

29 September 2020



Tēnā koe [REDACTED]

Your Official Information Act request, reference: GOV-006567

Thank you for your email of 1 September 2020, asking the following:

- Can you please provide me with a copy of the Policy / Process document for ACC's handling of –*
- *mental injuries*

On 17 September 2020, we wrote to you clarifying the scope of your request. You confirmed that the request should cover all policy / process documents for mental injury as a result of physical injury and Work-Related Gradual Process.

Our response

The relevant documents from ACC's ProMapp system are:

- *(NGCM) Assess and arrange Psychiatric Assessment :: Psychiatric*
- *About Pre and Post Services for Work Related Mental Injuries Service Page*
- *Applying the Two-Part Test to Determine Cover for Mental Injury Because of Physical Injury*
- *Assessing a claim for Mental Injury*
- *Make Cover Decisions for Mental Injury Caused by Physical Injury*
- *Make Cover Decisions for Work-Related Mental Injury Claims*
- *Mental Injury Because of a Physical Injury Policy*
- *Mental Injury Policy*
- *Statutory Timeframes for Mental Injury Policy*
- *The Two-part Test Explanation*
- *Work-Related Mental Injury Early Intervention Service Referral Process Service Page*
- *Work-Related Mental Injury Policy*

Please find copies of these documents attached.

Please note that the staff named in the documents are subject matter contacts for internal queries only and are not the staff who created or updated the policy/process.

Withheld information

Certain information has been withheld under Section 9(2)(a) of the Official Information Act to protect the privacy of named individuals. In doing so, we considered the public interest in making the information available and have determined that it does not outweigh the need to protect the privacy of these persons.

Questions about our response

If you have any questions or would like further details, please email me at GovernmentServices@acc.co.nz.

Nāku iti noa, nā

A handwritten signature in black ink, appearing to read 'Sasha Wood', with a stylized, cursive script.

Sasha Wood

Manager Official Information Act Services
Government Engagement & Support

(NGCM) Assess and arrange Psychiatric Assessment :: Psychiatric

v36.0

Summary

Objective

The purpose of an Assessment is to provide psychiatric assessment, diagnosis and/or suitable rehabilitation options to Clients in the following circumstances:

- Where possible differential diagnosis issues have been identified
- Prior to referral for rehabilitation or pain management service (e.g. Residential Rehabilitation Services)
- To establish if the diagnosed injury has a causal link to the physical injury, workplace traumatic injury or treatment injury. A causal link to mental injury is defined as the physical injury or workplace traumatic or treatment injury event, was a significant or a material cause of the injury
- Ascertaining if the rehabilitation need is causally linked to the injury (both physical and mental) for which ACC has granted cover
- Medication review
- Where multiple rehabilitation options have been identified; and/or
- To review the appropriateness of on-going mental health treatment for a Client.

An Assessment may include:

- Clarification of clinical issues to assist ACC to reach a decision on whether mental injury cover should be granted
- Performing a diagnostic evaluation
- Evaluating the safety of the Client and others
- Evaluating the level of functional impairments
- An assessment of the validity of the Client's presenting symptoms
- Identification and recommendation of treatment options for mental health disorders in Clients with ACC covered injuries; and
- Formulation of broad treatment guidance and recommendations where treatment is indicated

Background

Clinical Psychiatric services are used to provide assessments, treatment and progress reviews for clients with mental injuries arising from:

- Mental injury caused by physical injury (MICPI)
- Mental injury caused by treatment injury (MICTI)
- Chronic pain issues
- Any other mental health condition that may hinder rehabilitation, eg when the mental health condition is not clearly linked to the covered injury or is pre-morbid. I.e. the client had the mental health condition prior to the injury

Owner

Expert

Procedure

1.0 Determine eligibility for a Psychiatric Assessment

Recovery Assistant, Recovery Coordinator, Recovery Partner

- a In Salesforce, go to the claim and open Claim On A Page. Review the client's current circumstances.

- b The client must meet one of the following criteria to be eligible for a Psychiatric Assessment:

- rehabilitation need must be linked to the injury (physical and mental) which has approved cover
- has a mental health issue or psychiatric issue that may prevent rehabilitation
- has chronic pain issues
- has a contradictory diagnosis by more than one medical provider

NOTE What if I am unable to determine if the criteria has been met or not?

Go to 'Seek Internal Guidance'. Once guidance has been received return to this process.

NOTE What if the none of the criteria has been met?

Contact the GP or specialist who requested psychiatric support to advise you are unable to proceed and request they advise the client. This process ends.

2.0 Contact the Client

Recovery Assistant, Recovery Coordinator, Recovery Partner

- a Contact the client or ATA by their preferred method of communication.

NOTE What if the client would like you to discuss the assessment with another person, but there is no ATA on record?

Go to (NGCM) Obtain Authority to Act (ATA), then return to this process.

☐ **PROCESS** Obtain Authority to Act (ATA)

NOTE What if you are unable to contact the client?

Contact the GP or specialist who submitted the referral for psychiatric treatment to confirm the clients contact details. Refer to the Welcome Conversation Call Attempts information sheet for next steps.

☐ Welcome Conversation Call Attempts

- b Complete the relevant security questions to confirm you are speaking with the correct person. Record this as a contact on the claim. If required, verify and update the client's contact details

☐ Identity Check Policy

- c Advise your client the following:

- A request for psychiatric support has been received from their GP or specialist.
- How an assessment could benefit their rehabilitation.
- All Mental health notes will be requested from their GP or specialist.
- Guidance will be sought from an Internal Advisor to determine if cover for a psychiatric assessment can be accepted.
- Once guidance has been received you will advise of the outcome.

NOTE What if the client does not want to proceed?

Record this decision as a 'contact' on the claim. Contact the clients GP to advise decision. Record this as a 'contact' on the claim. For further guidance on recording decisions refer to 'NG PRINCIPLES Decision Making.


☐ NG Principles Decision Making

- d** Check if the client has provided consent to collect and share information.

 View Client Consent

NOTE What if the client hasn't provided consent?

Go to (NGCM) Obtain Client Authority to Collect Information, then return to this process.

 **PROCESS** Obtain Client Authority to Collect Information

- e** Check if the client has a preferred Vendor and/or Provider.


 Manage Participants (Eos Online Help)


NOTE What if the client has a preferred Vendor and/or Provider?

- Psychiatric Assessments can only be completed by contracted Suppliers. Refer to the Contract Suppliers by Geographic Area of Coverage to confirm if the preferred Provider is contracted to ACC.

- If the preferred Provider is contracted, enter as a participant on the claim.

 Manage Participants (Eos Online Help)

 Client choice of providers Policy

 Contracted Suppliers by Geographic Area of Coverage

 Contracted Suppliers by Geographic Area of Coverage

- b** Email Vendors and Providers requesting them to provide available appointments for a psychiatric assessment.

NOTE What if the client has a contracted preferred Provider?

Only email this Provider for available appointments.

- c** Contact the client and advise dates and times of available appointments. Confirm Vendor/Provider and appointment with the client.

- d** Based on the clients preference, email the Vendor/Provider to confirm appointment.

- e** In Salesforce, record Vendor and Provider confirmation that they are able to complete the assessment as a contact on the claim.

- f** If more than one Vendor/Provider confirmed they are able to complete a psychiatric assessment, acknowledge receipt of their email advising an alternative Vendor has been selected.


- g** Add the confirmed Vendor/Provider as participants to the Client's Party Record.

 Add a participant

- h** Update the client's Recovery Plan with the agreed intervention.

NOTE What if I don't know how to update the Recovery Plan?

Go to '(NGCM) Create or Update Recovery Plan'

 **PROCESS** Create or Update Recovery Plan

3.0 Prepare for and seek internal guidance


Recovery Assistant, Recovery Coordinator, Recovery Partner

- a** Add Mental Injury as a new diagnosis to the 'Medical' tab on the claim. Select 'Investigating' as the 'Outcome Status'.

- b** Check if the client's mental health notes for the last 5 years are on the claim.

NOTE What if the records are incomplete?

Go to 'Request Clinical Records'. Once records have been received, return to this process.

 **PROCESS** Request Clinical Records

- c** Seek internal guidance to determine if cover can be accepted for a psychiatric assessment.

NOTE What if I am unsure how to seek internal guidance?

Go to '(NGCM) Seek Internal Guidance'. Once guidance is received return to this process.

 **PROCESS** Seek Internal Guidance

- d** If guidance confirms cover can be accepted for a psychiatric assessment, continue and arrange an assessment

NOTE What if guidance advises cover can not be accepted?

Contact the client and their GP to advise decision. Go to '(NGCM) Issue Recovery Decision' and send CVR999 Decline cover letter to the client.

 **PROCESS** Issue Recovery Decision

5.0 Create document group and referral

Recovery Assistant, Recovery Coordinator, Recovery Partner

- a** Create a document group called Psychiatric Assessment and add the following documents:

- Recent certificate
- Clinical guidance transcript
- Relevant clinical records
- Relevant reports, ie medical, psychological, counselling reports
- ACC4247 Mental Injury Assessment Report
- Signed ACC6300 or ACC6300D. If verbal consent was provided, note this in the eform.

For additional information refer to the Clinical Psychiatric Service Referral Page.

 Clinical Psychiatric Service Referral Service Page

4.0 Confirm Vendor/Provider availability

Recovery Assistant, Recovery Coordinator, Recovery Partner

- a** From the 'Contracted Suppliers' list find Clinical Psychiatric Vendors/Providers located in the geographical area of the client.

NOTE What if there are documents from other claims that are relevant to the assessment?


When a request for a referral is required and the supporting documents are on another claim, it is important to transfer the documents to the relevant claim. This will ensure the right documents support the recovery decisions for each claim.

To transfer documents from one claim to another:

- Create a bulk print of all documents on the other relevant claim and complete mandatory fields and description
- Open PDF document from email link
- File the PDF away to the relevant claim
- Repeat these steps if there is relevant documents on multiple relevant claims

The PDF should also be renamed something short but relevant, and identify which claim number the information came from, so it is included/printed in further referrals or copy files eg. Medical records and reports from claim: 100XXXXXXX

Please do not create a bulk print on one claim and then move it to another claim, renaming it and using it in a referral for advice as it will not appear in any file copy subsequently used.

 Manage document groups

- b** Perform privacy checks to ensure that the documents are relevant to the referral, do not contain any third party information and do not contain any other information that needs to be withheld.

 NG SUPPORTING INFORMATION Inbound and Outbound Document Checks

NOTE What if you find information that needs to be redacted?

Email the document to Recovery Administration (recoveryadmin@acc.co.nz) advising instructions to redact as required. Once returned, add to the document group.

 NGCM - Redact information from PDF documents





- c** Create a 'Psychiatric Assessment' referral. Include the following information in the e-form:
- Geographic location
 - Confirmed Vendor and Provider
 - Note if the client's Mental Injury is the result of Treatment Injury or Physical Injury
 - State clearly if your client has a Care Indicator
 - Reason for referral
 - Provide the correct service code. Refer to the Purchase Order guidelines

For further information and guidance refer to NG GUIDELINES Referring Tasks to Recovery Administration - Principles and the Disclosure of Care Indicator Information to Third Parties Policy if relevant.

NOTE What do you do if Mental Injury Claim information needs to be sent with a Referral from a Physical Injury Claim?

In Eos, manually transfer the Referral Task generated to the Recovery Administration department with the Sensitive Claims Administrator Role.

 Referring Tasks to Recovery Administration - Principles

-  NGCM - Psychiatric purchase order details
-  Manage document groups
-  NGCM Create a Referral Task
-  Disclosure of Care Indicator Information to Third Parties Policy

- d** Consider the timing of the task. The Recovery Administration SLA for these tasks is 24 hours.

NOTE What if the request is urgent and needs to be completed that day?

- Call Recovery Administration
- Give the Recovery Administrator who answers the call the claim number
- The Recovery Administrator will open the claim in Eos and find the task on the claim
- Transfer the task into the Recovery Administrator's name. This will move it to their personal Eos queue and stop it from being reallocated by Salesforce.

NOTE What if the request is required in the future?
If the request is required in the future, set a reminder task for the future date when the service will be required. When the reminder task comes up send a task to Recovery Administration to continue with the process. Consider the contract timeframes and SLAs as specified in the service page


6.0 Review task

Recovery Administrator

- a** Following the task assignment in Salesforce, navigate to Eos and select 'Do Task' from your task queue.
- b** Check the task contains sufficient information to proceed. For further guidance refer to the NG PRINCIPLE Working in the Administration.

NOTE What if you don't have all the information you need?



Refer to the Task clarification process outlined in NG PRINCIPLE Working in the Administration Team.

 NG PRINCIPLES Working in the Administration Team


7.0 Create and approve purchase order

Recovery Administrator

- a** In Eos, create a Purchase Order for Psychiatric services using service code CPSP1.

-  Creating purchase orders using general + QE
-  NGCM - Psychiatric purchase order details

- b** Search for and select the Vendor provided in the task using the Geographic Location search.

 Search for a Party

NOTE What if the Vendor hasn't been added as a participant?


