

**Operational
Policy**

Section
Disabilities/Impairments Resulting from Accidents

Subject
Chronic Pain Disability

Policy

The WSIB will accept entitlement for chronic pain disability (CPD) when it results from a work-related injury and there is sufficient credible subjective and objective evidence establishing the disability.

Purpose

The purpose of this policy is to provide entitlement guidelines for claims for CPD.

Guidelines

Exception

Not all claims involving persistent pain are adjudicated according to this policy. If pain is predominantly attributable to an organic cause or to the psychiatric conditions of posttraumatic stress disorder or conversion disorder, the worker will be compensated pursuant to the WSIB's policy on that organic or psychiatric condition. If, however, the chronic pain arises predominantly from psychological sources (other than posttraumatic stress disorder or conversion disorder, see 15-04-02, Psychotraumatic Disability) or undetected organic sources, the pain will be considered for compensation purposes under the CPD policy.

Eligibility criteria

For a worker to qualify for compensation for CPD, the following conditions must exist, and must be supported by all of the indicated evidence:

Condition	Evidence
A work-related injury occurred.	A claim for compensation for an injury has been submitted and accepted.
Chronic pain is caused by the injury.	Subjective or objective medical or non-medical evidence of the worker's continuous, consistent, and genuine pain since the time of the injury, AND a medical opinion that the characteristics of the worker's pain (except its persistence and/or its severity) are compatible with the worker's injury, and are such that the physician concludes that the pain resulted from the injury.
The pain persists 6 or more months beyond the usual healing time of the injury.	Medical opinion of the usual healing time of the injury, the worker's pre-accident health status, and the treatments received, AND subjective or objective medical or non-medical evidence of the worker's continuous, consistent and genuine pain for 6 or more months beyond the usual healing time for the injury.

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Condition	Evidence
The degree of pain is inconsistent with organic findings.	Medical opinion which indicates the inconsistency.
The chronic pain impairs earning capacity.	Subjective evidence supported by medical or other substantial objective evidence that shows the persistent effects of the chronic pain in terms of consistent and marked life disruption.

Definitions

Chronic pain disability (CPD) is the term used to describe the condition of a person whose chronic pain has resulted in marked life disruption.

Chronic pain is pain with characteristics compatible with a work-related injury, except that it persists for 6 or more months beyond the usual healing time for the injury.

Usual healing time is defined as the point in time, following an injury, at which the worker should have regained pre-accident functional ability, or reached a plateau in physical recovery.

Marked life disruption - Because pain is a subjective phenomenon, marked life disruption is the only useful measure of disability or impairment in chronic pain cases. Marked life disruption indicates the effect of pain experienced by the worker and the effect on the worker's activities of daily living, vocational activity, physical and psychological functioning, as well as family and social relationships.

There must be a clear and distinct disruption to a worker's life, but there is no particular requirement for this disruption to be either major or minor. The disruption in the worker's personal, occupational, social, **and** home life must be consistent, though the degree of disruption in each need not be identical.

The presence of "and" in the statement "social, occupational, **and** home life" suggests that all 3 must be present. However, there is no requirement that all 3 aspects of a person's life must be disrupted **to the same degree**.

Initially, the fact that the worker has not returned to employment may be an indication of marked life disruption, the assumption being that other components of the worker's life are disrupted as well. As the 6 month period progresses, the decision-maker is obliged to obtain evidence of disruption to each part of the worker's life - personal, occupational, social, and home.

A disruption to a worker's occupational life is also considered to exist if a worker has returned to employment that has been modified to accommodate the CPD.

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The following list of typical expected disruptions of functional abilities due to chronic pain is to be used when assessing the extent to which a CPD is affecting a worker's life.

Marked life disruption - vocational aspects

- The type and the duration of work may be restricted totally or to a limited degree, i.e., modified duties or part-time work only may be possible.

Marked life disruption - physical aspects

- constant, unremitting pain
- pain upon movement or use of the "painful body part"
- specific activities aggravate pain
- sitting, standing, and walking are limited to short periods of time
- walking is limited to short distances
- restricted bending and lifting
- difficulty getting out of bed in the morning due to stiffness and pain
- sleep regularly disturbed by pain: difficulty falling asleep, premature awakening, repetitive awakening
- sleeping medication is required to initiate sleep
- change in appetite or weight (increase or decrease)
- increased or constant tiredness
- feeling of unsteadiness when standing
- dizziness
- headaches.

