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**Mental Health Claims Related to Non-Compliance  
with Covid-19 Vaccine Mandates**

By Sean M. Abernathy

As vaccine mandates rise, employers and insurers have received workers' compensation claims for psychological injuries associated with the Covid-19 vaccination mandates. Employees have generally alleged mental health claims from fear of losing their employment because they refuse to comply with the mandate. Such claims have occurred within the healthcare industry and could certainly rise as other industries mandate vaccines.

As a general rule, a mental stress or mental health condition that is solely the result of a mental stimulus (a "mental/mental" claim) is not a compensable work injury under the Minnesota Workers' Compensation Act. *Lockwood v. Independent School District No. 87*, 312 N.W.2d 924 (1981). Cases where a work-related mental stress or stimulus produces identifiable physical ailments (a "mental/physical" claim) may be compensable. However, if the physical symptoms are not independently treatable physical injuries but, rather, inseparable aspects of the mental injury, the claim is likely not compensable. See *Johnson v. Paul's Auto & Truck Sales, Inc.*, 40 W.C.D. 137, 409 N.W.2d 506 (Minn. 1987).

If an employee is claiming a mental health injury from fear of losing employment or facing other consequences due to non-compliance with a vaccine mandate, an employer and insurer should deny compensability under the *Lockwood* analysis. Similarly, if an employee does not have physical symptoms that are capable of discrete medical treatment, separate from and independent of the employee's mental health condition, the employer and insurer should deny compensability under the *Johnson* case.

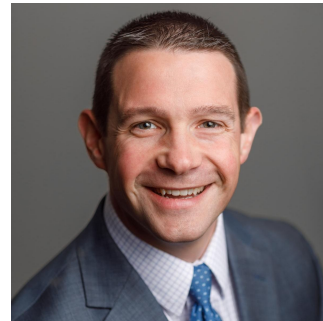
An employee may also attempt to assert a mental health claim for post-traumatic stress disorder (PTSD) under Minn. Stat. 176.011, Subd. 15. Perhaps the employee believes they developed PTSD because they fear the consequences of vaccine mandate non-compliance. However, this claim should fail.

Minn. Stat. 176.011, Subd. 15(a) states, “[m]ental impairment is not considered a disease if it results from a disciplinary action, work evaluation, job transfer, layoff, demotion, promotion, termination, retirement, or similar action taken in good faith by the employer.” Therefore, mental distress caused by non-compliance with a vaccine mandate or termination of employment does not meet the statutory definition of mental impairment under Minn. Stat. 176.011, Subd. 15.

Note that this analysis pertains only to true mental/mental and mental/physical claims from vaccine non-compliance. There may be other potential claims related to vaccine mandates. For example, if an employee has a serious, physical side-effect from an employer mandated vaccine, there may be a viable workers’ compensation claim beyond the scope of what is addressed here.

The landscape of Covid-19 related claims is changing rapidly and it is critical to monitor emerging trends. To review the compensability of a Covid-19 vaccine related claim, please contact me or any one of the highly skilled attorneys with Brown & Carlson to discuss the circumstances in detail.

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