Add the Vendor in Eos as a participant.

 Manage Participants (Eos Online Help)

- c** Approve Purchase Order.

NOTE What if the purchase order requires a higher delegation?

Save the purchase order. To request authorisation refer to the system steps below.

 NGCM - FINAL Request Authorisation for a Purchase Order - System Steps


- d** Email the Vendor the purchase order approval document located in the 'Documents' tab on the claim.

8.0 Create and send referral documents

Recovery Administrator

- a** In Eos, create the PS06 Psychiatric Assessment referral letter - Claimant and the PS04 Psychiatric Assessment referral letter for the vendor.
- b** Include all relevant information provided in the task in the referral letters. For further instruction refer to the Admin Template.


 Manage Participants (Eos Online Help)


 Admin Template - Psychiatric Services

- c** Save the documents as 'Completed' and add to the Psychiatric Assessment document group.


NOTE What if the document group contains an e-form saved as a word document?

Convert the e-form to PDF to enable it to be emailed by Eos.


 Convert an Internal Referral e-form to a PDF document.

 NG PRINCIPLES Working in the Administration Team

- d** Perform dispatch privacy checks using Inbound and Outbound Document Checks.


 NG SUPPORTING INFORMATION Inbound and Outbound Document Checks

- e** Create and email the Provider using the Requests and referrals template. Include the client's contact details if they have not populated in the referral documents. Attach the documents included in the document group to the email, including the ACC2059 Psychiatric Assessment Report and Treatment Plan.

 NGCM - FINAL Emailing from Eos using a Template - System Steps

NOTE What if the provider has requested the documents are sent by courier?

Go to Prepare and Send Client Information by Courier process.

 **PROCESS** Prepare and Send Client Information by Courier

- f** Send the PS06 Psychiatric Assessment referral letter - Claimant located in the 'Documents' tab to the client by their preferred method of communication.

- g** In Salesforce, close the assigned referral task.

NOTE What if I am unsure how to seek internal guidance?


Go to '(NGCM) Seek Internal Guidance'. Once guidance is received return to this process.

 **PROCESS** Seek Internal Guidance

- c** If guidance confirms cover can be accepted for a Psychological sessions go to (NGCM) Assess and Fund Psychological Services.

NOTE What if guidance advises cover for sessions is not accepted?

Contact the client and their GP to advise decision. Go to '(NGCM) Issue Recovery Decision' and send CVR999 Decline cover letter to the client.

 **PROCESS** Issue Recovery Decision

10.0 Issue approved cover decision and advise next steps

Recovery Assistant, Recovery Coordinator, Recovery Partner

- a** Issue the CVR70 Cover Approved - Add Injury - Claimant decision letter to the client.

- b** Contact the client or ATA by their preferred method of communication.

NOTE What if their preferred method is by phone?

Complete the relevant security questions to confirm you are speaking with the correct person. Record this as a contact on the claim.

- c** Advise the client the following:

- ACC's Psychologist has reviewed cover for Mental Injury caused by Physical Injury
- Approval has been granted for [state the MH diagnosis]
- It has been recommended you receive xx Psychological Sessions.
- ACC is able arrange the sessions with a preferred provider and request the client to confirm either way.

 **PROCESS**

Create or Update Recovery Plan

Recovery Assistant, Recovery Coordinator, Recovery Partner

9.0 Review Assessment Report

Recovery Assistant, Recovery Coordinator, Recovery Partner

- a** Review the Mental Injury Assessment report (ACC4247) received from the Psychiatrist.

- b** Seek internal guidance to determine if cover can be accepted for a mental injury caused by physical injury or treatment injury and request guidance about ongoing treatment for the client.

About Pre and Post Services for Work Related Mental Injuries Service Page v4.0

Summary

Objective

The Work Related Mental Injury (WRMI) services include Pre-cover WRMI Early Intervention and Pre cover WRMI Post Assessment Therapeutic Sessions.

Owner

Expert

Procedure

1.0 Who are the services for?

- a The Pre-cover WRMI Early Intervention Service is available to all WRMI clients showing evidence they've suffered a significant event. It can be offered before the cover decision is made. If the client's cover is declined they won't need to reimburse ACC for the service.

The Pre cover WRMI Post Assessment Therapeutic Sessions are only for clients who progress to cover. The service is designed to allow time for ACC to decide on WRMI cover.

2.0 Key features

- a To find a provider see contracted providers contact list. If there is no available psychologist in the client's region and/or there are clinical reasons to support a referral to a registered counsellor, please contact Specialised Treatment Services Category Advisor.

The provider can provide a maximum of up to:

- four hours for the Pre-cover WRMI Early Intervention service
- two hours for the Pre cover WRMI post assessment therapeutic sessions service

3.0 The aim of these sessions are to:

- a 1) provide early psychological intervention to reduce the psychological impact of the traumatic event on clients and assist in preventing a mental injury. The sessions are likely to consist of psychological first aid and/or trauma focussed cognitive behavioural therapy
- 2) gather information which can be used in a mental injury assessment if the client decides to progress to a WRMI cover decision

4.0 Payments

- a Providers should send invoices directly to ACC:

Hutt Processing Centre
ACC
PO Box 31587
Lower Hutt

Applying the Two-part Test to Determine Cover for Mental Injury Because of Physical Injury v2.0

Summary

Objective

This policy provides Clinical Services and Technical Services staff with guidance when applying the two-part test to determine cover for mental injury because of physical injury claims.

Background

The High Court decision, *W v Accident Compensation Corporation* [2018] NZHC 937 (W) prescribed the following two-part test to determine cover for mental injury because of physical injury claims:

- 1) Whether 'but for' the physical injury the mental injury would have occurred; and
- 2) Whether the physical injury materially contributed to the mental injury.

Both parts of the test must be met for the client to receive cover.


Owner

Expert

Procedure

1.0 Operational Policy

UNASSIGNED

- a Clinical Services will identify complex mental injury because of physical injury' claims where it is difficult to determine the causal link between the physical injury and mental injury.
- b This may include cases where:
 - the assessor suggests an indirect causal link between the physical injury and mental injury; and/or
 - the client cannot recall the physical injury/event, and the cause of the client's mental health condition includes their knowledge of the fact that they suffered a physical injury; and/or
 - a significant period has elapsed since the physical injury and the diagnosis of a mental health condition, raising proximity issues; and/or
 - there is an intervening event.
- c Clinical Services will contact Technical Specialists, who will apply the two-part test.
 The Two-Part Explanation 20190906.docx
- d If Technical Specialist have trouble applying the two-part test, then they will be able to refer these cases to the Complex Mental Injury Panel.
- e ACC will not apply the 'but for' test to MICPI claims where a traumatic event occurs at the same time as a physical injury and the effects of each cannot be distinguished. In these cases, ACC will only apply the second part of the test i.e. determine whether the physical injuries materially contributed to the mental injury.
- f ACC will not specifically apply the two-part test when determining cover for mental injury types other than mental injury caused by physical injury claims (i.e. sensitive claims, work-related mental injury, and treatment injury mental injury). If a review is lodged for a cover decision for these types of mental injury and the two-part test is an issue, Resolution Services will seek advice from Technical Services.

2.0 Links

UNASSIGNED

-  *W v Accident Compensation Corporation* [2018] NZHC 937
<http://www.nzlii.org/nz/cases/NZHC/2018/937.html>
-  Accident Compensation Act 2001, section 26 Personal injury
<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM100910.html>
-  Panels - Technical Services (The Sauce)

Assessing a claim for mental injury

Active from 16/09/19: Once a cover decision has been made, ensure you follow the hyperlink to the new NGCM process 'Match Claim to Recovery Team'. This will help you determine where to transfer the claim.

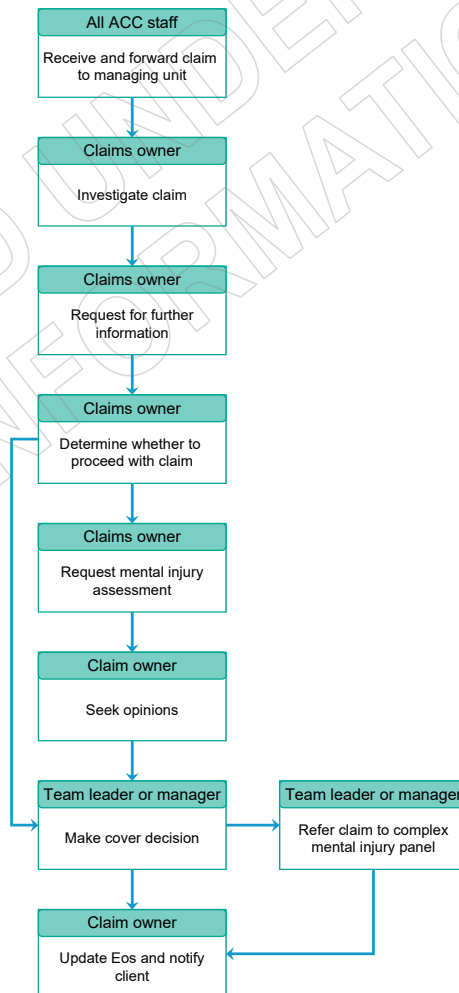
Claims management staff (CMS) use this process to investigate and make a cover decision:

- for non-NGCM mental injury claims caused by physical injury (MICPI)
- for work-related mental injuries (WRMI).

Claims for mental injury caused by physical injury in NGCM see [Make Cover Decisions for Mental Injury Caused by Physical Injury](#) in Promapp.

Contact	██████████	Last review 14 Sep 2020	Next review 14 Sep 2021
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Click on a shaded box for instruction details



[Show all instructions](#)

Receive and forward claim to managing unit

Responsibility

ACC staff

When to use

Use this instruction when a mental injury claim application has been received to forward it to the correct managing unit at ACC. For rules on what constitutes an application see Statutory timeframes for mental injuries

Instruction

Step 1

Receive notification of mental injury via:

- ACC45 Injury claim form
- ACC18 Medical certificate
- Letter from a general practitioner or a report from a provider that specifically suggests that the client has a mental injury requiring consideration of cover
- ACC54 Application form for lump sum/independence allowance.

Step 2

Check the claims, documents and contacts on the client's party record to see if:

- there is a claim for a physical injury
- there is a claim for a work-related traumatic event
- there are any case managed claims
- there is a sensitive claim.

Step 3

Use the following table to decide who should investigate and decide on cover. The options in the following table are organised in order of priority, from highest to lowest. If more than one scenario applies, the highest one should be used:

If the claim ...	then forward the claim to...
is for a potential mental injury and likely to be a sensitive claim	the Sensitive Claims Unit
<ul style="list-style-type: none"> • is being case managed (includes at a Short Term Claims Centre) • has been case managed 	a branch
<ul style="list-style-type: none"> • is new and identifies mental injury on the ACC45 Injury claim form • is a new ACC45 Injury claim form received for a mental injury associated with an existing physical injury claim • is an additional injury request received for a claim that is in the Registration Centre 'Actioned cases work queue' • has never been case managed 	the Cover Assessment team within the Hamilton or Dunedin Service Centre
is a treatment injury mental injury where the treatment injury is a physical injury that is not covered	the Treatment Injury Centre

What happens next

Go to **Investigate claim**.

[Back to process map ↑](#)

Investigate claim

Responsibility

Case owner

When to use

Use this instruction when a claim has been received to gather all currently available information from existing ACC documentation, and to contact the client regarding the claim.

Instruction

Step 1

Review the claim to determine if it is for a mental injury (MI) caused by a physical injury (MICPI) or a work-related mental injury (WRMI). For the relevant criteria, see:

- Mental injury due to physical injury

- Work-related mental injury.

If cover is declined as the MI was not caused by physical injury or a traumatic event at work, check if it could be a treatment injury mental injury (TIMI). If it is, send it to the Treatment Injury Centre for assessment and cover decision.

Step 2

Determine if a decision can be made in the statutory timeframes. If not, send the client a [CVR30 Time extension letter](#).

Step 3

If the claim is for a mental injury caused by a held treatment injury, then:

- decline the mental injury and send the client a [CVR999 Cover decline decision - client](#)
- create a task to follow up decision on mental injury
- call client to discuss decision
- if the treatment injury is accepted proceed with mental injury decision

Step 4

Search all electronic and physical claim files for information relevant to the mental injury investigation, including:

- information about the covered physical injury
- psychological or psychiatric information in reports such as:
 - comprehensive pain assessments (CPAs)
 - vocational information and assessments conducted by psychologists
 - counselling report
 - sensitive claims.

Ensure all relevant documentation on the physical files is copied and scanned to the managed claim file. Unless sensitive information.

Step 5

Send the client a:

CVR13 Acknowledge mental injury claim- claimant letter

PSYIS02 Mental injuries and ACC information sheet

ACC6300 Authority to collect medical and other records form

ACC4244 Mental injury claim questionnaire form

go to step 6

For work-related mental injuries only:

If the provider that sent the initial claim for a mental injury did not send an ACC4245 Mental Injury report form and/or the relevant medical notes, send the lodging provider a CVR14 Acknowledge mental injury claim – vendor, requesting that they provide all mental health records and all relevant GP records for the last two years. Any records that refer to the diagnosis and/or management of mental health symptoms would be relevant. If there is any evidence of mental health conditions having been diagnosed earlier than two years pre-injury, it is reasonable to also request access to relevant records for this time-period. Ensure that the client is aware and consents to ACC accessing these records. Edit from the CVR14 option ACC4245.

