

# WSIB MANUAL FOR PARAMEDICS

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PROOF OF ACCIDENT WITH THE FOUR WSIB IMMEDIATES

- IMMEDIATE ONSET OF PAIN
- IMMEDIATE REPORTING
- IMMEDIATE TIME OFF FROM WORK
- IMMEDIATE MEDICAL ATTENTION

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Paramedics and EMS workers, I want to make more people have an understanding of WSIB. You have certain rights and responsibilities. By choosing not to invoke your rights you may be in an unfortunate circumstance of having no WSIB coverage

In a several part series, I will give you a subject and a brief overview to help you to make survive this career, and if you can't then have the ability to get the help you are entitled to.

Subjects covered over the next several weeks will be:

1. When is an injury compensable?
2. Reporting an Injury and filing a claim
3. Return to Work
4. Other worker and Employer obligations.
5. Other

This is an EXTREMELY important subject. Please read and don't plead ignorance and hope that it won't happen or someone will look after me when I get hurt. THAT IS NOT TRUE! We are all just one injury from being disabled. And if we don't follow the process, you will not be covered.

Questions are encouraged and passing of information to whomever you see fit is welcomed.

## Part 1 - When is an Injury Compensable?

In a nut shell any injury caused by your course of Employment is compensable. No one has the right to tell you that it isn't compensable.

Example: You have a heart attack at home. You are STEMI'd and STREAM'ed by the finest York Medics has to serve. At the first possible moment you are able to see visitors and one of the supervisors comes in to see how you're doing. You tell him/her that you've been under a bit of stress at work and you think that you should report this as a WSIB injury.

Your supervisor says, no because obviously you had this at home and it's not under the Employer business. If you believe this no paperwork is filed and definitely you are not covered (no claim - no coverage). But you tell your supervisor to file a Form 7 anyway. If approved all care and benefits required (including expensive medicine that is not covered under our benefit plan) WSIB picks up the cost. You and your Union representative prove that this is a work related injury to the heart.

The law states that benefits are payable for any work related personal injury. If the work has caused the injury you're covered.

To be clear you are covered if the "accident" or injury/illness if

- i. A willful and intentional act, not being the act of a worker (ie someone throws a stick at you and get hurt. A coworkers or patient doing the intentional act - you're covered!)
- ii. A chance event occasioned by physical or natural cause (that's our typical injury)
- iii. Disablement arising out of and in course of employment (i.e. firefighters get certain types of cancer are covered. In EMS, you can say that the illness covered by taking the Meningitis medicine)

Again - if it's in the course of your Employment, you are covered.

Things you are probably covered but you probably didn't think you were covered:

- In the parking lot that Employer uses or leases or maintains or acknowledges is a typical parking lot that they use
- You are in Tim Horton's during your break, and slip and fall. You are covered
- You're moving from one station to another (in personal car) after they tell you to move - you're covered.
- You lift a person - totally the wrong way. I mean it was the worse lifting technique in the history of lifting - you're covered. WSIB is no fault insurance. It's a matter of you performing during your normal practice of employment.

- You volunteer at the Christmas parade. You are Parry the Paramedic and when walking down the street a kid comes out from now where and knocks you over. You break your thumb (paw) - you're covered - Employer sponsored event
- You are at home with a back injury, you're at the top of the stairs, you right leg gives out and you fall down the stairs breaking an arm. You're covered. Secondary injury caused by effect of original compensable injury.

Sometimes we have to make a strong argument during appeal, but typically if it can be proved that it was an accident in the course of employment - you're covered!

When you are probably not covered (but still should file a claim)

- You are Christmas shopping while on duty, you slip and fall in Walmart and injure your knee. You probably not covered - not in Course of Employment
- You are at a platoon party. The next day a co-worker thinks you were "hitting on" his/her date. You get punched and break your nose. Very difficult to get coverage - not in course of Employment.
- You are at a call a night club on Saturday night. A typical client comes up to you and strikes you. You in your defense punch him and you break your hand. Probably not covered - willing participant in a fight (I know I know, self defense. This I imagine would be a good argument during appeal - but there are rulings out there to defend their decision. But this doesn't stop you from filing a law suit against this person)

**What to take out of this is that you should file whenever you are injured at work or in the course of what you believe is in the course of employment.**

You don't necessarily have to get first aid help immediately for the Claim to go through. You may have a delay onset of symptoms. Prime example, a worker has his foot ran over by a wheelchair, injures toe and has bruising under toe nail. Union strongly encourages worker to report injury. Worker does - 6 months later his toe is getting amputated due to injury (worker has diabetes too).

