Washington State Department of Labor & Industries

Self-Insurance Training Presents:

Claim Validity

2024 Quarterly Training

Safety Message

Resources

- Claim Adjudication Guidelines - Claim Validity
- RCW's (Title 51) - Revised Code of Washington
  https://apps.leg.wa.gov/rcw/default.aspx?Cite=51
- WAC's (Title 296) – Washington Administrative Code
  https://apps.leg.wa.gov/WAC/default.aspx?cite=296-20
- Case Laws – **BIIA**
  http://www.biia.wa.gov/BoardDecisions.html

Prima Facie – What is it?

- Prima-Facie is Latin for "at first view".
- Prima-Facie:
  - Legal definition of an injury is met.
  - The worker was in the course of employment.
  - Causal opinion (51% or more).

Causal Relationship for Injuries

- Causal opinion must be from a medical provider.
- Must be “more probable than not”.
- Objective findings not required unless medical opinion is questionable.
- A symptom is not an acceptable diagnosis.
    - Example: Pain

Filing A New Claim

- SIF-2 is **not required** by law to apply for benefits.
- The injured worker and medical provider **signatures are required** for legal claim filing
- Any written and **signed** document may be considered an application from the injured worker
  - SIF2: Self Insured Form
  - ROA: State Fund Report of Accident
  - PIR: Provider's Initial Report
  - Employer's Accident/Incident Report

WAC 296-15-320: Reporting of Injuries

- Establish procedures to assist workers in reporting and filing claims.
- SIE/TPA must provide SIF2 upon request.
- Must ensure timely delivery of completed SIF2.

WAC 296-15-405: Filing a Self-Insured Claim

- SIF-2 is used to report worker’s injury or occupational disease.
- F207-002-000
- Provider uses a PIR F207-028-000.
  - Replacements are acceptable.

WAC 296-15-420

- When requesting:
  - Allowance
  - Denial
  - Interlocutory
- SIE/TPA must submit the department developed form and SIF2.

RCW 51.28.025: Duty of Employer

- Employers have the responsibility to report an injury on the forms prescribed from the department.
- Which shall include:
  - Name, address, occupation of the employer
  - Name, address, business of the worker
  - Date, time, cause and nature of the injury or occupational disease
  - If injury or occupational disease arose from employment.
  - All available information pertaining to nature of injury.

WAC 296-15-350: Handling of Claims

- Every person making claim decisions must be certified or in the process of becoming certified.
- Legibly date stamp incoming correspondence.
- Designate one address for mailing of all claims correspondence.
- Establish procedures to answer questions and concerns.
- Include department claim number in all claim communication.
- Ensure a means of communication with all injured workers.

SIF-2 Submissions

- Dept. prefers SIF-2s with all the fields completed.
- Minimum information:
  - Worker's first and last name
  - Mailing address
  - Date of birth
  - Employer name and address (not TPAs)
  - Description of injury
  - Claim Number
  - Date of injury/Date of manifestation

Timely Filing

- Claim must be filed within 1 year of date of injury. **(RCW: 51.28.050)**
    - The department has no authority to waive or make exception for the one-year time limit.
- Occupational disease/exposures must be filed 2 years from the date the worker is notified in writing. **(RCW: 51.28.055)**
- The medical provider must send notice to department when given to the worker. **(RCW 51.28.055**)

Claim Determination

- **WAC: 296-15-420** and **WAC 296-15-425:** The self-insurer has 60 days from claim notice to submit to department a request for one of the following to be issued:
  - Allowance
  - Denial
  - Interlocutory
- If no request is received within 60 days, the department has the authority to make a claim determination.

Necessity of Timely Claim Determination

- WAC 296-15-420
- The department has the right to intervene if the employer/TPA does not submit timely request for allowance, denial or interlocutory orders w/in 60 days from claim notice.
- Delay in providing the required forms to the department could result in penalties, as a rule violation.

Knowledge Check

Zoey has worked as a hair dresser for the past 12 years. On 8/7/20 she notified her supervisor that her hands were feeling numb. She continued to work for the next 2 ½ years. On 3/5/23 she sought medical care and was diagnosed with bilateral carpal tunnel syndrome, due to her job duties. She filed a claim with her employer on 3/20/2023.

Is this a timely filed claim?:

Yes

How many days does a Self Insured employer have from claim receipt to request an allowance, denial or interlocutory order?

