

Manager/Supervisor Risk Management
#24– 1/31/12

TOPIC: WORKERS' COMPENSATION – PSYCHIATRIC INJURIES

Physical injuries are obviously the most common injuries claimed, but the Labor Code also recognizes mental disorders as industrial injuries. At one time “psyche claims” were becoming increasingly common, but today we see very few; the majority that we receive are generally triggered by some traumatic event, or grow out of some form of employee discipline (usually not compensable under the Good Faith Personnel Defense discussed in the last offering).

To be compensable in California a psyche/stress claims must be diagnosed in accordance with psychiatric protocols and causation must reach a mandated threshold:

- In 1993 the predominant cause threshold was established for psychiatric injuries meaning that the employee must prove that the work environment caused more than 50% of the mental injury.
- A minor exception is when the employee is involved in, or witnesses a significant act of violence. In those cases it need only be a substantial cause (as opposed to the predominant cause) meaning at least 35-40% of causation from all combines sources.
- Claims made after notice of termination or layoff are under the “predominant cause” requirement, and requires additional specified elements to add credence to the claim of the ex-employee.
- Lastly, absent a “sudden and extraordinary employment condition,” the employee has to have been with them employer for at least six months to have a compensable psyche claim.

YCPARMIA, as a matter of course, investigates all psyche claims. There are two basic areas that are explored. The first is to determine what happened at work, and does it rise to the level of being the predominant cause of the employee’s injury. Of course you cannot answer that question unless you know what is happening outside of work, so the second area of exploration is– what other things are happening in the employee’s life that might be causing stress or upset?

We have literally had WC claims where a worker is going through a divorce, has children in trouble with the law and drugs, is in serious financial trouble, has sick parents – and gives us a statement that the only stressors in their life are tied to an unhappy work environment. To get an objective view the investigation is forced to interview co-workers, friends and family to find out what they know about the injured worker’s life, both at work, and at home. Workers and supervisors are often reluctant to interfere with what they perceive as the privacy of the injured co-worker, but should understand that the co-worker, by making the claim, has opened up their life to scrutiny. Another big area of inquiry on all psyche claims is the documented medical history of the injured worker.

Ultimately the question of whether the injured worker has a compensable psyche claim will, like all claims, be decided by a medical doctor based on an examination of the worker, their medical records, investigative reports, and any other information that they are provided by the employee and employer.

Next topic: Workers’ Compensation – Injury