- When in doubt - report the injury.
- File the paperwork.
- Let your Union rep know if you are hurt (Employer does not tell the Union of any injury - it is the Workers responsibility)

## Part 2 - Reporting an injury and filing a claim

Remember - you are just one injury away from being disabled.

In a nutshell, it's in the course of Employment you should be covered. This would include any injury, illness or disability arising from your Employment.

You should report any injury or illness as soon as you know it has happened. If you fall you hurt yourself, report it and get the paperwork filled out. As soon as a Physician says your illness or injury was caused by work, report it! There are very strict timelines to reporting an injury.

Basically the limit is 6 months as soon as you find out. But being honest, the longer you take to report it, the more difficult it will be to prove your case.

Two examples:

- Tweak your back on a Thursday, you finish working the shift. You're now on your week off. You feel that you just need some rest and ice and it will go away. Tuesday you can't handle it anymore and want to go to your doctor for some relief. You tell him you hurt it 5 days prior at work.

He's a top notch doctor and fills out a Form 8 and says you better notify your Employer to fill out the Form 7 (in all honesty, I doubt this will ever happen). Claim is filed - your WSIB adjudicator doubts your claim and you are in a whole bunch more of paperwork to prove your case. Very difficult to get your claim processed in a timely manner if at all

- You go to the doctor and say your hearing is really poor. You go to a Hearing specialist and they say your loss of hearing was probably due to your employment in EMS and the loud ambient sounds over the past 20 years in EMS. You are now on the clock. This is the first opportunity you realize that your injury was caused by duties arising from your Employment. IMMEDIATELY tell the Employer and get a Form 7 filled out.

**Important Point #1** - Report the Injury/Illness/Disability to the Employer - as soon as it is determined to be caused out the course of Employment. Of the 300,000 WSIB claims filed every year, 90% are accepted. In the last 10%, the majority of denials are incomplete or late paperwork.

The second point is when should it be reported to WSIB ("The Board")? The Employer must report to the Board if they learn the worker requires health care, and/or is absent from work, and/or earns less than regular pay for regular work (ie PT Hours), and/or requires modified work. [To note; health care is defined as requiring the professional skills of a health care practitioner (ie. doctor, nurse chiropractor, physio, RMT), or services at a hospital or health facility, or requires prescription drugs].

The employer have 3 business days to notify WSIB after learning of the accident (non-negotiable) and there are heavy fines on the Employer for violating this.

The Employer does not have to report to WSIB (but you still should report to the Employer), if you received just first aid, or received first aid (or didn't receive first aid) and requires modified work at regular pay for 7 days or less following the accident (i.e. minor burn or cut). If you have reported it (Form 7 filled out) and later on there is a problem - you have done your due diligence - you should be covered.

**Important Point #2** - Employer doesn't have to report all incidents to WSIB, but you should report all to your Employer.

### So, how should you report the Injury/Illness/Disability?

As soon as you are able to, notify the Supervisor. They can visit you personally or take the information by phone. The Employer should give you a copy of Form 7, in addition a Functional Ability Form (FAF), and perhaps a Form 8 (for the Health care practitioner to fill out). I will talk about your doctor and Form 8 in an additional section. If either or both of these forms are received by WSIB, you are assigned a case worker and a claim number. You will be sent a Form 6 (your side of the story).

See below on specific Form notes.

You can also initiate a claim yourself by submitting a Form 6. This is rare because on most part our Employer does well at WSIB obligations. Example of initiating a Form 6 is if the Employer tells you it's not a WSIB compensable injury. You can go online at [www.wsib.on.ca](http://www.wsib.on.ca) click on 'Forms' and download them yourself. Some forms can even be electronically sent in. But specifically about the Forms:

### Form 7

- The Employer's form - their notes of the story given to them. May not necessarily be accurate in your eyes, and you can 'paint a better picture' through an additional letter sent to WSIB or through your Form 6

### Form 8

- The Healthcare Practitioner's form. Should be given to all your Practitioners. It is used to support your case of compensable injury. We all know the medical system, and we know that these forms are not completed right after they meet with you. Information may be missing.