Usual healing time

The WSIB determines the usual healing time based on the following information which includes but is not limited to:

- clinical reports from treating health professional(s)
- specialists' report(s), where appropriate
- reports from agency(ies) providing treatment and/or evaluation, (e.g., Regional Evaluation Centres)
- information from the worker on their medical impairment
- external, evidence-based medical/scientific guidelines on disease and injury-specific impairment and treatment, and
- the opinion of WSIB clinical staff, if obtained.

The WSIB considers:

- if recent clinical reports indicate any change in the worker's medical impairment, and
- if the worker is currently receiving or will receive treatment that is likely to improve their medical impairment, see 11-01-05, Determining Permanent Impairment.

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Once the usual healing time is determined, the WSIB should record this information in the file as a reminder when conducting future file reviews.

Summary of necessary conditions and evidence

The following information should also be consolidated in memo form in the claim file:

- worker's name and claim number
- background
- treatment
- benefit status
- is the injury work-related? **(yes/no)**
- is the chronic pain caused by the injury? **(yes/no)**
- has the pain persisted beyond the usual healing time? **(yes/no)**
- has the pain persisted for 6 or more months beyond the usual healing time? **(yes/no)**
- is the pain inconsistent with organic findings? **(yes/no)**
- does the chronic pain impair earning capacity? **(yes/no)**
- conclusion/remarks.

If there is reason to suspect that the worker's usual healing time is prolonged by other factors, e.g., age, diabetes, etc., an opinion will be obtained from a WSIB medical consultant to assist in the adjudicative process.

Running of the 6 month period

If the worker reports experiencing pain beyond the usual healing time (confirmed by medical reports and information obtained directly from the worker, etc.) but medical reports do not readily reveal an organic explanation for the severity of the pain, the 6 month period (the potential "chronic pain" period) commences from the date the healing was expected to be complete.

The 6 month period has two principal goals:

- to allow for treatment (if facilities are available) of a pain condition to avoid chronicity, and
- to allow an appropriate period for the investigation as to why the worker appears not to have recovered completely (through specialist examinations, investigations by the health professional, traditional physiotherapy treatment, etc.).

Medical consultative appointments or treatment programs do not interrupt the passing of the 6 month period **unless, and until, a positive and firm diagnosis** of an organic condition or the psychiatric conditions of conversion disorder or posttraumatic stress disorder is made during that period. Similarly, the possibility of such a finding does not interrupt the 6 month period.

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Early referral for treatment during the "potential chronic pain" phase is essential. Where possible, treatment incorporating the methods of behavioural therapy is preferred although it is recognized that there is not a sufficient capacity in the province to provide treatment for all workers with pain disabilities/impairments.

WSIB medical consultant opinion

Based on the determination of the usual healing time and information available on file, the WSIB initiates the running of the 6 month period. However, within the first month of the 6 month period, the WSIB may refer the file to a WSIB medical consultant to obtain confirmation of the usual healing time and an opinion on the general compatibility of the pain with the original work-related injury (aside from persistency/severity).

The WSIB may also request an opinion to ensure that the appropriate clinical investigations are being conducted. The 6 month period continues to run during referrals to a WSIB medical consultant.

Establishing marked life disruption

Through conversation with the worker, it may be possible to determine the effect the pain is having on the worker's activities, but the WSIB should not ask detailed questions about the worker's personal life.

A social work report should not be necessary for establishing the presence of a marked life disruption during the 6 month period, as sufficient information should be on file.

A social work report is necessary only if:

- the worker is to be assessed for permanent impairment for a CPD, and the report will assist in determining the degree of impairment, or
- there are inconsistencies in life disruptions (personal, vocational, social, family) and the WSIB and the WSIB medical consultant agree that a social work assessment would provide clarification.

The running of the 6 month period is not interrupted by this referral.

