

Compensation for work-related injuries or diseases- Is there a role for the Family Practitioner?

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There are a number of possible connections between work and ill-health when caring for working populations. Experience suggests, however, that only a minority of these workers are diagnosed, reported and have claims fully processed for compensation. This has major implications for the quality of life of individuals affected and their continued employment prospects. The medical practitioner with an interest in work-related injuries and diseases therefore has an important role to play in the diagnosis, treatment, rehabilitation and future prevention of occupational injuries and diseases.

Legislation relating to workers compensation and occupational diseases notification

The two laws dealing with the compensation of occupational diseases (and injuries) are the Compensation for Occupational Injuries and Diseases Act (COIDA) of 1993 and the Occupational Diseases in Mines and Works Act (ODMWA) as amended in 2002.¹ The compensation system under COIDA and ODMWA are both funded by employer premiums but administered in the main by the state. COIDA provides for mandatory reporting of all occupational injuries and diseases (excluding miners with occupational diseases) to the office of the Compensation Commissioner in the Department of Labour. The compensation for occupational lung diseases in the mining industry is compensable under ODMWA, and administered by the Department of Health. Aside from these compensation-related laws, the Occupational Health and Safety Act (OHSA) requires medical practitioners to notify all cases of suspected occupational disease to the chief inspector, Department of Labour. A copy of the First medical report (WCL 22) completed for a worker's compensation application usually suffices as notification of an occupational disease.

Definitions

Occupational injury

An occupational injury is legally defined as an occurrence of an event that arises out of and in the course of an employee's employment of which the date, time and place can be determined and which results in personal injury. Under COIDA, all occupational injuries or alleged occupational injuries that result in medical expenses being incurred by the worker and/or absence from work for more than three days must be reported within seven days in the prescribed manner. This entails the completion of an employer's report of an occupational injury (WCL2).

Occupational disease

An occupational disease is legally defined as a disease arising out of and contracted in the course of an employee's employment and which is listed in Schedule 3 of the Act (Appendix 1).² An employer is required to report an occupational disease within 14 days after gaining knowledge that such a condition exists. This entails the completion of an employer's report of an occupational disease (WCL1).

Submitting a claim under COIDA

1. Assessment is usually done by a private medical practitioner or by public sector health services.
2. For the procedure to follow in the case of submitting a claim for an occupational disease refer to Table 1.
3. The process of submitting a compensation claim confers the following benefits to workers should the claim be accepted:
 - *Medical expenses* for treatment of the occupational disease (e.g. asthma, dermatitis, repetitive strain injury)

- *Temporary disablement benefits* in which case 75% of wages are paid for the period during which the worker is absent from work (provided this exceeds 3 days). The employer is obliged to make this payment for the first 3 months. Thereafter the payments are made directly by the Compensation Commissioner to the worker and the employer is reimbursed for the first 3 months.
- *Permanent disablement benefits* once the case is finalised after a period of two years. The compensation payment is based on the percentage permanent disability and the wages of the worker. It takes the form of a lump sum payment if the percentage disability is 30% or less and a monthly pension if it is more than 30%.
- *Additional compensation* if the worker develops an occupational disease/injury or dies as a result of negligence of the employer or if the condition/disability worsens while the worker is still alive.
- *Death benefit* covers funeral expenses, an initial lump sum payment and pension for life to widow/er and children under 18 years if the worker dies from an occupational disease.

Table 1. Procedure for submitting a case of an occupational disease or injury under COIDA.³

1. Worker informs employer (WCL 14 or WCL 3).*
2. Employer reports disease or accident (WCL 1 or WCL 2).*
3. Doctor completes First Medical Report (WCL 22 or WCL 4)* at first visit, and sends it to employer.
4. Doctor collates all investigations and specialist opinions. If it is an occupational disease then include a detailed and chronological description of past and present jobs, exposures and processes (and recognised causative agent).

5. Doctor counsels patient about need to avoid exposure and assist if requested (and appropriate) to have him/her moved to other work.

