



WSIB Resource Package

**Prepared for and by the
Hospital Professional Division**

The following package was compiled to help support our members with their WSIB claims. Members are reporting a trend towards increased workloads, and an expectation to work faster and short staff. Members often put patient care needs above their own. Members report increased stress levels and increased risk of injury while they try to do more with less: skipping breaks, and always working short staff and burning out.

All too often, employees are injured on the job only to experience frustration and shock that the system that was created to support work related claims doesn't support them. Employers challenge the legitimacy of the claim. Initial responses from WSIB state that they "can't approve" the claim and site a lack of proof/evidence submitted. At the same time WSIB is not forthcoming about what it is that the worker could or needs to submit.

This package includes materials and some key information that may help members when filing their claim. This information may help reduce denials from omission of details or evidence in the initial filing of the claim. Document what, when, where, how, who witnessed and who have knowledge of the injury, or any issues surrounding the incident. If modified work is offered, be clear about what is being offered so that your medical practitioner can approve or disapprove.

This is a starting point with basic information for a limited number of claim types. We can add to the resources as we move forward as a division together. Also included in this package is a list of useful websites. We hope it is helpful to you and encourages you to familiarize yourself with WSIB policy while working as a member advocate. It is not all encompassing and is not meant to replace guidance and assistance from resource people. OPSEU has resource staff available to assist in the Pension and Benefits Department.

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Sample Letter to members

Dear member,

I'm sorry to hear you were injured at work and wanted to reach out to provide some basic WSIB information (attached). Hopefully your claim is adjudicated successfully; however, we have had several claims denied for various reasons even when the injury arose out of an obvious workplace accident.

When WSIB adjudicates your claim, they use the following criteria:

An allowable claim must have the following five points:

- an employer
- a worker
- personal work-related injury
- proof of accident
- compatibility of diagnosis to accident or disablement history

Some claims have been denied because the physician does not submit the form 8 in a timely manner or WSIB states that the medically documented injury is likely a chronic issue (and not compatible with the accident).

Having witnesses to an accident and an acute reaction to the accident can make the claim easier to approve. If the symptoms were delayed, you may need to provide more detail and/or be very specific in the information you provide to WSIB and/or the employer. If there are any issues or concerns, please feel free to reach out to a union representative.

There will be a scheduled meeting to discuss modified work. A union representative will participate in this meeting. The employer is obligated to offer modified work and if you are unable to participate in modified work then you will need to submit sufficient medical restrictions to demonstrate that the modified work is unsuitable (otherwise WSIB will deny your wages for lost work time).

Hopefully you recover as predicted, however you should contact the WSIB representative every few weeks to ensure they are aware of your progress or difficulties. This can prevent issues should your condition worsen for any reason.

Additional information and resources are available. Please do not hesitate to contact a union representative or myself with any questions.

(insert Signature/contact information)

WSIB Process

Seek Medical Attention:

If you are injured or become ill from working, seek the needed medical attention as soon as possible. Advise the treating health care practitioner that you are being seen for a work-related injury or illness. Explain your job duties performed. (If this is not an emergency, it is preferable that you see your primary doctor since they retain your past medical records.) Have the health care practitioner complete a [FORM 8 \(Health Professionals Report\)](#) and send it to WSIB. The [Functional Abilities Form \(FAF\)](#) part of Form 8 must be completed and returned to your employer. Remember to keep a copy for your records. **You must file a claim with WSIB no later than 6 months from the date of your workplace accident or the date you discover you are suffering from an occupational disease.** Refer to [Talking to Your Doctor Handout](#)

Reporting a work-related Injury:

You must report the work-related injury/illness to your employer as soon as possible. (Most workplaces have some form of an Incidence Reporting System to do this) This will notify the supervisors, manager, occ health department and JHSC. (All incidents must be reported, and a delay in this process may affect your claim) Your employer has 3 business days to complete and send a [FORM 7 \(Employer's Report of Injury/Illness\)](#) Ensure you receive a copy of Form 7. (your employer is required to provide you with a copy) Keep for your records. Note your employer does not get to decide whether your injury/illness is work related or not.

Filing your claim with WSIB:

To apply for workplace insurance benefits, you must complete, sign, and send a [Form 6 \(Worker's Report of Injury/Disease\)](#) to WSIB. You can complete and submit it using the WSIB website. www.wsib.ca Complete form 6 with detailed information and list any witnesses. (See types of injuries/allowable claims defined) You must provide a copy of the completed form to your employer and keep a copy for your records.

