

Ask the Expert

Question:

EAC has agreed to respect the anonymity of both the employer and the employee

We had a driver who was in a motor vehicle accident 2 months ago. He was injured, and the functional abilities form now states he can return to driving, with restrictions. Now, he is saying that he is afraid to drive any vehicle, and wants to see a psychologist. WSIB tells us that it might take 6-8 weeks for the initial consultation, and that it could drag on for years. His modified non-driving work is a hindrance to the other workers, as they think he's milking it?

Answer:

Michael Zacks, Director (A) and General Counsel, Office of the Employer Adviser (OEA)

Firstly, employers should know that the Workplace Safety & Insurance Board (WSIB) will pay benefits for a psychological condition resulting from a physical injury. This is called a psychotraumatic disability. WSIB Operational Policy 15-04-02 provides that:

A worker is entitled to benefits when disability/impairment results from a work-related personal injury by accident. Disability/impairment includes both physical and emotional disability/impairment.

Although this employer has dealt with the immediate problem of Loss of Earnings (LOE) costs by offering non-driving work, the employer is encountering resentment from other employees to the injured worker's accommodation. One of the best strategies to deal with this, is to have a comprehensive return to work policy in place so staff knows what the employer's Return to Work (RTW) process is, and that it is for the benefit of the injured worker and the company.

The more significant problem is the delay in the worker having a psychological assessment. What likely occurred in this case is the worker was referred by his family doctor to a psychologist who has an eight week waiting time for an appointment. One practical option to deal with the delay, is for the employer to offer to arrange and pay for a speedier assessment. Long delays in workers getting psychological or psychiatric referrals are common. Where the cost to an employer in waiting for the usual referral process to unfold is significant, an employer can offer to arrange the referral; however, it would be at the employer's cost, and must be with the worker's and WSIB's agreement. Where the worker agrees the WSIB will likely not object, the employer can offer such a service at a regular return to work meeting with the worker, indicating who the psychologist is, that the results of the consultation will be confidential and that the report will go to the WSIB, not the employer.