

**Operational
Policy**

Section

In the Course of and Arising Out of

Subject

Posttraumatic Stress Disorder in First Responders and Other Designated Workers

Policy

If a first responder or other designated worker is diagnosed with posttraumatic stress disorder (PTSD) and meets specific employment and diagnostic criteria, the first responder or other designated worker's PTSD is presumed to have arisen out of and in the course of his or her employment, unless the contrary is shown.

Purpose

The purpose of this policy is to outline the circumstances under which PTSD in first responders and other designated workers is presumed to be work-related.

Guidelines

Definitions

"**First responders and other designated workers,**" hereinafter called "**first responders,**" means

1. Full-time firefighters.
2. Part-time firefighters.
3. Volunteer firefighters.
4. Fire investigators.
5. Police officers.
6. Members of an emergency response team.
7. Paramedics.
8. Emergency medical attendants.
9. Ambulance service managers.
10. Workers in a correctional institution.
11. Workers in a place of secure custody or place of secure temporary detention.
12. Workers involved in dispatch.
13. Nurses who directly provide patient care and who are not workers described in paragraph 10 or 11.

**Operational
Policy**

Section

In the Course of and Arising Out of

Subject

Posttraumatic Stress Disorder in First Responders and Other Designated Workers

14. Provincial bailiffs.
15. Probation officers.
16. Workers who directly supervise probation officers.
17. Special constables.
18. Members of a police force, other than those described in paragraph 5, who perform work in a forensic identification unit or a Violent Crime Linkage Analysis System unit.

NOTE

Definitions for these and related terms found in s.14 of the WSIA are provided in the **Appendix**.

"**Posttraumatic stress disorder**" (PTSD) means PTSD as described in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), published by the American Psychiatric Association, or as described in the Fourth Edition (DSM-IV), where specified.

"**Psychiatrist**" has the same meaning as in subsection 1(1) of the *Mental Health Act*.

"**Psychologist**" means a member of the College of Psychologists of Ontario who holds a certificate of registration for a psychologist authorizing autonomous practice, or an individual who has a similar status in another province or territory of Canada.

Policy parts 1, 2 and 3

Part 1 of this policy applies to the first responders listed in paragraphs 1 to 12, above; **Part 2** of this policy applies to the first responders listed in paragraphs 13 to 18; **Part 3** of this policy applies to **all** first responders.

Part 1 – first responders listed in paragraphs 1 - 12**Definitions**

"**Pending claims**" for the purpose of **Part 1** of this policy means PTSD claims from first responders that are pending before the Workplace Safety and Insurance Board (WSIB) or the Workplace Safety and Insurance Appeals Tribunal (WSIAT) on April 6, 2016. For further clarity, these are claims in which, as of April 6, 2016,

- a claim for PTSD was filed, but the WSIB had not yet made a decision
- there is or was a right to file a notice of objection in respect of the claim following an initial entitlement decision and the notice of objection is or was filed within the appropriate time frame

**Operational
Policy**

Section

In the Course of and Arising Out of

Subject

Posttraumatic Stress Disorder in First Responders and Other Designated Workers

- there is or was a right to file a notice of appeal to the WSIAT in respect of the claim following a final decision of the WSIB, and the notice of appeal is or was filed within the appropriate time frame, or
- the first responder had filed a notice of appeal to the WSIAT and the claim was pending before the WSIAT.

"**Transitional claims**" for the purpose of **Part 1** of this policy means

- pending claims
- new PTSD claims filed by first responders between April 6, 2016 and October 6, 2016, and
- PTSD claims in which the first responder ceased to be employed as a first responder between April 6, 2014 and April 6, 2016.

Time limits for filing a PTSD claim

The six-month time limit for filing a claim applies to claims for PTSD made by first responders or their survivors in the same way it applies to other claims, see 15-01-03, Workers' Requirement to Claim and Consent.

Exception

A claim for PTSD diagnosed before April 6, 2016 must have been filed on or before October 6, 2016 to be considered under the presumption.

NOTE

The time limit for filing a PTSD claim runs from the date of accident/injury. The date of accident/injury will generally be the date a PTSD diagnosis is made by a psychologist or psychiatrist, however, in some cases, it may be an earlier date, see 11-01-04, Determining the Date of Injury. Benefits and services generally flow from the date of accident/injury.

Presumption

If a first responder files a PTSD claim within the time limits for filing a claim, and if the three criteria set out below are met, the PTSD is presumed to have arisen out of and in the course of the first responder's employment, unless the contrary is shown. (Special criteria apply to **transitional claims** as set out below.)