You will receive a claim number from WSIB. (This only means WSIB is aware of your claim and has opened a file on it) Once you have a claim number, you can sign up for online services to submit documents directly to your claim file. (If you do not receive a claim number contact WSIB immediately (1-800-387-0750) You are required to share any information the WSIB needs to make decisions about your claim to support your recovery and return to work. Report any changes in your injury/illness no later than 10 calendar days after the change. Refer to OPSEU [\(WSIB Fact Sheet #1\)](#) Reporting and Filing Workplace Accidents.

Appealing WSIB Decision

If WSIB denies your claim, you can file a formal appeal. If you plan to appeal a decision, you must do it in writing within 30 days for return-to-work decisions and 6 months for all other decisions. Submit a [Form 2397A \(Intent to Object\)](#) and follow [Instructions for the Intent to Object form](#)

Refer to OPSEU [\(WSIB Fact Sheet #2\)](#) and [\(WSIB Fact Sheet #3\)](#)

Reporting a work- related Exposure:

If you believe that you may have been exposed to Covid-19 while working, you should complete [Form 3958A \(Worker's Exposure Incident Form\)](#) and submit it to WSIB. **This form can also be used to record any physiological/verbal abuse that occurs while working.** Keep a copy and complete the electronic incident reporting system at your workplace. This will notify the union and employer. You will receive a file number in the mail. The purpose of this form is to obtain information about the exposure incident should an illness or disease occur in the future. No diagnosis nor symptoms are required to complete this form and is intended for voluntary use when an unplanned workplace incident exposure has occurred or is believed to have occurred. Exposures should be reported to WSIB as this information is stored on behalf of the worker so that it can be used if there is illness in the future, and it can be easily retrieved. If you are diagnosed with Covid-19 proceed with the step of completing and sending a [Form 6 \(Worker's Report of Injury/Disease\)](#) to WSIB.

Covid – 19 Claim

For a Covid-19 claim to be allowed, evidence must show that the person's risk of contracting the disease through their employment is greater than the risk to which the public at large is exposed and that work significantly contributed to the person's illness. Occupations with a high Covid-19 risk in the workplace (like health professionals) who acquire Covid-19 after providing direct care to and performing medical procedures on patients known to be Covid-positive, or from other staff members who test positive. All Covid-19 claims received by WSIB are adjudicated on a case-by-case basis, taking into consideration the facts and circumstances.

If you have a diagnosis (positive test) or symptoms of Covid-19 and feel you were exposed at work, you will need to report this to your employer with details of your exposure and file a claim to determine if you are eligible. Employers have an obligation to report to WSIB when employees have a diagnosis (positive test) or symptoms of Covid-19. When there is a potential workplace outbreak (when many employees in the workplace test positive for Covid-19) and if there is a known or suspected contact source for Covid-19 who employees could have been in contact with.

Adverse Reactions from Compulsory Workplace Immunizations:

WSIB has a policy for adjudicating claims for Immunization against infectious disease which specifically provides entitlement for adverse reactions to compulsory workplace immunizations. Adverse reaction is a serious unexpected reaction to a vaccine if the reaction requires medical treatment beyond first aid and/or absence from work for more than a few days. This indicates the reaction in its severity and/or duration has gone beyond the commonly mild expected reactions such as fever, chills, pain at injection site, fatigue, and headache. If you received a vaccine as a compulsory part of your employment and experience an adverse reaction, you may be eligible for WSIB benefits. WSIB will determine whether the vaccine was a compulsory part of your employment if your employer has a policy that requires employees to be vaccinated, or if the employer used some element of coercion such as threat of termination, job changes or penalties. Adverse reactions need to be reported to your employer, then file a WSIB claim.

Criteria used when WSIB adjudicates the claim:

An Allowable Claim Defined:

An allowable claim must have the following five points (the first few are obvious)

- an employer
- a worker
- personal work-related injury
- proof of accident
- compatibility of diagnosis to accident or disablement history

Types of Injuries

WSIB will consider the type of injury a worker has and the way in which the injury was caused. They will apply various rules to decide whether the injury is compensable.

Injuries are divided into categories:

Sudden Onset Injuries:

- The worker is all right one moment and injured the next (tripped, fell, hit by something, injury while lifting or during some other movement). The cause is known.
- The biggest reason for denial of claim is a lack of proof that an injury happened at work. Highlighting the importance to provide witnesses and improve reporting:
- Entitlement to compensation depends on whether the injury “arose out of and in the course of employment”.
- Presumption Clause: Section 13(2) of WSIA provides where the accident arose out of the employment, unless the contrary is shown, it shall be presumed that it occurred in the course of employment. Also, where the accident occurred in the course of the employment, unless the contrary is shown, it shall be presumed that it arose out of the employment.
- Reference Policy 15-02-02 which defines place, time, and activity.
- It is important that the details surrounding the accident are recorded on Form 6.
- Having witnesses to the accident and an acute reaction to the accident can make the claim easier to approve. If the symptoms were delayed, you may need to provide more detail and/or be very specific in the information you provide to WSIB and/or the employer.