6. The Compensation Commissioner assigns a claim number which must be quoted in all reports or correspondence.

7. Doctor assesses the degree of impairment of patient, and whether it is temporary and/or permanent. Completes Progress (Final) Medical Report (WCL 26 or WCL 5)* at each subsequent (and final) visit, and sends these to employer or Commissioner.

8. Employer completes Resumption Report (WCL 6)* once worker returns to work and sends it to Commissioner.

* These forms differ depending whether it is an occupational injury or disease. They are obtainable from the Department of Labour.

Common questions asked by family practitioners regarding the management of COIDA cases

1. When do I suspect a work-related disease?

When the worker develops symptoms after having had specific workplace exposure; when symptoms deteriorate over the working day or week; when symptoms improve upon removal from work such as weekend/ leave/ holiday or when the disease is known to be associated with high risk exposures to a known occupational agent e.g. asbestos.

2. What do I do once I have diagnosed an occupational disease?

Remove the worker from further exposure as this may aggravate his condition as in the case of occupational asthma; institute appropriate treatment; submit a claim for

worker's compensation; notify the case to the Chief Inspector in the Department of Labour; investigate and "treat" the workplace.

3. How do I know that a disease is compensable?

It is important to take an occupational history to find out about harmful exposures in the workplace. Most compensable occupational diseases are listed in Schedule 3 of the COIDA Act (Appendix 1). The absence of a specific condition on the list requires more detailed motivation for the claim to be accepted.

4. What are circular instructions and of what use are these documents?

For the Commissioner to arrive at a decision regarding the degree of permanent disablement caused by an occupational disease, it is necessary for the relevant medical information to be submitted and for the correct documentation to be used. Circular instructions have been developed for the reporting and diagnosis of common occupational diseases which provide a guideline to medical practitioners as to what information to submit, which documentation to use and what criteria are used for a specific occupational disease or group of diseases (Appendix 2). These circular instructions have been promulgated in the Government Gazette and are also available on the website of the Compensation Commissioner (www.wcomp.gov.za).

5. Does one use the same document to report all work-related injuries and diseases?

No, for injuries we use a standard set of documentation for reporting injuries, the exception being PTSD which gets reported on a different set of forms (Appendix 3). Similarly occupational diseases are reported using a standard set of forms, the exception being work-related upper limb disorders (WRULDS) which has its own set of forms. In cases of occupational lung disease caused by exposure to fibrogenic dust and noise-induced hearing loss additional documentation, which provides additional information on medical status and workplace exposures, needs to be completed (WCL 111 and OD2 respectively). For all other agents where exposure history is available, it is mandatory to complete an exposure history form, WCL110 (Appendix 4).

6. If the employer does not complete a WCL 1 or WCL 2 should the doctor still complete the required COIDA medical reports?

If the doctor believes the injury or disease to have arisen in or during the course of employment, s/he is legally obliged to report it as such. In the event of the employer refusing to complete a WCL 1/2, the patient should be advised to complete an affidavit WCL 305 detailing his employment history. This should then be submitted together with supportive documentation as proof of employment e.g. payslip or unemployment fund (UIF) card.

7. *Where does a medical practitioner obtain the necessary documents to report COIDA claims?*

This is obtainable on the website of the Workmen's Compensation at (www.wcomp.gov.za) or from the Provincial office of the Department of Labour or Regional Labour Centres.

8. *Where does one get information regarding the progress of claims which have been submitted ?*

The Provincial DOL office or Regional Labour Centre will be able to assist in this regard.

9. *Where do I refer my patients when I need assistance with the diagnosis or management of an occupational disease?*

For a list of clinics and centres with a special interest in occupational diseases see Appendix 5

10. *If the employee disagrees with the percentage disablement awarded is there recourse to challenging this decision?*

The employee is entitled to lodge an objection in terms of section 91 of the COIDA Act. The medical practitioner may be subpoenaed to provide expert evidence at a formal hearing in support of the employees claim.

