

The Mental Challenge: How Workers' Compensation Considers Psychological Injuries



In her role as the Executive Director of the IAIABC, Jennifer Wolf Horejsh works with the IAIABC community to find solutions to reduce harm and aid recovery from occupational injury and illness.

been shaped by factors including case law, legislative initiatives, and changing cultural attitudes toward mental health.

Like most issues in workers' compensation there is wide variation in compensability and consideration of mental injuries across states. In workers' compensation, mental injuries generally are generally categorized as **Physical-Mental**; **Mental-Physical**; or **Mental-Mental**.

- Instances where a physical injury results in a psychological impairment are referred to as a **Physical-Mental** claim. A common example would be a person who strains their back, is off work, and ends up with depression as a result of his/her isolation from work and life. Most jurisdictions would accept these claims if the mental diagnosis was medically related to the physical injury.
- Instances where mental stress or strain at work results in a physical impairment are referred to as a **Mental-Physical** claim. Two common examples are:
 1. Mental shock or stress from a traumatic event causes a heart attack or stroke. These cases would also almost always be found compensable in most jurisdictions.
 2. Mental strain or stress which causes a gradual injury like an ulcer or exacerbates a pre-existing physical condition. These cases

Workers' compensation is primarily concerned with the treatment and recovery of physical injuries and illnesses caused by work. However, the system continues to evolve, and in many states there is growing recognition of the compensability of psychological injuries caused by work. This trend has

are more controversial and the individual facts would determine compensability in most jurisdictions.

- Purely psychological injuries with no physical injury or impairment are referred to as **Mental-Mental** claims. These cases are the most challenging for the workers' compensation system because they are difficult to objectively quantify and link definitively to work. There is widespread variation in how jurisdictions treat mental-mental claims. Claims related to employment or disciplinary actions are almost always excluded from workers' compensation.

Some jurisdictions, including MT, ND, OH, WA, and WV, exclude mental-mental claims by statute. (See Montana *Section 39-71-105 (6)(a)*)

Many jurisdictions have a higher threshold standard for mental-mental claims to be compensable. Mental stress/strain have to be "extraordinary," "unusual," or "out of the ordinary" from the regular duties of the occupation.

Other jurisdictions are silent on mental-mental claims and compensability would be determined solely on the facts of each case.

An area that has gotten significant attention in the past several years is the compensability of post-traumatic stress disorder (PTSD), specifically in jurisdictions that require the mental strain to be "extraordinary" or "unusual" to the work. PTSD claims in some jurisdictions were denied because responding to violent or traumatic events did not meet the statutory higher threshold requirements. Many states have seen legislative proposals to address gaps in compensability for PTSD claims. Colorado passed legislation in 2017 which clarified PTSD could

Mental Health Quick Facts

- Mental health is the leading cause of disability worldwide ([World Health Organization](#))
- Mental health results in \$193 billion in lost earnings in the US each year ([Insel, T., 2008](#)).
- One in five Americans suffers from a mental health disorder annually. ([www.mentalhealth.gov](#))
- [The Stamp Out Stigma Campaign](#) has the goal "to change perceptions and reduce the stigma of mental illness and substance use disorders by encouraging people to talk about them."]

be compensable even if the event was "not out of the ordinary" if a worker witnessed a death or serious bodily injury caused by a violent event. There is likely to be continued legislative activity to protect those professions where workers are exposed to stressful and traumatic situations more frequently.

Even though mental health challenges may be "invisible" to the eye, it is important to recognize that mental health injuries can be just as damaging to an injured worker as a physical injury. The future will bring continued evolution in how mental diagnoses are considered and treated within the workers' compensation system.

Interested in learning more?

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