If work related mental injury request send CVR15 Acknowledge witness work event – employer letter to the client's employer, or contact the employer by phone, and request the following (confirm with client or employer that it is the correct employer)

- details of the incident or event
- copies of any workplace incident form or records
- copies of any relevant documentation, eg Workplace Health & Safety report, council reports, witness statements, or police reports
- client's role in event

For non-work mental injuries only:

Send the lodging provider a CVR14 acknowledge mental injury claim – vendor, requesting that they provide all mental health records and all relevant GP records for the last two years. Any records that refer to the diagnosis and/or management of mental health symptoms would be relevant. If there is any evidence of mental health conditions having been diagnosed earlier than two years pre-injury, it is reasonable to also request access to relevant records for this time-period. Ensure that the client is aware and consents to ACC accessing these records. Edit from the CVR14 option ACC4245 report.

Step 6

If the client...	then...
has a Work Related Mental Injury (WRMI)	<ul style="list-style-type: none"> consider referring to the WRMI Early Intervention Service go to step 8
has cover for a physical injury	<ul style="list-style-type: none"> consider referring to Psychological services

Step 7

Create a 'Follow-Up' task for one week to await the consent form and any requested information.

If you...	then...
receive the information	go to Determine whether to proceed with claim
don't receive the info within one week	follow up with client, providers or employer – keep following up for four weeks
don't receive the info within four weeks	go to Make cover decision to decline claim as there is insufficient information
don't receive the info within statutory timeframes	send the client a CVR30 Time Extension - advise - claimant letter.

[Back to process map ↑](#)

Request for further information**Responsibility**

Case owner

Before you begin

When requesting medical information/mental health information/Police reports for other providers and not the lodging provider, make sure you include a form signed by the client giving ACC [authority to collect relevant records](#) from treatment providers.

Instruction**Step 1**

Create a 'Follow-Up' task of two weeks for the return of the information.

If the information is...	then...
not received within one week	follow up with providers/or other parties
not received within four weeks	go to Make cover decision to make decision to decline claim as there is insufficient information. (However, we need to consider if this information is needed to proceed)
received within timeframes	go to Determine whether to proceed with claim

[Back to process map ↑](#)

Determine whether to proceed with claim**Responsibility**

Case owner

When to use

Use this instruction to confirm if the mental injury was likely caused by the physical injury or event.

Instruction**Step1**

Check that all the required medical reports and other information have been received and that you have sufficient information to proceed. Check if the client has any other existing claims that may hold relevant reports ie sensitive claim documents.

What happens next

If...	then...
the client is to be referred for a mental injury assessment	go to Request mental injury assessment
there is enough information to make a cover decision	go to Make cover decision
there is not enough information to make a cover decision	go to Request for further information from providers

[Back to process map ↑](#)

Request mental injury assessment**Responsibility**

Case owner

When to use

Use this instruction to request a mental injury assessment, and to review the assessment when it is received.

Instruction**Step 1**

Call the client to tell them you will be arranging an assessment with either a Psychiatrist/Psychologist and confirm they are happy to be referred. Advise client what information will be included. Remember to include any sensitive claim documents.

If consent to be referred is....	then...
given	go to step 2
not given	go to Make cover decision

Step 2

Select the type of assessor you require. If you're unsure whether to refer the client to a Clinical Psychologist or Psychiatrist for assessment, refer to an ACC Psychology advisor(PA). See [Clinical Services Team Space](#) and [Referring for clinical advice](#).

If you're referring to a...	then...
Clinical Psychiatrist	<ul style="list-style-type: none"> go to the contracted suppliers by geographical area of coverage search and contacts list select Clinical Psychiatrists in 'Contract' contact the selected assessor to arrange an appointment generate a purchase order using the appropriate code for Clinical Psychiatric Services send the assessor a PSY11 Request for mental injury assessment – vendor - letter go to step 3
Clinical Psychologist	<ul style="list-style-type: none"> go to the contracted suppliers by geographical area of coverage search and contacts list select Psychologist in 'Contract' contact selected assessor to arrange a referral

If you're referring to a...	then...
	<ul style="list-style-type: none"> generate a purchase order using the appropriate code for Psychological Services send the assessor a PSY11 Request for mental injury assessment – vendor - letter (add to PSY11 reason for referral and covered physical injuries) go to step 3 <p>Note: a maximum of 16 hours is available for assessments completed by Clinical Psychologists/Psychiatrists. Consult with a PA if you believe more than 16 hours may be required</p>

If multiple claims to be assessed including any sensitive claims add the following to the referral to the Psychiatrist/Psychologist:

For each separate DSMIV/DSMV mental injury diagnosis you have provided, please clearly indicate which sensitive/physical claims event/s (if any) caused the mental injury?

Step 3

Upload documents as a pack used for the assessment document description "Mental injury relevant documents". For sensitive information create a separate mental injury relevant documents and upload this on the sensitive claim using SC codes

Step 4

Generate and send the client a [PSY11 Request for mental injury assessment – client](#) letter and a [PSYIS01 Mental injury assessments](#) information sheet, and provide the client details of their appointment with the assessor.

Note: These are generated through the 'Documents' tab in Eos.

Step 5

Create 'Follow-Up' task of agreed timeframe for return of information.

If information is...	then...
not received within the timeframe	follow up with the providers
received within the timeframe	go to Step 5

Step 6

Review [ACC4247 Mental injury assessment](#) and confirm the report addresses the key to determine cover. Create an [ACC1517 Mental injury cover decision template](#).

Step 7

If the report is...	then...
complete	go to Seek opinions
incomplete	go back to step 1

[Back to process map ↑](#)

Seek opinions

Responsibility

Case owner

When to use

Use this instruction to make a recommendation for cover and to obtain opinions from the:

- technical specialist (TS)
- Psychology Advisor (PA)

See [Referring for clinical advice](#) for instructions if you are referring to a PA or MA.

Note: If the client has an underlying Traumatic Brain Injury (TBI) or Dementia, please note this in the free text box of the task and transfer the task to the 'PA Queue - Central' for allocation.

Instruction

Step 1

Read all reports and supporting evidence.

Step 2

Provide a cover recommendation in the appropriate section of the ACC1517 Mental injury cover decision template.

Step 3

If required, allocate the 'complete internal referral' subtask to the TS, PA and TM or TL.

Note that referral is only needed if it is a complex MICPI claim. This includes where there is a history of significant pre-existing or concurrent mental health concerns or there are other mental injury claims on the client's record.

If a referral is not required go to **Make cover decision**.

For all WRMI claims a referral is required.

What happens next

If a referral was made, the TS, PA or MA make their recommendations and send the task to the TM, TL or requestor. Go to **Make cover decision**

[Back to process map ↑](#)

Make cover decision

Responsibility

Cover assessor, Team leader (TL), Team manager (TM)

When to use

Use this instruction to make a cover decision or referral to the Complex Mental Injury Panel (CMIP).

Instruction

Step 1

Review all information, including the advisor recommendations and consider whether there is sufficient information to make the mental injury cover decision or referral.

Step 2

If...	then...
there is enough information to make a decision	go to step 3
there is not enough information to make a decision	obtain information required
there isn't enough information to make a decision and the client hasn't given consent to be referred for an assessment	go to Update Eos and notify cover approved or declined

Step 3

If...	then...
the claim is for a work-related mental injury and there is no diagnosed mental injury	go to Update Eos and notify client
the claim is for work-related mental injury	go to Refer claim to complex mental injury panel for a decision
the claim is for a complex mental injury from physical injury (MICPI)	go to Refer claim to complex mental injury panel to get advice
the claim is for a simple MICPI	go to Step 4
the claim is for schizophrenia caused by a physical injury	go to Refer claim to complex mental injury panel to get advice. Make sure you have a PA comment on file prior to referring to complex mental injury panel.

Step 4

Make cover decision.

Step 5

Go to Update Eos and notify cover approval or decline

[Back to process map ↑](#)

Refer claim to complex mental injury panel**Responsibility**

Cover Assessor, Case Manager

When to use

Use this instruction to prepare a claim and recommendation for referral to the Complex Mental Injury Panel (CMIP), and receive their decision or advice.

Instruction**Step 1**

Provide your recommendation to the CMIP in the appropriate section of the ACC1517 Mental injury cover decision template.

Step 2

Prepare the referral to the CMIP, ensuring that ACC1517 Mental injury cover decision template is fully completed and all relevant documents and reports are attached.

Step 3

Create a complete internal referral task in Eos and send it to the Operations Support department work queue. Attach Psychiatric/Psychological assessment, ACC1517 and relevant documents used for assessment to the Task. Edit task description to "Refer to complex mental injury panel for discussion"

Step 4

When the task is returned, review the panel decision or advice on cover for mental injury.

What happens next

If...	then...
the claim was a complex mental injury from physical injury and advice was provided	go to Make cover decision
the claim was a work-related mental injury and a decision was made	go to Update Eos and notify client

[Back to process map ↑](#)

Update Eos and notify client**Responsibility**

Case owner

When to use

Use this instruction when the cover decision has been made.

Instruction**Step 1**

If the decision is to...	then...
approve the claim	<ul style="list-style-type: none"> change the 'Cover Status' to 'Accept' change the 'Cover Status Reason' to 'Criteria for Cover are met' send the client a CVR51 Approve cover mental injury letter. go to step 2
decline a work-related mental injury claim	<ul style="list-style-type: none"> change the 'Cover Status' to 'Decline' change the 'Cover Status Reason' as relevant, usually one of the following: <ul style="list-style-type: none"> No Mental Injury

If the decision is to...	then...
	<ul style="list-style-type: none"> • Exclusionary Criteria Apply • Injury Not Result of Accident • update the 'Cover Status Change Reason' with more details if required • contact client to inform them of decision, and explain the reasoning • send the client a CVR999 Cover decline decision - client letter • this process ends
decline a mental injury caused by physical injury claim	<ul style="list-style-type: none"> • change the 'Cover Status' to 'Decline' • change the 'Cover Status Reason' as relevant, usually one of the following: <ul style="list-style-type: none"> • No Mental Injury • Exclusionary Criteria Apply • Injury Not Result of Accident • No Physical Injuries • update the 'Cover Status Change Reason' with more details if required • contact client to inform them of decision, and explain the reasoning • send the client a CVR999 Cover decline decision - client letter • this process ends

Step 2

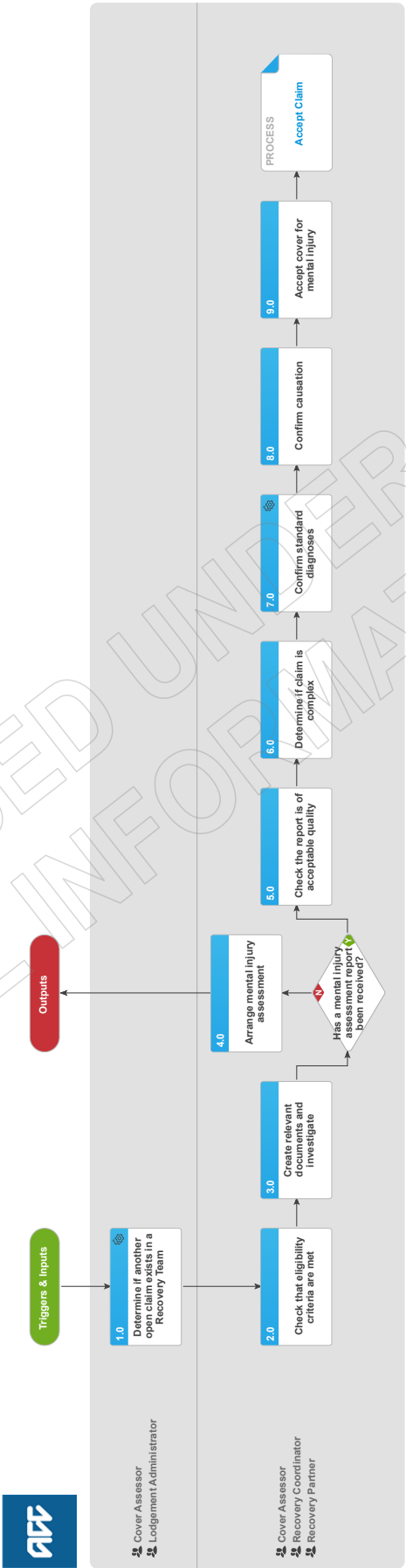
If the mental injury caused by physical injury was lodged as a new claim and it is accepted, then link the claim to the physical injury claim as a duplicate. Update the Medical tab with mental injury cover and move all Contacts and Documents to the master claim.

Step 3

Go to the [Match Claim to Recovery Team](#) process to determine the appropriate team to manage the claim. This process ends.

