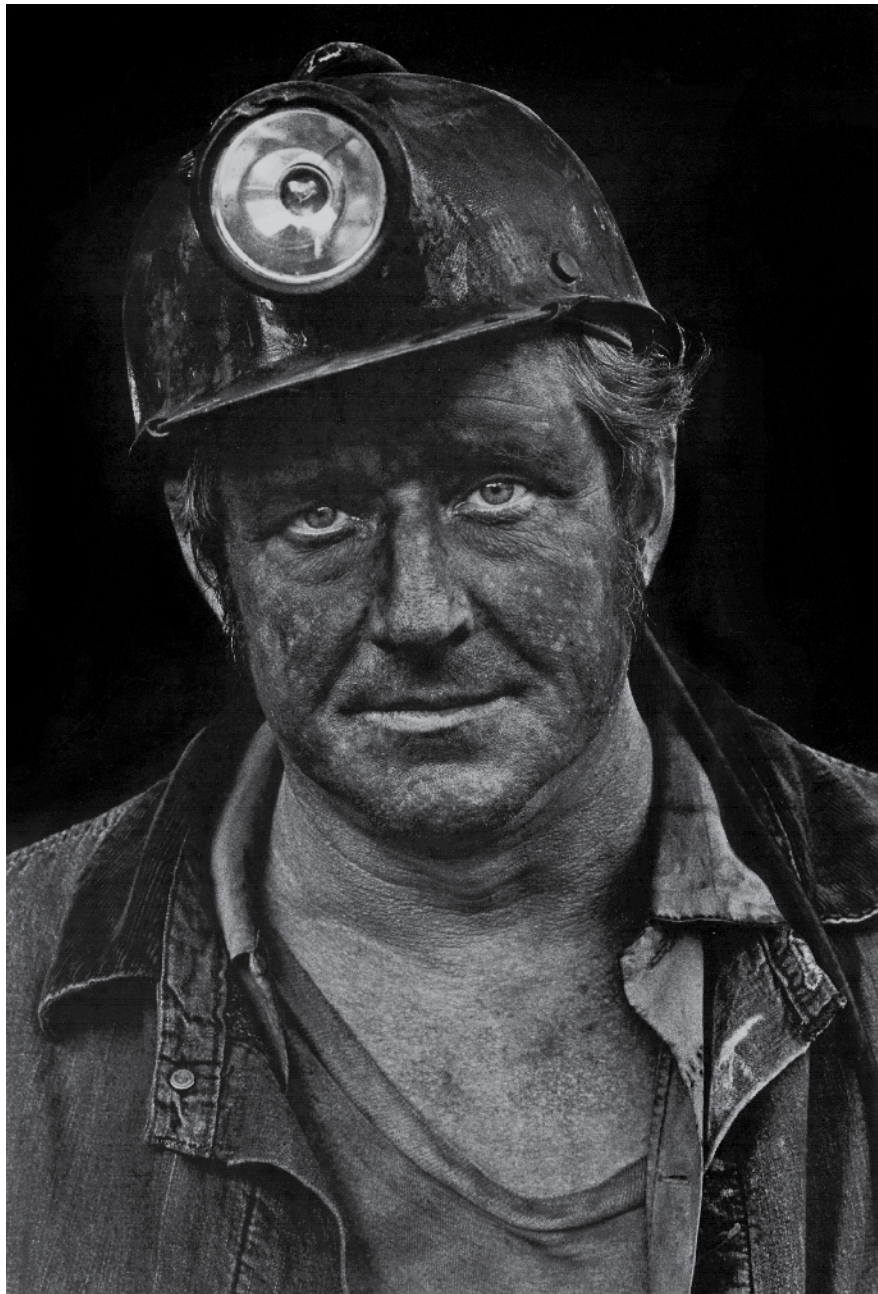


Occupational Disease Claims in Workers' Compensation



Coal miner Lee Hipshire, 1976. Courtesy of Earl Dotter.

Occupational Disease Claims in Workers' Compensation



Occupational diseases are different from occupational injuries. Occupational diseases are defined clinically, but in the workers' compensation system, they are also defined legally. So that you can help workers who may be experiencing an occupational disease, this document will help you understand how the Department of Labor & Industries (L&I), or the self-insured employer, decides which claims to approve, or allow, due to occupational disease.

This manual also explains how to gather the employment history needed to manage occupational disease claims and what conditions must be reported to L&I or another agency.

Carpal tunnel syndrome, noise-induced hearing loss, and asthma, when work-related, are examples of conditions that L&I considers occupational diseases. When making determinations about occupational disease claims, it is important for health-care providers to keep in mind the following principles:

- A. Occupational disease claims must be filed within two years following the date the worker receives written notice from a physician that the occupational disease exists and a claim for disability benefits may be filed.¹
- B. Occupational disease is defined as an infection or disease that "arises naturally and proximately" out of employment.²
- C. Claims based on mental conditions caused by stress are excluded from the occupational disease definition.³

Criteria for allowance of occupational disease claims

To determine allowance of an occupational disease, claim managers use the following criteria:

- A. A physician must present an opinion that work conditions, on a more-probable-than-not basis (a greater than 50% chance), are a cause of the disease or have aggravated or "lit up" a preexisting condition; *AND*
- B. Objective medical findings support the diagnosis; *AND*
- C. The disease must arise "naturally and proximately" out of employment.⁴

In Washington state workers' compensation insurance, the legal standard for causation is "a proximate cause." This means that if a work-related exposure contributes to the development or worsening of a condition, then the condition is deemed work-related. When you are asked to provide an opinion about work-relatedness, you should use this proximate cause standard and refer to it in your report.

