupational diseases.

Some of the more common respiratory illnesses are as follows.

Acute respiratory illness

An acute respiratory illness is damage to or malfunction of the respiratory system, including throat and lungs, due to a short-term exposure to an airborne irritant.

According to Schedule B of the *Workers Compensation Act*, WorkSafeBC will presume that certain acute respiratory illnesses are due to that workplace exposure **if** a worker is exposed to a high concentration of fumes, mists, gases, vapours or dusts of substances which have irritating or inflammatory properties. These presumptive conditions are acute upper respiratory inflammation, pharyngitis, laryngitis, tracheitis, bronchitis, pneumonitis, or pulmonary edema. However allergic reactions, reactions to environmental tobacco smoke, and the effect of an infection are excluded from the presumption.

In order for WorkSafeBC to presume that the workplace exposure caused the acute respiratory illness, symptoms have to occur within 48 hours of the exposure (unless the irritating substance was nitrogen dioxide or phosgene, in which case the symptoms must occur within 72 hours). Symptoms can range from a mild burning in the eyes, nose and throat, to respiratory distress or dyspnea (shortness of breath).

WorkSafeBC will determine if the substance you were exposed to was in a "high concentration", based on the particulars of your case, including the medical and scientific information available on the substance, as well as information regarding you and your workplace.

For more information:

Website: gov.bc.ca/workersadvisers



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

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Any claim for a **long term or permanent** respiratory illness that you develop as a result of your exposure will usually be decided by WorkSafeBC without the benefit of the presumption in Schedule B. This means that there must be evidence to establish that your long-term illness is at least as likely as not to be related to the exposure. You can improve your chances of having your claim accepted if you obtain:

- a formal diagnosis for your respiratory illness, and
- medical confirmation that the exposure you had was consistent with the development of that illness.

Asbestos exposure

Under Schedule B, WorkSafeBC will presume that your asbestosis is work-related if you were exposed to airborne asbestos dust at work. You do not need to have worked directly with asbestos. For example, you may have worked at a job site where there was exposure to crumbly asbestos insulation.

If you have not been diagnosed with asbestosis, but have been diagnosed with diffuse pleural thickening (not just in one specific location), WorkSafeBC will presume the pleural thickening is an occupational respiratory disease if you have been exposed to airborne asbestos dust, and where there is no history of infection, injury or disease capable of causing pleural thickening (such as collagen disease, chronic uremia, drug-induced fibrosis or tuberculosis).

Under Schedule B, WorkSafeBC also presumes that benign pleural effusions are occupational respiratory diseases, if you have been exposed to airborne asbestos dust, and where there is no history of infection, injury or disease capable of causing benign pleural effusions (such as collagen disease, chronic uremia or tuberculosis).

Also, Schedule B provides that several types of cancer are presumed to be work-related if you have been exposed to airborne asbestos dust. These are primary carcinoma of the lung, mesothelioma, carcinoma of the larynx or pharynx, and gastro-intestinal cancer.

Asthma

Under Schedule B, WorkSafeBC will presume that your asthma is due to your work if your work has exposed you to one of the following:

- Western red cedar dust,
- Isocyanate vapours or gases, or
- Dusts or fumes of other chemicals or organic materials known to cause asthma.

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WorkSafeBC acknowledges that a wide variety of substances, to which people can be exposed both at work and away from work, can cause asthma in previously-unaffected people. To determine whether you are affected by any of these substances, WorkSafeBC will attempt to list any such substances that you have been exposed to at work, determine how and when you are or were exposed, and attempt to see if your symptoms correspond with the exposure periods. WorkSafeBC may also order a range of lung and skin sensitivity tests on you to determine if you react to any particular substance.

While WorkSafeBC accepts that a wide variety of substances can trigger asthmatic symptoms in people who already have asthma, it will only accept your claim if there has been occupational exposure that has significantly aggravated, enhanced or accelerated your pre-existing asthma.

You may receive wage loss, health care, and Vocational Rehabilitation benefits, as you normally would with any other claim. For more information on these benefits, please refer to relevant Factsheets from the Workers' Advisers Office.

You can also receive a permanent disability award for your asthma, if an exposure at work caused you to develop that disease and WorkSafeBC is satisfied that it is a permanent condition. If your pre-existing asthma was permanently aggravated, enhanced or accelerated by a workplace exposure, you can get a permanent disability award for the portion of your asthma that can be related to the workplace exposure.