How can you help to ensure that the info is accurate? Clearly described your injuries - all of them. Ask your practitioner to complete quickly as your claim gets held up waiting for paperwork. Even have a prepared written note of what happened, and what hurts and what you have done for it so far. Give it to him/her and that way they can refer back to it when they eventually do the form.

### Form 6

- Your form. This will be sent to you by WSIB (or you can download it from the WSIB website). Very important to have this filled out accurately, detailed and sent back in quickly. VERY IMPORTANT! The details section is where you describe the incident.

The case workers do not have any knowledge of what you do. The description should be so detailed that there is no room for doubt.

"I bent over lifted up a 200 lb pt, and hurt my back." does not cut it.

It should be very detailed:

*"At or about 1400 hrs, I was standing on a level concrete surface. I bent down using my knees. The patient, approximately 200 lbs was unconscious and without the ability to stabilize self. With the patient secured with straps on a long spinal board, I was on the head end and my partner at the foot end, we proceeded to lift patient to standing height (approx. 30" off ground). When I was at full standing height, we maneuvered the patient to the ambulance stretcher (at the same height as our hands extended). When I moved to my right, I felt a sharp pull at my lower back. I finished placing the patient on the stretcher, and told my partner. I could not lift any more. I went into the ambulance for the ice pack to place on my back. At this time I noticed the pain going to my right buttock. At 1410 hrs I notified my Supervisor (Mr. Goldbar) and told him I was going to the hospital. We called for another ambulance to continue to treat and transport the patient to hospital.."*

You get the drift. This leaves no doubt. You will tell of witnesses and times and exactly how you did it. You can have your Union rep help you with this.

## Functional Ability Form (FAF)

This form is filled out initially at onset of treatment if possible (**and every 30 days thereafter or whenever seen to be fit**). This says what you are capable of; how much you can lift, if you can use stairs, how long you can sit. How it is filled out can make an easy claim or a difficult claim. A Doctor's word is not the final word. The law is the final word.

When a doctor writes "Paramedic Sally cannot work for 3 weeks" or "Paramedic Johnny cannot do modified work" will not be accepted. If at the onset the doctor says, "Paramedic Sally is instructed to rest for 3 weeks during the acute part of this injury where she will be given anti-inflammatories and pain relievers. I will reassess her at 3 weeks' time to better determine her functional abilities." That will be much more accepted. Please don't allow for blank statements.

WSIB and the Employer, within their rights will ask for another opinion of one of their doctors and by law, you will have to abide **Important note #3** - get your forms filled out quickly and accurately as possible. Keep copies when possible.

## WSIB - Part 3 - Proving Your Claim

EMS is one of the most injured professions per capita in the workforce. It inherits difficult physical and mental demands in difficult circumstances.

With this goes the almost assured event that you will have to file a WSIB claim in your career. Knowing your rights and obligations beforehand will reduce the anxiety of the situation. In a multi-part series I have tried to piece some much needed information that you should know.

In this part, a short discussion will be made to:

- Witnesses,
- Note taking of conversations and emails, and
- Confirming instructions.

**Paramedics though good historians in their profession typically lack the skill to keep track of their own issues. Characteristically the "less seasoned" Paramedic relies on the Employer to ensure everything will fall into place and that there will be no problems in their claim.**

Unfortunately, a lesson is quickly learned and at the wrong time, they may find it isn't the case. Now the injured worker has to play catch up.

How can this be prevented?

Firstly, you have to report the injury/illness at the very first opportunity possible. Letting the Employer (and thus WSIB) know almost at onset aids in your claim.

Next, seeking Healthcare quickly also proves your case. This validates your claim. Be as in depth as possible. Doing so it may show a more serious underlying injury or illness that should be covered.

If you do these three things correctly, quickly and thoroughly you have a high probability of a successful claim. But there are other things you should do.

### *Witnesses*

When you are hurt, you should get the name and number of any witnesses. If possible, get these witnesses to write statements of what they saw and when. Having them write the statement as close in time to the incident as possible is important. If you ever go to Appeal, it will be years from the incident. A fresh mind will help in recollection.