60 days

Which WAC indicates this?

WAC 296-15-420

Molly started a job as a store manager. On her first day 2/03/20 she slipped and fell hurting her low back. She didn't file a claim that day, but decided to see a doctor on 3/04/21 due to ongoing low back pain that got worse. She was diagnosed with lumbar disc displacement at L5 related to her incident. She filed an injury claim on 3/04/21 and sent a copy of the medical report.

Is her claim filed timely and allowable?

No, she missed the 1 year filing deadline for an injury claim.

Definition of an Injury

RCW 51.08.100: “a sudden and tangible happening… producing an immediate or prompt result, and occurring from without.”

Injury Claim Validity

- For a claim to be allowable, a “prima facie” case must be established.
- A claim should be allowed if evidence in file supports allowance, and there is no evidence to the contrary.
- Washington is a “no-fault” state, so an injury can be covered even if the worker was at fault.

Course of Employment

- Worker is usually covered when acting at discretion of the employer or furthering the employer’s business.
- Worker does not need to be doing actual job they were hired to do.
- If course of employment is questionable several things must be considered.

Parking Lot Injuries

- Parking areas are specifically excluded from coverage per RCW 51.08.013(1).
- Numerous case laws have clarified what is considered a parking area and when a worker may be covered.
- If worker’s job requires them to be in a parking lot or they are acting at employer’s direction, the injury may be covered.

Parking Lots

- To determine if claim is allowable, examine:
  - Worker's job duties or requirements.
  - Where injury occurred in relation to the job site.
  - Route the worker took from vehicle to building entrance.
  - Any hazards that contributed to the injury.
- Map of parking area may be helpful.

Parking Lots – Case Laws

- *Boeing Co. v. Rooney* (2000)
  - Injury can be covered if it occurs next to, but not in, a parking lot.
- *Madera v. J.R. Simplot Co.*(2001)
  - A drive-through lane is not considered a parking area.
- *UW Harborview Medical Center v. Marengo* (2004)
  - A parking garage stairwell is not considered a parking area.

Coming and Going

- Going to or coming from a job site in a private vehicle is not usually in the course of employment.
- Once on a job site, workers are covered immediately before and after their shift until leaving the premises.
- Coverage also extends to company-controlled areas (except parking areas).
- Reporting early to change into uniform or other required clothing is covered.

Coming and Going

- A worker may be covered coming from or going to an employer-designated parking area if exposed to hazards not shared by the general public.
- Coverage also exists if hazard arises from the employer’s business, even if the general public is also exposed.
- A worker is covered if leaving job site for task requested by employer.

Employer Provided Transportation

- Worker **may** be covered if employer provides transportation or compensation for travel.
- Coverage not dependent upon method of travel. Employer may:
  - Provide a vehicle.
  - Reimburse a worker for cost of transportation.
  - Reimburse a worker for use of a private vehicle.
- Vanpools and carpools are not covered.

Travel Away from Employer Premises

- If a worker must travel for business, they are usually in the course of employment during the entire trip.
- Personal side trips (deviations) may not be covered.
- Review each claim on an individual basis to determine if the worker was in course of employment.

Deviations

- Worker may not be covered in employer-provided or reimbursed transportation if deviating from the business-related task.
- Some things to consider:
  - Employer's policy regarding company transportation.
  - Nature/purpose of business travel and deviation.
  - Distance from expected travel route.

Deviation Coverage

- Coverage normally exists if:
  - Injury sustained before or after the deviation.
  - Worker is furthering the interests of the employer.
  - Worker is performing duties as directed by the employer.

Personal Comfort Doctrine

- Applies when worker is injured during a personal comfort activity.
  - Worker must be on employer premises or using facilities near job site.
  - Injury must be sustained during paid working hours or during lunch break on job site.
  - Offsite activity must be directed by the employer.
  - Activity must assist employer by helping worker efficiently perform the job.

Personal Comfort and Lunches

- Worker covered during lunch breaks on employer premises or on business lunch away from premises.
- Damage to teeth or dentures covered if personal comfort doctrine is met.
- Worker not covered if during break or lunch if leaving the job site for personal reasons.

Recreational Activities

- Workers aren’t in course of employment during recreational activities, whether or not the cost is covered by employer
- Three exceptions:
  - Activity occurs during work hours.
  - Worker is paid by the employer to participate.
  - Worker was directed, ordered, or reasonably believed they were directed or ordered to participate.

