

MCIT Workers' Compensation for HR Professionals

MCHRMA Spring Conference

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This information is for educational purposes only and should not be considered legal or coverage advice on a specific matter.

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Overview

- Changes at MCIT for WC
- Psychological injury
 - Post-traumatic stress disorder (PTSD)
- Extraterritorial Coverage



Changes in Workers' Compensation

- Type of claims
 - Covid
 - PTSD
- Awareness of Mental Health in workplace
- EAP
- Claims System
 - Data entry point for our members
 - Claims reported on line only
- New PBM – more savings

Triggers for Compensability

- Liability is based upon employment status, not fault
- Triggered by work-related injury
 - Arising out of employment
 - Within defined job duties
 - Occurring within course of employment
 - Time
 - Place
 - Circumstances



Medical Benefits

- Minnesota law entitles injured employees to
 - reasonable and necessary medical treatment or supplies
 - to cure or relieve the effects of the work injury
 - medical treatment includes psychological, chiropractic, podiatric, surgical and hospital treatment



A medical bill with a stethoscope resting on it. The bill lists various medical services and their costs. The stethoscope is silver with black tubing and earpieces. The bill is white with black text. The total charges are 36027.35.

NON-INVASIVE CARDIO	3689.00
EEG/EMG	1259.00
RADIOLOGY-GENERAL	340.00
PHARMACY-MAIN	1795.35
EMERGENCY-HOSPITAL	2779.00
PRE HOSPITAL EMS	253.00
C.T. SCANNING	2714.00
MAGNETIC RESONANCE IMAGING	6963.00
TOTAL CHARGES:	36027.35