The question arises is, "what if no one sees me get hurt?" That's ok. A witness can be the first person you talked to when you came back into a room and told them you hurt yourself. List as many witnesses as possible.

If you think as proving your WSIB claim, like your trying to prove your case in a Court of Law, you great chance of being successful in your claim.

### *Note taking of conversations and emails*

You should have a journal of everything you've done. This would include of the incident, who you phoned and when. Record the phone numbers, and if there were anyone else witness to conversations.

Take notes of what the Employer has said to you or any requests. Be as detailed as possible, and record who were present. Saving emails. Having a Journal is perfect. Record everything.

*Example:*

Incident: Meeting with Employer

Date: June 3, 2010 Time: 09:00 AM

Location: At Main office Boardroom

Persons Involved: Manager, Mr. Jones

Union Rep. Steward and Myself

Regarding: We talked about my modified duties. Mr. Jones said there was administrative tasks I can do. They gave me statistical data to gather and input in the computer. Mr. Jones said that if I was feeling sore that I can stand and stretch. If I need privacy for back exercises then I can go to the back boardroom. My work day was to end at 1 pm. We were to meet in 1 week time to check on my progress. Date was to be determined. The meeting ended at 9:10pm.

You also should include discussions with your Doctor, your Union, and certainly your WSIB case worker. Again having noted the details put more validity to your claim.

### *Confirming Instructions*

This is also something that is important. Many times you are given instructions verbally. The best approach is to record those instructions down and sending it back to the person you were talking with. In most cases, injured/ill workers are under new medications (at least at onset), and this may cloud your ability to concentrate. By reconfirming the directions and sending back to the person, any correction or clarification can be made in a timely manner. It also shows you are cooperating.

*Example*

*Dear Ms. Return to Work Coordinator.*

*This email is in reference to the conversation we had by phone on June 30, 2010. In this phone call you asked me to get a Functional Ability Form filled out by my Doctor and handed in by July 14th, 2010. At that time I will be healing at home and then it may be determined if I can return back to work on modified duties. If this is incorrect, please notify me within 24 hours, otherwise I assume this to be correct.*

*Please note that the medications I am currently taking are not giving me the ability to focus in my normal ability and consideration is requested.*

Even better than this, is to get any party to give directions by writing immediately. But that may be difficult.

Again, it is extremely important for you take acute notes. Purchase a Journal at a stationary store and take lots of notes. You will find over a short period you will get a great deal of paper work. A file folder/large binder will also be helpful.

Lesson learned today - DOCUMENT DOCUMENT DOCUMENT And you have to look after yourself because no one else will.



## WSIB - Part 4 – Return to Work and Functional Abilities Form

### Return to Work (RTW)

The Employer, WSIB and the injured worker have certain obligations, responsibilities and roles that support your early and safe return to work. But first why is it advantageous to the worker to return to work early, even in modified duties? Research shows the longer you are off work due to injury or illness, the less likely you will return to work.

There is the positive of mental health of returning to work and lessening of financial impact truly helps the worker in the long run.

### What is your Responsibility for RTW?

- Get proper medical treatment following your injury/illness and follow recommendations
- Report your injury to Employer ASAP
- Contact your Employer ASAP post injury/illness. You must stay in contact with your Employer throughout your recovery. (keep records of the contact)
- Help Employer find suitable work that fits within your Functional Ability Form (FAF) restrictions
- Keep your WSIB case manager or nurse consultant informed of your progress and even RTW offers. You MUST report any significant change of medical condition. You MUST report and material change in your status within 10 days of the change occurring. (i.e. RTW, receiving any other income or Govt benefits)
- You must cooperate with the Employer and WSIB in your early and safe RTW.

### What is the Employer's Responsibility for RTW?

- Report the injury to WSIB (if loses time from work or earns less than a regular day's pay or gets health care treatment.)
- Contact you ASAP post injury/illness and stay within contact with the worker throughout the recovery.
- Offer to re-employ you if you are medically fit to do the essential duties of your job
- Attempt to provide you with suitable work that is safe and within your physical capabilities and you have the skills to do or that you can learn the skills to do restores your pre-injury earnings as much as possible
- Give WSIB any info about your RTW

### What are WSIB responsibilities for RTW?

- Help you understand what to expect through the Return to Work (RTW) process; what you and your employer are expected to do; your rights and obligations and; who to ask for help
- Monitor you activity, progress and cooperation between you and the Employer
- Obtain and clarify your functional abilities
- Assess the need for "Work Reintegration" services if you are unable/unlikely to RTW
- Help resolve disputes or difficulties through the process
- Provide ergonomic and/or mediation services. This can include onsite visits
- Make decisions on all claim related or compliance issues

## Functional Abilities Form (FAF)

When you file a WSIB claim, the injured worker MUST give consent to disclose your functional abilities. This is done through a FAF.