1. Date of employment

The first responder must have been employed as a first responder for at least one day on or after April 6, 2014.

2. Date of diagnosis

The first responder must have been diagnosed with PTSD by a psychologist or psychiatrist

- on or after April 6, 2014, and

**Operational
Policy**

Section

In the Course of and Arising Out of

Subject

Posttraumatic Stress Disorder in First Responders and Other Designated Workers

- no later than 24 months after the day he or she ceases to be employed as a first responder if he/she ceases to be employed as a first responder on or after April 6, 2016.

3. Type of diagnosis

The first responder must have been diagnosed by a psychologist or psychiatrist with PTSD as described in the **DSM-5**.

Transitional claims

Special criteria apply to transitional claims as set out below. In these cases, if the first responder is diagnosed with PTSD by a psychiatrist or psychologist and if the special criteria set out below are met, the PTSD will be presumed to have arisen out of and in the course of the first responder's employment, unless the contrary is shown.

Pending claims as of April 6, 2016

If a first responder had a pending PTSD claim before the WSIB or the WSIAT on April 6, 2016, and the PTSD was diagnosed by a psychologist or a psychiatrist as described in DSM-IV or DSM-5, the presumption set out in this policy applies regardless of whether the first responder ceased to be employed as a first responder before or after April 6, 2014, and regardless of whether the diagnosis was made before or after April 6, 2014.

New claims within six months of April 6, 2016

If a first responder filed a new PTSD claim within six months of April 6, 2016, and the relevant criteria relating to employment and diagnosis dates (set out above) are met, the presumption set out in this policy applies even if the first responder's diagnosis is as described in the DSM-IV. This includes new claims from first responders who ceased to be employed as first responders after April 6, 2016, as long as such claims were filed on or before October 6, 2016.

First responder ceased to be employed as a first responder between April 6, 2014 and April 6, 2016

If a first responder ceased to be employed as a first responder between April 6, 2014 and April 6, 2016, and the first responder was employed as a first responder for at least one day on or after April 6, 2014, the PTSD diagnosis must have been made on or after April 6, 2014, but no later than April 6, 2018, for the presumption set out in this policy to apply. The PTSD diagnosis may be as described in the DSM-IV if the claim was filed within six months of April 6, 2016, as set out above. Otherwise, the PTSD diagnosis must be as described in the DSM-5.

**Operational
Policy**

Section

In the Course of and Arising Out of

Subject

Posttraumatic Stress Disorder in First Responders and Other Designated Workers

Part 2 – first responders listed in paragraphs 13 - 18

Definitions

"Pending claims" for the purpose of Part 2 of this policy means PTSD claims from first responders that are pending before the WSIB or the WSIAT on May 8, 2018. For further clarity, these are claims in which, as of May 8, 2018,

- a claim for PTSD has been filed, but the WSIB has not yet made a decision
- there is or was a right to file a notice of objection in respect of the claim following an initial entitlement decision and the notice of objection is or was filed within the appropriate time frame
- there is or was a right to file a notice of appeal to the WSIAT in respect of the claim following a final decision of the WSIB, and the notice of appeal is or was filed within the appropriate time frame, or
- the first responder has filed a notice of appeal to the WSIAT and the claim is pending before the WSIAT.

Time limits for filing a PTSD claim

The six-month time limit for filing a claim applies to claims for PTSD made by first responders or their survivors in the same way it applies to other claims, see 15-01-03, Workers' Requirement to Claim and Consent.

NOTE

The time limit for filing a PTSD claim runs from the date of accident/injury. The date of accident/injury will generally be the date a PTSD diagnosis is made by a psychologist or psychiatrist, however, in some cases, it may be an earlier date, see 11-01-04, Determining the Date of Injury. Benefits and services generally flow from the date of accident/injury.

Presumption

If a first responder files a PTSD claim within the time limits for filing a claim, and if the three criteria set out below are met, the PTSD is presumed to have arisen out of and in the course of the first responder's employment, unless the contrary is shown. (Special criteria apply to pending claims as set out below.)

1. Date of employment

The first responder must be employed as a first responder for at least one day on or after May 8, 2018.

2. Date of diagnosis

The first responder must have been diagnosed with PTSD by a psychologist or psychiatrist no later than 24 months after the day he or she ceases to be employed as a first responder if he/she ceases to be employed as a first responder on or after May 8, 2018.

**Operational
Policy**

Section

In the Course of and Arising Out of

Subject

Posttraumatic Stress Disorder in First Responders and Other Designated Workers**3. Type of diagnosis**

The first responder must be diagnosed by a psychologist or psychiatrist with PTSD as described in the **DSM-5**.

