

[Brown & Carlson Insight](#)

How A Recent Minnesota Supreme Court Changes PTSD Presumption Cases

By Ashley R. Frescoln

March 16, 2023

In general, Employees bear the burden of proof to show that their injury is causally related to their work. The Minnesota legislature has carved out a presumption, however, in Minn. Stat. § 176.011, subd. 15 (e) relating to PTSD claims. This statute states that Employees in certain occupations are entitled to a rebuttable presumption that certain mental conditions, including post-traumatic stress disorder (PTSD), are causally related to their work. Under the presumption, as long as an Employee is (1) employed in one of the enumerated occupations, (2) is diagnosed with PTSD by a licensed psychologist or psychiatrist, and (3) has not been diagnosed with PTSD previously, their PTSD is *presumed* to be work-related.

Up until recently, it has been the practice that when an Employee (generally, a first responder) is diagnosed with PTSD, the Employer and Insurer were able to evaluate compensability and obtain their own independent medical examination (IME) report. The recent Minnesota Supreme Court decision in *Juntunen v. Carlton County* changes that longstanding practice, making it more difficult for Employers and Insurers to deny PTSD claims when they fall under the statutory presumption.

In *Juntunen v. Carlton County*, the Employee worked as a deputy sheriff for Carlton County beginning in August of 2001. A deputy sheriff qualifies as one of the occupations enjoying the presumption under Minn. Stat. §176.011, subd. 15(e). Throughout his career, the Employee responded to many traumatic events involving violence, death, and sexual abuse. On August 20, 2019, the Employee was evaluated by Dr. Keller, licensed psychologist, who diagnosed the Employee with PTSD in a report dated September 12, 2019. A day later, he presented this report to his employer and commenced a workers' compensation claim. The Employer and Insurer denied primary liability pending the outcome of an IME, which ended up being favorable from a defense perspective.

The compensation judge denied the Employee's claim for PTSD, finding the IME report more persuasive than the Employee's narrative report. The Employee appealed that denial and the Workers' Compensation Court of Appeals (W.C.C.A.) reversed, holding that the Employee qualified for a presumption of PTSD due to his employment as a police officer. The Court highlighted that the Employee had no prior diagnosis of PTSD and the IME opinion failed to rebut that presumption because he didn't address whether the Employee had PTSD in September of 2019, when the diagnosis was given by Dr. Keller. The Employer and Insurer appealed the W.C.C.A.'s decision to the Minnesota Supreme Court.

The Minnesota Supreme Court agreed with the W.C.C.A. In its analysis, the court concludes that as long as an Employee is employed in a qualifying position, as is the case here, gets a diagnosis from a licensed psychologist or psychiatrist, and has no prior diagnosis of PTSD, the PTSD claim is *immediately* compensable under the statutory presumption.

The Minnesota Supreme Court was quick to clarify, however, that its decision does not leave Employers and Insurers high and dry. An Employer and Insurer still have a chance to rebut the presumption with a competing opinion or evidence that the diagnosis was not valid or credible. The Minnesota Supreme Court confirms, however, that to rebut an opinion regarding PTSD, at least in a presumption case, the competing opinion must address the presence of PTSD at the time of disablement or at the same time that the PTSD diagnosis was made.

There are a few key takeaways from the court's decision. First, because the PTSD diagnosis (or other qualifying condition listed in Minn. Stat. §176.011, subd. 15(e)) triggers the presumption, it is important to have the IME doctor address whether the Employee had the same diagnosis at the time of the original examination.

Second, this case affects our ability to deny primary liability for a PTSD diagnosis at the outset in presumption cases because we will rarely have an IME before a Notice of Primary Liability Determination (NOPLD) has to be filed. Meaning, when an Employee meets all requirements of the presumption statute, the Employer and Insurer will have to admit liability and then obtain an IME report to rebut the presumption in the statute.

It is important to note, however, that this case only applies to presumption cases. If an Employee is not employed in one of the qualifying occupations in the statute, then a different analysis applies.

Brown & Carlson attorneys are always happy to discuss a specific case with you and discuss options for how to best handle PTSD claims following the decision in *Juntunen*.

Ashley R. Frescoln
763-252-6382
afrescoln@brownandcarlson.com

