



Claims Arising From Motor Vehicle Collisions



PREDICT



DETER



DETECT

When a worker is injured as a result of a motor vehicle collision there are specific steps that should be taken and questions asked to ensure that the claim is adjudicated properly. Remember that workers' compensation coverage is provided in cases where injuries have arisen out of and occurred in the course of employment. As such, when a motor vehicle collision occurs, there is a need for careful consideration of the activities of the worker at the time of the accident to ensure sufficient evidence for a claim exists. When workers are unsupervised, travelling in a motor vehicle, there is an opportunity for them to "remove themselves from the course of employment" causing lapses in workers' compensation coverage. As an employer, you should carefully investigate each of the following factors:

1. Was the worker travelling for an approved, work-related purpose at the time of the collision?

This may sound obvious, but this question should be deliberately considered whenever an injury claim results from a motor vehicle collision. Remember that experience levels can vary greatly with workers' compensation claims adjudicators and case managers and with employer staff who are submitting claims. There have been instances where injury claims that have occurred during non-work related lunch trips and personal errands have been accepted and paid. The worker should be able to clearly articulate the work-related purpose of their travel at the time of the collision.

2. Where was the worker coming from and going to at the time of the motor vehicle collision?

This needs to be carefully investigated and documented. The worker should be carefully questioned about the two points between which they

were travelling at the time of the collision to ensure that their actions at the time of the collision were for work.

3. If the worker was travelling between appointments, what time were they scheduled?

If the worker was travelling between set appointments, you should contact each of the parties involved to confirm the details of the appointments and to confirm that the time of the collision is consistent with the appointments in question.

4. Was the worker travelling on a reasonably direct route between planned destinations at the time of the collision?

Once the worker has provided you with the details about where they were travelling to and from, plot the two locations on a map. Consider whether the location of the accident is on a reasonably direct route between the two points. If the accident occurred in an urban area, chances are that there may be more than one



Claims Arising From Motor Vehicle Collisions



PREDICT



DETER



DETECT

reasonably direct route between the two locations. However, if the collision has occurred well outside what would be considered a reasonable path between the locations, the possibility exists that the worker removed himself or herself from the course of employment when it occurred. If this proves to have been the case, they may not be entitled to workers' compensation coverage.

5. Was alcohol or drug impairment a factor at the time of the collision according to police reporting, if any exists?

If so, this information may be important in any discussion with the workers' compensation provider about whether the worker had removed themselves from the course of employment at the time of the collision.

6. If another party was at fault in the collision, were they working at the time and, if so, were they covered by worker's compensation?

In such cases, the right of the worker to sue the other party may be barred by workers' compensation statutes that prevent one worker, covered by the umbrella of the system from suing another worker. If the other (at fault) party was not considered a "worker" under the meaning of the workers' compensation statutes then the legal rights of your injured worker may be subrogated to the workers' compensation provider.

Know your workers' compensation provider's policies on motor vehicle collision-related injuries.

Motor vehicle collisions, like any accident that results in a workers' compensation claim, must in general terms be considered to have arisen out of, and occurred during the course of employment. Generally, collisions that occur while people are commuting to and from work would not be considered to have arisen out of or occurred during the course of employment. However, there may be exceptions in your province in circumstances where a worker is called in to work to deal with an emergency or if they are required to report to a different work location for a special assignment. When you have questions, contact your provider to ask whether coverage may extend to any special circumstances that you may identify.