

Workers' Compensation for Chronic Mental Stress

On January 1, 2018 amendments to the *Workplace Safety and Insurance Act* covering chronic mental stress came into effect. As a result of those amendments, members may be entitled to benefits from the Workplace Safety and Insurance Board for mental health injuries caused by a “substantial work-related stressor.”

Chronic mental stress is distinct from the other types of mental health injuries that are covered by the WSIB. Traumatic mental stress and mental health conditions that result from work-related injuries or accidents are governed by different WSIB policies and have different criteria for entitlement. The requirements for entitlement to chronic mental stress are set out in WSIB Operational Policy Document No.15-03-14, “Chronic Mental Stress.” The most important aspects of that policy are discussed below.

Chronic mental stress

Chronic mental stress is a mental health injury caused by a “substantial work-related stressor.” A “work-related stressor” may include multiple distinct work-related stressors or a series of related work-related stressors. For a stressor to be “substantial”, it must be “excessive in intensity and/or duration in comparison to the normal pressures and tensions experienced by workers in similar circumstances.”

It is not clear what it means for a stressor to be “excessive in intensity or duration.” The Chronic Mental Stress policy does not define “excessive.” The policy gives only two examples of substantial work-related stressors:

- workplace harassment; and
- jobs with a high degree of routine stress where the person had responsibility for matters of life and death and/or routinely worked in extremely dangerous circumstances.

These two examples suggest that there is a high threshold for something to be considered a substantial work-related stressor.

DSM diagnosis required

To get entitlement for chronic mental stress, one must have a diagnosis under the criteria set out in the *Diagnostic and Statistical Manual of Mental Disorders* (DSM). The DSM is the authoritative guide to the classification and diagnosis of mental disorders. Diagnoses that may support claims of chronic mental stress include:

- acute stress disorder;
- posttraumatic stress disorder;
- adjustment disorder; or
- an anxiety or depressive disorder.

Members experiencing work-related mental stress should therefore make sure that they seek mental health treatment as soon as possible. Taking prompt steps to get treatment will be particularly important for members who live in regions with limited access to mental health services.

The work-related stressor must be the “predominant” cause

For entitlement under the Chronic Mental Stress policy, the work-related stressor must be the “predominant” cause of the mental health condition. A predominant cause is a main or primary cause – it may be outweighed by the combined effect of other factors, but it must be the most significant factor.

The predominant cause standard is stricter than that required for WSIB entitlement for any other type of injury. For any other work-related condition, the work-related factors need only be a contributing factor. Because of this stricter standard for causation, it is more difficult to get entitlement for chronic mental stress than other work-related injuries.

Exclusions

There is no entitlement for chronic mental stress caused by two common sources of stress:

- interpersonal conflicts; and
- employer decisions or actions related to employment.

The WSIB considers interpersonal conflict between workers and their co-workers, supervisors, or customers to be a “typical feature of normal employment.” Such conflicts are not considered to be substantial stressors unless they amount to harassment or other egregious and abusive conduct. There is no entitlement for stress caused by employer decisions or actions relating to employment. This includes employment-related managerial decisions like changing the work to be performed, changing the working conditions, or disciplining employees.

Members should be aware that WSIB claims for chronic mental stress caused by interpersonal conflicts or school board employment-related decisions will be denied.

Reporting chronic mental stress injuries

To report a chronic mental stress injury to the WSIB, one must complete a Form 6. This is the same form used to report all injuries to the WSIB. It is not specifically designed for mental stress claims and some of the questions and answer options do not apply neatly to mental health injuries. Members should do their best to fill out the Form 6 and clarify their answers as necessary in the allotted space at the end of the form for additional information.

Members seeking entitlement for chronic mental stress will also be required to identify the specific events that caused their mental stress. Members should identify these events in the “Additional Information” section of the Form 6 and consider attaching any relevant documentation.

For more information, access A Member’s Guide to the Workplace Safety and Insurance board at www.etfo.ca/supportingmembers/employees/pages/wsib.aspx

If you have further questions or concerns, contact the WSIB Counsellor-on-duty at 1-888-838-3836 or 416-962-3836.

JS:MMC