Its purpose to find suitable work consistent within the injured workers functional abilities. It doesn't contain any clinical or diagnostic information. And it doesn't replace the health professional's reporting requirements to the WSIB. As well, the form does not replace the employer's initial-accident reporting obligations.

**Diagnostic information should not be included on the form or any attachments.**

## Who should fill out your FAF?

Generally, the treating health professional is the person who is responsible for the ongoing care of the worker. However, health professionals who treat the worker on a one-time basis may also be called upon by the workplace parties to complete an FAF. Given the nature of emergency care, ER professionals may not be ideally suited to provide FAF to the workplace parties. But any workplace party can request a FAF.

In some cases, more than one health professional may treat the worker (e.g., a general practitioner and a physiotherapist, two specialists). If the workplace parties believe that each health professional can provide useful functional abilities information, two separate FAFs can be completed.

## IMPORTANT

One of biggest issues that arises out of initial RTW and denial of claims is the FAF.

It is in your best interest that you see your medical professional ASAP.

If you see the ER doctor first, please make sure you have a follow-up appointment with your preferred specialist (this is one that will treat you throughout your injury/illness. You cannot change this specialist without WSIB approval).

The big error that comes to light is when at your initial exam of your functional abilities, the doctor just puts a line through it, or says "do not return to work". While this may make sense to you because you are in the acute phase of your injury, but your case worker knows little of what you are going through.

If your doctor or specialist thinks you cannot do ANY functional abilities and feel you are best to stay at home for a short period of time, he/she must accurately and thoroughly describe why.

An example would be, "I have seen the injured worker today, it is in my professional opinion that this worker remains at home and rest during the acute phase of this injury. I will reassess this injured worker in 2 weeks' time where I feel I can more accurately determine the functional abilities post injury."

## WSIB- or employer-requested health exams

Generally, a health professional who examines a worker at the request of either the WSIB or the employer is not considered the treating health professional for the purposes of completing an FA form. Typically WSIB will request an exam by an appointed Doctor if there appears to be a permanent loss and the injured worker will not be returning back to their own job. They may also request an appointed Doctor if they feel information is not forthcoming.

If you are unfortunate to get injured (and in most cases you will have a WSIB injury sometime in your career), have a chronological list of events. DOCUMENT EVERYTHING and what they said.

Example:

June 01 - 15:00hrs: Injured back at work

June 01 - 15:15hrs: notified Supervisor Smith

June 01 - 16:00hrs: went to ER for assessment

June 01 - 18:00hrs: saw Supervisor Smith in ER gave me a whole bunch of paperwork - FAF, let me know there was a modified work program when I am to participate

June 01 - 19:00hrs: saw MD gave me meds for back, told me to stay on bed rest rest for 3 days and see family MD as first opportunity

June 04- 10:00hrs: Mgr Jones called me at home, to see how I am doing.

I said I was still pretty sore and was booking an appt with today, hopefully to see soon. Mgr Jones said to get a Functional Abilities

Form filled out by my Dr and hand it in to work when I get it. Mgr Jones will call back later after receiving FAF to discuss return to work and modified duties. etc etc

This is not a detailed account of all information, but when you need to recollect information for others, it will all be ready in an easy to use format.

Trust me when I say this, when things go wrong, it will help you. You won't know things have gone wrong with your claim typically until 4-6 weeks later saying your claim was denied!

There have been recent claims of poor paperwork causing people a difficulty in claims to get approved.

PLEASE PLEASE PLEASE, don't take this lightly. Trust no one with your claim. Don't think that because you look after sick people that you'll too be looked after. You are just a number to many people - and pay for performance to others.