Pending claims as of May 8, 2018

If a first responder has a pending PTSD claim before the WSIB or the WSIAT on May 8, 2018, and the PTSD was diagnosed by a psychologist or a psychiatrist as described in the DSM-5 or DSM-IV, the presumption set out in this policy applies regardless of whether the first responder ceased to be employed as a first responder before May 8, 2018.

Part 3 – all first responders**Rebutting the presumption**

The presumption may be rebutted if it is established that the employment was not a significant contributing factor in causing the first responder's PTSD.

Employer's work-related decisions or actions

A first responder is not entitled to benefits for PTSD if it is shown that his or her PTSD was caused by his or her employer's decisions or actions that are part of the employment function, such as

- terminations
- demotions
- transfers
- discipline
- changes in working hours, or
- changes in productivity expectations.

However, first responders may be entitled to benefits for PTSD due to an employer's decisions or actions that are not part of the employment function, such as

- violence or threats of violence, or
- conduct that a reasonable person would perceive as egregious or abusive.

In these cases, if the relevant employment and diagnostic criteria are met, the exception does not apply and the PTSD is presumed to be work-related, unless the contrary is shown.

No refiling of claims

If a first responder filed a PTSD claim and the claim was denied by the WSIB or the WSIAT, the first responder may not refile the claim and have it considered under the presumption set out in this policy. However, the decision-maker may reconsider the claim in accordance with 15-03-02, Traumatic Mental Stress, if new information is provided.

**Operational
Policy**

Section

In the Course of and Arising Out of

Subject

Posttraumatic Stress Disorder in First Responders and Other Designated Workers**Traumatic mental stress**

Nothing in this policy affects a first responder's potential entitlement for traumatic mental stress in accordance with 15-03-02, Traumatic Mental Stress.

Application date

This policy applies to decisions made on or after September 1, 2018, for accidents on or after January 1, 1998.

Policy review schedule

This policy will be reviewed within five years of the application date.

Document history

This document replaces 15-03-13 dated April 7, 2016.

References**Legislative authority**

Workplace Safety and Insurance Act, 1997, as amended
Sections 2(1), 13, 14

Minute

Administrative
#3, September 5, 2018, Page 563

Section

In the Course of and Arising Out of

Subject

Posttraumatic Stress Disorder in First Responders and Other Designated Workers

Appendix

Defined Term	Legal Definition
Ambulance service	<ul style="list-style-type: none"> has the same meaning as in subsection 1(1) of the <i>Ambulance Act</i>.
Ambulance service manager	<ul style="list-style-type: none"> means a worker employed in an ambulance service who manages or supervises one or more paramedics and whose duties include providing direct support to paramedics dispatched by a communications officer on a request for ambulance services.
Band council	<ul style="list-style-type: none"> means a council of the band as defined in subsection 2(1) of the <i>Indian Act (Canada)</i>.
Communications officer	<ul style="list-style-type: none"> means a communications officer for the purposes of the <i>Ambulance Act</i>.
Correctional institution	<ul style="list-style-type: none"> means a correctional institution as defined in section 1 of the <i>Ministry of Correctional Services Act</i>, or a similar institution operated for the custody of inmates.
Correctional services officer	<ul style="list-style-type: none"> means a worker who is directly involved in the care, health, discipline, safety and custody of an inmate confined to a correctional institution, but does not include a bailiff, probation officer or parole officer.
Emergency medical attendant	<ul style="list-style-type: none"> has the same meaning as in subsection 1(1) of the <i>Ambulance Act</i>.
Firefighter	<p>means</p> <ul style="list-style-type: none"> a firefighter as defined in subsection 1(1) of the <i>Fire Protection and Prevention Act, 1997</i>, or a worker who <ul style="list-style-type: none"> is employed by a band council and assigned to undertake fire protection services on a reserve, or provides fire protection services on a reserve, either as a volunteer or for a nominal consideration,

