

Workers' compensation: Post-traumatic stress disorder and mental injuries

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Workers' compensation claims involving psychological/mental problems are divided into three categories: cases in which mental stress produces physical injury; cases in which physical trauma produces mental injury; and cases in which mental stress produces mental injury. Minnesota recognizes workers' compensation claims based on the first two categories, but denies compensation for claims where mental stress resulted in mental injury¹, with a limited exception for certain post-traumatic stress disorder (PTSD) claims occurring on or after Oct. 1, 2013.

Mental stress that results in physical injury

Cases in which work-related mental stress or stimulus produces identifiable physical ailments may be compensable workers' compensation injuries. The work-related stress need not be the only cause of the physical injury; it is sufficient for the stress to be a substantial contributing factor.² A two-step test is necessary to prove causation for a stress-induced injury; the employee must prove elements of both legal and medical causation to prevail with this type of claim.³ Medical causation requires proof that the mental stress resulted in the employee's physical condition. Legal causation requires the employee to show that the mental stress was extreme or at least "beyond the ordinary day-to-day stress to which all employees are exposed."⁴ The test of "beyond day-to-day stress" includes situations where stress has accumulated over a long period of time. The mental stress must relate to the nature, conditions and obligations or incidents of the employment relationship.⁵

Also, to be compensable, the physical ailments caused by the mental stress must be susceptible to medical treatment that is separate and independent of treatment for the employee's mental condition. If the physical ailments are "characterized not as independently treatable physical injuries but as physical symptoms or manifestations of employee's anxiety or personality disorder and amenable to treatment only as an inseparable aspect of employee's psychiatric condition," the claim is not compensable.

Physical trauma that results in mental injury

Cases in which work-related physical injury or trauma causes, aggravates, accelerates or precipitates mental injury are compensable.⁶ It is not necessary the physical injury be the sole cause of the mental injury; it is sufficient the work-related physical injury be a substantial contributing factor to producing the mental injury.⁷

Minnesota courts have not required a physical injury be of a specific degree or severity when a physical injury results in a mental injury. The employee, to prove a compensable mental injury, must merely show a physical stimulus/injury caused the resulting mental injury.⁸ However, there must be “a clear medical opinion connecting the psychological condition to the injury.”⁹

Mental stress that results in mental injury

Minnesota law does not allow compensation for cases in which mental stress or stimulus produces only mental injury, except for post-traumatic stress disorder for injuries on or after Oct. 1, 2013. This issue was presented for the first time in the *Lockwood* case.¹⁰ In this case, the Minnesota Supreme Court said the Legislature had “probably not” intended such claims to be included under the Workers’ Compensation Act. In the *Schuetz* case, the Minnesota Supreme Court affirmed decisions at the trial level and at the Workers’ Compensation Court of Appeals that the employee’s PTSD was not compensable because it “lacked a physical component” and was barred by *Lockwood*.¹¹ The court rejected the employee’s contention that PTSD caused physical and chemical changes in the brain and should, therefore, be compensable under the mental-physical doctrine. However, the injury in *Schuetz* occurred before the 2013 amendments to the Workers’ Compensation Act, which includes a provision allowing for the compensability of PTSD claims under certain circumstances for injuries on or after Oct. 1, 2013.

Injuries occurring on or after Oct. 1, 2013

For injuries occurring on or after Oct. 1, 2013, Minnesota Statutes, section 176.011, subdivisions 15 and 16, were amended to include PTSD as a compensable workers’ compensation injury if it arises out of and in the course of employment. To be compensable, PTSD must be diagnosed by a licensed psychiatrist or psychologist and must meet the description of PTSD in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.¹² PTSD is not considered a personal injury if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action taken in good faith by the employer.

Injuries occurring on or after Jan. 1, 2019

For employees with dates of injury on or after Jan. 1, 2019, Minn. Stat., section 176.011, subd. 15, was amended to create a presumption for certain employees. The presumption applies to employees who were employed on active duty as: a licensed police officer; a firefighter; a paramedic; an emergency medical technician; a licensed nurse employed to provide emergency medical services outside of a medical facility; a public safety dispatcher; an officer employed by the state or a political subdivision at a corrections, detention or secure treatment facility; a sheriff or full-time deputy sheriff of any county; or a member of the Minnesota State Patrol.