Gradual Onset Injuries (Disabilities):

- Presumption clause does not apply to gradual onset injuries or diseases and the onus is on the worker to prove causation.
- This is since many of these types of injuries can be multi-causal in nature (lifestyle, home and recreational activities are known risk factors)
- It is not necessary, however, that work be the only cause of the injury or even the major cause of the injury: it is enough if work played “significant contributing role” in causing the injury.
- Condition emerges gradually over time.
- Covers injuries and diseases.
- Includes musculoskeletal disorders (sprains/strains/repetitive strain injuries) from unaccustomed workloads, injuries and diseases that result from workplace substance exposures, heart attacks, disabilities caused by heat or by cold. Please fill out **Worker’s Exposure Incident Form for all exposure reporting (Form 3958A)**
- The key to determining whether these types of injuries are compensable is to determine whether working was a significant contributing factor of the injury.
- The major reason for the denial of these claims is lack of proof that the work caused the injury. Proof of causation must involve medical evidence (over which workers may have no control).
- Workers can improve the chances of obtaining favorable medical evidence by making sure that reports of injuries have very good descriptions of the workplace conditions that are believed to have caused the disability.
- It may help to ensure accurate and detailed job descriptions and descriptions of working conditions are included in injury reports.

Recurring Injuries/Occupational Diseases

- A flare up of a previous injury for which the employee had compensation.
- The flare up may occur at work or at home.
- The worker may have recovered to the point of being symptom free or they may have been cleared to full hours full duties with residual symptoms.
- To be accepted by WSIB the original injury must be a “**significant contributing factor**” in causing the new disability.
- Policy 15-03-01 explains what the decision maker considers when determining entitlement to a recurrence:
- Clinical compatibility: similar clinical conditions indicate that the current problem(s) may be a result of the original injury, whereas dissimilar or unrelated clinical conditions indicate that there is no compatibility, and therefore no recurrence.
- Continuity: establishes a connection between the original clinical condition and the most recent problem(s). Can be established from reporting to supervisors, coworkers, health care practitioners; reporting to WSIB ongoing symptoms despite return to full hours/full duties; ongoing treatments for the original condition.

Secondary Injuries

- Suffering a secondary condition because of the original compensable injury or treatment entitles a member to benefits.
- To succeed in a claim, a worker needs to demonstrate that the original compensable injury was a significant contributing factor in developing the secondary injury.
- Examples: a worker has an accepted claim for an injury in their dominant hand and they subsequently develop a new injury in their non-dominant arm due to overuse.
- The case to be made is that if not for the original injury, the worker would never have developed the secondary injury.

Return To Work (RTW):

When you and your employer are planning for your return to work you will require a [Form 2647A FAF \(Functional Abilities Form\)](#) to provide a safe return to work. Note a request for this form should only be initiated by you or your employer and should only be completed when you are functionally able to return to work. Refer to Completing the Functional Abilities form. This tool provides information about your physical condition and your ability to work. Your treating healthcare professionals (Physician, Physiotherapist, or any licensed health care professional) will complete the FAF to communicate with your employer about your functional abilities and limitations. This is very important when planning for your safe return to work.

The FAF information specifically highlights:

1. What a worker can do after a workplace injury/illness
2. Allows the health professional to identify your ability to walk, stand, sit, lift, and perform other work-related tasks.
3. You and your employer can use this information to plan your Return to Work by identifying jobs that you can perform within the limits set out in the FAF.

[Refer to Guide to Completing the Functional Abilities form](#)

Responsibilities of the workplace parties in work reintegration (WSIB Policy 19-02-02) states that “The Workplace Parties (workers and employers) are required to co-operate in the work reintegration (WR) process. In cases where education and support have been provided to the workplace parties, but one or both refuses to co-operate WSIB may reduce or suspend the workers benefits, and/or levy a penalty on the employer that is equivalent to the costs of providing benefits to the worker.

Please refer to OPSEU [\(WSIB Fact Sheet #4\)](#) Return to Work (RTW) for more information.

