



PSYCHOLOGICAL INJURIES AND PRESUMPTIVE COVERAGE

Supporting workers with psychological injuries

In 2012, the *Workers Compensation Act*, Section 5.1 (now 135) was amended to include mental disorder injuries caused by significant work-place stressors, including bullying and harassment and those caused or by a reaction to one or more work related traumatic events.

Psychological injury is a growing hazard faced by workers. According to the WCB 2021 statistical report, the claims for mental disorders have increased from a total of 3,934 in 2017, to 6,352 in 2021.

However, there are still significant barriers to having a claim accepted. In 2021, only 36% of the 2,325 claims filed were accepted.

The specific rules of Section 135 limit the compensation for mental disorders, and set a higher bar for psychological injury claims than for physical injuries. These rules, combined with the stigma of psychological injury, discourage many workers from filing claims.

In 2021, 1,655 mental disorder claims were suspended. According to the WCB, claims were suspended either because the worker did not respond to requests for additional information, or they withdrew their claim. But claims are also suspended because of the unfair and discriminatory rules and the stigma often associated with mental disorders forcing injured workers to rely on public resources.

OUR RECOMMENDATIONS

We urge the BC government to eliminate these unfair and discriminatory rules, and amend the WCA Section 135 as follows:

- Replace term “mental disorders” with “psychological injury” to capture full range of injuries;
- Eliminate the higher standard of “predominately caused by work” workers must meet to show their psychological injury is caused by work;
- Ensure the employer exemption only applies to good faith efforts to lawfully manage the workplace; and
- Expand the options for a diagnosis to include a general practitioner.

PRESUMPTIVE COVERAGE FOR ALL WORKERS

In 2018, amendments made to the *Workers Compensation Act* included a presumption for psychological injury for workers who experienced a work-related traumatic event or events for a limited list of eligible occupations. Initially, only correctional officers, sheriffs, firefighters, police and emergency medical assistants were offered presumptive coverage. In 2019, presumption was expanded to include nurses, health care aides, wildland firefighter, and dispatchers.

The specific rules of Section 135 limit the compensation for mental disorders. These rules set a higher bar for psychological injury claims than for physical injuries.

When faced with complex problems, the government can't afford to ignore proven solutions. These improvements are a concrete, easily achievable measure that we know will make a difference for workers, their families, our workplaces and communities.

Presumption is applied to mental disorder claims made under Section 135 of the *Workers Compensation Act*. Under the presumptive clause, when a worker from an eligible occupation receives a formal diagnosis of PTSD or another mental health disorder that is the result of a work-related traumatic event or events, it is easier to advance a workers' compensation claim. Presumptive coverage benefits workers suffering from psychological injury by creating a pathway through the complex compensation system. Presumption reduces the stress and stigma for workers suffering from these injuries.

While we applaud the government for these changes, the BCFED and our affiliates believe presumptive coverage needs to be expanded to all workers. Mental disorder claims are reported across subsectors, from primary resources, manufacturing, construction, retail, public administration and the service sector.

Mental disorders are not limited to workers who are currently covered by the presumptive clause. And other provinces have recognized this. PEI and Saskatchewan grant presumptive coverage to all workers for a broad range of psychological injuries.

Experiencing a traumatic event can happen to any worker at any time, so the worker's occupation should not determine how the system will treat them. And the system should treat all workers the same when it comes to mental disorders arising from traumatic events.

When claims are suppressed or denied unfairly, employers are not held responsible for addressing and remedying unsafe conditions. Our ultimate goal must be to prevent psychological injury and having a full picture of the depth and breadth of the issue is an essential part of an effective prevention strategy.

OUR RECOMMENDATION

Our workers' compensation system cannot be structured to intentionally leave some workers behind. We urge government to amend the *Workers Compensation Act* to extend presumptive compensation for all workers who experience a traumatic event or events in the workplace.

WORKERS NEED THE GOVERNMENT TO TAKE ACTION NOW

Workers can't wait any longer. The current system picks winners and losers, leaving too many workers to fend for themselves.

When a worker has a denied claim, their illness doesn't just go away. So instead, they turn to other supports like our already-strained public health system. Some workers fall through the cracks and don't receive the support they need. Without appropriate supports, a psychological injury can deteriorate, and workers may experience a more serious mental health crisis that leads to prolonged illness and even death. The added factor of a poisoned drug supply crisis puts these workers in even graver danger, magnifying the impact of the crisis.

Failing to appropriately support workers with psychological injuries also exacerbates labour shortages in key employment sectors. It is more difficult to attract and retain workers to jobs that have a reputation for high incidences of trauma and little follow-up support. With timely interventions and measures to ensure workers get the medical and financial support they need, more of these workers will successfully return to work in the sectors where we need them most, including health care, construction, education, retail and more.

When faced with complex problems, the government can't afford to ignore proven solutions. These improvements are a concrete, easily achievable measure that we know will make a difference for workers, their families, our workplaces and communities.

The BC government must improve the way our workers' compensation system treats workers with psychological injuries.