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October 6, 2010

Joel Schwartz
Staff Lawyer
IAVGO
489 College Street, Ste. 203
Toronto ON M6G 1A5

Dear Mr. Schwartz:

I am writing with respect to your letter of July 2, 2010.

I understand that the particular case which gave rise to the overall concern has recently had entitlement determined and communicated. A decision with respect to the impact of the psychological condition on the ability to earn and the associated Loss of Earnings finding is pending.

You noted in your letter:

> *"We are concerned that the Board's failure to consider Ms. xxxx's entitlement is a result of a systemic problem with the handling of psychotraumatic disability issues. As mentioned above, her file has passed through the hands of a number of decision makers, all of whom have taken the same approach.*
>
> *We would respectfully request that you investigate this matter and take whatever steps necessary to ensure that the Board's decision makers are apprised of their role in recognizing psychotraumatic disabilities."*

As I mentioned in our discussions, I am aware that it is very important in assisting worker's recovery to proactively address pain and psychological conditions. This has not been done on a consistent basis. I have recently shared my thoughts on this with the Service Delivery Directors.

Attached, I am providing an excerpt from some training materials the WSIB has concerning this issue. As you will also note, this letter is also copied to the Service Delivery Directors. I am requesting this information be shared with the Case Managers.

Thank you for bringing this matter to my attention.

Yours sincerely,

Paul Gilkinson
Vice President,
Service Delivery

c. Service Delivery Directors

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EARLY INTERVENTION – NON-ORGANIC CONDITIONS

Summary

Following a workplace injury or illness, we must recognize that workers may have a psychological response to the incident itself, the organic injuries resulting from the incident, and/or the impact of the physical injury or disease on their vocational and personal lives. There may also be instances where the workplace injury or illness is superimposed on other events or circumstances in the worker's personal or working life, which are already causing emotional stress or reaction. This psychological reaction can have a significant impact on the worker's response to treatment for the work-related injury or disease, and can present a barrier to a successful return to work (RTW) or labour market re-entry (LMR) program.

For effective case management, it is imperative that case managers (CM) and nurse consultants (NC) acknowledge evidence of an emerging non-organic impairment and take appropriate action to reduce or eliminate its impact on the worker's recovery. Initiating treatment as early as possible is encouraged and does not require a decision accepting entitlement for the non-organic condition. We can provide concurrent treatment for the non-organic condition within the claim, even when that non-organic condition is not solely attributable to the work-related injury or illness, if doing so is likely to reduce the impacts on recovery, RTW outcomes and benefit costs for the work-related injury or disease.

Clinical evidence indicates early recognition and referral to a multi-disciplinary treatment program can prevent the development of Psychological Disability or Chronic Pain Disability (CPD), or reduce the degree of permanent impairment from those conditions. The WSIB's experience has shown that non-organic impairments, both work-related and non-work-related, significantly impact treatment and RTW outcomes, which directly affect the benefit costs of a claim.

If the non-organic impairment persists, despite early treatment intervention, a ruling on entitlement must be made as soon as possible. It is imperative that you understand the nature of both the worker's physical injury and non-organic condition to ensure that entitlement is considered based on the appropriate policy. For example, a worker with a non-organic impairment and persistent pain attributable to the physical injury should have entitlement considered under the policy on Psychotraumatic Disability, rather than the CPD policy.

This document is intended to assist CMs and NCs with the identification of an emerging non-organic condition and provide suggestions for appropriate treatment interventions, in order to mitigate the impact of that non-organic condition. It should be read in conjunction with applicable legislation and policies.