USED

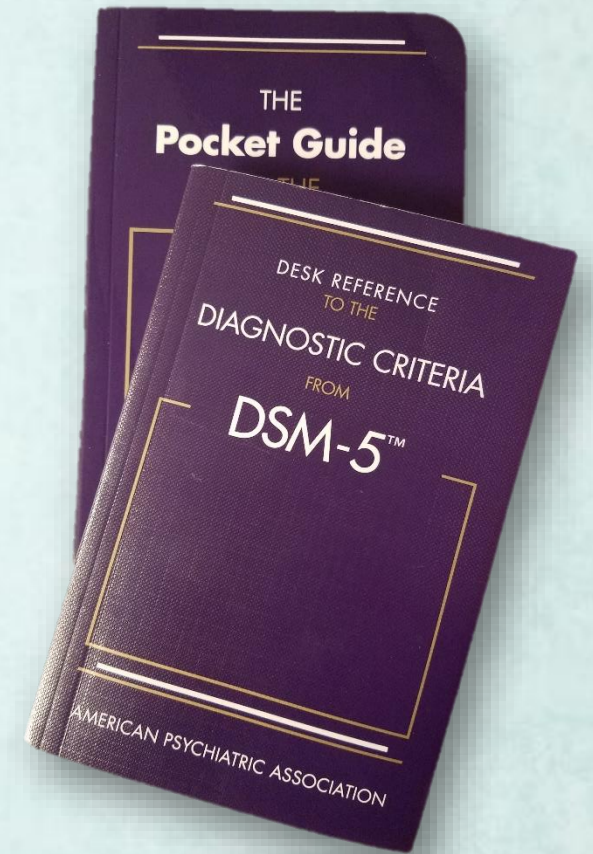
RADIOLOGY LAB

Post Traumatic Stress

Minnesota Workers' Compensation Act

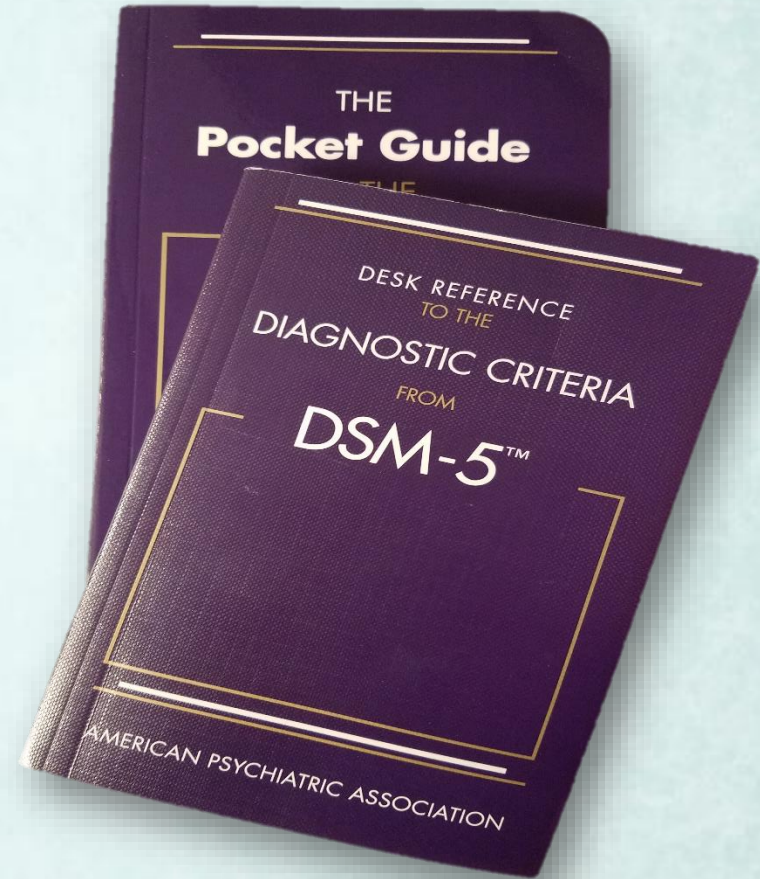
Changes Effective in 2013

- Expanded definition of “personal injury” and “occupational disease” to include mental impairment without a physical injury
- Applies to all employees and injuries after Sept. 30, 2013



Current Law – Mental Impairment Defined

1. PTSD diagnosis
2. By licensed psychologist/psychiatrist
3. As defined in Diagnostic and Statistical Manual of Mental Disorders Fifth Edition (2013) (DSM-V)



Good Faith Employment Actions

- PTSD must AOE but not be caused by an adverse employment action taken in good faith by employer
 - Disciplinary action
 - Work evaluation
 - Job transfer, lay off, demotion, promotion
 - Termination
 - Retirement or other similar action taken in good faith by employer
- Stresses associated with normal, unavoidable work events do not give rise to a compensable PTSD claim without a physical injury arising out of the same incident
- proposed legislation may change this result

PTSD in MCIT Members – open claims

- Pre2013 – 3
- 2013 – 3
- 2014 – 10
- 2015 – 6
- 2016 – 10
- 2017 – 18
- 2018 – 8
- 2019 – 19
- 2020 – 18
- 2021 – 21
- 2022 to date - 13

Reported PTSD Claims – 129 Total

- 56 Members reported PTSD
- 52 out of 56 are counties
- Majority of employees are deputies and corrections officers
- Others – SWCD, JP, hospital



Non Members of MCIT

- Hennepin County
- Anoka County
- Ramsey County
- Olmsted County
- St. Louis County
- Dakota County

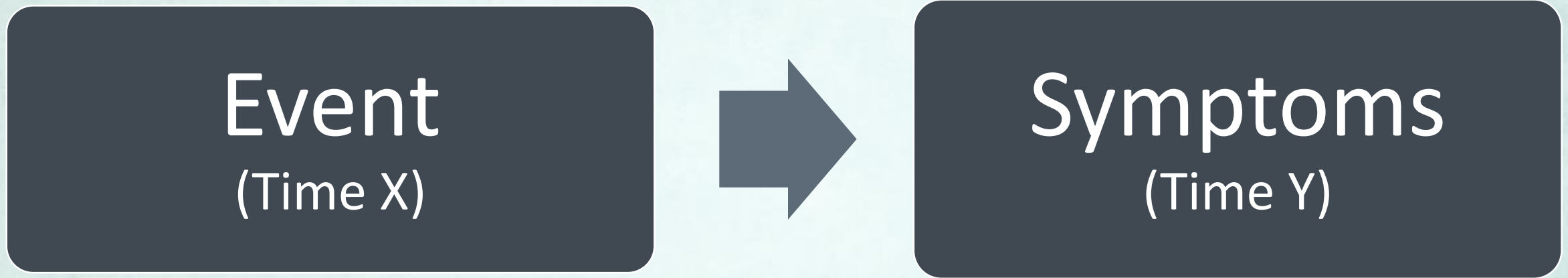


Dollars – MCIT Claims

- Total Incurred (paid + reserves)
- \$5,789,267
- Total Paid(open and closed)
- \$4,167,525
- (\$1.6 million reserved for future payments)



