

Medical evidence of a causal connection between chronic pain and the original compensable injury was an issue included on the 2007/08 Policy Agenda as a result of various consultations with stakeholders where this issue was identified by some employers and WCB staff as a high priority issue requiring review.

In April 2008, considering stakeholder input, the Board of Directors decided that policy development was not the best way to provide clarity on this issue. To improve clarity and transparency, the WCB has developed a Fact Sheet that outlines the key steps in the “causal connection” decision making process.

FACT SHEET

Medical Evidence of a causal connection between chronic pain and the original compensable injury

Q: Where does the requirement for medical evidence of a causal connection come from?

A: Section 4 of the *Chronic Pain Regulations* states that a worker is entitled to an assessment to determine eligibility for benefits and services under the Regulations if the medical evidence establishes that on or after April 17, 1985, the worker had chronic pain that was causally connected to an original compensable injury.

Q: What is an original compensable injury?

A: Section 2(d) of the *Chronic Pain Regulations* defines “original compensable injury” as a personal injury by accident arising out of and in the course of employment that the Board has accepted or may accept as compensable under the *Workers’ Compensation Act* (the *Act*), and that pre-dates the commencement of the worker’s chronic pain.

This means that before the WCB determines whether there is a casual connection between chronic pain and an original compensable injury, there must be a personal injury by accident arising out of and in the course of employment.

Q: How is chronic pain defined?

A: According to section 10A of the *Act*, chronic pain 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 pain conditions, but does not include pain supported by significant, objective physical findings at the site of the injury which indicate that the injury has not healed.

Q: Is there specific medical evidence that must be present in all chronic pain cases in order to establish a causal connection?

A: No. There is no medical evidence common to all claims that could lead a decision maker to conclude that there is a causal connection between chronic pain and the original compensable injury in all cases. However, there are discretionary factors that a decision-maker should consider when determining whether a causal connection exists.

Q: When determining whether the medical evidence establishes a causal connection between chronic pain and the original compensable injury, what are the discretionary factors that should be considered?

A: The following 4 discretionary factors should be considered:

1. Timing
2. Continuity
3. Compatibility
4. Strength of association

A decision maker must consider all of the evidence on a case by case basis. The relevance of medical evidence, and the weight given to it, varies with the facts of each individual claim.

TIMING

Q: Why is the timing of chronic pain relevant?

A: The timing of chronic pain is relevant because section 2(d) of the *Chronic Pain Regulations* states that an original compensable injury must pre-date the commencement of chronic pain.

Q: If chronic pain follows a workplace injury is the causal connection established?

A: Although chronic pain may follow a workplace injury, timing, by itself, does not necessarily establish a causal connection. The WCB also considers

other medical evidence when determining whether a causal connection exists between chronic pain and the original compensable injury.

CONTINUITY

Q: What is continuity?

A: Continuity means uninterrupted duration. In the context of chronic pain continuity means that pain continues uninterrupted from the time of the workplace injury to the present.

Q: Why is continuity relevant to a causal connection?

A: Continuity is relevant to a casual connection in that a break in the continuity of pain may break the causal connection.

Q: Does a break in the continuity of pain always break the causal connection?

A: No. The absence of continuity does not definitively break the causal connection in all cases. The reason for a break in pain must be explored by the decision-maker.

COMPATIBILITY

Q: What is compatibility?

A: Compatibility is considered in chronic pain cases where the pain is disproportionate to the type of personal injury that precipitated, triggered or otherwise predated the pain.

In these situations, the original compensable injury is a medical condition that is expected to cause a pain (usual pain). Compatibility means that a decision maker should consider whether the chronic pain symptoms are consistent with usual pain and whether usual pain is consistent with the original compensable injury.

Q: When are the symptoms of usual pain consistent with the original compensable injury?

A: The symptoms of usual pain are consistent with the original compensable injury if the medical evidence establishes that:

- (a) The original compensable injury is a medical condition that causes pain; and

- (b) The pain is explained physiologically, neurologically or psychologically. In other words, pain may be explained by:
- (i) Tissue damage (for example, a fracture that did not heal properly);
 - (ii) Nerve damage (for example, nerve dysfunction as a result of injury); or
 - (iii) A psychiatric disorder according to the DSM IV (for example, somatization disorder).

Q: How is compatibility relevant?

A: If the symptoms of disproportionate pain are consistent with the symptoms of usual pain, and the symptoms of usual pain are consistent with the original compensable injury then the existence of a causal connection between the disproportionate pain (chronic pain) and the original compensable injury may be enhanced.

Q: Is compatibility required to establish a causal connection?

A: No. Compatibility is not required to establish a causal connection. The relevance of compatibility must be considered on a case by case basis having regard to the facts of the individual claim.

STRENGTH OF ASSOCIATION

Q: What is strength of association?

A: Strength of association refers to the strength of the relationship between chronic pain and the original compensable injury.

Q: How is strength of association is relevant to causation?

A: A decision maker should consider the nature of the original compensable injury, the severity of trauma, and how the parts of the body affected by the original compensable injury are consistent with, or related to, the parts of the body affected by chronic pain.

Q: Is strength of association required to establish a causal connection?

A: No. The relevance of strength of association may vary with the facts of each individual claim.

NON WORK-RELATED FACTORS

Q: Is there anything else that a decision-maker should consider?

A: When considering whether a causal connection exists between chronic pain and the original compensable injury, a decision-maker should consider evidence of a causal connection between chronic pain and non work-related factors.

DETERMINING CAUSAL CONNECTION

Q: What does the WCB do after considering all of the evidence?

A: The WCB considers all of the medical evidence and determines the relevance of the evidence based on the facts of each individual claim. Based on this analysis, the decision-maker determines whether the medical evidence establishes a causal connection between chronic pain and the original compensable injury.

Section 187 of the *Workers' Compensation Act* must be considered when weighing evidence to establish a causal connection between chronic pain and an original compensable injury.

Section 187 states that on any application for compensation an applicant is entitled to the benefit of the doubt which means that, where there is doubt on an issue respecting the application and the disputed possibilities are evenly balanced, the issue shall be resolved in the workers favour.

WCB CONTACT

Q: If I have questions who should I contact?

A: If you have questions concerning Medical Evidence of a Causal Connection between Chronic Pain and the Original Compensable Injury, please contact us.