Section

In the Course of and Arising Out of

Subject

Posttraumatic Stress Disorder in First Responders and Other Designated Workers

	honorarium, training or activity allowance.
Fire investigator	<p>means</p> <ul style="list-style-type: none"> • a worker to whom the Fire Marshal appointed under subsection 8(1) of the <i>Fire Protection and Prevention Act, 1997</i> has delegated the duty to investigate the cause, origin and circumstances of a fire, • a worker who was an inspector appointed under subsection 2(4) of the <i>Fire Marshals Act</i> before that Act was repealed by the <i>Fire Protection and Prevention Act, 1997</i>, or • a worker who is employed by a band council and assigned to investigate the cause, origin and circumstances of a fire on a reserve.
Full-time firefighter	<ul style="list-style-type: none"> • means a worker who is a firefighter, is regularly employed on a salaried basis and is scheduled to work an average of 35 hours or more per week.
Member of an emergency response team	<ul style="list-style-type: none"> • means a person who provides first aid or medical assistance in an emergency, either as a volunteer or for a nominal consideration, honorarium or training or activity allowance, and who is dispatched by a communications officer to provide the assistance, but does not include an emergency medical attendant, a firefighter, a paramedic or a police officer.
Member of a police force who performs work in a forensic identification unit or a Violent Crime Linkage Analysis System unit	<ul style="list-style-type: none"> • means a member of a police force, as defined in the <i>Police Services Act</i>, who performs work in a forensic identification unit or a Violent Crime Linkage Analysis System unit of the police force.
Nurse who directly provides patient care	<ul style="list-style-type: none"> • means a member of the College of Nurses of Ontario who directly provides patient care.
Operational manager	<ul style="list-style-type: none"> • means a worker who directly supervises one or more correctional services officers.
Paramedic	<ul style="list-style-type: none"> • has the same meaning as in subsection 1(1) of the <i>Ambulance Act</i>.
Part-time firefighter	<ul style="list-style-type: none"> • means a worker who is a firefighter and is not a volunteer firefighter or full-time firefighter.
Place of secure custody	<ul style="list-style-type: none"> • has the same meaning as in subsection 3(1) of the <i>Child and Family Services Act</i>.

Operational
Policy

Section
In the Course of and Arising Out of

Subject
Posttraumatic Stress Disorder in First Responders and Other Designated Workers

Place of secure temporary detention	<ul style="list-style-type: none"> has the same meaning as in subsection 3(1) of the <i>Child and Family Services Act</i>.
Police officer	<ul style="list-style-type: none"> means a chief of police, any other police officer or a First Nations Constable, but does not include a person who is appointed as a police officer under the <i>Interprovincial Policing Act, 2009</i>, a special constable, a municipal law enforcement officer or an auxiliary member of a police force.
Probation officer	<ul style="list-style-type: none"> means a probation officer appointed under or in accordance with the <i>Ministry of Correctional Services Act</i> or the <i>Child and Family Services Act</i>.
Provincial bailiff	<ul style="list-style-type: none"> means a provincial bailiff appointed under the <i>Ministry of Correctional Services Act</i>.
Reserve	<ul style="list-style-type: none"> means a reserve as defined in subsection 2(1) of the <i>Indian Act (Canada)</i>.
Special constable	<ul style="list-style-type: none"> means a special constable appointed under the <i>Police Services Act</i>.
Worker in a correctional institution	<ul style="list-style-type: none"> means a correctional services officer, an operational manager, or a worker who is employed at a correctional institution to provide direct health care services by assessing, treating, monitoring, evaluating and administering medication to an inmate confined to a correctional institution.
Worker in a place of secure custody or place of secure temporary detention	<ul style="list-style-type: none"> means a youth services worker, a youth services manager, or a worker who is employed at a place of secure custody or place of secure temporary detention to provide direct health care services by assessing, treating, monitoring, evaluating and administering medication to a young person in custody or detention at the place of secure custody or secure temporary detention.
Worker involved in dispatch	<ul style="list-style-type: none"> means a communications officer, a worker whose duties include the dispatch of firefighters and police officers, or a worker who receives emergency calls that initiate the dispatch of ambulance services, firefighters and police officers.

Operational
Policy

Section

In the Course of and Arising Out of

Subject

Posttraumatic Stress Disorder in First Responders and Other Designated Workers

<p>Worker who directly supervises probation officers</p>	<ul style="list-style-type: none"> means a worker who directly supervises one or more probation officers.
<p>Young person</p>	<ul style="list-style-type: none"> has the same meaning as in subsection 3(1) of the <i>Child and Family Services Act</i>.
<p>Youth services manager</p>	<ul style="list-style-type: none"> means a worker who is employed in a management position at a place of secure custody or secure temporary detention, and who directly supervises youth services workers, but does not include an administrator of a place of secure custody or secure temporary detention or a manager who only supervises educational, health-related or counselling services to young persons at the facility.
<p>Youth services worker</p>	<ul style="list-style-type: none"> means a worker who is employed at a place of secure custody or secure temporary detention, and who directly supervises young persons who are in custody or detention at the place of secure custody or secure temporary detention, including supervising daily routines and programs, but does not include a worker who provides only educational, health-related or counselling services to young persons at the facility.