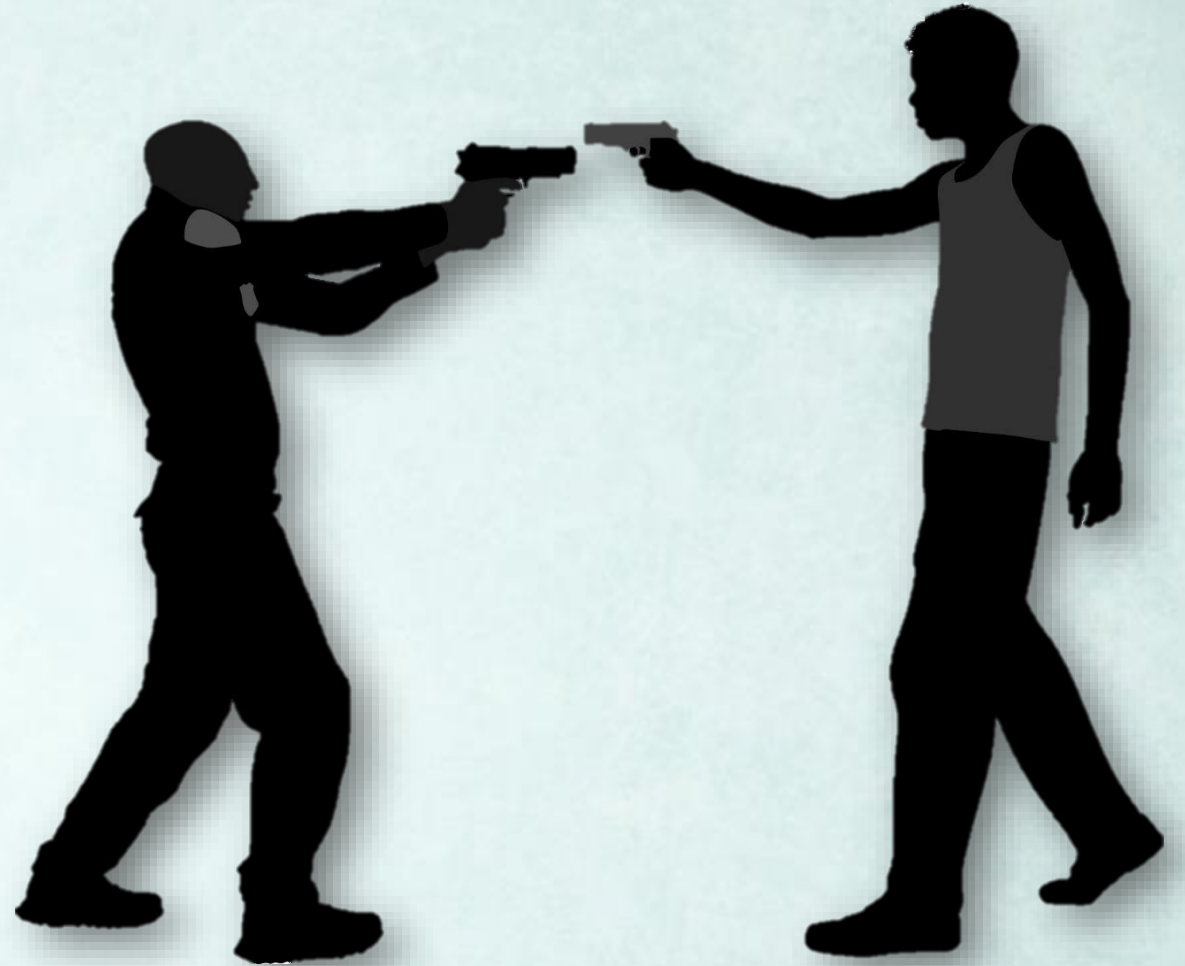
PTSD Is Not Like Other Mental Impairments



- PTSD requires identification of the causal factor
- DSM-V requires presence of all criteria

Criterion A

- Exposure to
 - death or threatened death
 - actual or threatened serious injury
 - or actual or threatened sexual violence
- by one of the following ways:
 - Direct exposure
 - Witnessing the trauma
 - Learning that relative or close friend was exposed to a trauma
 - Indirect exposure to aversive details of the trauma, as part of job duties



Criterion B



- The traumatic event is persistently re-experienced in the following ways:
 - Unwanted, upsetting memories
 - Nightmares
 - Flashback
 - Emotional distress after exposure to traumatic reminders
 - Physical reactivity after exposure to traumatic reminders

Criterion C

- Persistent avoidance of trauma-related stimuli after the traumatic event occurred in one of the following ways:
 - Trauma-related thoughts or feelings
 - Trauma-related reminders

Criterion D (2 Required)