[Back to process map](#) ↑

Make Cover Decisions for Mental Injury Caused by Physical Injury v11.0



Make Cover Decisions for Mental Injury Caused by Physical Injury v11.0



Summary

Objective

To enable recovery team members to make cover decisions on some new claims for mental injury caused by physical injury (MICPI) without having to access Recovery Support/Clinical Services teams.

Background

A proportion of claims that come to Clinical Services for advice regarding cover for Mental Injury Caused by Physical Injury (MICPI) will be dealt with quicker and more consistently if recovery team members follow this process. Some cover decisions could be made without any input from Clinical Services.

Owner

Expert

Procedure

1.0 Determine if another open claim exists in a Recovery Team

Cover Assessor, Lodgement Administrator

- a** In Eos, check for any open claims.

NOTE How do you check there is an active managed claim?

The yellow indicator on the General Screen shows the client has an active managed claim.

NOTE What is there is an existing open managed claim?

Go to (NGCM) Match Claim to Recovery Team.

End of Process.

PROCESS Match Claim to Recovery Team

2.0 Check that eligibility criteria are met

Cover Assessor, Recovery Coordinator, Recovery Partner

- a** Check that there is a covered physical injury.

Cover Criteria for Personal Injury

- b** Check the relevant claim documents (eg ACC45, ACC18 (available to GP/hospital only), letter from GP or provider requesting cover for mental injury, ACC54 application form for Independence Allowance/Lump Sum), medical records and cover criteria policy to establish if the injury meets mental injury criteria.

Mental Injuries Policy

ACC45 ACC Injury claim.pdf

ACC54 Independence Allowance Lump Sum application

NOTE What if the injury does not appear to meet criteria for mental injury?

- For BAU claims, call the Technical Specialist hotline on 50116.
- For NGCM claims, go to (NGCM) Seek Internal Guidance process.

PROCESS Seek Internal Guidance

- c** Refer to Assessing a Claim for Mental Injury for general guidance on assessing claims for mental injury (including work-related mental injury).

Assessing a claim for mental injury (CHIPS)

3.0 Create relevant documents and investigate

Cover Assessor, Recovery Coordinator, Recovery Partner

- a** Determine if a decision can be made in the statutory timeframes. If not, send the client a CVR30 time extension letter.

CVR30 Time Extension - advise - claimant

- b** Ask the client's GP to complete an ACC4245 form, if this has not already been received. Utilise form CVR14.

CVR14

ACC4245 Mental Injury Report

- c** Generate a new ACC1517 mental injury cover decision template form for the claim and populate with information from the ACC45 and other available clinical documents.

ACC1517 Determining cover for a mental injury claim

- d** Search all electronic and physical claim files for information relevant to the mental injury investigation.

NOTE What information is relevant?

- All information about the covered physical injury
- All psychiatric or psychological information in reports such as:
 - pain assessment reports
 - vocational information and assessments conducted by psychologists
 - counselling reports
 - information pertaining to any sensitive claims

- e** Ensure all relevant documentation on any physical files is copied and scanned to the managed claim file but do not include any sensitive claim information on the physical injury claim.



Has a mental injury assessment report been received?

Cover Assessor, Recovery Coordinator, Recovery Partner

YES.... Continue

NO.... ☐ NEXT ACTIVITY

4.0 Arrange mental injury assessment

Cover Assessor, Recovery Coordinator, Recovery Partner

- a** Check the claim for any existing reports for evidence of a diagnosed condition that has previously been causally linked to the covered physical injury.
- b** Call the Psychology Advisor hotline for guidance on extension 50118, in order to establish if a formal mental injury assessment is required. If there is a clear and likely causative link described in an existing report.
- c** Ask the lodging provider to provide all mental health records and all relevant GP records from two years pre-injury onwards and make sure the client is aware of this and consents to ACC requesting this information.

NOTE What pre-injury GP records are relevant?

Any records that refer to the diagnosis and/or management of mental health symptoms would be relevant.

NOTE Should you ask for more than two years of pre-injury GP records?

If there is any evidence of mental health conditions having been diagnosed earlier than two years pre-injury, it is reasonable to also request access to relevant records for this time period.

- d** Refer client for a mental injury assessment using the PSY11 request for mental injury assessment letter, and including the ACC4247 mental injury report template.

☐ PSY11 Request for mental injury assessment - vendor

☐ ACC4247 Mental Injury Assessment Report

NOTE What if there is no formal mental injury assessment but there is a previous report in which the client has been diagnosed with a mental health condition?

You may not need to arrange a formal mental injury assessment, but further clarification questions to the previous assessor may be required. Call the Psychology Advisor hotline for guidance on 50118.

NOTE Should you refer to a psychologist or a psychiatrist?

Psychiatrists and clinical psychologists can undertake mental injury assessments. In general, where a claim involves a complex medical condition/injury, chronic pain, and/or the client has been experiencing some possible symptoms of psychosis, a psychiatrist would be the most appropriate assessor.

For most other assessments, the assessor could be either a clinical psychologist or a psychiatrist. If unsure, call the Psychology Advisor hotline for guidance on 50118.

☐ **PROCESS** Psychological Services Referrals Service Page

NOTE How do I refer to a psychiatrist?

Refer to the clinical psychiatric service referral service page.

☐ **PROCESS** Clinical Psychiatric Service Referral Service Page

5.0 Check the report is of acceptable quality

Cover Assessor, Recovery Coordinator, Recovery Partner

- a** Check that the report is clear, logical and complete.

NOTE What report checks should you complete?

- All sections of the report have been completed.
- Client is considered competent to give consent.
- Injury, client, and provider details are correct.
- Diagnosis is clearly stated.
- There is a causal formulation that makes sense (ie an explanation for development of symptoms and causal link to injury event).
- There are clear, logical and practical treatment recommendations.

- b** Check the assessor has considered whether there are any specific cultural issues that require attention or that may affect how the claim is handled, including diagnosis and treatment.
- c** Check that there are no significant discrepancies in the information available.


NOTE What discrepancies should you check for?

Examples of significant discrepancies would include:

- Different diagnoses at different times.
- Different reports of the physical and/or mental symptoms experienced following the physical injury.
- Any symptom validity issues highlighted in the assessment report or elsewhere.

NOTE What if you need further guidance?

- For BAU, contact a Psychology Advisor using the hotline number 50118.
- For NGCM, go to (NGCM) Seek Internal Guidance process

 **PROCESS** Seek Internal Guidance

6.0 Determine if claim is complex

Cover Assessor, Recovery Coordinator, Recovery Partner

- a** Determine if the claim is complex.

NOTE What is a complex claim?

A complex claim is one in which:


- the claim has gone or is going to review
- the client is suicidal, dangerous, has significant conduct issues, has a forensic history of significant sexual or violent offences, and/or is currently in prison
- there are other mental injury claims on the client's record (eg mental injury caused by sexual abuse, mental injury caused by physical injury, work-related mental injury, or treatment injury mental injury); and/or
- there is a history of significant pre-existing or concurrent concerns with mental health or substance abuse, in addition to the purported mental injury.

 Clients in Prison Policy

- b** Check that this is a single claim or has earlier claims all related to the same event with no other mental injury claims.
- c** Check that the assessor has made reference to the relevant background and collateral information.

NOTE What if you need further guidance to determine if the claim is complex?

- For BAU, contact a Psychology Advisor using the hotline number 50118, or request written guidance via the Complete Internal Request task.
- For NGCM, go to (NGCM) Seek Internal Guidance process

 **PROCESS** Seek Internal Guidance

7.0 Confirm standard diagnoses

Cover Assessor, Recovery Coordinator, Recovery Partner

- a** In Eos, check within the mental injury assessment report that the assessor has only diagnosed one or two of the standard diagnoses.


NOTE What are the standard diagnoses?

- Trauma-related disorders include:
 - Post-traumatic stress disorder (excludes complex PTSD)
 - Other/unspecified trauma- and stressor-related disorder
 - Acute stress reaction/disorder
 - Other stressor-related disorder
- Anxiety disorders include:
 - Anxiety disorder NOS (Not Otherwise Specified)
 - Anxiety state unspecified
 - Social phobia
 - Anxiety with depression
 - Simple phobia
 - Specific phobia
- Depressive disorders include:
 - Major depressive disorder
 - Depressive episode
 - Mixed depression and anxiety
 - Dysthymia
 - Pervasive depressive disorder
- Adjustment disorders include:
 - Adjustment disorder
 - Adjustment disorder with depressive features/mixed/anxiety/conduct

NOTE What if there are diagnoses that do not appear as a standard diagnoses?

- For BAU, contact a Psychology Advisor using the hotline number 50118..

- For NGCM, go to (NGCM) Seek Internal Guidance process.

 **PROCESS** Seek Internal Guidance

8.0 Confirm causation

Cover Assessor, Recovery Coordinator, Recovery Partner

- a** Confirm that the assessor has stated that one or both of the diagnosed conditions was caused by the physical injury, or that the physical injury materially contributed to the development of the condition.

NOTE What if the assessor states that there is more than one cause of the mental injury?


The physical injury needs to be one of the causes of the diagnosed disorders but does not need to be the only one. Terms such as 'causally contributed', 'materially contributed' are acceptable terms to indicate a causal link.

NOTE What if the assessor indicates that the mental injury was caused by the event and not the physical injury or its consequences?

The physical injury must represent at least one significant causative factor. If it appears that the injury was negligible and that the event was the cause of the mental injury, call the Psychology Advisor hotline for guidance on extension 50118.

NOTE What if the diagnosis was post-traumatic stress disorder (PTSD)?


In the case of PTSD, to attract cover for mental injury caused by physical injury the physical injury need not be serious if the injury was also accompanied by the threat of serious injury or death. In some cases the physical injury may be minor but may be part of a causal nexus, for example post-traumatic stress disorder caused by the trauma of violent assault during which only a minor physical injury was sustained. In these cases the event (or its direct consequences) must be sufficiently traumatic in nature such that the combination of the event and injuries was sufficient to cause a mental injury.

 Mental Injury Because of a Physical Injury Policy

NOTE What if the assessor says that the disorders were not caused by, but were 'exacerbated' or 'maintained' by the injury event?

A causal link has not been established. In this situation and further guidance:

- BAU, contact a Psychology Advisor using the hotline number 50118.
- NGCM, go to (NGCM) Seek Internal Guidance process

 **PROCESS** Seek Internal Guidance

9.0 Accept cover for mental injury

Cover Assessor, Recovery Coordinator, Recovery Partner

- a** Add cover for the READ code specified on the ACC18.

NOTE What if a READ code is not specified or does not align to the stated diagnosis?

Use the READ code which matches the diagnosis written on the ACC18

 List of all the READ codes

https://www.google.co.nz/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=2ahUKEwik_rLp88zkAhXv7nMBHdy-DsQQFjABegQIAxAC&url=https%3A%2F%2Fwww.acc.co.nz%2Fassets%2Fprovider%2Fb32658ac9b%2Facc6343-read-codes.xls&usg=AOvVaw0Xb_0IpesrNB5IS5I-lvEt

 **PROCESS**

Accept Claim

Cover Assessor, Recovery Coordinator, Recovery Partner

Make Cover Decisions for Work-Related Mental Injury Claims v7.0

Summary

Objective

To enable recovery team members to make cover decisions on some new claims for work-related mental injury without having to access Recovery Support/Clinical Services teams.

Background

A number of claims are referred to the Clinical Services team that do not need clinical advice. In future, it would be quicker for recovery team members to follow this process.

Owner


Expert

Procedure

1.0 Check that eligibility criteria are met

Cover Assessor, Recovery Assistant, Recovery Coordinator, Recovery Partner

- a** Check the relevant claim documents (eg ACC45, ACC18 (available to hospital/GP only), letter from GP or provider requesting cover for mental injury, ACC54 application form for Independence Allowance/Lump Sum), medical records and cover criteria policy to establish if the work-related mental injury criteria are met.

 Work-related mental injury policy

 ACC45 ACC Injury claim.pdf

 ACC54 Independence Allowance Lump Sum application

- b** Check that the work-related event occurred after 01/10/2008 or, if the event occurred prior to 01/10/2008, that the client first received treatment for the mental injury after 01/10/2008.

NOTE What if the client first received treatment for the mental injury prior to 01/10/2008?

The eligibility criteria may not be met. Go to Seek Internal Guidance

 **PROCESS** Seek Internal Guidance

- c** Check that the client was ordinarily resident in NZ at the time of the event.

NOTE What if the client was overseas at the time of the event?

If the event occurred overseas, but the client was ordinarily resident in NZ at the time, then the client may be eligible for work-related mental injury. Note that it is the date of the event, not the date of development of the mental injury, that is relevant to this criterion.

NOTE What does ordinarily resident mean?

A client is ordinarily resident in NZ if they were visiting or living abroad with the intention of returning to NZ within six months of departure, or working abroad for an NZ employer or the spouse or child of such a person with the intention of returning to NZ.

- d** Check that the client was at work at the time of the event.

NOTE What constitutes being 'at work'?

