

 Yukon Workers' Compensation Health and Safety Board	Part:	Entitlement		
	Board Approval:	<i>Original Signed by Chair</i>	Effective Date:	July 1, 2008
	Number:	EN-10	Last Revised:	
	Board Order:		Review Date:	

SUBSEQUENT DISORDERS OR CONDITIONS RESULTING FROM A WORK-RELATED INJURY

GENERAL INFORMATION

Subsequent disorders or conditions resulting from a work-related injury may be compensable, provided a direct causal link can be established to the primary work-related injury.

PURPOSE

This policy provides guidance to decision-makers who adjudicate claims for subsequent disorders or conditions resulting from a primary compensable work-related injury and to stakeholders regarding what may be compensable with respect to subsequent disorders or conditions.

DEFINITIONS

- 1. AMA Guide:** The American Medical Association's (AMA) Guide to Evaluation of Permanent Impairment (the most current edition adopted by the Board of Directors) used by the Yukon Workers' Compensation Health and Safety Board (YWCHSB) to assess permanent impairment awards.
- 2. Chronic Pain:** Pain that persists over a longer period of time than would be medically expected for the usual duration of injury recovery and is resistant to most health care treatments.
- 3. Marked Life Disruption:** The effect of pain experienced on the individual's activities of daily living, vocational activity, physical and psychological functioning, as well as social and family relations.
- 4. Primary Injury:** A work-related injury that arises out of and in the course of employment. (see YWCHSB policy, "Arising out of and in the Course of Employment").

5. Subsequent Disorders or Conditions: A disorder or condition (secondary or tertiary) that may arise out of a primary, work-related injury. Categories of subsequent disorders or conditions include, but are not limited to, pain disorders, drug dependency, further physical injury and psychological disorders.

PREVENTION

Each worker and their employer have the responsibility to take all reasonable precautions to reduce or eliminate workplace injury, including any disorders or conditions that may arise subsequent to the primary injury. Early diagnosis and intervention will mitigate the effects of workplace injuries.

POLICY STATEMENT

In some cases, an injured worker who has suffered a work-related injury may develop – as a direct consequence of that injury - subsequent disorders or conditions that may be compensable. These may range from subsequent pain disorders to injuries incurred during treatment or travel for rehabilitation.

The YWCHSB may accept responsibility for a subsequent disorder or condition – as defined in this policy – when it results from a work-related injury and where there is credible evidence establishing the causal link of the subsequent disorder or condition to the primary injury.

This policy recognizes that subsequent disorders or conditions which have been determined to be compensable (i.e. they are a direct result of the primary injury) shall be integrated with the treatment plan for the primary injury resulting from a work-related incident.

COVERAGE

The following lists some aspects of subsequent disorders or conditions that will be considered by the YWCHSB in adjudicating claims for subsequent disorders:

1. Subsequent pain disorders (chronic pain)

Chronic pain may be compensable if it:

- a) stems directly from a work-related injury; and
- b) is confirmed as a diagnosis by a medical practitioner at a chronic pain rehabilitation program, clinical psychologist or psychiatrist.

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In addition:

- The YWCHSB recognizes the consequences of chronic pain and chronic pain syndrome, and encourages any necessary intervention to be given early in the course of treatment of the physical injury. Where it is found that the condition interferes with the worker's rehabilitation, appropriate care will be offered.
- In rating any permanent impairment, once the injured worker has reached maximum medical recovery and has had adequate chronic pain intervention, the continued pain may be considered in addition to any signs of impairment that are found.
- When the injured worker cannot return to his/her job following the provision of the return to work services, the YWCHSB may consider the chronic pain in the process of estimating the worker's post-injury earning capacity. If the evidence suggests that the continued pain has increased the worker's functional limitations, this may affect the identification of a suitable occupation and estimation of the worker's earning capacity.

2. Subsequent disorders resulting from travel

Injuries which occur while an injured worker is traveling for approved treatment, diagnosis or rehabilitation (for example, a traffic collision that occurs while traveling to a specialist appointment) are adjudicated under YWCHSB policy, "Injured Worker and Witness Travel".

3. Subsequent drug dependency

A dependency disorder must be directly related to the primary injury (for example, a person with no history of drug abuse develops a dependency on prescription drugs prescribed for a painful back injury), and impair the worker's ability to effectively function in the workplace or result in a marked life disruption.

4. Subsequent physical disorders or conditions

Physical disorders or conditions must be directly related to a work-related medical condition (for example, infection subsequent to injury, corrective surgery or hospitalization).

