

# Practice Directive #39

## Mental Stress

Date: June 30, 2002

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### BACKGROUND

On June 30, 2002, the *Workers Compensation Act* (the “*Act*”) was amended by the *Workers Compensation Amendment Act, 2002* (“Bill 49”). Section 5.1 was added to the *Act* concerning mental stress. As a result, the Panel of Administrators approved related amendments to the Board's policies.

Rehabilitation Services and Claims Manual (“RSCM”) Policy item # 32.20 *Physical and Emotional Exhaustion* has been deleted and RSCM Policy item #13.30 *Mental Stress* has been added to RSCM Volume II.

### EFFECTIVE DATES AND TRANSITION RULES

The effective date of the new legislation is June 30, 2002. Therefore, where a worker experiences an acute reaction to a sudden and unexpected traumatic event *on or after* June 30, 2002, any resulting claim for mental stress will be adjudicated in accordance with the new legislation and policies.

Where a worker experienced an acute reaction to a sudden and unexpected traumatic event *before* June 30, 2002, any resulting claim will be adjudicated under the legislation and policies that existed prior to June 30, 2002.

**Recurrences:** Where, on or after June 30, 2002, there is a recurrence of a mental stress claim that was considered compensable prior to June 30, 2002, existing benefits are not impacted. However, the recurrence must meet the criteria outlined in the new section 5.1 of the *Act* in order to be compensable.

For example, a worker may have been awarded a \$200.00 pension for a mental stress claim that was considered compensable prior to June 30, 2002. If there is a recurrence on or after June 30, 2002, the first step would be to determine whether the recurrence meets the criteria outlined in the new section 5.1 of the *Act*. If the recurrence does not meet the criteria in the new section 5.1, existing benefits would not be affected. The worker would continue to receive a \$200.00 pension and no additional compensation would be payable. However, if the recurrence does meet the criteria in section 5.1 and the worker's compensable condition has worsened, the worker may be eligible for additional benefits (to be calculated in accordance with the newly amended *Act* as outlined in Practice Directives #32, 33, 38 & 40).

### ADJUDICATIVE GUIDELINES

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- It is possible that the effects of a traumatic event may not be immediately evident. A worker's psychological impairment may be delayed by a period of time before it surfaces. In such cases, the evidence must demonstrate that the mental stress is due to a sudden and unexpected traumatic event, which arose out of and in the course of employment.
- These types of claims will be adjudicated by Case Managers in the SDLs and will not be referred to Occupational Disease Services for a separate decision under Section 6 of the *Act*.

Policy item #13.30 is self-explanatory and provides clear guidance. Additional direction to Board officers is therefore not felt to be required at this time. However, further directives may be issued at a later date based on adjudicative experience.