

Shopping and Worksafe by Gail Montgomery BCTF WCB Advocacy

Shopping for School Supplies

Many teachers shop for supplies for their classrooms. This includes Art, Drama, Shop and Home Ec Teachers as well as Teacher Librarians. In addition classroom teachers occasionally pick up items for use at school.

The issue I have been asked to address for these teachers is: "If a teacher is injured while shopping for these items, would they be covered by WorkSafeBC? (WSBC)." The answer is: "It depends." On several things.

In the decision making process of claims adjudication a WSBC case manager looks at many aspects of a claim:

1. Was the injury reported immediately to the employer? (Form 6A available at worksafebc.com)

As an example, If the shopping was taking place at the end of a day after work and not reported until after, say, a weekend, how would the person adjudicating the claim know that it took place while doing work for the benefit of the employer, and not while at home on Saturday while engaged in some personal activity? If there were witnesses, and medical attention was sought immediately after the incident, the possibility of having a claim accepted would be higher. It is very important that the employer have a clear procedure and policy in place for reporting injuries, and include directions for workers who may be injured outside of regular hours of work.

2. Call WSBC Teleclaim(1 888 WORKERS) and report the injury. This is sometimes helpful if you are unable to access a Form 6A. However, it is actually an application for compensation and does not

replace the necessity to report the injury to the employer.

3. Was medical attention sought immediately? An injured worker should seek medical attention immediately. If at work, report to a First Aid attendant. However if the teacher is shopping off premises it is advisable to go to any of the following (depending on the nature of the injury): Emergency room at the local hospital, your own doctor (GP) or a walk in clinic. Understandably some of the smaller communities have limited services but nevertheless reporting to a medical practitioner is imperative. WSBC has accepted reporting to other

medical practitioners e.g., a physiotherapist in some cases. You must tell the attending doctor that the injury is work related and that will generate a reporting by the attending practitioner of a Form 8 to WSBC.

4. You must be engaged in an activity that is solely work related. A case manager will question you if you were shopping for any personal items. If you were, there would be a reason to deny the claim. Understandably this would pose some difficulty for some of you who would, for example, be driving in to COSTCO from a small outlying community and, naturally, wish to take the opportunity to do some personal shopping at the same time. Just understand that if you are shopping and are injured you must have been engaged in work that was solely for the benefit of the employer. It would be no different, for example, than having your claim denied while at school but were injured at lunch time because you chose to close your classroom door and engage in some personal yoga exercises and injured yourself as result of a specific yoga exercise.

5. You should have clear direction, preferably in writing, that shopping for school supplies is part of your job description. "Implied" permission or "past practice" is not as solid a defense as having the direction in writing. In other words just because "you have always done it" or have been reimbursed by a school account for the past several years is a much weaker case. The shopping activity should be school sanctioned and directed.

6. The injury must be verified by an attending medical practitioner. If health care benefits are accepted under the claim a doctor must prescribe them. E.g, You must have physiotherapy prescribed by a doctor. You must also verify that the case manager has accepted your claim in order to have the physio covered. If your claim is accepted your case manager will tell you that WSBC rarely permits more than one type of treatment at a time even if your doctor directs (you always need permission from your case manager)

7. Even if you are injured it will not necessarily preclude you from attending work. Your claim could be accepted from a broken arm, but you could possibly still be deemed able to work full time. If your claim is accepted for health care benefits only and not time loss you could be expected to schedule your physio appointments outside of instructional hours.

Just recently we had a claim denied for a home ec teacher who injured a shoulder because, while loading groceries into the trunk of a car. The trunk hit the teacher, causing a shoulder/ neck injury. The claim was denied because it was a "personal item" that caused the injury. There was applicable law and policy

quoted which supported the decision. Both the employer and the BCTF are appealing the decision on behalf of the worker. The appeal process will take a long time, and at this point we have few details but we will keep you posted of the end result.

Below are the criteria that WorkSafeBC use to establish whether the injury arose out of and in

the course of employment. No single criterion can be regarded as conclusive for deciding whether an injury should be classified as one arising out of and in the course of employment.

Various indicators can be and are commonly used for guidance. These include:

(a) whether the injury occurred on the premises of the employer; (b) whether it occurred in the process of doing something for the benefit of the employer;

(c) whether it occurred in the course of action taken in response to instructions from the employer; (d) whether it occurred in the course of using equipment or materials supplied by the employer;

(e) whether it occurred in the course of receiving payment or other consideration from the employer; (f) whether the risk to which the employee was exposed was the same as the risk to which the employee is exposed in the normal course of production; (g) whether the injury occurred during a time period for which the employee was being paid; (h) whether the injury was caused by some activity of the employer or of a fellow employee; (i) whether the injury occurred while the worker was performing activities that were part of the regular job duties; and (j) whether the injury occurred while the worker was being supervised by the employer.

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