The client is considered to be at work if they were at the location of the event for the purpose of employment. This includes being at a place of employment during a break.

- e** Check that the client directly experienced a single event at work, or a series of events at work that arose from the same cause or together comprised a single incident.

NOTE What does 'directly experienced' mean?

The client must have been directly involved in or witnessed the event at close proximity. This excludes seeing the event on television or CCTV, reading about the event or seeing pictures in the media, or hearing the event or hearing about the event on the telephone from another person.

NOTE What constitutes a 'series of events'?

An example of a series of events would be when a police officer or soldier is exposed to several similar life-threatening situations over a short period of time (weeks or months, not years).

- f** Check that the event is something that would provoke extreme distress, horror or alarm in most people.

NOTE What kind of events would usually be expected to cause extreme distress, horror or alarm in most people?

The events that typically cause this response would be those outside of the normal range of human experience. Most people have very distressing life events such as bereavements, divorce, or financial stressors. Events that would provoke work-related mental injury include those in which there is exposure to actual or threatened death or serious injury, for example a train driver who witnesses the death of a member of the public who falls onto the track.

NOTE What if you need further guidance?

Go to Seek Internal Guidance process

 **PROCESS** Seek Internal Guidance

2.0 Create relevant documents and investigate

Cover Assessor, Recovery Assistant, Recovery Coordinator, Recovery Partner


- a** Determine if a decision can be made in the statutory timeframes.

NOTE What if the decision cannot be made in the statutory timeframes?

Issue the CVR30 Time Extension - advise - claimant letter


 CVR30 Time Extension - advise - claimant

- b** Generate a new ACC1517 Determining cover for a mental injury claim form and populate with information from the ACC45 and other available clinical documents.

 ACC1517 Determining cover for a mental injury claim

NOTE What information is relevant?

- All information about the work event including information from the employer (CVR15)
- All psychiatric or psychological information in reports such as:
 - pain assessment reports
 - vocational information and assessments conducted by psychologists
 - counselling reports
 - information pertaining to any sensitive claims

 ACC6300 Authority to collect medical and other records

- c** Ensure all documentation relevant on any physical files is copied and scanned to the claim. Ensure the documentation does not include sensitive information.

? Has a mental injury assessment report been received?

Cover Assessor, Recovery Assistant, Recovery Coordinator, Recovery Partner

YES.... Continue

NO....  NEXT ACTIVITY

3.0 Arrange mental injury assessment


Cover Assessor, Recovery Assistant, Recovery Coordinator, Recovery Partner


- a** Check the claim for any existing reports for evidence of a diagnosed condition previously linked to any covered physical injury or an existing covered mental injury.

NOTE What if there is existing cover for a mental injury?

Call the Psychology Advisor hotline for guidance on 50118.

- b** Refer client for a mental injury assessment using the PSY11 request for mental injury assessment letter, and including the ACC4247 mental injury report template.

 ACC4247 Mental Injury Assessment Report

 PSY11 Request for mental injury assessment - vendor

NOTE What if there is no formal mental injury assessment but there is a previous report in which the client has been diagnosed with a mental health condition, attributed to the workplace event?

You may not need to arrange a formal mental injury assessment, but further clarification questions to the previous assessor may be required. Call the Psychology Advisor hotline for guidance on 50118.

NOTE Should I refer to a psychologist or a psychiatrist?

Psychiatrists and clinical psychologists can undertake mental injury assessments. In general, where a claim involves a complex medical condition/injury, chronic pain, and/or the client has been experiencing some possible symptoms of psychosis, a psychiatrist would be the most appropriate assessor. For most other assessments, the assessor could be either a clinical psychologist or a psychiatrist. If unsure, call the Psychology Advisor hotline for guidance on 50118.

- c** Ask the lodging provider to provide all mental health records and all relevant GP records from two years pre-injury onwards. Make sure the client is aware of this and consents to ACC requesting this information. Make sure the assessor has access to these records when completing their assessment report.

NOTE What pre-injury GP records are relevant?

Any records that refer to the diagnosis and/or management of mental health symptoms would be relevant.

NOTE Should we ask for more than two years of pre-injury GP records?

If there is any evidence of mental health conditions having been diagnosed earlier than two years pre-injury, it is reasonable to also request access to relevant records for this time period.

4.0 Check the report is of acceptable quality

Cover Assessor, Recovery Assistant, Recovery Coordinator, Recovery Partner

- a** Check that the report is clear, logical and complete.

NOTE What report checks should you complete?

- All sections of the report have been completed.
- Client is considered competent to give consent.
- Injury, client, and provider details are correct.
- Diagnosis is clearly stated.
- There is a causal formulation that makes sense (ie an explanation for development of symptoms and causal link to workplace event).
- There are clear, logical and practical treatment recommendations.

- b** Check the assessor has considered whether there are any specific cultural issues that require attention or that may affect how the claim is handled, including diagnosis and treatment.

- c** Check that there are no significant discrepancies in the information available.


NOTE What discrepancies should you check for?

Examples of significant discrepancies would include:

- Different diagnoses at different times.
- Different reports of the symptoms experienced following the workplace event.
- Any symptom validity issues highlighted in the assessment report or elsewhere.

NOTE What if you need further guidance?

Go to Seek Internal Guidance.

 **PROCESS** Seek Internal Guidance

5.0 Determine if claim is complex


Cover Assessor, Recovery Assistant, Recovery Coordinator, Recovery Partner

- a** Determine if the claim is complex.

NOTE What is a complex claim?

A complex claim is one in which:

- the claim has gone or is going to review
- the client is suicidal, dangerous, has significant conduct issues, has a forensic history of significant sexual or violent offences, and/or is currently in prison
- there are other mental injury claims on the client's record (eg mental injury caused by sexual abuse, mental injury caused by physical injury, work-related mental injury, or treatment injury mental injury); and/or
- there is a history of significant pre-existing or concurrent concerns with mental health or substance abuse, in addition to the purported mental injury

 Clients in Prison Policy

- b** Check that this is a single claim or has earlier claims all related to the same event with no other mental injury claims.

- c** Check that the assessor has made reference to the relevant background and collateral information.

NOTE What if you need further guidance to determine if the claim is complex?

Go to Seek Internal Guidance.

 **PROCESS** Seek Internal Guidance

6.0 Confirm standard diagnoses

Cover Assessor, Recovery Assistant, Recovery Coordinator, Recovery Partner

- a** In Eos, check within the mental injury assessment report that the assessor has only diagnosed one or two of the standard diagnoses.

NOTE What are the standard diagnoses?

- Trauma-related disorders include:
 - Post-traumatic stress disorder (excludes complex PTSD)
 - Other/unspecified trauma- and stressor-related disorder
 - Acute stress reaction/disorder
 - Other stressor-related disorder
- Anxiety disorders include:
 - Anxiety disorder NOS (Not Otherwise Specified)
 - Anxiety state unspecified
 - Social phobia
 - Anxiety with depression
 - Simple phobia
 - Specific phobia
- Depressive disorders include:
 - Major depressive disorder
 - Depressive episode
 - Mixed depression and anxiety
 - Dysthymia
 - Pervasive depressive disorder
- Adjustment disorders include:
 - Adjustment disorder
 - Adjustment disorder with depressive features/mixed/anxiety/conduct

NOTE What if there are diagnoses that do not appear as a standard diagnoses?

Go to Seek Internal Guidance.

 **PROCESS** Seek Internal Guidance

7.0 Confirm causation

Cover Assessor, Recovery Assistant, Recovery Coordinator, Recovery Partner


- a** Confirm that the assessor has stated that one or both of the diagnosed conditions was caused by the workplace event, or that the event materially contributed to the development of the condition.

NOTE What if the assessor states that there is more than one cause of the mental injury?

The workplace event needs to be one of the causes of the diagnosed disorders but does not need to be the only one. Terms such as 'causally contributed', 'materially contributed' are acceptable terms to indicate a causal link.

NOTE What if the assessor states that the disorders were not caused by, but were 'exacerbated' or 'maintained' by the workplace event?

A causal link has not been established. Go to Seek Internal Guidance.

 **PROCESS** Seek Internal Guidance


8.0 Add cover for injury

Cover Assessor, Recovery Assistant, Recovery Coordinator, Recovery Partner


- a** Add cover for the READ code specified on the ACC18.

NOTE What if a READ code is not specified or does not align to the stated diagnosis.

Use the READ code which matches the diagnosis written on the ACC18

-  List of all the READ codes
https://www.google.co.nz/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=2ahUKEwik_rLp88zkAhXv7nMBHdy-DsQQFjABegQIAxAC&url=https%3A%2F%2Fwww.acc.co.nz%2Fassets%2Fprovider%2Fb32658ac9b%2Facc6343-read-codes.xls&usg=AOvVaw0Xb_0lpesrNB5IS5I-lvEt

- b** Confirm the date from which the person is to be regarded as suffering mental injury is the date on which the client first received treatment for the injury.

-  Accident Compensation Act (2001) Section 36: Date on which person is to be regarded as suffering mental injury
https://www.westlaw.co.nz/maf/wlnz/app/document?doc-guid=I6790bbcf03211e08eefa443f89988a0&&src=rl&startChunk=1&endChunk=1&snippets=true&originates-from-link=false&isTocNav=true&tocDs=AUNZ_NZ_LEGCOMM_TOC&extLink=false#anchor_115aa023be03011e08eefa443f89988a0

 **PROCESS**

Accept Claim

Cover Assessor, Recovery Assistant, Recovery Coordinator, Recovery Partner

Mental injury Because of a Physical Injury Policy ^{v8.0}

Summary

Objective

Use this guidance to determine cover for a mental injury because of a physical injury.

Background

In order for a mental injury from physical injury to be covered by the Accident Compensation Act 2001 it must be a personal injury. There are three main criteria for determining whether a mental injury qualifies as a personal injury:

- there must be cover for the physical injury claim
- there must be a clinically significant mental condition
- the physical injury must be a material cause of the mental injury.

Owner



Expert



Policy

1.0 Mental injury without physical injury

- a** In most instances ACC does not provide cover for mental injury in situations where no physical injury is covered, eg:

- a mental injury to a person witnessing a car accident but who does not sustain physical injuries
- mental injury to a mother learning of her child's death. However, there are some situations where ACC will provide cover for mental injuries not caused by a physical injury, eg:
- mental injuries caused by an AC Act 2001, Schedule 3 sexual offence are covered, even if there are no physical injuries involved
- work-related mental injuries caused by witnessing traumatic events are covered
- mental injuries caused by a non-covered physical injury sustained in a treatment context.

 Accident Compensation Act 2001, Schedule 3, Cover for mental injury caused by certain acts dealt with in Crimes Act 1961
<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM105476.html>

 Treatment injury mental injury Policy

2.0 Mental injury because of a physical injury

- a** In most cases for the mental injury to have cover it must be caused by a physical injury, but the physical injury does not have to be the only cause of the mental injury.

In each case you must base your decision on the facts of the case and the mental injury assessment. In general, though, it should be clear from the mental injury assessment that the physical injury was a material cause of the mental injury. If you're unsure, contact Technical Services for assistance.

3.0 Criteria for assessing mental injury because of a physical injury

- a** A cover decision for a mental injury because of a physical injury can often be considered 'simple' or 'complex'. The attached table shows the criteria for simple and complex mental injury because of physical injury decisions.



Criteria for assessing mental injury caused by physical injury (MICPI).PNG



Assessing a claim for mental injury (CHIPS)

4.0 Traumatic injury circumstances

- a** With injuries involving particularly traumatic circumstances, such as serious motor vehicle accidents or violent assaults, it may not always be clear whether the mental injury is attributable to the physical injury, the accident or the surrounding circumstances. The mental injury may have resulted from a combination of those factors.

Even if the mental injury was sustained in traumatic circumstances ACC is able to cover a mental condition if the mental injury assessor advises that the physical injury was a material cause of the mental injury.

5.0 Special case: Post-traumatic stress disorder

- a** For a physical injury to be considered a material cause of post-traumatic stress disorder and other related disorders (PTSD), it is reasonable to expect the physical injury to have been either:

- serious
- accompanied by a threat of serious injury.

If the mental injury assessment report indicates the physical injury is a material cause of PTSD and other related disorders, it should reflect that the physical injury was serious or accompanied by threat of serious injury. Otherwise the report must include a detailed explanation of why the physical injury is considered a material cause.

The injury does not have to satisfy ACC's serious injury profiles to be regarded as serious for this purpose. The advice from the mental injury assessor is relevant to deciding whether the injury is serious as envisaged by the DSM IV multi axial criteria or one of the other diagnostic systems recognised by ACC in defining a clinically significant mental injury.

In general, ACC will consider a threat of serious injury to have been made in the circumstances set out in the attached table.



consider a threat of serious injury table.PNG

- b** If claims involve a physical injury that occurred some time ago and the possibility of a mental injury is only now being identified, any evidence of a threat of serious injury having been made should generally exist from the time of the physical injury.

Summary

Objective

To be covered under the Accident Compensation Act 2001 (AC Act) a mental injury must be both:

- a personal injury. See the AC Act 2001, Section 26
- a clinically significant behavioural, cognitive or psychological dysfunction. See the AC Act 2001, Section 27.