If an employee in one of the above-listed occupations is diagnosed with PTSD and has not been diagnosed with PTSD previously, then the PTSD is presumed to have been due to the nature of employment. (To be compensable, the PTSD must still be diagnosed by a licensed psychiatrist or psychologist and must meet the description of PTSD in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.) The presumption may be rebutted by substantial factors

brought by the employer and insurer. Substantial factors known to the employer or insurer at the time of the denial of liability must be communicated to the employee on the denial of liability. PTSD is not considered an occupational disease if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement or similar action taken in good faith by the employer.¹³

¹Johnson v. Paul's Auto and Truck Sales, 40 W.C.D. 137, 409 N.W.2d 506 (Minn. 1987). See also, Ahlberg v. Ramsey County Human Services, (W.C.C.A. 1993). Hough v. Drevdahl & Son Co., Inc., 281 N.W.2d 690 (1979), Streed v. Cahill, Gunhus, et al., 34 W.C.D. 77 (1981), Herda v. Lucht Engineering, 44 W.C.C.A. 432 (1990).

²Aker v. Minnesota, 32 W.C.D. 50, 282 N.W.2d 533 (Minn. 1979); Wever v. Farmhand, Inc., 243 N.W.2d 37 (Minn. 1976).

³Courtney v. City of Orono, 43 W.C.D. 571, 463 N.W.2d 514 (Minn. 1990). Romens v. Ballet of Dolls, Inc., WCCA 1-19-17.

⁴Egeland v. City of Minneapolis, 36 W.C.D. 465, 344 N.W.2d 597 (Minn. 1984).

⁵Solem v. College of St. Scholastica, slip op. (W.C.C.A. June 27, 2000).

⁶Hartman v. Cold Spring Granite Co., 18 W.C.D. 206, 67 N.W.2d 656 (Minn. 1954).

⁷Miels v. NW Bell Tel. Co., 37 W.C.D. 164, 355 N.W.2d 710 (Minn. 1984).

⁸Mitchell v. White Castle Sys. Inc., 32 W.C.D. 164, 355 N.W. 2d 710 (1984).

⁹Westling v. Untiedt & Vegetable Farm, slip op. (W.C.C.A. Apr. 29, 2004). See also, Dotolo v. FMC Corporation, 375 N.W. 2d 25 (1985), Steinbach v. B.E. & K Construction Co., WCCA (1991), Nelson v. Hobart Corporation, WCCA (1992), Rindahl v. Brighton Wood Farms, Inc., 382 N.W. 2d 855 (1986), Dahlman v. Deer River Community Clinic, 47 W.C.D. 183 (1992), Castner v. MCI Telecommunications Corp., 415 N.W. 2d 873 (1988), Goodwin v. Tek Mechanical, WCCA 7-29-93, Kvenvold v. Freeborn County Sheriff's Dep't. WCCA 9-15-93, Schmidt v. HealthEast/Bethesda Hospital, WCCA 5-6-94, Poppitz v. Minnegasco, slip op. (W.C.C.A. Nov. 30, 1998), Underhill v. Minn. Dep't of Veteran's Affairs, slip op. (W.C.C.A. May 5, 1997), Cartagena Quijada v. Heikes Farm, Inc., slip op., No. WC10-5222 (W.C.C.A. May 4, 2011), Polecheck v. State, slip op., No. WC09-157 (W.C.C.A. Oct. 5, 2009), Dunn v. U.S. West, slip op. (W.C.C.A. Mar. 21, 1995) Harrison v. Special School District No. 1, (W.C.C.A. 1993).

¹⁰Lockwood v. Independent School District No. 877, 34 W.C.D. 305, 312 N.W. 2d 924 (Minn. 1981).

¹¹Schuetz v. City of Hutchinson, 843 N.W. 2d 233 (Minn. 2014).

¹²See Smith v. Carver County, 931 N.W.2d 390 (Minn. 2019) (reversing the WCCA determination that a compensation judge must conduct an independent assessment to verify that the diagnosis of a psychologist or psychiatrist conforms to the PTSD criteria in the DSM-5 before accepting the expert's diagnosis).

¹³Minn. Stat. § 176.011, subd. 15, para. (e).