



**YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD**

SUBJECT: CLAIMS & BENEFITS POLICY NO.: CL - 42
 BOARD APPROVAL: [Signature]
 APPROVAL DATE: 93-11-17
 BOARD ORDER NO.: _____
 EFFECTIVE DATE: 93-11-17

POLICY STATEMENT

SECTION REFERENCE: **5, 101**

POLICY:

ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT

REVOKED

OCT 01 2007

effective

replaced by CL-42

effective Oct 1/07

[Signature]

GENERAL INFORMATION

Compensation is payable to a worker who is injured or killed as a result of a **work-related** disability. **Work-related** is defined in the Act as "arising out of and in the course of employment". Whether an accident arose out of and in the course of employment will determine whether or not the claim is accepted by the board.

This policy provides guidelines for claims adjudicators in assessing whether or not a disability arose out of and in the course of employment.

POLICY

A. WORK-RELATED

In order for a disability to be compensable, it must be work-related. Work-related is defined in the Act as "arising out of and in the course of employment".

B. UNLESS THE CONTRARY IS SHOWN

A disability is presumed to have arisen out of and in the course of employment or vice-versa, unless it can be shown, not proven, that the disability was not work-related.

C. ARISING OUT OF EMPLOYMENT

"Arising out of employment" means that a disability was caused by a worker's employment. It

Arising Out Of And In the Course of Employment con't.

must be linked to, originate from, or be the result of, in whole or in part, by an activity or action undertaken because of a worker's employment.

C. ARISING IN THE COURSE OF EMPLOYMENT

"Arising in the course of employment" means the disability must be linked to a worker's employment in terms of time, place and activity. It is the direct result of an activity, action, procedure, or conduct undertaken during a worker's employment.

D. GUIDELINES FOR DETERMINING ARISING OUT OF AND IN THE COURSE OF EMPLOYMENT

Guidelines to consider include, but are not limited to the following when determining if a work-related disability arises out of and in the course of employment:

- i) the disability occurred on the premises of the employer;
- ii) the worker was required to be there by the employer;
- iii) the disability occurred in the normal course of the worker's duties;
- iv) the risk to which the worker was exposed was the same as the risk to which he/she is exposed in the normal course of employment;
- v) the disability occurred in the course of using equipment or materials supplied by the employer;
- vi) the disability occurred in the process of doing something for the benefit of the employer;
- vii) the disability occurred in the course of action taken in response to instructions implied or expressed, for the employer;
- viii) the disability occurred in the course of receiving payment or other consideration from the employer;
- ix) the disability occurred during a time period for which the worker was being paid;
- x) the worker contributed in any deliberate way to cause the disability;
- xi) the disability was caused by some activity of the employer or of a fellow worker;
- xii) the worker was acting as a "good samaritan" based on the premise the employer would expect the worker to provide help in emergencies.