



POLICY

NUMBER: 3.3.5R

Effective Date: November 19, 2007

Topic: Eligibility Criteria and Compensation related to chronic pain

Date Issued: October 1, 2008

Section: Short-term and Long-term benefits

Date Approved by Board of Directors: September 18th, 2008

Subsection: Compensation related to chronic pain

Preamble

The *Chronic Pain Regulations* provide a high level framework and general eligibility criteria for compensation related to chronic pain.

Policy Statement

Subject to the limitations set out in this Policy and in other Board policies, the Board shall use an individualized assessment based on Chapter 18 of the American Medical Association “Guides to the Evaluation of Permanent Impairment - Fifth Edition”, as modified by the *Chronic Pain Regulations* and this policy, to determine the existence and degree of a worker’s pain-related impairment.

Definitions

1. “Chronic Pain,” as defined in section 10A, means pain:
 - (a) continuing beyond the normal recovery time for the type of personal injury that precipitated, triggered or otherwise predated the pain; or
 - (b) disproportionate to the type of personal injury that precipitated, triggered, or otherwise predated the pain;and includes chronic pain syndrome, fibromyalgia, myofascial pain syndrome, and all other like or related conditions, but does not include pain supported by significant, objective, physical findings at the site of the injury which indicate the injury has not healed.
2. “Individualized assessment” means an assessment consisting of a medical examination and/or a file review depending on which approach, in the opinion of the Board, is most appropriate.
3. “Normal recovery time” means an estimate determined by the Board of the normal time required for workers with a specific type of personal injury to return to work after the injury.
4. “Permanent impairment” means impairment associated with a permanent medical impairment and/or a pain-related impairment.

5. “Permanent medical impairment” means any impairment that has become static or stabilized and that is unlikely to improve despite further medical treatment. A permanent medical impairment also accounts for the usual pain that accompanies the type of injury and resulting impairment.
6. “Usual pain” means all pain except for chronic pain as defined by the *Act*, *Chronic Pain Regulations* and this policy.
7. “Pain -related impairment” means impairment associated with chronic pain.
8. “Slight” pain-related impairment means a pain-related impairment that has, in the opinion of the Board, increased the impact of the worker’s original compensable injury mildly to moderately as described in Table 18-3 of Chapter 18 of the American Medical Association “Guides to the Evaluation of Permanent Impairment-Fifth Edition.” In determining the appropriate class of impairment, the WCB will use a Pain-Related Impairment Assessment Tool as outlined in Appendix A.
9. “Substantial” pain-related impairment means a pain-related impairment that has, in the opinion of the Board, increased the impact of the worker’s original compensable injury moderate severely to severely as described in Table 18-3 of Chapter 18 of the American Medical Association “Guides to the Evaluation of Permanent Impairment-Fifth Edition”. In determining the appropriate class of impairment, the WCB will use a Pain-Related Impairment Assessment Tool as outlined in Appendix A.
10. “Original compensable injury” means a personal injury by accident arising out of and in the course of employment
 - ii. that the Board has accepted or may accept as compensable under the *Act*; and
 - iii. that pre-dates the commencement of the worker’s chronic pain.
11. “Unratable pain”, as contemplated by the American Medical Association “Guides to the Evaluation of Permanent Impairment-Fifth Edition,” means controversial and ambiguous pain syndromes that cannot be related to a well-established medical condition and are not widely accepted by physicians as having a well-defined pathophysiological basis. Unratable pain includes chronic pain syndrome, fibromyalgia and myofascial pain syndrome.

Eligibility

12. A worker is entitled to an assessment to determine eligibility for benefits and services outlined in the *Chronic Pain Regulations* where the medical evidence establishes that on or after April 17, 1985, the worker had chronic pain that is causally connected to an original compensable injury.
13. A pain-related impairment will be assessed using a modified approach to Chapter 18 of the American Medical Association “Guides to the Evaluation of Permanent Impairment-Fifth Edition”. In determining the appropriate class of impairment, the WCB will use a Pain-Related Impairment Assessment Tool as outlined in Appendix A. In cases where a worker’s pain is considered “unratable”, the worker will be assessed using the approach

described in this policy. Considering the overall assessment findings, the Board Medical Adviser will make a clinical judgment as to the recommended pain-related impairment in accordance with the rating schedule outlined in paragraph #14.