Disability/impairment during the 6 month period

When determining a worker's level of disability/impairment during the 6 month period, the WSIB must consider both the medical reports of organic findings and the worker's subjective experience of pain. For example, although a medical report may indicate that a worker is partially disabled/impaired from an organic standpoint, the combination of the organic findings and the degree of pain experienced may render a worker totally disabled/impaired.

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Return to work If return-to-work services would be helpful during the 6-month period, the worker should be referred regardless of medical status.

Permanent disability/impairment

It is expected that workers who have reached the 6-month point beyond the usual healing time have been thoroughly investigated and conventional medical modalities have been attempted. Therefore, workers who meet the entitlement criteria of this policy are considered to have reached maximum medical recovery (MMR) with a permanent impairment.

For accidents on or after January 2, 1990, workers are eligible for a non-economic loss (NEL) determination, see 18-05-11, Assessing Permanent Impairment Due to Mental and Behavioural Disorders.

For accidents prior to January 2, 1990, workers are eligible for a PD assessment, see 15-04-04, Chronic Pain Disability Rating Schedule.

However, the WSIB must look to the general principles for determining MMR to ensure that individual differences are considered in each case, see 11-01-05, Determining Permanent Impairment.

Fibromyalgia syndrome

Workers diagnosed with fibromyalgia syndrome will be considered for compensation benefits under the CPD policy.

Characteristics include:

- chronic diffuse pain of unknown etiology attributable to either undetected organic condition or psychogenic sources
- the presence of "tender points" in predictable, and usually symmetrical, locations, and/or
- fatigue and sleep disorders.

With the exception of the "tender points", these characteristics are those usually seen in individuals with CPD, and the recommended treatment is identical to that recommended for individuals with CPD. Because of this, fibromyalgia syndrome is recognized as a variant of CPD and workers who are disabled/impaired by fibromyalgia may be eligible for benefits under the CPD policy or the psychotraumatic disability policy(15-04-02, Psychotraumatic Disability) as follows.

Effective dates

- Workers diagnosed as having fibromyalgia or fibrositis (resulting from a work-related injury) **for periods between November 30, 1976 and March 26, 1986** are considered for benefits in accordance with the WSIB's policy for psychotraumatic disability.

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- Workers diagnosed with fibromyalgia syndrome for periods **before March 27, 1986, and extending beyond March 27, 1986** may choose one of two options:
 - continue to receive benefits under the psychotraumatic disability policy for periods after March 27, 1986, OR
 - be considered for benefits under the CPD policy for periods after March 27, 1986.
- Workers diagnosed with fibromyalgia syndrome or fibrositis **on or after March 27, 1986** are considered for benefits under the CPD policy.

The retroactivity date of March 26, 1986 applies only to that portion of the whole-person pension that is attributable to the CPD. A worker's impairment of earning capacity arising from the organic condition and/or the psychiatric conditions of posttraumatic stress disorder or conversion disorder is fully retroactive to the date of the accident or onset of the disability, whichever is later, see 15-04-04, Chronic Pain Disability Rating Schedule.

Somatic symptom or related disorder

As the clinical presentation of an individual diagnosed with somatic symptom or a related disorder in accordance with the Diagnostic and Statistical Manual of Mental Disorders (DSM) is virtually identical to that of an individual said to have CPD, cases of somatic symptom or related disorders are considered for entitlement under the CPD policy instead of 15-04-02, Psychotraumatic Disability.

Post-traumatic head pain

Cases of persistent disabling head pain following relatively minor head trauma where there are no objective findings should be considered under the terms and conditions of the CPD policy.

Application date

This policy applies to all decisions made on or after March 1, 2021, for all accidents.

Document history

This document replaces 15-04-03 dated September 7, 2018.

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15-04-03 dated February 15, 2013
15-04-03 dated October 14, 2009
15-04-03 dated July 18, 2008
15-04-03 dated June 1, 2006
15-04-03 dated March 15, 2005
15-04-03 dated October 12, 2004
03-03-05 dated August 22, 1990.

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References

Legislative authority

Workplace Safety and Insurance Act, 1997, as amended
Section 13(1)

Workers' Compensation Act, R.S.O 1990, as amended
Section 4(1)

Workers' Compensation Act, R.S.O. 1980, as amended
Section 3(1)

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