

OCCUPATIONAL DISEASE

An Occupational Disease Includes:

- a disease resulting from exposure to a substance (for example, chemicals, dust, fumes or viruses) relating to a particular process, trade, or occupation in an industry (for example, asbestos from exposure to asbestos in the air)
- a disease peculiar to, or characteristic of, a particular industrial process, trade or occupation (for example, operating drills used in mining or construction or using tools such as chainsaws may result in Hand Arm Vibration Syndrome)
- a medical condition that in the opinion of the Workplace Safety and Insurance Board (WSIB) requires you to be removed from exposure to a substance because the condition may lead to an occupational disease, or
- a disease mentioned in Schedule 3 or 4 of the Regulations to the *Workplace Safety and Insurance Act, 1997* (see below for more information about these schedules)

If you suffer from and are impaired by an occupational disease, WSIB will pay you benefits as if you were injured in a work-related accident. A special unit of WSIB known as the Occupational Diseases and Survivor Benefits Program handles most occupational disease claims.

Why Are the Scheduled Diseases Significant?

Schedule 3 contains a list of thirty diseases for which WSIB will pay benefits if you prove you have the disease and you worked in a process listed next to that disease. You will not receive benefits if either WSIB or your employer proves the disease did not arise from your work. For example, WSIB or the employer can argue that the workplace exposure to a substance did not last long enough to be significant, or that other factors such as smoking were responsible for the disease.

Schedule 4 contains a list of only 3 diseases. To receive benefits for diseases listed in Schedule 4, you only need to prove that you have the disease and that you were employed in the listed work process.

What About Diseases That Are Not in the Schedules?

WSIB has developed policy guidelines in an effort to decide claims relating to a number of other occupational diseases (for example, lung cancer among uranium or gold miners). Many of these guidelines set out minimum periods of exposure to substances such as radiation or arsenic, and a minimum period between the date of first exposure and the diagnosis of the disease, called the latency period. These minimum periods of exposure must be met in order to receive benefits.

If your claim does not meet the minimum requirements set out in the guidelines, or if there is no guideline relating to a particular disease and workplace exposure, WSIB will decide the claim based on the facts and evidence of your case. The WSIB decision-maker will review your medical condition, your exposure at work, up-to-date medical and scientific information, and possible factors that were not related to work. WSIB will ultimately decide whether the workplace exposure made a significant contribution to the development of your disease.

When Should You File a Claim for Occupational Disease?

You should file a claim for occupational disease benefits:

- as soon as possible, and preferably no later than **six months** from the date that you discovered you have an occupational disease, if this happened on or after January 1, 1998. You should file a claim even if you missed the deadline. Since occupational disease claims are complicated, WSIB is more likely to extend the deadline for these types of claims.

- as soon as your doctor diagnoses your disease, even if you are still able to work.
- even if your exposure to a dangerous substance happened with more than one employer. WSIB will usually treat the last of these employers as the accident employer. **You may receive benefits even if you worked partly outside Ontario, as long as you can show that your exposure in Ontario was a significant contributing factor to the development of your disease.**
- if you are a partner or the dependant of a worker who has died from an occupational disease See OWA Fact Sheet 15 called “Survivors’ Benefits”.

Occupational disease claims can be very complicated, therefore, you should speak to a qualified representative before filing your claim.

What Information Will Help You Prove Entitlement for an Occupational Disease?

When you file a claim for an occupational disease, it is important for you to provide WSIB with a detailed history of your occupational exposures. This detailed history should outline all your past employers, the jobs you performed for those employers, details of the work processes involved and, if possible, a list of the specific substances that you came into contact with in these workplaces. It is also important to have a clear diagnosis of your condition as it relates your disease to your history of workplace exposures. It is best for this to come from a medical specialist in that particular disease or field of occupational medicine. You should make sure that your doctor is aware of your work history at the time you are examined. If you require medical assistance, you should contact the Occupational Health Clinics for Ontario Workers (OHCOW) by phone at 1-877-817-0336 or visit their website address at www.ohcow.on.ca.

What If WSIB Has Granted You Entitlement, But You Are Not Receiving Benefits?

It is possible for WSIB to grant you entitlement for an occupational disease where you receive no benefits. This can happen when WSIB believes the disease is not affecting your ability to work. You may also be entitled to health care benefits covering medication and devices, such as hearing aids. For an occupational disease, the date of the injury is the date on which you experience the disabling physical condition. It is important to keep WSIB informed of any developments in your condition. In fact, you must inform WSIB of any material change in your circumstances within **ten days** of the change occurring. For example, if your condition changes in any way or if it starts to affect your ability to work, you must inform WSIB right away, as well as ask your doctor to send WSIB a report setting out the new medical information.

What If Your Claim Is Denied?

If WSIB denies you benefits, you have **six months** to appeal the decision.

IMPORTANT INFORMATION

There are time limits for appealing WSIB decisions. If you wish to appeal a decision, contact a qualified representative as soon as possible. For more information on time limits, see OWA Fact Sheets 24 and 25 called “Appealing to WSIB” and “Appealing to WSIAT”.

This Fact Sheet contains general information only. It is not a legal document. To see what the law says, you should look at the Workplace Safety and Insurance Act and WSIB policies. If you require help and do not have a union to assist you, contact the Office of the Worker Adviser:

- Our toll free telephone number is 1-800-435-8980 (English) or 1-800-661-6365 (French)
- or visit our website at <http://www.owa.gov.on.ca>

Cette feuille-info est aussi disponible en français