5. Subsequent psychological disorders or conditions

Psychological disorders or conditions must be directly related to a work-related medical condition, be defined in the Diagnostic and Statistical

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Manual of Mental Disorders, Volume IV (DSM-IV) and adjudicated in accordance with YWCHSB policy, "Adjudicating Psychological Disorders".

6. Subsequent disorders or conditions and return to work

Subsequent disorders or conditions arising directly from the primary injury may occur following a worker's return to work. In this event the subsequent disorder or condition would not be considered a 'new' injury.

Should a subsequent disorder or condition arise during the worker's employment with an employer different than the pre-injury employer, the cost of the claim will not be applied against the new employer's claim history. For example, a worker breaks a hip at employer A, is hired by employer B as part of a return-to-work program, and develops a subsequent condition of arthritis in his hip requiring time off work for medical treatment. Any associated costs would be attached to the primary claim.

CAUSATION

The YWCHSB will consider a claim for compensation for a subsequent disorder or condition based on whether it relates directly to an accepted primary, work-related injury. This case-by-case determination is based on available evidence (see YWCHSB policy, "Merits and Justice of the Case"). The principal test for determining if an injury is subsequent is whether it would have been likely or unlikely to occur if there had been no initial work-related injury (or triggering event, in the case of post-traumatic stress disorder).

Example:

An injured worker undergoes surgery to repair a work-related broken leg and subsequently develops an infection that requires the leg to be amputated. In this case, the amputation would be secondary to the work-related injury and therefore, compensable.

A distinction must be made whether the worker's condition is subsequent to the work-related injury or whether there was a pre-existing condition. A pre-existing condition is a condition that existed prior to the work-related injury (see YWCHSB policy, "Pre-Existing Conditions"), and is not considered to be compensable;

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whereas a secondary condition can be adjudicated as compensable under this policy.

ACCEPTABLE EVIDENCE

Eligibility for compensation for a subsequent disorder or condition is determined on the basis of whether there is objective and documented evidence confirming that, on the balance of probabilities, the facts provided by the worker can be corroborated, and confirm that the subsequent disorder arose directly (direct cause and effect) from a primary work-related injury (see YWCHSB policy, “Merits and Justice of the Case”).

EARLY INTERVENTION

Each injured worker is required to participate actively and communicate with their case manager during the recovery and return to work process. This will help to ensure that the likelihood of subsequent disorders or conditions is minimized, and any concerns are addressed early during the worker’s treatment.

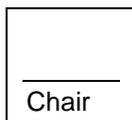
PERMANENT IMPAIRMENT AWARDS

If an injured worker’s subsequent disorder or condition has been determined to be compensable by the YWCHSB, that worker may qualify for a permanent impairment award for the subsequent disorder or condition – regardless of whether the worker qualifies for such an award for the primary injury. This award will be assessed under the AMA Guide using YWCHSB policy, “Permanent Impairment”.

ROLES AND RESPONSIBILITIES

Injured workers are responsible for providing medical documentation that supports the claim of a subsequent disorder or condition being related to the primary compensable, work-related injury.

YWCHSB decision-makers are responsible for identifying any potential subsequent disorders or conditions resulting from a work-related injury. Decision-makers shall communicate with the injured worker and health care provider to ensure timely and appropriate treatment for the secondary disorder or condition. The Medical Consultant will determine the existence and rating of any permanent impairment, for calculating permanent impairment awards and for documenting the calculations on the worker’s claim file.


Chair

APPLICATION

This policy applies to workers who, after incurring a work-related primary injury, develop a subsequent disorder or condition resulting directly from the primary work-related injury.

EXCEPTIONAL CIRCUMSTANCES

In situations where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or unintended result, the YWCHSB will decide the case based on its individual merits and justice in accordance with YWCHSB policy, "Merits and Justice of the Case". Such a decision will be considered for that specific case only and will not be precedent setting.

APPEALS

Decisions made by the YWCHSB under this policy, can be appealed directly in writing to the hearing officer of the Yukon Workers' Compensation Health and Safety Board in accordance with subsection 53(1) of the *Workers' Compensation Act*. Notice of the appeal must be filed within 24 months of the date of the decision by the YWCHSB, in accordance with section 52 of the *Act*.

ACT REFERENCES

Subsections 3(1), 14(1), 15(1), 52 and 53

POLICY REFERENCES

EN-01, "Arising Out of and in the Course of Employment"

EN-02, "Merits and Justice of the Case"

EN-07, "Pre-Existing Conditions"

EN-09, "Adjudicating Psychological Disorders"

EN-11, "Injured Worker and Witness Travel"

EN-12, "Permanent Impairment"

HISTORY

New