11. *Where do we submit claims to?*

For cases covered by COIDA:

Compensation Commissioner for Occupational Diseases

P O Box 4566

Johannesburg

2000

Fax:011-3335045; Tel: 011-3365411

For cases covered by ODMWA:

Medical Bureau for Occupational Diseases

P O Box 4584

Johannesburg

2000

Fax:011-4031285; Tel: 011-4036322

Appendix 1. Compensable occupational diseases under Schedule 3 of the Compensation for Occupational Injuries and Diseases Act (COIDA)

1.1 Respiratory diseases

Diseases	Any work involving the handling of or exposure to any of the following:
Pneumoconiosis-fibrosis of the parenchyma of the lung (e.g. asbestosis, silicosis)	organic or inorganic fibrogenic dust
Silicotuberculosis	
Bronchopulmonary disease	hard metal dust
Bronchopulmonary disease (Byssinosis)	flax, hemp, cotton or sisal
Occupational asthma	Sensitizing agents: (1) isocyanates (2) platinum, nickel, cobalt, vanadium or chromium salts (3) hardening agents, including epoxy resins (4) acrylic acids or derived acrylates (5) soldering or welding fumes

	(6) substances from animals or insects (7) fungi or spores (8) proteolytic enzymes (9) organic dust (10) vapours or fumes of formaldehyde, anhydrides, amines or diamines (11) latex
Extrinsic allergic alveolitis	Inhalation of the following organic dusts and chemicals inherent to the work process: moulds, fungal spores or any other allergenic proteinaceous material; 2,4 toluene-diisocyanates
Siderosis	
Chronic Obstructive Pulmonary Disease	
Diseases of the Lung	Aluminium
Upper Airways disorders	Recognized sensitizing agents or irritants inherent to the work process
Diseases caused by chronic or repetitive exposure to products of combustion	

1.2 Skin diseases

Diseases	Any work involving the handling of or exposure to any of the following:
Allergic or irritant contact dermatitis	Physical, chemical or biological agents
Occupational Vitiligo	

1.3 Musculoskeletal diseases

Musculo-skeletal diseases caused by specific work activities or work environment

where particular risk factors are present. Examples of such activities or environment include:

Rapid or repetitive motion

Forceful exertion

Excessive mechanical force concentration

Awkward or non-neutral postures

Vibration

1.4 Occupational cancer

Cancer caused by the following agents
Asbestos, arsenic, benzidine and its salts, Bis chloromethyl ether (BCME), chromium or chromium compounds, coal tars, coal tar pitches or soots, Beta- naphthylamine, vinyl chloride, benzene and its toxic homologues, Toxic nitro- and amino-derivatives of benzene or its homologues, ionizing radiation, Tar, pitch, bitumen, mineral oil, anthracene or the compounds, products or residues of these substances, coke oven emissions, compounds of nickel, wood dust, crystalline silica, mycotoxins.

1.5 Other diseases and pathological manifestations

Any disease or pathological manifestations caused by :	Any work involving the handling of or exposure to any of the following:
Chemical agents or its toxic compounds	Beryllium, cadmium, phosphorus, chromium, manganese, arsenic, mercury, lead, flourine, carbon disulphide, halogen derivatives of aliphatic or aromatic hydrocarbons, benzene or its homologues, nitro- and amino-derivatives of benzene or its homologues, nitroglycerine or other nitric acid esters, alcohols, glycols or ketones, asphyxiants such as carbon monoxide, hydrogen cyanide or hydrogen sulphide, acrylonitrile, oxides of nitrogen, vanadium, antimony, hexane, disease of teeth caused by mineral agents, pharmaceutical agents, thallium, osmium, selenium, copper, tin, zinc, ozone, phosgene, benzoquinone, chlorine ,