14. Where a worker is found to have a pain-related impairment, the Board shall pay the worker a permanent benefit based upon a permanent impairment rating of 3% where the worker experiences a slight pain-related impairment or 6% where the worker experiences a substantial pain-related impairment.
15. Permanent impairment ratings are expressed as a percentage of total body impairment with one hundred percent (100%) being the maximum possible rating. Subject to paragraph #26, in the case of a pain-related impairment 6% is the maximum possible rating any one person can receive for chronic pain.
16. Where a worker's original compensable injury occurred before March 23, 1990, and the worker is found to have a pain-related impairment, the worker's permanent benefit will be calculated in accordance with sections 226 and 227 of the *Act* and the worker is not eligible to receive an Extended Earnings Replacement Benefit (EERB).
17. Where a worker's original compensable injury occurred on or after March 23, 1990 and the worker is found to have a pain-related impairment, the worker's permanent benefits will be calculated in accordance with sections 34-48 of the *Act* and the worker may be eligible to receive an EERB.
18. Subject to sections 34-48 and 229 of the *Act*, where a worker is eligible to receive a permanent benefit in accordance with this Policy, the Board will commence payment of the benefit from the date on which the Board determines the worker has a pain-related impairment.

Section 10D – AIEL Population

19. Where a worker with chronic pain has been awarded benefits in accordance with section 10D of the *Act*, the worker is entitled to an individualized assessment and where eligible a calculation of benefits in accordance with the *Chronic Pain Regulations* and Policy.
20. Subject to sections 226 and 227 of the *Act*, for periods in which a worker was in receipt of a Clinical Ratings Scale (CRS) pension for the original compensable injury, the worker is eligible to receive a benefit in accordance with this Policy commencing the date on which the Board determines the worker has a pain-related impairment.
21. With the coming into force of the current *Act*, where an Amended Interim Earnings Loss (AIEL) award was replaced by a CRS pension, the worker is eligible to receive a benefit in accordance with this policy commencing the date the CRS pension was reinstated.
22. For periods in which a worker, now in receipt of a section 10D award, was in receipt of an AIEL award, the Board shall compare the AIEL benefit including the pain-related impairment for chronic pain to the cumulative CRS pension including the pain-related impairment for chronic pain, and shall pay the worker which ever is greater until age 65.
23. Upon reaching the age of 65 years, a worker who was in receipt of an AIEL award shall receive an amount equivalent to the cumulative CRS pension, including the pain-related impairment for chronic pain.

Section 10E Population

24. Where a worker with chronic pain has been awarded benefits in accordance with section 10E of the *Act*, the worker is entitled to an individualized assessment and recalculation of benefits in accordance with the *Chronic Pain Regulations* and Policy.
25. Subject to sections 34 to 48 of the *Act*, where the recalculation results in a greater combined EERB/PIB benefit than that awarded under section 10E, the Board will pay the worker
- i. the recalculated award from the date the Board determines the worker has a pain-related impairment until the date section 10E benefits commenced; and
 - ii. the difference between the recalculated award and the section 10E benefits from the date the worker's section 10E benefits commenced until the coming into force of the *Chronic Pain Regulations*; and
 - iii. effective the date the *Chronic Pain Regulations* come into force, the recalculated award.
26. Subject to sections 34 to 48 of the *Act*, where the recalculation results in a lesser combined EERB/PIB benefit than that awarded under section 10E, the worker shall be entitled to:
- i. the recalculated award from the date the Board determines the worker has a pain-related impairment until the date section 10E benefits commenced; and
 - ii. effective the date the worker's section 10E benefits commenced, the section 10E award is continued.

