



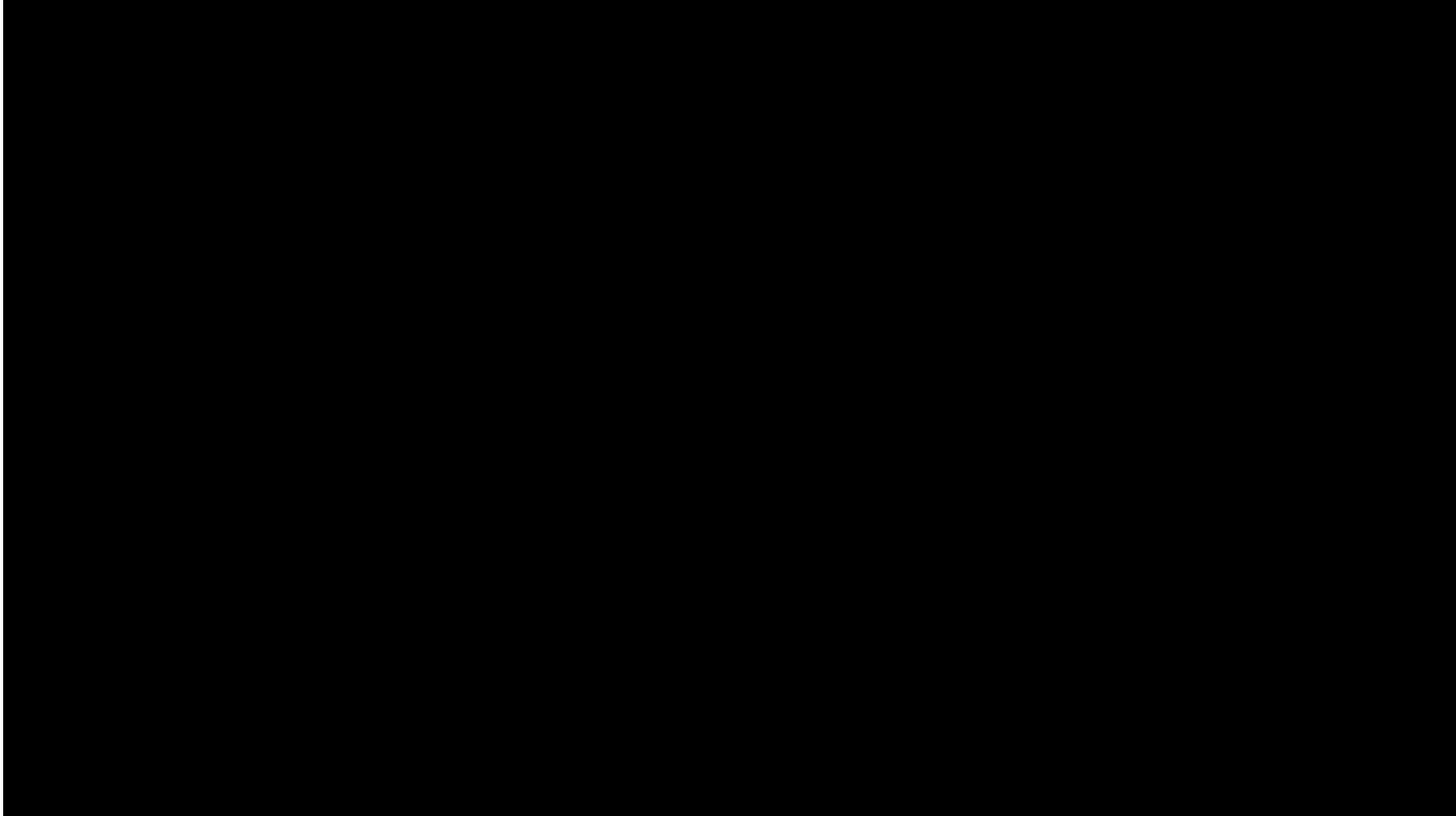
Washington State Department of
Labor & Industries

Welcome to:

**Claim Validity 101 -
Overview of Self-Insured
Industrial Claim Validity**



Safety Message



Reminders

- Webinar
 - Not able to speak
- Ask all questions through Q&A
- Credits will be provided for only those that pre-registered and names showing in session
- List of names will be sent to WSIA for WWCP credits

Content Overview

- Claim validity
- Prima facie
- Claim filing requirements
- Department timeframes
- Injuries
- Occupational Diseases/Exposures
- Resources
- Summary review
- End of presentation: Questions/Discussion time

Prima Facie – What is This?