[Worker’s Progress Report 0041A](#)

[Continuity Report Form 2232A](#)

Work-Related Mental Stress and Psychological Injury

A work-related mental stress injury is a psychological injury/illness caused by one or more work substantial source of stress at work or by one or more work-related traumatic events.

WSIB will only pay benefits for psychological injury/illness if workplace conditions (including things that happened because of a workplace accident or conditions like financial stress or pressure to return to work) were one of the main causes of the psychological injury/illness. You can get WSIB benefits if there were other non-work causes if work also caused the injury/illness. WSIB will only consider paying benefits for psychological conditions where the worker's doctor or psychiatrist/psychologist (strongly preferred) has diagnosed a psychiatric condition. Examples of psychiatric illness that WSIB compensates are depression, post-traumatic stress disorder, and anxiety disorders. Note Psychiatric conditions are diagnosed according to the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)

Refer to OPSEU ([WSIB Fact Sheet #5](#)) Work-Related Stress.

Mental Stress/Psychological Injuries Covered by WSIB

If you suffer a physical work-related injury/illness, and you develop a mental illness because of the physical accident itself, or the consequences of the injury on your life, you could receive WSIB benefits. This kind of injury is called a secondary "psychotraumatic" injury. The physical injury does not have to have been traumatic and the law does not limit benefits to workers in this situation.

There are many cases of injured workers driven to psychological distress by various hazards that happen to workers after they suffer a physical injury at work. These psychosocial hazards include the treatment of injured workers by WSIB, reduced income, and employer and WSIB pressure to return to work. Example: A worker suffers a repetitive strain injury at work and then develops depression due to the pain, financial strain while not working, and emotional effects of having your co-workers having to take on additional tasks to accommodate your injury. You can be compensated for the effects of the depression on your employment and receive support for medical care and medications.

You could also receive benefits if you suffer a mental illness/injury because of experiencing a sudden and unexpected "objectively traumatic" event at work, or a series of sudden and unexpected traumatic events. This type of injury is called "Traumatic Mental Stress".

WSIB says that "objectively traumatic" events are generally those that involve a risk or element of physical violence. Examples include being held hostage, threatened with harm/death, or witnessing a fatality or horrific accident.

Mental Stress/Psychological Injuries Not Covered by WSIB

As of date WSIB cannot provide benefits to workers who suffer mental stress at work caused by things such as management decisions or actions, changes in working hours, job duties, overworking, and stress caused by normal workplace interpersonal conflicts like arguments and disagreements. If the conflict is malicious, abusive or amounts to harassment that includes bullying then it may be considered.

Canadian Mental Health Association ontario.cmha.ca

Ministry of Labour, Training and Skills Development ontario.ca

Occupational Health Clinics for Ontario Workers www.ohcow.on.ca

The Facts about Injured Worker Stigma www.wsib.on.ca

Frequently Asked Questions

If I have an accident early in my shift and can't continue working, do I lose that day's pay?

- No. Your employer must pay you for the balance of your scheduled shift.

What if my manager doesn't want me to make a WSIB claim? What should I do?

- Seek medical attention, regardless of what your manager says and report the injury and circumstances leading to the injury at work. The practitioner will then complete their needed **form (Form 8)**. Then call the WSIB and explain what happened. Then call your Union Representative.

I didn't have a clearly defined accident, but my shoulder is hurting a lot, and it could only be because of my work. Do I have a WSIB claim?

- Yes, but because the injury is not the result of a specific "accident", the WSIB may investigate your claim. This is routine and you should not be worried about it. However, it will delay your benefits. In many such cases, benefits can be delayed for several weeks.
- The best idea is to seek medical attention as soon as you feel a physical problem that may be related to your work, before it becomes a full-blown disability. Ask your doctor to submit a WSIB Doctor's Report. Then call the WSIB and explain the situation. Follow their instructions. Creating a "history" of your injury before it becomes disabling is the best course of action.

Wouldn't it be better to ignore a work injury if it's not serious and thereby avoid all the potential hassle?

- That would be risky. Sometimes a seemingly small or very temporary injury turns out to be more serious. Back pains and other Repetitive Strain Injuries, such as tendonitis and carpal tunnel syndrome do not get better without rest and treatment. If you continue to aggravate the injury, it could become so disabling that you are simply unable to continue working. The best advice is to seek medical attention first and report your injury to the WSIB. If you don't and your injury later permanently disables you, you could be without benefits that you should be entitled to.

My doctor said I should take a week off with physiotherapy, but my employer is suggesting that I return to work stating they have modified work. They say they are obligated to offer me work and that they follow WSIB's "Better at work" philosophy. What should I do?

