

WORK-RELATED STRESS

- **Traumatic Mental Stress**
- **Chronic Mental Stress**
- **Post-traumatic Stress Disorder in First Responders and Other Designated Workers**

A worker may be entitled to benefits for work-related mental stress arising out of and in the course of employment.

However, a worker is not entitled to benefits for work-related mental stress caused by an employer's decisions or actions that are part of the employment functions, such as: changes in working hours or productivity expectations, terminations, demotions, and transfers.

Overview:

Filing a Claim

You must file a claim with the Workplace Safety and Insurance Board (WSIB) as soon as possible, but no later than six months from the date you became aware the condition was related to work or a work incident.

Diagnostic Medical Requirement

Before any work-related stress claim is adjudicated, there must be a diagnosis in accordance with the Diagnostic and Statistical Manual for Mental Disorders (DSM) from the appropriate Health Care Professional.

Sometimes a work-related stress claim may be denied due to pre-existing or non-work related psychological factors.

Return to Work

Regardless of the type of injury/illness, a worker has an obligation to participate in the return to work process. The employer will likely initiate a return to work offer outlining their intention to accommodate your medical condition. The return to work offer may be communicated verbally and/or in writing. For more information, please refer to WSI Fact Sheet # 4 – Work Reintegration.

Alternative Income Sources & Accommodation

In the interim, if you have been denied benefits from WSIB, and you are medically unable to return to work, you may be able to access your Short Term and/or Long Term Income Benefits if applicable. If you do not have benefits or have exhausted your benefits, you may qualify for Employment Insurance Sickness Benefits or Social Assistance benefits. However, if you are able to return to alternate work, please contact your Local OPSEU Staff Representative for assistance.

If Your Claim is Denied

You have a right to appeal a negative WSIB decision. You must submit an Intent to Object (ITO) form to WSIB no later than six months from the date of the written decision. For more information, please refer to WSI Fact Sheet # 2 – Appealing a Workplace Safety and Insurance Decision.

Contact Us

If you wish to dispute a WSIB decision or require assistance, contact OPSEU's Pension and Benefits Unit at pensionsandbenefits@opseu.org or at 1-800- 268-7376, extension 5561.

This publication contains general information and is intended as a reference only. It is not intended as a substitute for independent legal advice regarding your particular situation.

Traumatic Mental Stress (TMS) (for accidents on or after January 1, 2018)

A worker is entitled to benefits for Traumatic Mental Stress (TMS) arising out of and in the course of employment. To be entitled to benefits for mental stress related to one or more traumatic events, it must be established the traumatic event/s occurred. In most cases, the traumatic event will be sudden and unexpected. In all cases, the event must arise out of and occur in the course of employment and be:

- clearly and precisely identifiable (Who, What, Where, When and How), AND
- objectively traumatic.

A worker must have suffered or witnessed the work-related traumatic events first hand, or heard the work-related traumatic events first hand through direct contact with the traumatized individuals.

In addition, there must be a diagnosis according to the Diagnostic and Statistical Manual of Mental Disorders (DSM) which may include, but is not limited to:

- acute stress disorder
- post-traumatic stress disorder
- adjustment disorder
- an anxiety or depressive disorder

Cumulative Effect

A worker may be exposed to multiple traumatic events over time. A final reaction to a series of traumatic events is considered to be a cumulative effect. A worker may be entitled to benefits because of the cumulative effect, even if the most recent event is not the most traumatic.

Exclusions

A worker is not entitled to benefits for TMS caused by decisions or actions of the worker's employer that are related to the worker's employment, including a decision to change the work performed or the working conditions, to discipline the worker or to terminate the employment.

However, a worker may be entitled to benefits for TMS due to an employer's decisions or actions that are not part of the employment functions such as violence, threats or conduct that a **reasonable** person would perceive as shocking or abusive.

Chronic Mental Stress (for accidents on or after January 1, 2018)

A worker is entitled to benefits for Chronic Mental Stress arising out of and in the course of employment. Work-related Chronic Mental Stress is a diagnosable mental disorder that has been predominantly caused by a **substantial** work-related stressor or a series of stressors.

A work-related stressor would generally be considered substantial if it is excessive in duration and/or intensity in comparison to the **normal** pressures and tensions of the job. This includes being subjected to bullying or harassment at work that is known (or ought to be known) to be unwelcome.

Consistent exposure to a high level of routine stress over time may be considered a substantial work-related stressor only in jobs with a high degree of routine stress. Routine high level stress can be found in jobs that typically have responsibility over matters involving life and death and/or involve routine work in extremely dangerous situations.

In order to be entitled to benefits for work-related Chronic Mental Stress, all the following conditions must be met:

1. A regulated health care professional has provided a diagnosis based on the Diagnostic and Statistical Manual of Mental Disorders (DSM). In complex Chronic Mental Stress cases, WSIB may require a diagnosis from a Psychiatrist or Psychologist
2. The worker has experienced **substantial** work-related stressor, like workplace bullying or harassment
3. The work-related stressor was the **predominant** cause of the appropriately diagnosed mental stress injury.

Exclusions

A worker is not entitled to benefits for Chronic Mental Stress caused by an employer's decisions or actions that are part of the employment functions, such as: changes in working hours or productivity expectations, terminations, demotions, and transfers.

Interpersonal conflicts between workers and their supervisors, co-workers or customers are not generally considered to be a substantial work-related stressor, unless the conflict amounts to workplace harassment or results in conduct that a **reasonable** person would perceive as shocking or abusive.

Posttraumatic Stress Disorder (PTSD) in First Responders and Other Designated Workers

If a first responder or other designated worker is diagnosed with Posttraumatic Stress Disorder (PTSD) and meets specific employment and diagnostic criteria, a first responder or other designated worker's PTSD is **presumed** to have arisen out of and in the course of employment, unless the contrary is shown.

Transitional Claims

There is special criteria for pending claims prior to April 6, 2016. Please refer to WSIB Operational Policy Document 15-03-13.

Who is Covered?

Please refer to Section 14 of the *Workplace Safety and Insurance Act* for covered occupations. On May 8, 2018 Bill 31 amended Section 14 of the WSIA to expand the presumption of work relatedness for PTSD to add six additional categories of workers: including nurses (which directly provide patient care), provincial bailiffs, and probation officers.

Diagnosis and Rebutting the Presumption

The diagnosis of PTSD must be made by a Psychiatrist or Psychologist and must be consistent with the description in the Diagnostic and Statistical Manual for Mental Disorders, Fifth Edition (DSM-5). Your employer has the right to challenge the presumption if they believe they can demonstrate the employment was not a **significant contributing factor** in causing PTSD.

Exclusions

A first responder or other designated worker is not entitled to benefits for PTSD caused by decisions or actions of the worker's employer relating to the worker's employment, including a decision to change the work performed or the working conditions, to discipline the worker or to terminate the employment.

However, a worker may be entitled to benefits for PTSD due to an employer's decisions or actions that are not part of the employment functions such as violence, threats or threats of violence.

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March 2019