

IWAC Submission

Consultation on Policy 21-111: Conditions for Entitlement – Occupational Disease

Introduction

The Injured Workers Advisory Committee (IWAC) appreciates the opportunity to provide input on the proposed revisions to Policy 21-111, *Conditions for Entitlement – Occupational Disease*.

IWAC represents the perspectives of injured workers and advocates for fair, transparent, and accessible workers' compensation processes. Occupational disease claims present unique challenges for workers, particularly due to long latency periods, evolving medical evidence, and complex questions of causation. As such, policies governing entitlement in this area must balance clarity and consistency with flexibility and fairness.

Overall, IWAC supports the intent of the proposed revisions, particularly efforts to improve transparency, structure, and clarity in adjudication. Our comments focus on ensuring these changes enhance access to compensation and confidence in decision-making for clients navigating occupational disease claims.

General Observations

IWAC recognizes the value of clearly articulated adjudicative steps and improved policy structure. Clients frequently report difficulty understanding how decisions are made and what information is required to support their claims. Improved clarity has the potential to reduce confusion and build trust in the system.

At the same time, IWAC emphasizes that occupational disease adjudication must account for uncertainty, evolving science, and the realities faced by clients who may be required to establish work-relatedness many years after exposure. Clear processes should support, not unintentionally restrict, access to entitlement.

Key Considerations and Recommendations

1. Adjudicative Structure and Decision-Making Flexibility

IWAC supports the clarification of adjudicative steps outlined in the revised policy. However, we encourage WorkSafeNB to ensure the policy clearly communicates that these steps are intended as guidance rather than rigid thresholds.

IWAC recommends:

- Explicit confirmation that adjudicative steps should be applied flexibly, recognizing the varied and complex nature of occupational disease claims.
- Clear messaging that claims should not be denied solely due to incomplete evidence when reasonable inferences can be drawn based on available information.

This is particularly important where scientific or medical evidence is incomplete or still developing.

2. Burden of Proof and Scientific Uncertainty

Clients pursuing occupational disease claims often face inherent challenges in establishing causation. Many occupational diseases involve cumulative exposure, multiple risk factors, or long latency periods, making definitive proof difficult or impossible.

IWAC recommends:

- Stronger acknowledgement within the policy that scientific certainty is not always attainable in occupational disease cases.
- Reinforcement that decisions are made on a balance of probabilities, and that reasonable inference should be applied where appropriate.
- Careful consideration to ensure the absence of definitive medical evidence is not treated as evidence against the client.

These measures would help ensure workers are not unfairly disadvantaged by limitations in current scientific knowledge.

3. Appendix of Recognized Occupational Diseases

IWAC sees value in consolidating the list of recognized occupational diseases into a single appendix, as this improves accessibility and transparency.

However, there is a risk that clients may perceive the appendix as a closed or exhaustive list.

IWAC recommends:

- Clear, plain-language statements confirming that occupational diseases not listed in the appendix may still be compensable.

- Greater transparency regarding how new diseases are evaluated and added, including how emerging evidence is considered between formal updates.
- Clear communication to clients that the appendix is a living document and not a barrier to entitlement.

This would help reduce confusion and discourage clients from self-screening out of the claims process.

4. Date of Accident in Occupational Disease Claims

The determination of the date of accident in occupational disease claims can have significant implications for clients, including benefit levels and access to services.

IWAC recommends:

- Continued flexibility in determining the date of accident, recognizing that diagnosis, symptom onset, and loss of earning capacity may not align neatly.
- Clear articulation of how date-of-accident decisions are made and how clients are informed of the implications of these decisions.

Transparency in this area is essential to maintaining client confidence and fairness.

5. Procedural Fairness and Client Understanding

Beyond policy wording, IWAC emphasizes the importance of procedural fairness and meaningful communication throughout the adjudication process.

IWAC recommends:

- Ensuring clients are clearly informed about what evidence is missing or required and are given reasonable opportunities to respond before adverse decisions are made.
- Continued emphasis on plain-language communication so clients understand both decisions and the rationale behind them.

These practices are especially important for clients navigating complex occupational disease claims without formal advocacy support.

6. Equity Considerations

Occupational disease claims disproportionately affect certain groups of workers, including those in physically demanding occupations, workers with long-term exposures, and clients with limited access to specialized medical care.

IWAC recommends:

- Applying an explicit equity lens in occupational disease adjudication to ensure no group of clients is systematically disadvantaged.
- Ongoing monitoring of outcomes to identify and address potential inequities in access to entitlement.

Conclusion

IWAC supports the intent of the proposed revisions to Policy 21-111 and appreciates the efforts to improve clarity, transparency, and consistency in occupational disease adjudication. Our recommendations are intended to strengthen the policy by ensuring these improvements also enhance fairness, flexibility, and access for clients.

We thank WorkSafeNB for the opportunity to provide input and look forward to continued engagement on this important policy area.

Sincerely,

The Injured Worker Advisory Committee

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