- This is a challenge for many injured workers. You may be correct to follow your doctor's recommendation but keep in mind that you know your body and your abilities best and that your doctor may not be fully aware of the modified work available. WSIB will adjudicate your lost time and decide about whether the modified work offered was suitable based on your injury. You may not be paid for your lost time.

What if I truly believe the work offered to me is not suitable?

- If the work offered is unsuitable you should not be pressured to return to work before you can participate in the modified work without aggravating your condition. Ask your treating practitioner to decide if you should attempt the offered work.
- Note: the employer should have provided in writing the specific duties/modified work being offered. This should include the hours of work and how it will meet your needed activity restrictions/limitations. Should your doctor disagree with the offer of modified work, he/she should provide more detail about your restrictions/limitations. It is advisable to have your doctor submit evidence to WSIB that the modified work was unsuitable.
- You may decide to “cooperate” by attempting the offered work for a day or two and then see your doctor for an opinion. You should cooperate but you are not obliged to do anything that injures you or aggravates your injury. If you become worse while at work, make sure to report this to your employer and WSIB and seek medical attention. Visit your doctor and ask them to document their recommendations for your employer and WSIB.

It's been two weeks since I've been off work, and I still haven't received anything from the WSIB. What should I do?

- Contact the WSIB office. Be patient, polite and persistent. Keep notes of all your conversations with the WSIB and be aware that the WSIB keeps notes of the details you provide.

I am a part time worker, and I can return to work with modified duties/full hours of work. How many hours am I entitled to be provided by my hospital?

- This is the same as your loss of earnings entitlement that you would be entitled to if you were unable to return to modified duties. This is calculated from your short-term average earnings (your average earnings at the time of your injury). As a part time employee, this will be the average of the hours worked in the four weeks prior to your injury. This is effective for 12 weeks, after which if you have not fully recovered there will be a recalculation over a longer period.

I am unable to return to work and have been approved for loss of earnings. How much will I receive?

- For the first 12 weeks, you will receive LOE based on your average earnings from the 4 weeks prior to the injury. Payments are based on 85% of the difference of your NET AVERAGE EARNINGS (NAE) before and after the accident. NAE is calculated by subtracting probable Canada Pension Plan (CPP) contributions, probable Employment Insurance (EI) deductions and probable income tax deductions. (WSIB earnings are tax deductible and claimed on your income tax. WSIB will send you a T5007)

Can I see what's in my WSIB file?

Yes. You can get a copy of your WSIB file by completing a [Form 2144A \(Worker Request for Copy of Claim File\)](#) A copy of your file will be sent to you after filing your intent to object to a WSIB decision if the adjudicator does not change their decision and you need to proceed to the appeals process.

I am now working from home. If I get injured while working at home, am I covered?

You have the same rights and responsibilities in the event of a workplace injury/illness whether you are working from home, offsite or in your workplace. If you believe your injury is work related, you should tell your employer as soon as possible and file a claim. The same criteria is used when determining eligibility for an injury that occurs in the workplace. When you are injured working from home, the focus will be primarily on the activity at the time of injury. The time and place may be relevant.

I think I contracted COVID-19 at work. Should I file a claim?

Most COVID-19 infections will not be work related (is what WSIB will say) some may be. We do not know. If you have a diagnosis/positive test or symptoms of COVID-19 and think you became ill because you were exposed at work, you should tell your employer about your illness and report details of your exposure. File a claim to determine if you are eligible for WSIB.

IMPORTANT NEWS

Retroactive wage Increases for Public Sector Employees

Due to the decision to overturn Bill 124, that capped wages. WSIB is recalculating benefits and issuing retroactive adjustments to workers impacted. If you were impacted by Bill 124 and had a loss-of-earnings claim during the three-year period it was in effect, you are eligible for a retroactive update to your benefits. Employers are required to provide this information to WSIB to make these adjustments.

Additional Links

www.wsib.on.ca Workplace Safety and Insurance Board

www.wsiat.on.ca Workplace Safety and Insurance Tribunal

www.ohcow.on.ca Occupational Health Clinics for Ontario Workers

www.fairpractices.on.ca Fair Practices Commission

www.ccohs.ca Canadian Center for Occupational Health & Safety

www.iwh.on.ca The Institute for Work and Health

www.preventionlink.ca Prevention Link/Ontario Disability Response Training

www.whsc.on.ca Workers Health and Safety Centre

www.ontario.ca Health Care Connect 1-800-445-1822

Telehealth Ontario 1-866-797-000