- Negative thoughts or feelings that began or worsened after the trauma in the following ways:
 - Inability to recall key features of the trauma
 - Overly negative thoughts and assumptions about oneself or the world
 - Exaggerated blame of self or others for causing the trauma
 - Negative affect
 - Decreased interest in activities
 - Feeling isolated
 - Difficulty experiencing positive affect



Criterion E (2 Required)

- Trauma-related arousal and reactivity that began or worsened after the trauma, in the following ways:
 - Irritability or aggression
 - Risky or destructive behavior
 - Hypervigilance
 - Heightened startle reaction
 - Difficulty concentrating
 - Difficulty sleeping

Criteria F, G and H



- Criterion F: Symptoms last for more than one month
- Criterion G: Symptoms create distress or functional impairment (e.g., social or occupational)
- Criterion H: Symptoms are not due to medication, substance use or other illness

2019 PTSD Presumption



- PTSD presumed to be an occupational disease caused by the nature of employment for certain occupations (first responders) and under certain conditions
 - Diagnosed by licensed psychiatrist or psychologist
 - PTSD is the diagnosis, not depression, anxiety, adjustment disorder, etc.
 - Diagnosed pursuant to DSM-V
 - Not diagnosed with PTSD previously

Positions Included in PTSD Presumption



- Sheriff or full-time deputy sheriff
- Public safety dispatcher
- Officer at a corrections, detention or secure treatment facility
- Paramedic
- Emergency medical technician
- Licensed nurse who provides emergency medical services outside of a medical facility

Claim Reporting and Handling

- Employer/insurer has to accept/deny claim within 14 days of receiving it
- When claim is presented, it should ideally include required evidence to support it



Investigation of Claim



- Existence of PTSD and a position identified in the law does not mean it is work related
 - Personal conditions and prior employment, military service, etc. have to be ruled out before claim can be accepted
 - Pre-employment psychological evaluation?

Fitness for Duty and Return to Work

- When first responder has compensable PTSD claim, the medical provider should have recommendations for treatment
- Restrictions on return to work should be provided after each therapy visit, look for reduction of symptoms
- Restrictions should be reasonable and specific, fitness should be re-evaluated over time
- Goal is to return to work

Important Reminders

- PTSD is not necessarily career ending
- PTSD can be treated with therapy and medication
- Employee Assistance Program is available at no cost to employees and their families ([MCIT.org/employee-assistance-program](https://www.MCIT.org/employee-assistance-program))
- Filing First Report of Injury is not an admission of liability



PERA Disability – Police & Fire

- 11,000 active members
- Application for disability benefits can be filed while WC claim for PTSD is pending
- 2 medical opinions
- Award of disability requires leaving police/fire position
- Award of disability entitled employee to health insurance paid by employer to age 65
- Any efforts at return to work cease once disability awarded
- Award of health insurance can be challenged if finding of disability is appealed within 60 days

Proposed Legislation

- Provides for treatment of mental health conditions before receipt of disability benefits
- Includes presumption of fitness for duty upon completion of treatment
- Provides for reimbursement by state of treatment costs, wages and cost of replacement staff

Extraterritorial Jurisdiction

Minnesota Workers' Compensation Act

Jurisdiction of Workers' Compensation Courts

- Workers' Compensation Courts in Minnesota have limited jurisdiction
- Generally claims that fall within WCA
- There are some exceptions found in M.S.A. 176.041
- Work comp judges can't decide declaratory judgment action – construction of statute to determine if volunteer is employee

Extraterritorial Workers' Compensation Coverage

- Employee who is injured outside of Minnesota is only covered under the Minnesota workers' comp act if the requirements of Minn. Stat. Section 176.041 Subdivision 2 or 3 are met
- “extraterritorial application” or
- “temporary out of state employment”

Extraterritorial Application

- If employee who ***regularly performs primary duties*** of employment within Minnesota
- receives an injury while outside of the state
- in the employ of the same employer
- the provisions of Minnesota workers' compensation law apply to the injury

Regularly Perform Primary Duty

- “regularly performs” viewed as a term of art and contemplates examination of the nature of the work being performed by employee
- “primary duty” interpreted as requiring a fundamental or basic part of the whole employment to be performed in Minn when viewed with principle reference to the reason and scope of a person’s employment

Temporary Out of State Employment

- If an employee hired in this state by a Minnesota employer ***receives an injury while temporarily employed outside of this state***, such injury shall be subject to the provisions of Minnesota law
- Examples are traveling to another state to pick up an inmate for extradition or responding to national/regional emergency like cleanup following hurricane or flood

Questions?