Application










This Policy applies to all decisions made on or after November 18, 2007 as it relates to chronic pain. This Policy replaces Policy 3.3.5 issued on September 13, 2004 and effective September 10, 2004.

References

An Act to Amend Chapter 10 of the Acts of 1994-95, *the Workers' Compensation Act* (Chapter 1, Acts of 1999). *Chronic Pain Regulations*. Policy 2.4.7R and Policy 7.3.14.

Executive Corporate Secretary

<p>(5) Upon examination, does the worker demonstrate any limitations in their functional abilities due to their pain? ie range of motion</p>	<p>Worker appears to be able to perform with no difficulty and no modifications</p> <p style="text-align: right;">■</p>	<p>Worker has minimal or moderate difficulty performing them and is able to perform with reasonable modifications</p> <p style="text-align: right;">■</p>	<p>Worker has extreme difficulty performing them and is only able to perform with substantial modifications or assistance</p> <p style="text-align: right;">■</p>	
<p>Section B Activities of Daily Living Information Source: Worker's self report information (i.e. Impairment Impact Inventory Form (I³) or Activities of Daily Living questionnaire)</p>	<p>No Pain related impairment</p>	<p>Slight</p>	<p>Substantial</p>	<p><u>Medical Advisor's Comments</u></p>
<p>(1) Considering only information provided by the worker, what is the increased impact of pain on the following types of activities?</p>	<p>Overall, worker is able to perform with no difficulty and no modifications</p> <p style="text-align: right;">■</p>	<p>Overall, worker has minimal or moderate difficulty performing them and is able to perform with reasonable modifications</p> <p style="text-align: right;">■</p>	<p>Overall, worker has extreme difficulty performing them and is only able to perform with substantial modifications or assistance</p> <p style="text-align: right;">■</p>	
<p>Impact on Walking</p>				
<p>Impact on Standing</p>				
<p>Impact on Sitting</p>				
<p>Impact on Lifting</p>				
<p>Other: Household chores, dressing, bathing, eating, shopping, etc Impact on worker's socialization and recreation</p>				
<p>(2) What is the impact on the worker's sleep due to their pain? Determine both sleep interference & requirement for sleep aids.</p>	<p>No interference & no aids required</p> <p style="text-align: right;">■</p>	<p>Minor interference. Sleep aids required occasionally</p> <p style="text-align: right;">■</p>	<p>Major interference Regular use of sleep aids</p> <p style="text-align: right;">■</p>	
<p>(3) What is the impact on the worker's sexual activities due to their pain? <i>Use only if information is already available or volunteered, do not specifically request from worker.</i></p>	<p>No impact</p> <p style="text-align: right;">■</p>	<p>Workers has minimal or moderate difficulty performing</p> <p style="text-align: right;">■</p>	<p>Worker has extreme difficulty performing or not able to perform at all</p> <p style="text-align: right;">■</p>	
<p>(4) What is the impact on the worker's cognitive abilities due to their pain? i.e. Their ability to concentrate; to write letters, answer the phone, etc.</p>	<p>No impact</p> <p style="text-align: right;">■</p>	<p>Workers has minimal or moderate difficulty performing</p> <p style="text-align: right;">■</p>	<p>Worker has extreme difficulty performing or not able to perform at all</p> <p style="text-align: right;">■</p>	