Just a reminder that in the unfortunate event you are injured or ill due to work and you have an approved WSIB claim, you should submit your drug claim (or any other device required) to WSIB and not through your Sunlife benefits. While it may be initially easier for yourself, there are some serious concerns in doing submissions this way:

1. The Employer is always in attempt to minimize costs and quite often they seek to reduce the extended health benefits you currently get from Sunlife. They may see an escalated cost in these benefits but may not truly reflect the cost per Employee.
2. All drugs prescribed by your Doctor pertaining to your approved WSIB claim are covered by WSIB. There are no co-payments or dispensing fees when on WSIB.
3. Sunlife may not cover the full cost of your medication where WSIB would.
4. If your Doctor insists on a brand name drug, and there is a generic drug of the same, WSIB has to pay for the prescribed drug.
5. If in the future you feel that you are deteriorating in your condition, WSIB has the ability to review your case files including the medications you take. If they see in your file that you are not taking any (because you don't claim them), it is more difficult to prove that you are in need of reassessment.

One of the concerns people have is the out-of-pocket expense that an injured worker must inherit until WSIB reimbursement. While this may be true in some cases, but if you have a good relationship with your pharmacy, they may directly submit to WSIB. In addition, there are many pharmacies that have WSIB direct billing. In these cases all you do is give the pharmacy your WSIB claim number and the rest is handled by them.

Just a reminder that if you are injured and under a WSIB claim that if you require medications that this should be claimed under WSIB and NOT under your Sunlife benefits. While it is convenient to submit this under WSIB there are some fundamental problems with this:

1. The benefits and cost in our Collective Agreement are always a contentious issue with our Employer. There are always attempts for them to negotiate this away.
2. There is an additional cost (or co-payment) to you if you are using Sunlife. You are capped with the Ontario Drug Dispensing fee. There are many medications that you have to pay a significant extra cost. With a WSIB medication, you are not paying any co-payment and WSIB picks up the full cost
3. Many Sunlife benefits expire at the end of your employment with your Region (and at retirement age). WSIB continues for as long as medically necessary.
4. If your Doctor insists on a brand name and there is a cheaper generic brand, and your Doctor insists on the brand name medicine, that's what you get.

5. When you are fighting for further enhancements to your WSIB claim years down the road, they look at your claim and with all evidence they can determine you may not get an increase of benefit. Example, your injury has increased your pain levels and requiring increase Percocet.

WSIB looks at your claims and doesn't see the evidence that you are complaining of increasing pain because you have no pain medications (on their files).

The question typically is brought up is the out of pocket payment that you have until WSIB reimburses you. You may have a valid concern as this could be an expensive outlay at the start. Ask your pharmacy if they have WSIB direct payment plan.

Hopefully if you already have a relationship with them, it may not be a problem. All you do is give them your WSIB claim number, and they bill WSIB. If they don't, there are many pharmacies that do deal directly with WSIB. You can give your business to them.

Just a point of clarification for those who have had and will have WSIB claims. When you are filling out your Form 6 report back to WSIB (or speaking to the Employer while they do a Form 7), a witness doesn't necessarily have to witness the chance event. They can be the person that you first complain to as you enter a room. This is not the same as a "Law and Order" witness. These witnesses acknowledge the discomfort/injury/illness that you have felt.

Example: You show up to work, say hello to the outgoing crew as you start the vehicle check. All is hunky dory in life. You enter the back of the truck and lift the back pack off the bench and strain your back.

You go into the station and see your partner (who begrudgingly went straight to the couch instead of helping you) and he/she sees you hunched over and in significant pain.

In this case, the outgoing crew and the partner in the station are your witnesses and can testify on your condition at a certain time.

At this time, I STRONGLY advise you get them to write out a brief statement about what they say and heard, and sign it. I would even send it in to WSIB with your Form 6 as evidence to prove your case.

Please believe me when I say, you do not want your claim to be denied at the start.

We are all just one injury from a permanent disability and they won't necessarily look after you when you are injured.

**Appeal cases at WSIB take upwards to 6 plus years to be heard.**

Don't let anyone tell you that an injury or complaint isn't a WSIB claim.

No one can tell you it isn't. If anyone does tell you, PLEASE NOTIFY ME IMMEDIATELY. VERY TIME SENSITIVE SUBJECT. When in doubt, file.

This is true if there are cancers, heart ailments etc.