

## WCB (WorkSafe BC) claims and appeals

### **If you are injured at work or develop a disease that you think might have been caused at by your work . . . .**

#### **Tell your employer first.**

The law requires that an injured worker report the injury/disease to the employer "as soon as practicable." A claim can be denied if there is a delay in reporting to the employer even if you promptly report the injury to the WCB or your doctor.

Fill out an Injury Incident Report available from your Human Resources or Occupational Health and Safety department. Describe what happened in detail. As well, be sure to include all injuries (bump on the head and a sore neck - not just the bump on the head) because it's often very difficult to have additional conditions accepted by WorkSafe BC later if they're not noted immediately.

A common mistake is that a worker will injure herself and believe that it's a "small" injury that will get better in a few days or "over the week end" and for that reason doesn't report it to the employer. The injury doesn't improve (or actually gets worse) and she then reports it to her employer or files a WCB claim. In these cases, the employer will often challenge the claim because they feel the injury could have happened outside of work "over the weekend" or WorkSafe BC will deny the claim for the same reason.

#### **See your doctor.**

WorkSafe BC will decide whether to accept your claim usually (but not always) on the basis of the medical documentation. For that reason, it's very important that you see your doctor as soon as possible and be very clear that it happened at work and exactly how it happened (or in the case of a disease, how it was caused by your work). Again, it can't be stressed enough to be sure to tell the doctor about all injuries.

Once you tell the doctor that it happened at work, your doctor is required by law to complete a WCB form and send it to WorkSafe BC. Stress to your doctor the importance of providing full details of all the medical conditions and how they were caused by your work accident or the work itself (occupational diseases). In fact, we suggest that members print this HSA information, highlight this section and give it to the doctor. Most doctors know that WorkSafe BC can be notoriously difficult to deal with and will do whatever they can to avoid problems. Ask your doctor for a copy of the doctor's report form. If you think anything is missing, tell the doctor, or better yet, contact WorkSafe BC in writing and explain what the doctor missed.

#### **Report the injury to the WorkSafe BC.**

By law there is a one year time limit to report injuries to the WorkSafe BC but it's always best to report immediately. This applies even if you don't miss any time from work. In that case, it will be a 'no time loss' claim but the WCB will pay for medical treatment. More importantly, if you do have to go off work later (if the injury or disease worsens for example) the documentation is in place, your rights are protected and your life with the WCB will be much easier.

Many WCB claim problems start with the very first contact with WorkSafe BC when reporting the injury. There

are two ways to report an injury and file a claim. One is to complete an 'Application For Compensation' (Form 6) and the other is to file the claim over the telephone by talking to an Entitlement Officer at the WorkSafe BC's "Teleclaim Contact Centre". HSA does not recommend filing your claim by telephone because the claim will then be adjudicated on the basis of the information recorded by the Entitlement Officer. This information can often be inaccurate or incomplete which leads to major problems in adjudication. Instead, HSA recommends that members download an Application For Compensation off the WCB (Worksafe) website at:

<http://www.worksafebc.com/forms/assets/PDF/6.pdf>

Complete the form by hand and mail or fax it to WorkSafe BC (keep a copy).

Be sure to include:

- Date, time, location?
- What happened (in detail)?
- Was this your normal job or if it was, was there anything different about the way you were doing the job than what you were used to?
- When did you first feel the symptoms (pain)?
- What were the symptoms (all of them)?
- What part of the body?
- Were there witnesses?
- Who did you tell (supervisor, co-workers, etc.) and when did you tell (time, date)?
- Have you ever had these symptoms outside of work? If so, when? Were the symptoms still present on the day you injured yourself at work but before the injury?
- All of these are crucial factors and it is essential for the claim that WCB has this information accurately.

#### **Be sure you have your facts straight!**

Misinformation is one of the most common causes of problems in a WCB claim and if a worker gives wrong information or tries to correct wrong information later, their "credibility" is questioned. "Credibility" is very important during the life of a WCB claim and can be critical in a WCB appeal.

If there was an accident of some kind (slip, fall, laceration for example), give a detailed description of what happened. If there was no 'accident' per se, and pain simply started to develop while doing your job (for example, back ache, shoulder/elbow/wrist problems), it's very important that you be very specific about what you were doing at the time the pain developed and how you were doing it (body postures, weights of objects, etc.). If there was anything 'unusual' about the job or the way you were doing it, make sure you say so. 'Unusual' means anything 'different' about the way you were doing the job from how you usually do it. 'Unusual' can include doing your regular job but doing it faster than normal (due to unusual time deadlines for example), in a more awkward position than normal or for a longer period of time than normal, etc. If you were doing a type of job that you don't normally do, make sure you say so. If you were using a piece of equipment that was malfunctioning ('sticking' for example) and required more effort, say so. This is important because if a worker develops a problem (back/neck strain or wrist tendonitis for example) but there was nothing 'different' when the pain developed, the WCB will probably say that you should be "accustomed" to the work so therefore the injury must be from something else.

#### **WorkSafe BC Appeals**

During the course of a WCB claim, WorkSafe BC will make many decisions concerning whether you are entitled to benefits, type and duration of benefits, etc. In most cases, WorkSafe BC will send you a 'decision letter' giving its decision with reasons however sometimes the decision is given in person or over the telephone. Any decision can be appealed and if you disagree with a decision, it's important that it's appealed because otherwise it will stand as final and can have serious implications on future claims.

There are strict time limits to file an appeal starting the date of the decision letter or the date when the decision was given in person or over the phone. There are also strict deadlines within the appeal process.

The first step in the appeal process is to request a "review" of the WorkSafe BC decision at the WCB Review

Division within 90 days starting the date of the decision letter (or the date the decision was given in person or over the telephone as the case may be). The Review Division will review the decision and issue a new decision 'confirming, varying or cancelling' the WCB decision. If you disagree with the Review Division decision, it can be appealed to the Workers Compensation Appeal Tribunal (WCAT) which is the second and last step of the appeal process. There is a 30 day time limit to appeal a Review Division decision to the WCAT beginning the date of the Review Division decision. Except in very rare circumstances, a WCAT decision is final.

Appeals are often very complex and usually require a thorough knowledge of workers' compensation law and policy as well as the complexities and time limits of the appeal process. We strongly recommend that if you receive any WCB decision that you disagree with, contact the HSA immediately and talk to a WCB Advocate.

#### **HSA Advocates**

HSA has advocates with extensive experience in workers' compensation law and policy. They are available to answer members' questions about WorkSafe BC claims and they can represent members through the WCB appeal process.

In addition, HSA through its WCB Advocate's office has taken the initiative to undertake more in depth study of some of the more common injuries and diseases affecting its members.

For example, in 1999 the HSA co-sponsored a province-wide survey of HSA ultrasound technologist members that found more than 90% suffered pain and other symptoms from their jobs (mainly neck and shoulder) during their career. As a follow-up and as part of the HSA's effort to have the WCB recognize these problems as 'work related', the HSA commissioned one of Canada's leading ergonomists, Judy Village, to provide a thorough study of the working conditions of the HSA ultrasound technologists. Ms. Village's study confirmed a high incidence of neck and shoulder problems within the occupation but more importantly from a WCB viewpoint, was able to quantify the body mechanics and forces and found an association between those results and the high rate of injury. The study was published in the International Journal of Industrial Ergonomics in the fall of 2007 and can be viewed [here](#).

If you have a WCB question, please call our WCB Advocates at the HSA. They are here to help you prevent problems with the WCB before they happen and we will provide representation for you when you do have a bad decision by the WCB.

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