

Practice Directive 15

Interjurisdictional Claims

Date: May 25, 1998

Background

The current Interjurisdictional Agreement among Canadian Workers' Compensation Boards (the "Agreement") came into force in October 1993. The Workers' Compensation Board of British Columbia is a party to this Agreement.

Personal Injury/Cost Reimbursement

The cost reimbursement provision of the Agreement provides a mechanism for cost reimbursement where the claim is adjudicated and paid by one Board and reimbursed by another depending on where the injury occurred. For example, a British Columbia resident/worker whose employer is registered and does business in both British Columbia and Alberta who injures him/herself in Alberta has a choice of claiming in either Alberta or British Columbia. If the worker "comes home" and claims compensation from the British Columbia Board, the British Columbia Board can claim reimbursement from Alberta since the personal injury happened there. The worker's entitlement in British Columbia is pursuant to Section 8.

The Agreement does not apply to commercial fishermen, federal government employees (Class 19), workers of self insured deposit account employers, or workers employed outside Canada.

Prior to benefits being paid on Interjurisdictional claims, the worker in question, or dependent, must elect to claim in British Columbia. Benefits must not be paid prior to the election being received.

Claims meeting the foregoing criteria will be adjudicated by the claims adjudicator(s) in Occupational Disease Services ("ODS") handling Interjurisdictional claims.

Occupational Disease

Effective January 1, 1998, an amended Section 7 of the Agreement came into effect. This section provides for the adjudication and cost sharing of occupational disease claims. The Agreement has an adjudication protocol with other Boards and a method of cost sharing.

The purpose of the amendment was to provide a simplified method of adjudicating occupational disease claims of workers who have had exposure in more than one Canadian jurisdiction. This amendment also addresses the problems associated with the claims of workers who developed an occupational disease as a result of their total exposure in Canada, but who have not had enough exposure in any one jurisdiction to have a claim accepted solely in that jurisdiction.

The amended Agreement only applies to new occupational disease claims registered on or after January 1, 1998. The reimbursement mechanism is implemented, according to the provisions of the agreement, for claims in which costs exceed \$5,000.

Occupational diseases, for the purpose of this Directive, will include all diseases and conditions mentioned in Chapter 4 of the *Rehabilitation Services and Claims Manual*, with several exceptions. There will be a review of evidence to determine whether there was a compensable exposure occurring in more than one jurisdiction where there may be a Right of Election.

Claims staff who review an occupational disease claim, where it is claimed that an exposure occurred, at least in part, in another Canadian jurisdiction, should refer the claim to ODS before issuing any benefits. ODS adjudication staff have special file handling procedures for these claims. The prefix for these claims is XI.

Should there be any question about the referral of claims, particularly ASTD's, please contact ODS at 276-3007 and discuss with the Client Services Manager or the Claims Adjudicator(s) responsible for the Interjurisdictional claims desk.