Policy and Procedure Name	Aggravation and Substantial Aggravation of a Pre-Existing Condition
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I. POLICY PURPOSE

This policy ensures that Claims Services staff recognizes what constitutes aggravation or substantial aggravation of a pre-existing condition and when each may be compensable, dependent upon the date of injury (DOI) or date of disease (DOD) in occupational disease (OD) claims.

II. APPLICABILITY

This policy applies to Claims Services staff.

III. DEFINITIONS

Aggravation
A medical finding that a condition that pre-existed an injury or occupational disease is worsened by the injury or occupational disease and has an adverse impact, no matter how slight. This definition applies to claims with a date of injury before Aug. 25, 2006.

Substantial Aggravation
A medical finding that a condition that pre-existed an injury or occupational disease is worsened considerably in amount, value or extent solely because of the injury or occupational disease. This definition applies to claims with a date of injury on or after Aug. 25, 2006.

IV. POLICY

A. Consideration of Aggravation and Substantial Aggravation of Pre-Existing Conditions
   1. It is BWC's policy to provide compensation and benefits for an aggravation or substantial aggravation of a pre-existing condition when the injury or OD causing

the aggravation is sustained or contracted in the course of and arises out of employment.

2. BWC will consider both pre-existing physical and pre-existing psychiatric or psychological conditions for aggravation or substantial aggravation.
3. A resolved OD in a previously allowed claim may be aggravated by a new injury, but not by a new OD.
4. BWC will consider a request for aggravation or substantial aggravation of a pre-existing condition submitted on a:
    a. *Motion* (C-86) or equivalent;
    b. *Request for Medical Service Reimbursement or Recommendation for Additional Conditions for Industrial Injury or Occupational Disease* (C-9) or equivalent; or
    c. *First Report of an Injury, Occupational Disease or Death* (FROI) or equivalent, when the substantial aggravation is part of the initial filing of a claim.
5. BWC will use the DOI, or DOD in OD claims when determining whether a request will be considered and processed as an aggravation or a substantial aggravation of a pre-existing condition.
6. BWC will not automatically assume that a pre-existing condition has been aggravated or substantially aggravated only because the injured worker (IW) has a previous claim with the same or similar condition.

B. General Evidentiary Requirements
    1. For an aggravation or substantial aggravation of a pre-existing condition to be allowed in the claim, BWC requires sufficient evidence to support:
        a. The existence of the pre-existing condition; and
        b. Proof that this pre-existing condition was aggravated or substantially aggravated, depending on the DOI, or DOD in OD claims.
    2. Evidence documenting the existence of the condition before the injury or OD, or the current status of the pre-existing condition alleged to have been aggravated or substantially aggravated may include, but is not limited to:
        a. Objective physician findings of the condition, both before and after the injury or OD;
        b. Lab reports;
        c. X-rays;
        d. Magnetic resonance imaging (MRI);
        e. Computerized tomography (CT) reports;
        f. Other diagnostic tests;
        g. Documentation of medication, including dosage and frequency, used to treat the pre-existing condition, both before and after the injury or OD;
        h. Physical therapy (PT) or occupational therapy (OT) records, both before and after the injury or OD;

i. Emergency room reports; and
j. Operative reports.

3. The pre-existing condition does not need to have been diagnosed and/or documented before the injury or OD, but medical evidence must support that the condition existed before the injury or OD.

C. Burden of Proof for Aggravation of Pre-Existing Conditions (DOI/DOD before Aug. 25, 2006)
   1. A pre-existing condition is considered to have been aggravated by the injury or OD when evidence supports that the pre-existing condition worsened after the DOI or DOD.
   2. Evidence must show that the aggravation had an adverse effect on the pre-existing condition, even if the effect is slight.

D. Burden of Proof for Substantial Aggravation of Pre-Existing Conditions (DOI/DOD on or after Aug. 25, 2006)
   1. A pre-existing condition is considered to have been substantially aggravated by the injury or OD when objective diagnostic or clinical findings or test results show that the IW's condition is significantly worse than it was prior to the injury or OD.
   2. The aggravation must be considerable in amount, value, or extent.
   3. BWC may also consider subjective complaints as evidence of a substantial aggravation of a pre-existing condition, but subjective complaints alone, without objective findings, are insufficient to support a substantial aggravation.