- 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
 - 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

Reminders

■ WAC 296-15-350

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

Reminders Regarding SIF-2 Submissions

- Dept. prefers SIF2s 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 to the Department

- 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 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

Jamie has worked as a hair dresser for the past 12 years. On 5/2/2019 she notified her supervisor that her hands were feeling numb. She continued to work for the next 2 ½ years. On 11/5/2021 Jamie sought medical care and was diagnosed with bilateral carpal tunnel syndrome, due to her job duties. She filed a claim with her employer on 11/20/2021.

Is this a timely filed claim?: Yes or No



Knowledge Check

Dolly started a new job as a retail store manager. On her first day of work 2/03/2020 she slipped and fell hurting her low back. She didn't file a claim that day, but decided to see a doctor on 3/04/2021 due to ongoing low back pain that got worse. She was diagnosed with lumbar disc displacement at L5 related to her incident. Dolly filed an injury claim on 3/04/2021 and sent a copy of the medical report.

Is her claim filed timely and allowable?

- A. Yes, she fell at work with causal
- ☒ B. No, she missed the 1 year filing deadline for an injury claim
- C. No, it was her first day



Knowledge Check

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

- A. 5 days
- B. 14 days
- ☒ C. 60 days
- D. 90 days



Injury Claims

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
- WA 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

- Same factors as horseplay apply
- Worker who assaults a coworker **may** be removed from course of employment
- 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 & 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

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 or No



Knowledge Check

Tommy fell and sprained his right wrist while skateboarding about a year ago. On 6/14/2022 Tommy 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 6/15/2022 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?

- A. Yes, the claim is allowable and should accept the chin and knee diagnoses. Deny the right wrist.
- B. No, the claim is not allowable for any condition.
- ☒ C. Yes, the claim is allowable for work injury, the chin, both knees and the right wrist diagnoses should be accepted.



Knowledge Check

Vlad 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?

A. Yes

☒ B. No



Knowledge Check

Henry works as an IT Lead. On 4/13/2021 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?

- A. No, Henry deviated from his job duties when he went home.
- ☒ B. Yes, the employer directed Henry to go pick up the order and he had returned to the expected route.
- C. No, the accident did not occur at Henry's job site.
- D. Yes, because Henry was not at fault for the traffic accident.



Occupational Disease Claims

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 & 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
- 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



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



Knowledge Check

Scenario: 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 11/21/2021 and she filled out an incident report. The next day she continued work, but self treated with ice and aspirin. She went to see her doctor on 8/05/2022 and was diagnosed with right epicondylitis and a right wrist strain due to her repetitive job duties of tamping, grasping, pulling and pushing at work for the last two years. The medical report notes there is no prior medical treatment or diagnosis.

Question: If this claim is allowed what would the date of manifestation be?

- A. 11/21/2021
- B. 11/22/2021
- ☒ C. 8/5/2022
- D. Two years ago

Reminder: RCW 51.48.018

- Self-Insurer delaying or refusing to pay benefits
 - \$1,000 or 25%

Reminder: WAC 296-15-266

- Penalties
 - Requested from worker.
 - Department will consider
 - Time-loss, LEP
 - Medical Certification
 - Failure to take action per WAC 296-15-425

Reminder WAC 296-15-405

- Worker requests a SIF-2
 - SIE/TPA must provide the worker a SIF-2
 - With an explanation of workers' rights and responsibilities

Resources – L&I Guidelines

- L&I self-insured section – self-insured main-page
<https://lni.wa.gov/insurance/self-insurance/about-self-insurance/>
- Claims Adjudication Guidelines (CAG) – Guidelines for self-insured employers/TPA's/adjudicators
<https://www.lni.wa.gov/insurance/self-insurance/claims-management/claims-adjudication-guidelines>
- Claims Training Matrix – Department penalty sensitive timeframes
<https://www.lni.wa.gov/insurance/docs/TrainingMatrix6.2020.pdf>

Resources – Claim Management Tools

- Claims Management Tools –
<https://www.lni.wa.gov/insurance/self-insurance/claims-management/claims-management-tools>
- Medical Treatment Guidelines -
<https://www.lni.wa.gov/patient-care/treating-patients/treatment-guidelines-and-resources/#treatment-guidelines>
- Medical Aid Rules (chapter 296-20 WAC) -
<https://apps.leg.wa.gov/WAC/default.aspx?cite=296-20>

Resources – Department laws & rules

- **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>

Resources – BIIA & Case Laws

- **Case Law(s)** - <http://www.biia.wa.gov/BoardDecisions.html>
 - ❖ Board decisions to current RCW's resulting in an amendment to the RCW and WAC.
- **BIIA** (RCW 51.52.010, RCW 51.52.095) - <http://www.biia.wa.gov/>

The Board of Industrial Insurance Appeals was created as an independent state agency in 1949. There are three board members appointed by the governor:

- ❖ Labor member
- ❖ Industry member
- ❖ Chairperson
- ❖ Attorney's

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