Owner

Expert


Policy

1.0 Personal injury

- a** The following types of mental injury fall within the definition of a personal injury:
- mental injury caused by physical injury
 - mental injury caused by certain criminal acts
 - work-related mental injury.

2.0 Clinically significant

- a** For ACC to accept that a mental injury is "clinically significant" it will usually:
- b** be diagnosed using one or more of the following standardised systems:
- Diagnostic and statistical manual of mental disorders - fourth edition - text revision (DSM-IV-TR)
 - Diagnostic and statistical manual of mental disorders - fifth edition (DSM-5)
- See DSM-IV-TR to DSM-5 for a summary of the differences between the two editions
 - International classification of diseases - 10th Revision (ICD-10)
 - Psychodynamic diagnostic manual (PDM)
 - Diagnostic classification of mental health and developmental disorders of infancy and early childhood – Revised (DC:0-3R)

 Mental health definitions - DSM-IV-TR to DSM-5
<http://thesauce/team-spaces/clinical-resources/mental-health/mental-health-definitions/index.htm>

- c** be diagnosed by a mental injury assessor who has:

- a qualification which meets at least level 8 (post-graduate) of a New Zealand Qualifications Authority (NZQA) recognised course or its equivalent, with a focus on:
 - assessment, classification and formulation in psychopathology
 - abnormal psychology
 - skills in using two or more models of therapeutic intervention
 - the consequences of: sexual abuse/assault; and/or physical injury; and/or workplace trauma
 - the use of psychometric tools (if using psychometrics)
- a minimum of two years' full-time equivalent post-graduate supervised clinical experience in one or more of the areas of mental injury covered by ACC
- met the supervision requirements of the professional bodies to which they belong
- met the cultural competency requirements of the professional bodies to which they belong.

- d** There are some circumstances under which a mental injury will not be diagnosed using one of the above standardised systems. In these circumstances, the assessor must evidence that the mental injury is nevertheless a 'clinically significant behavioural, cognitive or psychological dysfunction'.




3.0 Mental consequences

- a** Under the 1972 and 1982 AC Acts, ACC provided cover for the physical and mental consequences of an injury or the accident.

See:

- AC Act 1972, Section 2
- AC Act 1982, Section 2.


(If a person has cover for physical injuries under the 1972/82 Acts, it's not always clear whether ACC should treat a subsequent claim as one for 'mental injury' under the AC Act 2001, or for 'mental consequences' under the 1972/1982 Acts. If clarification is needed, contact Legal Services.)

-  Legal Services
<http://thesauce/about-acc/groups/governance-group/general-counsel-and-corporate-secretariat/legal-services/index.htm>
-  AC Act 1972, Section 2
https://www.westlaw.co.nz/maf/wlnz/app/document?doc-guid=17979b2c4e02711e08eefa443f89988a0&isTocNav=true&tocDs=AUNZ_NZ_LEGCOMM_TOC&startChunk=1&endChunk=1
-  AC Act 1982, Section 2
https://www.westlaw.co.nz/maf/wlnz/app/document?doc-guid=188b2cb61e02711e08eefa443f89988a0&isTocNav=true&tocDs=AUNZ_NZ_LEGCOMM_TOC&startChunk=1&endChunk=1

4.0 Mental injuries to clients under 16

- a** Children under the age of 16 are not eligible to have the impairment effects of a mental injury assessed, for lump sum only, unless there are compelling reasons. This is because long-term mental impairment effects cannot be accurately established.

See the AC Act 2001 Schedule 1, Part 3, Clause 57.

 AC Act 2001 Schedule 1, Part 3, Clause 57
https://www.westlaw.co.nz/maf/wlnz/app/document?doc-guid=lf6788013b3d11e18eefa443f89988a0&tocDs=AUNZ_NZ_LEGCOMM_TOC&isTocNav=true

5.0 Mental injury assessments

- a** A mental injury assessment must be carried out by a qualified assessor. See the AC Act 2001 Schedule 1, Part 3, Clause 58. ACC can ask clients to undergo assessments.

 AC Act 2001 Schedule 1, Part 3, Clause 58
https://www.westlaw.co.nz/maf/wlnz/app/document?doc-guid=lf6787f83b3d11e18eefa443f89988a0&tocDs=AUNZ_NZ_LEGCOMM_TOC&isTocNav=true

6.0 Deciding apportionment for lump sum or independence allowance for mental injury


- a** So that we can determine the amount of a lump sum or independence allowance, we consider the recommendations of a qualified assessor about what proportion of a client's mental injury is:
 - related to conditions covered by ACC
 - not related to conditions covered by ACC.

The assessor deducts any impairment that they think has not resulted from the covered injury from the whole of the person's impairment, which leaves the portion that is used to calculate the amount of support. This is known as apportionment.

For a client to be eligible, at least 10% of their impairment must be claim-related.

Resources for determining apportionment are the:

- Operational guidelines for impairment assessments for lump sum compensation and independence allowance
- ACC User Handbook to the AMA Guide to the Evaluation of Permanent Impairment 4th edition.

 Operational guidelines for impairment assessments for lump sum compensation and independence allowance.pdf

Summary

Objective

Use this guidance to when investigating cover for a mental injury claim to ensure that you meet the statutory timeframes and avoid a deemed cover decision.

Background

A November 2008 District Court ruling found that claims for mental injury arising from physical injury are subject to the cover timeframe provisions contained in sections 56 and 57 of the Accident Compensation Act 2001. If we don't meet these timeframes, a client's cover decision is deemed in their favour under the Accident Compensation Act 2001, Section 58.

Owner

Expert

Policy

1.0 Rules

- a We must treat each claim for a mental injury arising from physical injury as if it is a new claim for cover, which requires a decision to be made within the statutory timeframe. Under section 56 of the Accident Compensation Act 2001, ACC must determine cover within 21 days of lodgement of non-complicated claims.

According to Section 36(2) of the Accident Compensation Act 2001 the date on which a person suffers mental injury because of physical injuries is the date on which the physical injuries occurred. If a claim for mental injury is lodged more than 12 months after the physical injury, it becomes a complicated claim for cover. Under section 57 of the AC Act cover must be determined within two months of lodgement of complicated claims.

NOTE Example

A client is assaulted in May 2006 and ACC accepts cover for a fractured eye socket and multiple contusions. Two years later ACC receives a medical certificate for post-traumatic stress disorder (PTSD). As the claim for mental injury has been received more than 12 months after the physical injuries, this is considered as a complicated claim for cover.

- Accident Compensation Act 2001, Section 36, Date on which person is to be regarded as suffering mental injury

<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM100952.html>

- Accident Compensation Act 2001, Section 56, Steps Corporation takes to action claims for cover

<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM100983.html>


- Accident Compensation Act 2001, Section 57, Steps Corporation takes to action complicated claims for cover

<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM100984.html>

2.0 Time extensions

- a In many cases we can't make a decision on a mental injury claim within statutory timeframes because we require additional information, such as a mental injury assessment.

Therefore, as soon as the statutory timeframes are activated we must either make a decision to decline cover or send a CVR30 Time Extension letter to the client.



 CVR30 Time Extension - advise - claimant

3.0 Activating timeframes

- a We must receive a specific request for cover in order to activate the cover timeframes for a mental injury from physical injury. If it is not clear whether a specific claim for cover for mental injury has been lodged, we must immediately send the client a CVR16 Mental injury – request lodgement of ACC45 (36K) letter telling them that we need an ACC45 lodged by their treatment provider.

In most instances a request for cover should be accompanied by a medical certificate or a preliminary diagnosis of a mental injury from the client's treating practitioner. However in some cases it is unreasonable to ask the client to return to their treatment provider and ACC can take steps to arrange the assessment. ACC does not require an ACC45 if we already have a medical certificate, and are aware from previous correspondence that the client wishes to have cover for a mental injury.

For more information see Examples of timeframe activation for mental injury.

-  CVR16 Mental injury – request lodgement of ACC45
-  Examples of timeframe activation for mental injury - Reference
<http://thesauce/team-spaces/chips/cover/cover-decision/reference/mental-injuries--187/timeframe-activation-for-mental-injuries/index.htm>

The Two-part Test Explanation

Part 1: the ‘but for’ test establishes a factual connection between the physical and mental injury

The ‘but for’ test and the chain of causation

In *W*, the ‘but for’ test was used to establish a factual connection between the physical injury by asking ‘...whether the client would have suffered their mental injuries without (or “but for”) also having suffered their physical injuries.’¹ In *W*, the Court explained that if the client ‘...had never been injured...she would never have found out about her injuries and suffered from any mental injuries arising from that knowledge.’²

In this case, the ‘but for’ test established a chain of causation despite an intervening event (i.e. the client being told about the abuse), and the gap in time that occurred between the physical injury and mental condition resulting in proximity issues.

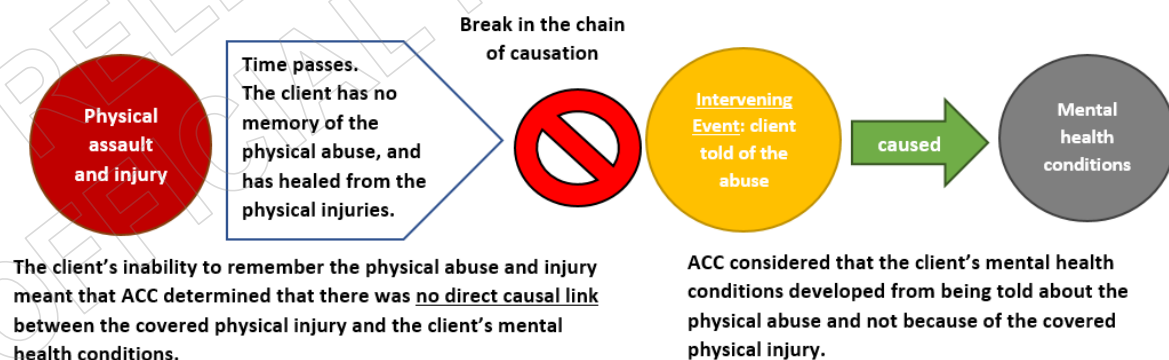
Definition of ‘intervening event’ and ‘proximity issue’

An intervening event is an independent act that breaks the direct connection between the initial event and the resulting harm (in this case the physical injury and mental health condition). The intervening event breaks the chain of causation if it is found to be the independent cause of the harm. A proximity issue refers to the remoteness between the physical and mental condition.

For ACC, the ‘but for’ test means that a client may seek cover in circumstances where the chain of causation between the physical and mental injuries is broken by an intervening event or where there are proximity issues.³

Figures 1 and 2 illustrate ACC’s understanding of causation and rationale for declining cover for *W*, and the ‘but for’ test provided by *W*.

Figure 1: ACC’s rationale for declining cover for *W*

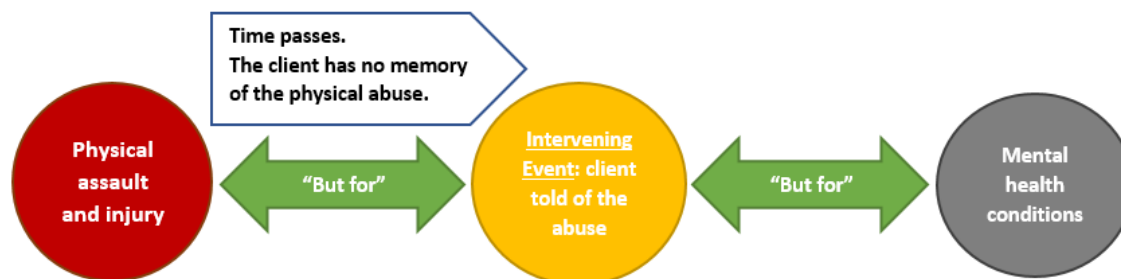


¹ *W v Accident Compensation Corporation* [2018] NZHC 937 (3 May 2018), [62].

² *Ibid*, [78].

³ *Ibid*, [69].

Figure 2: the 'but for' test provided in *W* establishes a chain of causation



The “but for” test establishes a causal link, overcoming the proximity issues, and the intervening event. The “but for” test considers that had the client never been physically injured, they would never have found out about their injuries, and therefore never suffered from any mental injuries.

