

BULLETIN

Did you have a tough day? Are you hurting?

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any of WCB appeals we file are based on reports that a member started to experience pain after an extremely difficult day at work.

Sound familiar?

Often, this is the culmination of months of soreness, stiffness and/or pain but no time lost from work.

Then one day ... or one week ... you have a particularly heavy workload, and by the end of the day you realize that this is getting serious. You need to go to the doctor and also file a WCB claim.

There is one important thing you need to know before you take this step:

Section 5(4) of the *Workers Compensation Act* gives a -presumption" to workers whose injuries are the result of an identifiable incident or set of circumstances. A presumption means that if your injury happened at work, the WCB will have to presume that the injury -comes from your work" *unless they can prove the contrary*.

This makes a huge difference to the likelihood that your claim will be accepted. Getting the WCB to accept a claim can be likened to building a house from building blocks, one by one: you have to get your information, your medical support, all your facts and evidence, and eventually construct the edifice that is your claim.

However, when you get the -presumption," its like staring off with your entire building intact ... and it is up to the WCB to disprove or -deconstruct" it.

What difference does this make to how you file your claim?

When you have had gradual onset pain or symptoms: *before you see the doctor and file a report, stop and think about what you were doing on your shift, this day, this week*. Can you remember a particular patient who was difficult? Was there a particular piece of malfunctioning equipment? Did you have to scan 18 patients that day instead of your usual 12? Did you have a special needs child that you had to grab quickly to prevent her from harm?

Each of these things will give you the benefit of the presumption under section 5(4) and probably make your claim about 50 per cent more likely to be accepted!

Never, under any circumstances, mislead the WCB or manufacture evidence, but do think very clearly in advance of seeing your doctor and filing your claim about just exactly what you did. One of the saddest laments we hear in WCB appeals is, -It must have been due to my work, it couldnt have been anything else." The WCB requires more specific evidence.

In order to have a repetitive strain injury accepted without a precipitating incident or event, we need to gather a huge volume of ergonomic evidence and reports. We do so, and we often win, but sometimes even the good guy loses! If you had an extra heavy shift, or if you had any incident to which you attribute your aches and pains, make a note of it in your Form 6: Application for Compensation. Tell your doctor the first time you see her about the problem. You may save yourself a lot of grief. 

Sarah OLeary is advocates on behalf of HSA members at workers compensation appeal hearings.

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