Section C Emotional Distress Sources: psychiatrists, psychologists, worker, employer, GPs or specialists, physiotherapists, case workers.	No Pain related impairment	Slight	Substantial	<u>Medical Advisor's Comments</u>					
(1) Does the worker appear to be experiencing emotional distress due to pain? i.e. Depressed, frustrated, anxious, irritable, worried, afraid, stressed.	Worker's emotional state is not affected by pain 	Worker's emotional state is occasionally affected by pain 	Worker's emotional state is frequently affected by pain 						
Section D Functional Abilities Sources: health professional (i.e. Physiotherapist, Occupational Therapist, Kinesiologist)	No Pain related impairment	Slight	Substantial	<u>Medical Advisor's Comments</u>					
(1) Does the worker have the functional ability to perform activities such as: <table border="1" data-bbox="178 703 613 963"> <tr><td data-bbox="178 703 613 743">Range of Motion</td></tr> <tr><td data-bbox="178 743 613 784">Lifting, Pushing & Pulling</td></tr> <tr><td data-bbox="178 784 613 824">Hand Strength</td></tr> <tr><td data-bbox="178 824 613 865">Sitting & Standing</td></tr> <tr><td data-bbox="178 865 613 963">Gross Mobility (ie. Walking, carrying, climbing, balancing, stooping, kneeling, crouching, crawling, reaching, handling)</td></tr> </table>	Range of Motion	Lifting, Pushing & Pulling	Hand Strength	Sitting & Standing	Gross Mobility (ie. Walking, carrying, climbing, balancing, stooping, kneeling, crouching, crawling, reaching, handling)	Overall, worker is able to perform with no difficulty and no modifications 	Overall, worker has minimal or moderate difficulty performing them and is able to perform with reasonable modifications 	Overall, worker has extreme difficulty performing them and is only able to perform with substantial modifications or assistance 	
Range of Motion									
Lifting, Pushing & Pulling									
Hand Strength									
Sitting & Standing									
Gross Mobility (ie. Walking, carrying, climbing, balancing, stooping, kneeling, crouching, crawling, reaching, handling)									
(2) During the evaluation, what degree of pain does the worker exhibit? ie. What are the objective signs of pain, frequency of pain, need for unscheduled breaks b/c of pain, etc.	Worker is aware of pain but no handicap in the performance of activity 	Worker can tolerate pain but there is <u>some</u> to <u>marked</u> handicap in the performance of activity 	Worker cannot tolerate pain and it <u>precludes</u> them from performing the activity 						

SUBTOTAL:	No Pain related impairment	Slight	Substantial	
Subtotal the number of ratings in each PRI category to determine the pain picture.				The Board Medical Advisor performs a consistency check to determine if the tool presents a consistent picture of the impact pain is having on the original compensable injury before recommending the final PRI rating.

Section E
Final considerations

The Medical Adviser needs to consider if the information is presenting a consistent or conflicting picture of the impact pain is having on the worker's original compensable injury. In contemplating this issue, the Medical Adviser may want to consider the following:

Is worker's report of Activities of Daily Living ability consistent with Functional Abilities (FA) information?

Does FA information support pain related limitations identified during PRI exam?
Does FA information related to degree of pain support level of pain in medical section?

Is information about worker's pain level consistent with emotional distress level?

Does the worker exhibit any pain behaviors upon interview or examination? (As outlined in Chapter 18, Table 18-5)

In this section, the Board Medical Adviser should consider each of the questions included in Section E and provide responses to those question that are relevant to the claim at hand.

If information is conflicting, the Medical Adviser should:

- (1) Determine if there is any outstanding formal tests that could be performed; and/or
- (2) Perform a formal in-person PRI exam to gather more information.

If the Medical Adviser does not believe additional information is available or would help resolve the discrepancy, he/she will make a clinical judgment re the appropriate PRI rating.

Section F
Final PRI Determination

PRI Rating recommended: _____

Medical Advisor's final comments:

Section G
Summary of Permanent Impairment

Step #1	Document the worker's diagnosis
Step #2	Document the worker's PMI rating (if any)
Step #3	Is the worker's pain already compensated for under their existing PMI?
Step #4	Complete the PRI Assessment Tool
Step #5	Document the PRI Rating recommended
Step #6	<p><u>Document the worker's TOTAL IMPAIRMENT RATING:</u></p> <p>PMI = ____ PRI = ____</p> <p>(1) If PMI assigned under PMI Guidelines,</p> <p>PMI + PRI = ____ Total Impairment Rating</p> <p>(2) If PMI assigned under AMA 4th Guides,</p> <p>PMI combined with PRI = ____ Total Impairment Rating</p>