If you develop asthma due to a workplace exposure and your symptoms resolve, you may still receive a permanent disability award if you are left with a permanent allergy or sensitivity and, as a result, must avoid certain workplaces where the substance you are allergic or sensitive to is present (but not at levels that would irritate anyone, whether or not they had the same allergy or sensitivity). You may also be entitled to Vocational Rehabilitation benefits to assist you to find alternative work in which you are not exposed to these substances. WorkSafeBC will determine if you must avoid certain workplaces depending on medical evidence, including the nature of your sensitivity and the risk that you will have an asthmatic reaction if you should come in contact with the substance that you are allergic or sensitive to.

Pneumoconiosis

WorkSafeBC also recognizes pneumoconiosis (lung diseases that result from the deposition of particulate matter in the lungs) as occupational diseases under Schedule B.

If your pneumoconiosis results from exposure to something other than a coal, beryllium, tungsten carbide, aluminum dust, or any other dust known to cause fibrosis of the lungs, you will not receive the benefit of the presumption. In such cases, the medical evidence will have to show that your condition was at least as likely as not resulting from the particulate exposure at work.

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Furthermore, in all cases, in order to qualify for benefits, section 6 of the *Workers Compensation Act* states that you must have:

- Lived in British Columbia for at least three years before ore becoming disabled by pneumoconiosis, or had at least two thirds of your exposure to the material that caused your pneumoconiosis in British Columbia;
- Been free from pneumoconiosis and tuberculosis before first being exposed to the material that caused your pneumoconiosis in British Columbia; and
- Been exposed to the material that caused your pneumoconiosis for at least three years before becoming disabled, unless all of the worker's exposure to silica dust has been in British Columbia.

Respiratory illness resulting from breathing in a hot substance

If you suffered injury to your respiratory system by breathing in a hot substance (steam, hot ash, etc.), WorkSafeBC will decide your claim based on its policies regarding personal injury, as it would for any other claim involving heat burns.

Silica dust

Under Schedule B, WorkSafeBC will presume that silicosis (fibrosis of the lungs caused by inhaling silica dust) resulted from your work if you have been exposed to airborne silica dust. Commonly, mining related industries involve that kind of exposure.

Most workers in mining related occupations can be able to work and still claim compensation for silicosis, although they need to establish that they have some noticeable effect of the silicosis. However, section 6 of the *Workers Compensation Act* states that in order to qualify, these workers must have:

- Lived in British Columbia for at least three years before becoming disabled by silicosis, or had at least two thirds of his or her exposure to silica dust in British Columbia;
- Been free from silicosis and tuberculosis before first being exposed to silica dust in the mining sector in British Columbia; and
- Been exposed to silica dust in the mining sector for at least three years before becoming disabled, unless all of the worker's exposure to silica dust has been in British Columbia.

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In determining the date of disability, if the worker has been able to work and there is no better basis for determining a date, WorkSafeBC may use the date of the medical report identifying the worker as having silicosis with some noticeable effect.

Once these conditions are satisfied, WorkSafeBC will pay the entire benefit due to the worker, regardless of the amount of exposure the worker had outside of British Columbia before coming to work within the province.

What if I have been exposed to these airborne irritants, but the exposure does not meet the requirements of Schedule B?

Your claim may be accepted as an injury or occupational disease. However, there will be no presumption in your favour, and the evidence must establish that it is at least as likely as not that your respiratory illness is due to the nature of your employment. Be sure to have your illness diagnosed, and obtain medical information stating that the exposure you had was consistent with the development of that illness.

What if I have been exposed to airborne irritants not listed in Schedule B?

Your claim may be accepted as an injury or occupational disease. However, there will be no presumption in your favour, and the evidence must establish that it is at least as likely as not that your respiratory illness is due to the nature of your employment. Be sure to have your illness diagnosed, and obtain medical information stating that the exposure you had was consistent with the development of that illness.

What if a worker with an employment-related lung illness dies as a result of a heart or lung ailment or impairment?

If a worker under the age of 70 years old has an occupational disease that affects lung function, and that worker dies of a non-traumatic heart or lung ailment or impairment, then WorkSafeBC must presume that the worker died as a result of the occupational disease. In that case, the worker's dependants can claim benefits from WorkSafeBC.

In deciding whether the worker suffered from "an occupational disease that impacts lung function," WorkSafeBC is not limited by a previous decision to deny a claim. Instead, a new decision must be made, typically based on additional evidence, such as an autopsy report.

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If the worker was 70 years-old or older at the time of his or her death, or does not otherwise qualify for the presumption laid out above, compensation may still be paid to the worker's dependants if the medical evidence shows that it is at least as likely as not that the occupational disease was a significant cause in the worker's death. This medical evidence will likely include a diagnosis of an occupational disease, a specific cause of death, and a clear relationship between the two that shows that the disease was a significant cause of death.

What if I disagree with a decision?

If you do not agree with a WorkSafeBC decision, you have the right to request a review. You must file your request 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.



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