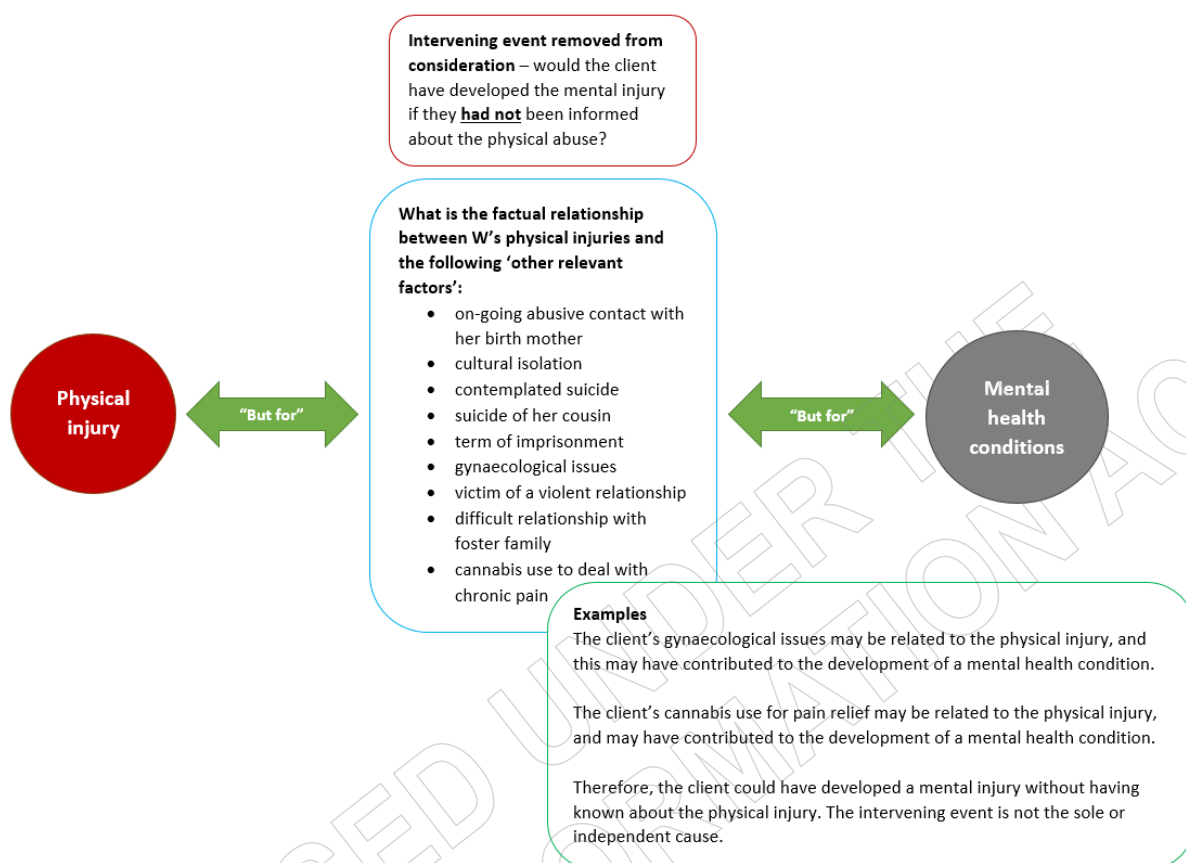
Using the ‘but for’ test to determine whether the intervening event is the independent cause of the mental health condition

Where the cause of the client’s mental condition includes their knowledge of the fact that they suffered a physical injury (e.g. a client who suffers depression because they know they have been assaulted), the test requires an assessment of whether it is more likely than not that the client would have suffered each mental condition even without that knowledge (i.e. without being told of the abuse/injury would the physical injury alone have caused the client’s depression).

Justice Collins suggested that the ‘but for’ test could be used to test the significance of the intervening event to determine the factual relationship between other consequences stemming from the physical injury (i.e. the client’s gynaecological issues, cultural isolation etc.).⁴ If the factor(s) that contributed to the mental injury would **not** have resulted from the physical injury, then the intervening event was the sole cause of the mental injury, and the causal chain between the physical and mental injury is broken. **Figure 3** illustrates the application of the ‘but for’ test to determine whether the intervening event is the independent cause of harm.

⁴ *W v Accident Compensation Corporation* [2018] NZHC 937 (3 May 2018); [79].

Figure 3: using the 'but for' test to determine the significance of the intervening event

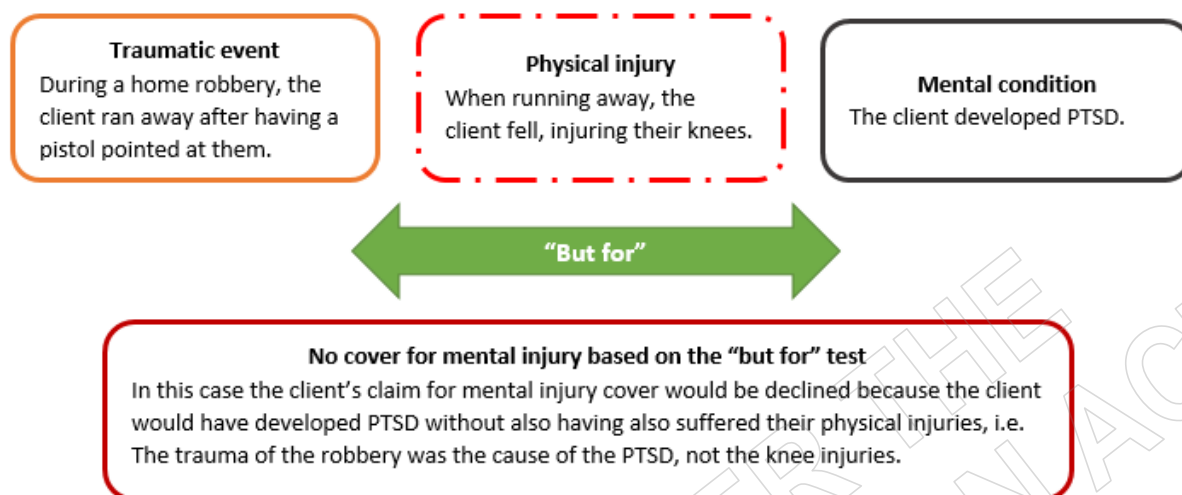


The 'but for' test as a screening device for cover

Justice Collins also stated that the 'but for' test should be used as a '...screen for declining claims that **clearly** do not qualify for cover under section 26(1)(c)' (emphasis added).⁵ Figure 4 illustrates a case where the 'but for' test could screen a claim that clearly does not qualify for cover. The example provided in *W* illustrates that a claim clearly does not qualify for cover where events are independent of each other and do not support the required causal link between the physical injury and mental condition.

⁵ *W v Accident Compensation Corporation* [2018] NZHC 937 (3 May 2018); [62], [78].

Figure 4: example of a case where the 'but for' test could screen a claim that clearly does not qualify for cover because of the sequence of events⁶



Exceptions to using the 'but for' test as a screening device

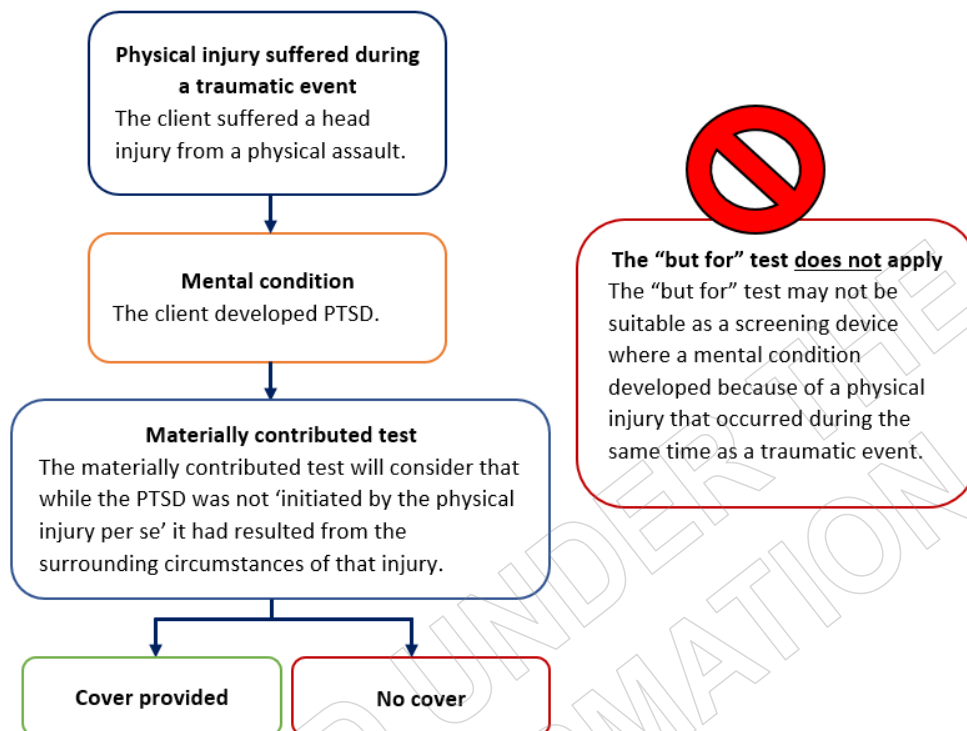
There are exceptions to the 'but for' test. Justice Collins noted that the 'but for' test may not be suitable as a screening device in cases where the events that led to the mental injuries could not be distinguished from the physical injuries, which occurred during the same traumatic event.⁷ **Figure 5** provides an example of when the 'but for' test may **not** be applied as a screening device.

Note, that while client 'W' suffered a physical injury during a traumatic event the mental injury developed after they were informed about the physical abuse and injuries (not at the same time). Therefore, the 'but for' test was applied.

⁶ This example is based on *Comerford-Parker v Accident Compensation Corporation* [2011] NZAR 481 (HC).

⁷ *W v Accident Compensation Corporation* [2018] NZHC 937 (3 May 2018); [63]. In *Greenland-Tangipo v Accident Compensation Corporation* DC Wellington 28/2003 the client developed PTSD after suffering a head injury from a physical assault. While the PTSD was not 'initiated by the physical injury per se' it had resulted from the surrounding circumstances of that injury.

Figure 5: an example of a circumstance when the 'but for' test should not be used as a screening device for cover



The 'but for' test is unworkable where there are multiple contributing factors

According to academic legal articles, the 'but for' test is unworkable in circumstances where there are multiple independent causes to a harm, and it is impossible to isolate and identify the cause of the injury.⁸ In cases where the 'but for' test is unworkable, the materially contributed test should be applied.⁹

In the context of ACC, a contributing factor to a mental condition may, in addition to the physical injury, be responsible for the development of the mental condition. Contributing factors may include: the client's family history, past psychological history, and drug and alcohol history. Clinically it may be difficult or impossible to determine the cause of the mental injury.

⁸ Erik Knutsen, 'Clarifying Causation in Tort', *Dalhousie Law Journal*, Vol. 33 No.1, Spring 2010, pp.154 – 188, see p.163 – 172. Steve Hedley, 'Rethinking Actual Causation in Tort Law', *Harvard Law Review*, vol.130 June 10, 2017, pp. 2163-2182, see pp. 2166, 2167. Hille David, W. Paul McCague, Peter F. Yaniszewski, 'Proving causation where the but for test is unworkable', *The Advocates' Quarterly*, Vol. 30, 2005, pp. 216 – 238, see p.226. John A. Olah, Paul E. Martin, 'Demystifying the Law of Causation: Resurface Corp. v. Hanke', pp.1-17, see pp.3, 4, 7, 11 – 15. Ernest J. Weinrib, 'A Step Forward in Factual Causation', *The Modern Law Review*, Vol.38, September 1975, pp.518 – 534, see pp.520, 521.

⁹ John A. Olah, Paul E. Martin, 'Demystifying the Law of Causation: Resurface Corp. v. Hanke', p.12.

The physical injury does not need to be the sole cause of the mental injury

In addition, the physical injury does not need to be the sole cause of the mental injury. While the 'but for' test may show that other factors contributed to the cause of a mental health condition, because the physical injury does not need to be the sole cause of a mental injury this means the 'but for' test cannot be used to determine an independent or isolated cause of the mental injury. For example, while the client suffered a physical injury, without also having ('but for') experienced parental neglect as a child, they would have developed the mental health condition. However, the physical injury does not need to be the sole cause of the mental injury, so the 'but for' test does not help determine a causal link when applied to multiple-contributing factors. In cases where there are multiple causes, *W* explains that the materially contributes test applies.¹⁰

B-Q v Accident Compensation Corporation – application of the 'but for' test when considering multiple events

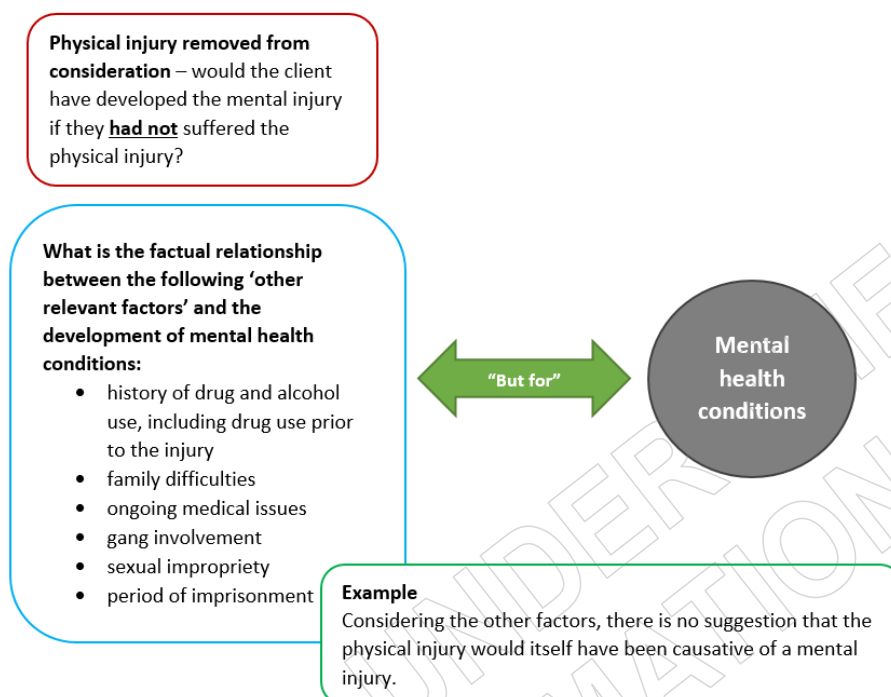
In the recent District Court case of *B-Q v Accident Compensation Corporation (B-Q)* Justice Walker considered the 'but for' test in a case where there are other relevant factors, by asking '...whether the appellant would have suffered mental injury if he had not been exposed to actual or threatened serious injury...'. Justice Walker concluded that '[t]here is no suggestion that the injury that he presented with...would of itself have been causative of a mental injury.'¹¹

In *B-Q*, the 'but for' test is not rigidly applied as a definitive test of causation or a screening device for cover. In this example, the 'but for' test recognises other contributing factors and suggests that the physical injury is not the main cause of the mental injury. **Figure 6** below illustrates the 'but for' test as it was used in *B-Q*. Note the difference from its use in testing the significance of an intervening event (see **Figure 3**) compared with removing the physical injury from consideration.