Indicators of an emerging Psychological Condition:

A worker's psychological reaction to a workplace incident or injury/disease can present itself in a variety of ways and can be quite different from one worker to the next. Evidence of any of the following in a file can be an indication that the worker may be developing a psychological condition:

- disturbance in sleep, appetite, energy level, anxiety, personality
- depression, sadness (crying easily), feeling of helplessness/worthlessness, paranoia
- diminished libido
- withdrawal from family and social interactions
- anxiety or fear of returning to normal activities

- evidence of re-experiencing the injury (nightmares, flashbacks)
- avoidance of injury-related activity/situation

Recommended Interventions:

When one or more of these risk factors and/or indicators are noted in the file, CMs should consider the possibility that the worker may develop or is developing a psychological condition, and should monitor the claim to assess the impact on recovery and RTW. It is important to realize that these indicators will not always become apparent immediately after the injury, nor will they manifest into a psychological impairment in all cases where they are present. Evidence of these risk factors and/or indicators warrants consultation with, and referral to, the NC for active involvement in the claim. CM should also ensure that all claims involving a crush injury to the hands or feet have active NC involvement. An immediate referral to the NC is indicated if the injury history is significantly traumatic or could be perceived as life threatening.

The NC will contact the worker to evaluate the worker's symptoms, coping strategies and social support. The NC may contact the health professional to obtain the updated medical and treatment status, including any planned investigations or interventions. The risk factors and indicators of the emerging psychological condition that have been noted should also be discussed with the health professional as appropriate. When the symptoms of the emerging non-organic condition are becoming a barrier to recovery, RTW or successful LMR, treatment interventions are encouraged.

Clinical evidence shows that early delivery (two to four weeks after the injury) of cognitive behavioural therapy is effective in reducing symptoms and decreasing the likelihood of developing a psychological disability. Psychosocial treatment intervention is recommended as soon as possible after the emerging psychological condition is identified, in an effort to offset its impact on the worker's recovery and facilitate RTW or LMR activities. See Appendix A for possible treatment programs.

The treating health professional may refer the worker to a psychiatrist or psychologist for an assessment. The NC can facilitate referrals to the psychologist or clinic programs as appropriate. The initial report from the psychologist or psychiatrist should provide the diagnosis, the severity of the worker's condition and the proposed treatment plan. *The WSIB will pay for the initial assessment, regardless of who made the referral, whether the treatment is approved or not, or whether entitlement is accepted for the psychological condition.*

Note: It is important to remember that while psychiatrists are paid a separate fee for their reports, psychologists are not. Payment for the psychologist's report(s) is included in the fee for psychological assessment/treatment. A separate report fee should not be submitted or paid. (see Psychology Fee Schedule)

Recognizing that a worker's emotional reaction to his/her workplace injury or disease, or coinciding personal life events, can be a significant barrier to the worker's recovery and successful RTW, psychological treatment can be approved in a claim even when the psychological condition is not solely attributable to the work-related injury/disease. Allowing for psychological support early in a claim, without necessarily accepting entitlement for the non-organic impairment, can significantly improve the RTW outcome for a worker, and reduce the duration of benefits paid.

Above noted information is from WSIB learning materials

The following resources were utilized to provide guidance in the development of the materials.

Nicholas, Michael K. "When to refer to a pain clinic." Best Practice & Research Clinical Rheumatology 18.4 (2004): 613-629

Rose, Jerry. "A Model of Care for Managing Traumatic Psychological Injury in a Workers' Compensation Context." Journal of Traumatic Stress 19.3(2006): 315-326

Sanders, Steven H., Harden, Norman R., and Vicente, Peter J., "Evidence-Based Clinical Practice Guidelines for Interdisciplinary Rehabilitation of Chronic Nonmalignant Pain Syndrome Patients." World Institute of Pain 5.4 (2006): 303-315)

Richard Mayou, Chris Main and Andrew Auty (2004), "Psychology, Personal Injury and Rehabilitation", The IUA/ABI Rehabilitation Working Party, UK

Nicholas Kendall, Steven Linton, Chris Main, "Guide to Assessing Psychosocial Yellow Flags in Acute Low Back: Risk Factors for Long-Term Disability and Work Loss", January 1997 edition.