E. Pre-Existing Condition Status
   1. Aggravation of Pre-Existing Conditions (DOI/DOD before Aug. 25, 2006)
      a. When a condition is allowed as an aggravation of a pre-existing condition, it will remain an allowed condition in "Accepted" status.
      b. When supported, compensation and benefits will be payable for the pre-existing condition.
   2. Substantial Aggravation of Pre-Existing Conditions (DOI/DOD on or after Aug. 25, 2006)
      a. While a condition allowed as a substantial aggravation of a pre-existing condition will remain an allowed condition, compensation and benefits will no longer be payable if BWC receives medical evidence and formally determines that the pre-existing condition has returned to a level that existed before the injury or OD.
      b. The substantially aggravated condition will only remain payable as long as the pre-existing condition remains aggravated.

c. When BWC receives medical evidence that suggests the condition has returned to the level that existed before the injury or OD, and then formally determines this to be the case:
    i. No further compensation or benefits will be paid for that condition.
    ii. Compensation and benefits will continue, as appropriate, for any remaining conditions allowed in the claim.

V. PROCEDURE

A. General Claim Note and Documentation Requirements
    1. BWC staff will refer to the *Claim File Contents and Documentation* policy and procedure for claim note and documentation requirements; and
    2. Must follow any other specific instructions for claim notes and documentation included in this procedure.

B. Identifying Pre-Existing Conditions: Gathering and Assessing Evidence
    1. Investigating Requests for Aggravation or Substantial Aggravation
        a. If the request specifically states the requested condition is an aggravation or substantial aggravation, the claims service specialist (CSS) or medical claims specialist (MCS) will:
            i. Confirm that the medical evidence on file demonstrates:
                a) How the requested condition was aggravated or substantially aggravated, depending on the DOI or DOD; and
                b) That the requested condition pre-existed the injury.
            ii. Contact the managed care organization (MCO) to obtain any missing medical documentation
            iii. Contact the IW to obtain the missing information if the MCO is unsuccessful. The CSS or MCS will:
                a) Request any medical documentation related to the pre-existing condition if it is not already on file; and
                b) If necessary, obtain an *Authorization to Release Medical Information* (C-101) from the IW to allow BWC and the MCO to receive prior medical records related to the requested pre-existing condition.
        b. If the request does not specifically state that it is for an aggravation or substantial aggravation of the condition, but the condition likely pre-existed the injury (e.g., arthritis requested when the injury is only three months old), the CSS or MCS must contact the MCO to request that they:
            i. Ask the treating physician if the requested condition pre-existed the injury; and

ii. If yes, obtain medical evidence that demonstrates how the condition was aggravated or substantially aggravated, depending on the DOI or DOD.

c. If the CSS or MCS determines that the requested condition did not pre-exist the injury, they will process the request in the same manner as any other initial claim determination or additional allowance (AA) request.

2. Previous Claim with the Same or Similar Condition
   a. If, while initially investigating the claim, the CSS or MCS discovers that the IW has a previous claim with the same or similar condition, they must not automatically assume that the condition in the previous claim has been aggravated or substantially aggravated by the new injury or OD.
   b. The CSS or MCS will investigate and determine whether the prior condition:
      i. Has resolved, and the current condition is new and distinct; or
      ii. Has not resolved and is aggravated or substantially aggravated by the new injury or OD.
3. If, after reviewing the request and the medical evidence on file, the CSS or MCS believes that the requested condition appears to be an aggravation or substantial aggravation, they must:
   a. Use the DOI or DOD to determine whether the request should be processed as an aggravation or a substantial aggravation of a pre-existing condition.
      i. Aggravation if the DOI or DOD is before Aug. 25, 2006;
      ii. Substantial Aggravation if the DOI or DOD on or after Aug. 25, 2006.
   b. Enter the requested ICD codes into the ICD Status screen with a status of "Pending;"
   c. Send a request to the ICD Modification Team asking that the narrative description of the ICD codes be modified to reflect either "aggravation of pre-existing (identify the condition)", or "substantial aggravation of pre-existing (identify the condition)" depending on the DOI or DOD; and
   d. Send the claim for a medical review following the procedures outlined below.
4. The CSS or MCS must staff all requests for aggravation or substantial aggravation of an OD with BWC Legal.