	pesticides and /or herbicides and oxides of sulphur.
Physical agents	<p>Hearing impairment caused by noise</p> <p>Diseases caused by vibration (disorders of muscles, tendons, bones, joints, peripheral blood vessels or peripheral nerves)</p> <p>Diseases caused by work in compressed air / abnormal atmospheric or water pressure</p> <p>Diseases caused by ionizing radiations</p> <p>Diseases caused by extreme temperatures (cold and hot)</p> <p>Diseases caused by ultraviolet radiation</p>
Biological agents	Infectious or parasitic diseases contracted in an occupation where there is particular risk of contamination
	Toxic/ inflammatory syndromes (inhalation fever, toxic pneumonitis, organic dust toxic syndrome) associated with exposure to bacterial and fungal contaminants (endotoxins, mycotoxins, (1- > 3 – B- D- glucans, volatile organic compounds)
Other disease	Miners nystagmus

Appendix 2. Circular Instructions for specific occupational diseases under COIDA

Circular Instruction	Disease covered
CI No 171 and CI No 171 supplement	Noise-induced hearing Loss (NIHL)
CI No 172	Post traumatic stress disorder (PTSD)
CI No 173	Mesothelioma
CI No 174	Occupational Lung Cancer
CI No 175	Byssinosis
CI No 176	Occupational asthma
CI No 177	Irritant-induced asthma
CI No 178	Pulmonary Tuberculosis in healthcare workers
CI No 179	Pulmonary Tuberculosis associated with silica dust exposure
CI No 180	Work-related upper limb disorders (WRULDS)

Appendix 3. Documentation to be used in respect of a worker's compensation claim for an occupational injury

W.CL Number	Title of Form
W.CL2	Employer's report i.r.o. occupational injury
W.Cl 4	First Medical Report i.r.o. occupational injury
W.CL 5	Progress / Final Medical report i.r.o. occupational injury
W.CL 303	First Medical report i.r.o. Post-Traumatic Stress Syndrome
W. CL 304	Progress / Final Medical report i.r.o. Post Traumatic stress Syndrome

Appendix 4. Documentation to be used in respect of a worker's compensation claim for an occupational disease

Form	Title of Form
W.CL1	Employers report i.r.o. an occupational disease
W.CL 14	Notification of an occupational disease
W.CL 22	First Medical report i.r.o. an occupational disease
W. CL 26	Progress / Final report i.r.o. an occupational disease
W.CL 301	First Medical report i.r.o. a work-related upper limb disorder
W.CL 302	Progress Final report i.r.o. a work- related upper limb disorder
W.CL 110	Exposure History. Additional information required in all cases of occupational disease where applicable.
W. CL 111	Medical report for extra information required in cases of silicosis, asbestosis or other fibrosis of lungs caused by mineral dust.
OD2	Industrial hearing loss (exposure history)

Appendix 5. Referral / Advice centres for assistance with occupational diseases

Cape Town Workhealth Occupational Diseases Clinic, Groote Schuur Hospital (021) 404 4369 Provincial Occupational Health Clinic, Reed Street, Bellville, (021) 946 3790/1/2 Provincial Medical Advisory Panel - Western Cape , UCT Lung Institute, (021) 4066856 Respiratory Clinic, Tygerberg Hospital (021) 938 5524
Johannesburg National Institute of Occupational Health, Braamfontein, (011) 712 6400 Medical Bureau for Occupational Diseases, Braamfontein, (011) 4036322
Durban Occupational Medicine Clinic. King Edward Hospital (031) 3603161 / (031) 260 4471

References

¹ Jeebhay M.F. Health and safety legislation and Worker's Compensation for Allergic Diseases of Occupational Aetiology. *Current Allergy and Clinical Immunology*, 13 (3), 4 - 8, 2000.

² Schedule 3 under the Compensation for Occupational injuries and Diseases Act No 130 of 1993, as amended: *Government Gazette* No 26302, 30 April 2004.

³ Jeebhay M.F. Setting up an Occupational Health Service: Legal Provisions and Practical considerations. *South African Journal of Continuing Medical Education*, 14 (9) , 1321 -27, 1996.