¹⁰ *W v Accident Compensation Corporation* [2018] NZHC 937 (3 May 2018); [65].

¹¹ *B-Q v Accident Compensation Corporation* [2019] NZACC19 (14 March 2019); [162], [163].

Figure 6: the 'but for' test used to see if there's a factual connection between other factors and the development of mental health conditions



The second part of the test (the materially contributes test) requires an assessment whether the client would have suffered a mental injury without suffering the physical injuries, and whether there were other causes that could have been responsible.¹²

Based on *B-Q*, ACC should not rigidly apply the 'but for' test in cases where there are multiple factors, but use the test indicate that that the physical injury may not be the main cause of the mental health condition. ACC should then apply the materially contributes test to assess and determine whether these other factors were responsible for the development of the mental health condition.

Part 2: the materially contributes test establishes the legal cause of the mental injury

In *W*, the materially contributes test establishes the legal cause of the mental injury by determining whether the physical injury materially contributed to the mental injury. Materially contributed means that the physical injury must be a cause of the mental injury in '...some genuine or meaningful way, rather than just in a trivial or minor way.'¹³

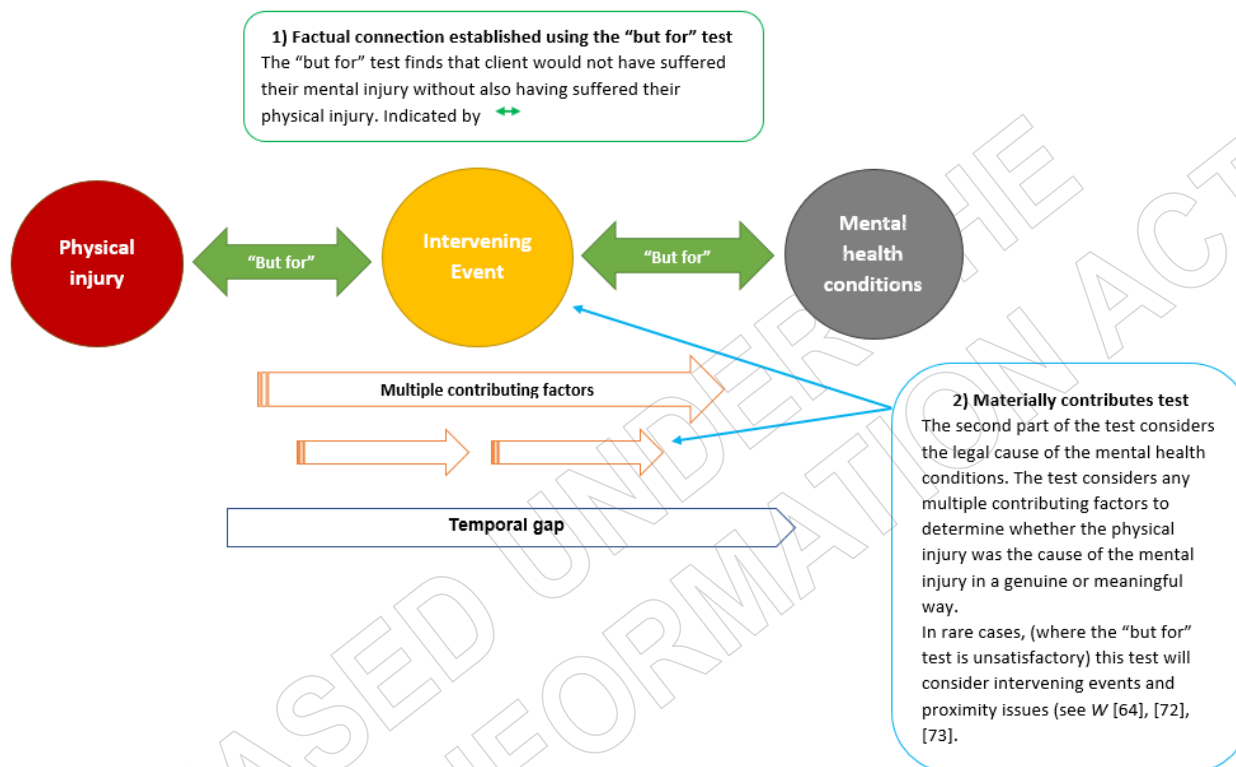
The materially contributes test considers any multiple contributing factors to determine whether the physical injury was the cause of the mental injury in a genuine or meaningful way. Multiple contributing factors include the client's family history, past psychological history, and drug and alcohol history. These factors may determine whether a client's mental condition was caused by the covered physical injury.

¹² *B-Q v Accident Compensation Corporation* [2019] NZACC19 (14 March 2019); [165].

¹³ *W v Accident Compensation Corporation* [2018] NZHC 937 (3 May 2018), [65].

In rare cases, (where the 'but for' test is unsatisfactory) this test will consider intervening events and proximity issues.¹⁴ **Figure 8** illustrates how the two-part test as provided by *W* determines mental injury cover.

Figure 7: illustration of the two-part test as provided by *W* to determine cover for mental injury because of physical injury



¹⁴ *W v Accident Compensation Corporation* [2018] NZHC 937 (3 May 2018), [64], [72], [73].

Work Related Mental Injury Early Intervention Service Referral Process Service Page v4.0

Summary

Objective

A client can have up to four pre cover WRMI early intervention sessions and two pre cover WRMI post assessment therapeutic sessions as part of the Early Intervention Services (EIS).

Owner [REDACTED]

Expert [REDACTED]


Procedure

1.0 Who can be referred






- a Clients who lodge a Work Related Mental Injury (WRMI) claim.

2.0 EIS referral process

- a See attached process

 Assessing a claim for mental injury
<http://thesauce/team-spaces/chips/cover/cover-decision/process/assessing-mental-injury-cover/index.htm>

- b Related information

-  EIS referral process.docx
-  Mental Health Care
<http://thesauce/team-spaces/provider-service-delivery/health-sector-services/mental-health-care/index.htm>
-  WRMI01 Referral for pre and post cover psychological services letter
-  WRMI02 Approval for sessions with a specialist - client
-  PS02 Psychological services - approve further sessions (CHIPS)

Summary

Objective

Refer to this guidance to help you determine cover where a person suffers a clinically significant mental injury caused by a traumatic work related event.

- 1) Overview
- 2) The Client is diagnosed with a clinically significant mental injury
- 3) A work-related event causes the mental injury
- 4) A single, sudden event causes the mental injury
- 5) The event was experienced, seen or heard
- 6) The direct outcome of a sudden event
- 7) The event can reasonably be expected to cause mental injury
- 8) Links to legislation

Background

ACC has been able to consider claims for work-related mental injuries since 1 October 2008.

Owner

Expert

Policy

1.0 Overview

- a** Mental injuries not covered by this include:
 - exposure to traumatic events outside of work
 - gradual onset workplace stress.
- b** The work-related mental injury must have been caused by a single, sudden event that occurred in a client's employment.
- c** Unlike other mental injury claims, a work-related mental injury does not need to be linked to a physical injury. If the client receives a physical injury you should also consider whether the claim for cover is for a mental injury resulting from a physical injury as the two claims have different criteria and dates of injury. This will depend on the content of the mental injury assessment. Seek advice from your Team Manager if you are unsure.
- d** Example:

A bus driver in Manukau swerves to avoid hitting a pedestrian who deliberately steps in front of the bus. The pedestrian is killed instantly when they are clipped by the front end of the bus. As the bus driver is suffering from severe clinical depression because of this event his general practitioner lodges a claim for a work-related mental injury.

2.0 The client is diagnosed with a clinically significant mental injury

- a** In order for the mental injury to be covered, it must be diagnosed as being a clinically significant behavioural, cognitive, or psychological dysfunction.
- b** The diagnosis must be made by a qualified mental injury assessor following a standardised system. For more information, see the link to the 'Mental Injuries' Promapp entry below.
- c** Temporary distress that constitutes a normal reaction to trauma is not covered.

 [Mental Injuries Policy](#)

3.0 A work-related event causes the mental injury

- a** For a work-related mental injury to be covered, it must be caused by a single, sudden event that occurred in a person's place of employment. The person must be at the place for the purpose of employment or at a place of employment during a break.
- b** The mental injury assessor's report should identify whether the event was a material or substantive cause of the mental injury.

4.0 A single, sudden event causes the mental injury

- a** For a mental injury to be covered, the mental injury must be caused by a single event.
- b** The event that caused it must be sudden in onset. A sudden event is one that occurs quickly with little or no warning, but the event itself may last a short or longer time. An event lasting a short time might include a drive-by shooting, while an event lasting a longer could be a hostage situation lasting many hours. Irrespective of their duration, both are sudden events.
- c** A series of events that arise from the same cause or circumstance can still be considered a single event. In these situations take care to ensure that all parts of an event are clearly identifiable and occur at a precise point in time. This is different to a gradual process, which refers to a series of recurring events over a longer period that have a cumulative effect.

NOTE Series of events that arose from the same cause or together comprised a single incident

The client may experience a series of events at work that arose from the same cause or together comprised a single incident.

For example: a police officer or soldier is exposed to several similar life-threatening situations over a short period of time (weeks or a few months, not years).

In this case, call the Technical Specialist Hotline for guidance.

5.0 The event was experienced, seen or heard

- a** In order for the mental injury to be covered the client must directly experience the event that caused the mental injury. The client must be in close physical proximity to the event and see or hear it in order to experience it.
- b** A person cannot experience an event directly if they:
 - see it on television, including closed circuit television
 - see pictures of, or read about it, in the news media
 - hear the event on radio or by telephone
 - hear about the event from radio, telephone, or another person.
- c** In most cases, a person will see an event directly. In cases where a person experiences the event through hearing it, for example from a room adjacent to that where the event took place, extra care will be required.
- d** If a claim is lodged as a result of witnessing an event on a closed circuit television by a person who is required to provide video security surveillance as part of their employment, seek advice from a Technical Specialist.

6.0 The direct outcome of a sudden event

- a** If the person does not directly witness the event as it occurs, they can still be eligible for cover for a mental injury if they are involved in, or witness, the direct outcome of the event.
- To be directly involved in, or witness, the outcome of a sudden event means the person must be physically present at the scene of the event.

A person may be at the scene of the event and:

- provide medical assistance
- provide emergency response assistance
- be part of a rescue or clean up operation.


7.0 The event can reasonably be expected to cause mental injury

- a** In order for the mental injury to be covered, it must be caused by an event that could reasonably be expected to cause mental injury to people generally.
- b** Events that could reasonably be expected to cause mental injury would:
- provoke extreme distress, horror or alarm in almost everyone
 - be outside the normal range of human experience (normal human experience would include bereavement, business loss, and divorce).
- c** In cases where the event is significant, there will usually be lots of information that can be gathered from workplace incident reports, and police or emergency services reports, as well as a Department of Labour investigation. The more information that can be obtained, the more robust the cover decision will be.


8.0 Date of work-related mental injury

- a** Cover is applicable for work-related mental injury where the client first sought treatment for the mental injury after 01/10/2008. This applies even if the event itself occurred prior to 01/10/2008.
- b** The date of work-related mental injury is the date when the client first sought treatment.

9.0 Links to legislation

 Accident Compensation Act 2001, section 21B Cover for work-related mental injury

<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM1671503.html>

 Accident Compensation Act 2001, section 28 Work-related personal injury

<http://www.legislation.govt.nz/act/public/2001/0049/latest/DLM100918.html#DLM100918>