C. Medical Referral and Review
   1. Once the required medical evidence has been received, the CSS or MCS will refer requests for aggravation or substantial aggravation of a pre-existing condition to the medical service specialist (MSS).
   2. The MSS will review the medical evidence on file.
      a. If there is sufficient and clear medical evidence to conclude that the pre-existing condition was aggravated or substantially aggravated, the MSS may recommend allowance without an additional medical review.

b. If the medical evidence does not clearly support the aggravation or substantial aggravation, the MSS will:
    i. Determine whether an independent medical examination (IME) or physician file review is more appropriate to make that decision;
    ii. Send the claim for medical review using the proper questions for either aggravation or substantial aggravation, depending on DOI or DOD; and
    iii. Summarize their findings and actions in a claim note.
3. When the medical review is complete:
    a. If the review supports the requested condition as an aggravation or substantial aggravation, the MSS will:
        i. Ensure that the aggravation or substantial aggravation finding is appropriate based on the DOI or DOD (e.g., a physician should not say that an injury is substantially aggravated with a DOI before Aug. 25, 2006); and
        ii. If the finding does not appropriately match the DOI or DOD, seek an addendum to correct the aggravation or substantial aggravation finding.
    b. The MSS must:
        i. Document the recommendation for allowance or denial based on the medical review in a claim note; and
        ii. Send the claim back to the CSS or MCS for determination.
4. If the review supports the requested condition as an aggravation or substantial aggravation, prior to making a decision, the CSS or MCS must:
    a. Confirm that the aggravation or substantial aggravation is appropriate based on the DOI or DOD; and
    b. Send the claim back to the MSS for an addendum if necessary.

D. Decision
1. If the initial request for an AA did not specifically state that it was for an aggravation or substantial aggravation of the condition, but the medical review finds that to be the case, the CSS or MCS must contact the IW or their representative to obtain their agreement to modify the condition prior to making a decision on the claim.
    a. If the IW agrees, the CSS or MCS will allow the aggravation or substantial aggravation, following the procedures detailed below.
    b. If the IW disagrees, the CSS or MCS will:
        i. Update the status of the ICD code(s) to “Hearing;” and
        ii. Complete a Notice of Referral (NOR) to the Ohio Industrial Commission (IC).
2. After reviewing all available evidence, the CSS or MCS will complete the following steps prior to making a decision:
    a. Ensure the narrative description of the ICD code(s) in question have been properly modified; and

b. If not, send a request to the ICD Modification Team to do so.

3. Aggravation (DOI or DOD prior to Aug. 25, 2006)
   a. If the decision is to grant the AA request the CSS or MCS will:
      i. Update the status of the ICD code(s) to "Accept/Appeal" in the claims management system; and
      ii. Publish a Subsequent Decision Order for AA.
   b. If no appeal is filed, the CSS or MCS will update the status of the ICD code(s) to "Accepted" in the claims management system.
   c. If an appeal is filed to the order published, the CSS or MCS will:
      i. Update the status of the ICD code(s) to "Hearing;" and
      ii. Once the IC order is final, update the status of the ICD code(s) based on the IC's decision (Accepted, Denied, or Dismissed).
   d. If the decision is to deny the AA request the CSS or MCS will:
      i. Complete a NOR to the IC for AA; and
      ii. Update the status of the ICD code(s) to "Hearing;"
      iii. Once the IC order is final, update the status of the ICD code(s) based on the IC's decision ("Accepted," "Denied," or "Dismissed").
4. Substantial Aggravation (DOI or DOD on or after Aug. 25, 2006)
   a. If the decision is to grant the request:
      i. The CSS or MCS will:
         a) Update the status of the ICD code(s) to "SubAgg Accept/Appeal" in the claims management system; and
         b) Publish:
            i) An appropriate Initial Determination Order based on whether this is the only condition being addressed or if there are multiple conditions requested that will otherwise be allowed or denied; or
            ii) A Subsequent Decision Order for an AA.
      ii. If no appeal is filed, the CSS or MCS will update the status of the substantially aggravated ICD code(s) to "SubAgg Payable" in the claims management system.
      iii. If an appeal is filed, the CSS or MCS will:
         a) Update the status of the ICD code(s) to "Hearing;" and
         b) Once the IC order is final, update the status of the substantially aggravated ICD code(s) based on the IC's decision ("SubAgg Payable," "Denied," or "Dismissed").
   b. If the decision is to deny the request:
      i. For an initial claim determination, the CSS or MCS will:
         a) Update the status of the substantially aggravated ICD code(s) to "Deny/Appeal" in the claims management system; and

