

PROGRAM POLICY

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**Topic: General Entitlement –
Occupational Disease
Recognition**

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Section: Entitlement

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Subsection: Occupational Diseases

PREAMBLE

The purpose of this policy is to: 1) identify the basic requirements that must be met to be eligible to receive compensation benefits and services for an occupational disease; and 2) describe the typical questions, general principles and sections of the *Workers' Compensation Act* (the "Act") the *Workers' Compensation Board* (the "WCB") considers in determining whether a disease is an occupational disease.

DEFINITIONS

"accident" is defined in section 2(a) of the *Act* and includes

- (i) a wilful and intentional act, not being the act of the worker claiming compensation,
 - (ii) a chance event occasioned by a physical or natural cause, or
 - (iii) disablement, including occupational disease, arising out of and in the course of employment,
- but does not include stress other than an acute reaction to a traumatic event.

"occupational disease" is defined in Section 2(v) of the *Act* and means a disease arising out of and in the course of employment and resulting from causes or conditions

- (i) peculiar to or characteristic of a particular trade or occupation, or
 - (ii) peculiar to the particular employment,
- and includes silicosis and pneumoconiosis.

POLICY STATEMENT

1. Section 10 of the *Act*

The WCB uses section 10 of the *Act* and *Policy 1.3.7R, General Entitlement – Arising Out of and in the Course of Employment*, to adjudicate all claims for compensation involving a personal injury by accident, including an occupational disease.

2. Basic eligibility requirements

To be eligible to receive compensation benefits and services a worker must:

- a) be a worker as defined by Section 2(ae) of the *Act*;

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- b) meet the requirements for filing a claim for compensation in Section 83 of the *Act*;
- c) be caused a personal injury by accident arising out of and in the course of employment as required by Section 10 of the *Act*; and
- d) depending on the facts of the claim, meet any other applicable sections of the *Act*.

3. Occupational disease claim adjudication process

To accept a claim for compensation the WCB must determine whether the disease is an occupational disease that is arising out of and in the course of employment. To determine eligibility the WCB:

- (a) Evaluates medical and scientific literature to determine if the disease is resulting from causes or conditions peculiar to or characteristic of a particular trade or occupation; or peculiar to the particular employment; and
- (b) Gathers evidence specific to the claim to determine if the disease is arising out of and in the course of employment.

(a) Evaluating medical and scientific literature to determine if the disease is resulting from causes or conditions peculiar to or characteristic of a particular trade or occupation; or peculiar to the particular employment

The WCB considers medical and scientific literature to determine whether there is a causal connection between an exposure and a disease. The WCB *may* consider, among other things, the following questions:

- Is there a biologically plausible relationship between the reported exposure and the condition?
- Did the condition occur after a reasonable duration of exposure and latency based on current medical/scientific knowledge?
- Is the condition linked to a specific type of exposure as opposed to multiple exposures?
- Is there consistency across the literature on the relationship between the reported exposure and the condition?
- What is the incidence of the condition under study between those exposed and those not exposed?
- Does the employment expose the worker to a greater risk of this type of disease than the normal risk/incidence to the public at large?
- Is there an abnormal prevalence of the disease in people carrying out the same employment?

(b) Gathering evidence specific to the claim to determine if the disease is arising out of and in the course of employment

The WCB gathers evidence specific to the claim to determine whether the disease is arising out of and in the course of employment. The WCB *may* consider, among other things, the following:

- Where the exposure occurred
- Type, nature, duration and frequency of the worker's exposure
- Level of exposure
- Latency period specific to the disease
- Confirmation or diagnosis of a disease, and date of first diagnosis
- Medical history, specialists' reports, pathology reports
- Use/type of personal protective equipment to determine whether, and to what extent, the worker was protected from exposure

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- Evidence of an alternate cause(s) of the worker’s disease such as hobbies, medical conditions, exposures outside of employment, or exposures in employment not covered by the *Act*.

4. Weighing the evidence

The WCB considers the evidence gathered throughout the claim adjudication process, and weighs the evidence to determine whether (a) the disease is resulting from causes or conditions peculiar to or characteristic of a particular trade or occupation; or peculiar to the particular employment; and (b) whether the disease is arising out of and in the course of employment.

5. Compensation for occupational disease

Pursuant to section 12(1) of the *Act*, where an occupational disease is due to the nature of any employment to which Part I of the *Act* applies in which a worker was engaged, whether under one or more employments, and (a) the occupational disease results in loss of earnings or permanent impairment; or (b) the worker’s death is caused by the occupational disease, the worker is entitled to compensation as if the occupational disease was a personal injury by accident.

6. APPLICATION

This program policy applies to new claims for compensation made on or after February 11, 2010.

REFERENCES

Workers’ Compensation Act (Chapter 10, *Acts* of 1994-95), sections 2, 10, 12, and 83.