Horseplay

- Usually covered as long as worker not significantly removed from course of employment (*Tilly v. Dept. of L&I* (1958)).
- Consider:
  - Extent, duration, and completeness of deviation’
  - Extent to which practice is accepted part of employment.
  - Extent to which idleness on job could be expected to include horseplay.

Altercations and Assaults

- The same factors as horseplay apply.
- The worker who assaults a coworker **may** be removed from course of employment.
- The worker who was assaulted is still covered, as long as they do not leave the job site.
- Leaving job site to fight is not covered (*Blankenship v. Dept. of L&I* (1934)).

Felonies and Intentional Injuries

- A worker, spouse, child, or dependent is not entitled to compensation if the worker is injured or killed while committing a felony.
- A worker who intentionally injures or kills himself or herself is not covered.
    - Gross negligence is not considered intentional.

Goodwill Actions

- There is very little guidance from the courts.
- Injury sustained by worker who assists in a life-threatening emergency may be covered if:
  - Employment brought them in contact with the situation.
  - Situation was proximate to the worker’s job.
  - Employer derives some benefit from the act.

Syncope and Seizures

- If a worker faints or has a seizure and no physical injury is sustained, the claim is not allowable.
- If a claim is for syncope/seizure and the worker was also injured, the claim should be allowed solely for the injury sustained.
- Seizure disorder may be appropriate to accept if the condition arises from a work-related head injury.

Pre-existing Conditions

- The presence of a pre-existing condition does not disqualify a worker from receiving benefits (*Miller v. Department of L&I* (1939)).
- Aggravated if:
  - It would not have occurred if not for workplace incident or exposure.
  - Medical treatment was necessitated by workplace event or exposure that would not have been needed prior to injury or illness.
- If an injury occurred the claim is allowable regardless if there is a pre-existing condition.

Knowledge Check

Chris fell and sprained his right wrist while snowboarding about a year ago. On 12/14/22 he tripped and fell at work while carrying boxes into his delivery truck, resulting in an injury to his right wrist, bilateral knees, and cut his chin on the box. He went to the doctor on 12/15/22 and was diagnosed with chin laceration, right and left knee contusion with acute sprain and right wrist sprain/strain with possible tear and referred for an MRI.

Is this claim allowable, if so, what body parts would be accepted?

Yes, the claim is allowable for work injury, the chin, both knees and the right wrist diagnoses should be accepted.

Samuel works as a teacher. When arriving for work, Samuel parked in the school's general parking lot and walked towards the school's main entrance. When he stepped onto the curb adjacent to the school, he slipped on ice. He sustained a low back contusion, which was diagnosed and causally related by his Attending Provider.

Is this an allowable claim?

Yes

Dustin tripped down the stairs at his worksite and twisted his ankle. He did not seek medical treatment, though did take aspirin for his pain and iced his ankle.

Is this an allowable claim?

No

Henry works as an IT Lead. On 4/13/21 his supervisor requested that he leave prior to lunch to pick up food for a team building event. Henry drove in his personal vehicle to pick up the food. He went home first, to pick up his cell phone charger, then picked up the order. While on a direct route back to the office, he was rear ended by a truck driver. Henry sustained a cervical strain, which was diagnosed and causally related by his Attending Provider.

Is this an allowable claim?

Yes, the employer directed Henry to go pick up the order and he had returned to the expected route.

Definition of an Occupational Disease

RCW 51.08.140: "disease or infection that arises naturally and proximately out of employment."

Occupational Disease Claim Validity

- Legal requirement meets RCW 51.08.140: disease or infection that arises naturally and proximately out of employment.
- Causal relationship on a more probable-than-not basis from medical provider.
- Objective medical findings to support the medical diagnosis.

Causal Relationship for Occupational Disease

- Medical opinion must state condition is related to work activities on a more probable than not basis.
- Job description (JD) or job analysis (JA) may be needed to verify worker’s job duties.

Arise Naturally and Distinct to Employment

- Dennis v. DLI (1987) expanded the definition to include work-related aggravation of a pre-existing condition and clarified distinctive conditions of employment.
- Diagnosed condition must be a natural consequence of distinctive conditions of employment rather than merely the workplace or everyday life.
- Distinctive conditions may fall under these categories:
  - Unique to employment
  - Increased risk
  - Continuous and specific activity

Proximate Cause

- Conditions of employment need only to be **ONE** of the proximate causes of the disease.
- *Simpson Logging Co. v. DLI* (1949) established “but for” limitation.
  - But for the distinctive conditions of employment, the disease wouldn’t exist.
- A claim shouldn’t be denied solely because non-work activities may have contributed to the condition.