b) Publish an appropriate Initial Determination Order based on whether this is the only condition being addressed or if there are multiple conditions requested that will otherwise be allowed or denied
c) Once the order is final, update the ICD statuses as appropriate.

ii. For AA, the CSS or MCS will:
a) Complete a NOR to the IC;
b) Update the status of the ICD code(s), to "Hearing;" and
c) Once the IC order is final, update the status of the substantially aggravated ICD code(s) based on the IC's decision ("SubAgg Payable," "Denied," or "Dismissed").

E. Return of a Substantially Aggravated Pre-Existing Condition to a Level That Existed Before the Injury or OD

1. If the CSS or MCS receives medical evidence that indicates an allowed, substantially aggravated condition has returned to the level that existed without the injury or OD, they must:
   a. Review all medical documentation on file; and
   b. If the medical evidence came from someone other than the IW's provider of record (POR), request that the MCO contact the POR to seek agreement on whether the substantially aggravated condition has returned to its pre-injury state.
2. If the POR agrees that the substantially aggravated condition has returned to the level that would have existed without the injury or OD, the CSS or MCS will:
   a. Place the substantially aggravated condition in "SubAgg Pending Abatement;" and
   b. Publish a Miscellaneous Order stating compensation and/or benefits are no longer payable for the substantially aggravated pre-existing condition.
3. If the POR does not agree that the substantially aggravated condition has returned to the level that would have existed without the injury or OD, the CSS or MCS will staff the claim with BWC Legal to determine if a physician file review is appropriate.
   a. If a physician file review is not appropriate, the CSS or MCS does not need to take any further action.
   b. If a physician file review is appropriate, the CSS or MCS will complete a MSS referral.
      i. If the result of the medical review is that the substantially aggravated condition has not returned to its pre-injury state, the CSS or MCS does not need to take any further action.
      ii. If the result of the medical review is that the substantially aggravated condition has returned to its pre-injury state, the CSS or MCS will:
         a) Refer the issue to the IC; and

b) Update the status of the substantially aggravated condition to "Hearing".

4. The CSS must continue to pay compensation and benefits for the substantially aggravated pre-existing condition until a final decision is rendered.
   a. If the final decision is that the condition has returned to a level that would have existed without the injury or OD, the CSS or MCS must update the ICD code status to "SubAgg Not Payable".
      i. No further compensation or benefits are payable for the substantially aggravated condition once the ICD code is placed in "SubAgg Not Payable" status.
      ii. The ICD code for the substantially aggravated pre-existing condition must not be deleted.
   b. If the final decision is that the condition has not returned to a level that would have existed without the injury or OD, the CSS or MCS will continue providing compensation and benefits for the substantially aggravated pre-existing condition.
5. The CSS or MCS will notify the MCO of the final BWC or IC decision via email after all appeal periods have expired.
6. If a substantially aggravated pre-existing condition has been deemed non-payable, the CSS or MCS must staff any request to return that condition to payable status with BWC Legal.

F. Related Policies and Procedures
   1. Claims Services staff will follow the directions detailed throughout this procedure.
   2. Claims Services staff must also follow the *Initial Claim Determination*, *Additional Allowance*, *Independent Medical Examinations and Physician File Reviews*, and *Notice of Referral to the Industrial Commission* policies and procedures, as applicable.