1. RCW 51.28.055 (<http://app.leg.wa.gov/RCW/default.aspx?cite=51.28.055>)

2. RCW 51.08.140 (<http://app.leg.wa.gov/RCW/default.aspx?cite=51.08.140>)

3. RCW 51.08.142 (<http://app.leg.wa.gov/RCW/default.aspx?cite=51.08.142>)

4. RCW 51.08.140 (<http://apps.leg.wa.gov/RCW/default.aspx?cite=51.08.140>)

Important definitions

Naturally — To arise “naturally” out of employment, a disease must be regarded as a natural consequence of distinctive conditions of the work process, including one or more of the following:⁵

- The disease is caused by distinctive conditions of the worker’s employment. The disease or disease-based disability does not arise out of employment if it is caused by conditions of everyday life or all employments in general; *OR*
- The worker’s occupation exposed the worker to the likelihood of contracting the disease or the disease-based disability; *OR*
- The disease is caused by continuous and specific activity required to perform the job.

Proximately — To arise “proximately” out of employment, “the cause must be proximate in the sense that there existed no intervening independent and sufficient cause for the disease, so that the disease would not have been contracted but for the [distinctive] condition existing in the...employment.”

Completing a detailed Occupational Disease History Report (includes employment history)

Because the legal standard for occupational diseases is different than for occupational injuries, we need additional information from you and your patient. Also, a detailed occupational history report is important, since it can substantially reduce the time needed to process your patient’s claim. This is especially true where several jobs with different employers may have contributed to the diagnosed condition. The reason is that an important step in the adjudication process may be to apportion or pro-rate the cost of benefits among employers whose workplaces contributed to the condition.

You can be paid for completing the detailed occupational history report. Instructions on how to bill for completing the report are available on L&I’s website, or by calling L&I at 1-800-LISTENS. You will need a publication and a form:

1. *How to Bill for an Occupational Disease History Report* (Code 1055M) (F242-432-000)
www.Lni.wa.gov/go/F242-432-000
2. *Occupational Disease & Employment History* (F242-071-000)
www.Lni.wa.gov/go/F242-071-000



It is not required that the industrial injury or exposure be the only proximate cause of the disease. For example, asbestos exposure can be a proximate cause of lung cancer, even though the worker is also a smoker.

5. Dennis v. Department of L&I (1987)



Communicable diseases

L&I or the self-insured employer will pay for testing and certain preventive treatments for workers who have been exposed to a communicable disease on the job.⁶ Please reference L&I's web page on Conditions and Treatments (www.Lni.wa.gov/patient-care/treating-patients/conditions-and-treatments) for coverage and testing policies on communicable diseases, such as blood borne pathogens or influenza. Workers should file an accident report for all work-related exposures, though that doesn't guarantee a claim for the disease will be allowed.

The SHARP Program: Notifiable conditions and possible occupational illness clusters

If you believe that a case of occupational illness or injury is not just an isolated incident, but may be part of a larger problem requiring investigation, L&I's Safety and Health Assessment and Research Program (SHARP) (www.Lni.wa.gov/SHARP) can help. SHARP has expertise in epidemiological investigations and can mobilize its multi-disciplinary team to respond as needed, or arrange for the appropriate office to help you.

Washington's Notifiable Conditions Regulation (<http://app.leg.wa.gov/wac/default.aspx?cite=246-101-010>) requires you to report certain disease conditions to local public health officials for investigation when they are related to an occupational exposure. If necessary, they can request the assistance of SHARP.

Three conditions that are currently reportable

1. Asthma	<p>The SHARP program maintains a public health surveillance system for work-related asthma. Work-related asthma is a notifiable condition (www.doh.wa.gov/ForPublicHealthandHealthcareProviders/NotifiableConditions/ListofNotifiableConditions) in Washington. All health-care providers are required to report any diagnosed or suspected case of asthma caused or exacerbated by sensitizers or irritants in a worker employed in Washington State. Submit Case Report forms (www.Lni.wa.gov/safety-health/safety-research/files/2017/ConfidentialReportofWRAsthma.pdf) by mail or facsimile directly to SHARP's asthma surveillance program at Labor & Industries (www.Lni.wa.gov/safety-health/safety-research/ongoing-projects/occupational-respiratory-disease).</p> <p>When reporting a case of work-related asthma to SHARP, the diagnosing provider is responsible for telling their patient about their right to file a workers' compensation claim. SHARP's toll free number is 1-888-667-4277.</p>
2. Lead poisoning	<p>State regulation requires laboratories to report all elevated blood-lead levels within two business days and all other levels monthly.⁷ State regulation requires health providers to provide supplementary information when SHARP investigates elevated cases.⁸ Health-care providers and clinics assist in the tracking of blood lead levels by occupation and industry by using the Blood Lead Testing (BLT) form (www.Lni.wa.gov/safety-health/safety-research/files/2017/ABLES_BLT_08092017.pdf), which gathers important information from the patient regarding workplace and recreational exposures. Please encourage your patients to complete the form and fax it to 360-902-5672.</p>
3. Pesticide poisoning	<p>Report these to the Washington Poison Center (www.wapc.org).</p>

6. RCW 51.36.010 (<http://app.leg.wa.gov/RCW/default.aspx?cite=51.36.010>);
WAC 296-20-340 (<http://app.leg.wa.gov/wac/default.aspx?cite=296-20-340>)

7. WAC 246-101-201 (<http://app.leg.wa.gov/wac/default.aspx?cite=246-101-201>)

8. WAC 246-101-105 (<http://apps.leg.wa.gov/wac/default.aspx?cite=246-101-105>)