Date of Manifestation

- **RCW 51.32.180**: “date the disease requires medical treatment or becomes totally or partially disabling, whichever occurs **first**.”
- **WAC 296-15-350**: liable insurer is the insurer of last injurious exposure.
- Benefits are based on the date of manifestation, but the employer of last injurious exposure is responsible for the entire claim.
- Affected benefits include:
  - Cost of living adjustments
  - Permanent partial disability awards
  - Time loss rates

PTSD Presumption in Firefighters and LEOs

- PTSD is presumed to be an occupational disease for firefighters and LEOs if the worker:
  - Served at least 10 years prior to development of PTSD.
  - Worker had a mental health exam at time of hire which ruled out PTSD.
- Not considered an occupational disease if attributed to disciplinary action, layoff, etc.

PTSD Presumption in RNs

- PTSD is presumed to be an occupational disease for RNs:
  - Licensed as a nurse under chapter 18.79 RCW who provide direct care to patients.
  - Employed on a fully compensated basis in WA for at least 90 consecutive days.
- Not considered if related to evaluations, disciplinary or similar actions.

Other Presumptions

- RCW 51.32.185
  - Respiratory Disease in Firefighters
  - Cancer in Firefighters
  - Heart Problems in Firefighters and LEOs
- Radiological Hazardous Waste Facilities Presumption (RCW 51.32.187)
- Health Emergency Labor Standards Act (HELSA) (RCW 51.32.181 and RCW 51.32.390)

Challenge to the Presumption

- Presumptions established by RCW 51.32.185 and RCW 51.32.395 may be rebutted by a preponderance of evidence which may include:
  - Lifestyle
  - Hereditary factors
  - Use of tobacco products
  - Physical fitness and weight
  - Exposure from other activities

Knowledge Check

Jennifer has been experiencing right arm pain and noticing she can’t grip well lately which is starting to affect her ability as a Barista. She notified her employer that she is having right elbow pain on 11/21/21 and she filled out an incident report. The next day she continued working, but self treated with ice and aspirin. She went to see her doctor on 8/05/22 and was diagnosed with right epicondylitis and a right wrist strain due to her repetitive job duties of grasping, pulling and pushing at work for the last two years. The medical report notes there is no prior medical treatment or diagnosis.

Is this an allowable claim? Yes

What is the date of injury or manifestation? 8/5/22

Lawrence worked as a package sorter, moving boxes (sometimes as heavy as 70Lbs) on a daily basis. He planned on retiring next year as he was 67 years old. He notified his supervisor that he was having low back pain on 5/4/22. He continued to work until 6/5/22 and saw his doctor on 6/7/22. At this time he was diagnosed with lumbar degenerative disk disease. His attending provider indicated that there were multiple contributing factors to Lawrence’s diagnosis, including: age, diabetes and repetitively lifting heavy boxes at work.

Is this an allowable claim? Yes

What is the date of injury or manifestation? 6/5/22

Knowledge Check

Scenario: Lawrence worked at a package sorting company, moving boxes (sometimes as heavy as 70Lbs) on a daily basis. He planned on retiring next year as he was 67 years old. He notified his supervisor that he was having low back pain on 5/4/2022. He continued to work until 6/5/2022 when he saw a doctor. At this time he was diagnosed with lumbar degenerative disk disease. His Attending Provider indicated that there were multiple contributing factors to Lawrence's diagnosis, including: age, diabetes and repetitively lifting heavy boxes at work.

Question: Is this an allowable claim? If yes, what is the date of injury or manifestation?

A. No, Lawrence's work duties were not the chief cause of his diagnosis.
B. Yes, 5/4/2022 is the date of injury, when he reported pain to his employer.
C. Yes, 6/5/2022 is the date of manifestation, when he first sought medical treatment.
D. No, this is a degenerative condition

Resources

- **Claim Adjudication Guidelines** - Claim Validity
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- **Case Laws – BIIA**
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Questions?

- Claim-specific questions: Call 360-902-6901 and ask for the claim adjudicator assigned to the claim.
- General claim questions: email us at SITrainerquestions@Lni.wa.gov