

# Conducting post-accident proceedings in the Agricultural Social Insurance Fund

## “Sudden illness” category event

### Case study on a background of legislative provisions and court rulings

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#### Abstract

The phenomenon of accidents in agriculture is a serious social problem. One of the statutory tasks of the Agricultural Social Insurance Fund (KRUS, Fund) is to carry out preventive activity aiming at reducing the number of accident events. A detailed analysis of the cause and circumstances concerning accidents is possible thanks to properly conducting post-accident proceedings. The aim of the paper is to show the differences in preparing the evidence material in the case of events from the “sudden illness” category, differentiating between internal and external causes for accidents at work. The author provides practical examples of developing post-accident documentation, placing particular focus on the form of preparing a query to the Regional Inspector in Charge of Medical Certification Supervision (LRIOL) for correctly issuing an opinion concerning the cause-effect relation between a sudden illness and the work carried out by a farmer. The analyzed cases are set in the current legal environment of an accident during agricultural work, taking into consideration legislative provisions and court rulings.

**Keywords:** post-accident proceedings, internal cause, external cause.

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## Introduction

After ending the statistical period (year) the Agricultural Social Insurance Fund (KRUS, Fund) analyzes the circumstances and causes for accidents at work and occupational illnesses of farmers. The data collected during the post-accident proceedings concerning the causes and circumstances of accidents (location of the event, type of work performed during the accident, day and time, involved machinery as well as the conditions and manner of performing a given activity) allow to precisely determine the risks occurring on agricultural holdings and to plan preventive activities in favour of reducing the number of accidents and occupational diseases of farmers. The directions and forms of these actions are determined on the basis of conclusions formulated in the above mentioned analysis and an assessment of the effectiveness of actions carried out so far<sup>1</sup>. The publication form has been chosen for two practical reasons: Due to the rotation of prevention workers entitled to carry out post-accident proceedings, noticed by the author<sup>2</sup>, and taking into consideration the guidelines of the Fund Central Prevention Office that are provided to the regional departments after internal analyses concerning the quality of the conducted post-accident proceedings and after inspections<sup>3</sup>. The inspiration consisted in accidents during agricultural work caused by sudden illness.

The author of the publication had the opportunity to carry out post-accident proceedings and to follow the described events from the moment of reporting them to the Fund.

The paper provides sources for external and internal provisions regulating conducting post-accident proceedings, evidence proceedings carried out by KRUS have been presented, and the issues concerning accident causes have been explained. Finally, an opinion and conclusions concerning the described issues have been presented.

1. KRUS, *Wypadki przy pracy i choroby zawodowe rolników oraz działania prewencyjne KRUS w 2021 roku*, Warsaw 2022, [www.krus.gov.pl](http://www.krus.gov.pl), p. 5.
2. The term "post-accident proceedings" is used in the paper interchangeably with the term "evidence proceedings".
3. Documents from the KRUS Central Prevention Office: 0000-PR.810.2.14.2017 of March 29, 2017; 0000-BP.810.2.5.2017 of May 19, 2017; 0000-BP.810.2.4.2018 of January 17, 2018; 0000-BP.810.2.17.2018 of April 30, 2018; 0000-BP.810.2.14.2019 of March 12, 2019; 0000-BP.810.7.21.2020 of March 6, 2020; 0000-BP.810.2.6.2020 of April 24, 2020; 0000-BP.810.2.9.2021 of March 24, 2021; Zintegrowany System Zarządzania KRUS, Dokumentacja Biur, Biuro Prewencji.

## Accident during agricultural work

According to Art. 10 sec. 1 point 1 of the Act of December 20, 1990 on the social insurance of farmers<sup>4</sup>, a person who is insured and has suffered permanent or long-lasting loss of health as a result of an accident during agricultural work or an agricultural occupational illness, is entitled to a one-time compensation.

Within the meaning of Art. 11 sec. 1 of the Act on the social insurance of farmers, an accident during agricultural work is considered as a sudden event resulting from an external cause that took place when performing activities related to conducting agricultural activity or remaining in relation with performing these activities at an agricultural holding that the insured maintains or works at permanently, or at a household directly related with that agricultural holding. The terms adopted in this provision refer to such elements as suddenness and an external cause of an event. Despite that, it is a specific definition<sup>5</sup>, in which the risk of an accident has been associated with the character of the profession and financial activity in agriculture, and with a different scope of the insurance protection than in terms of the social insurance of employees. This results from the fact that the legislator made a decision to distinguish specific categories of insured people, namely people covered by the general social insurance system and people entitled to benefits determined in provisions on the social insurance of farmers.

Following considerations concern the latter group, the members of which can apply for a one-time compensation due to an accident during agricultural work. In the definition of an accident it is possible to notice circles of insurance protection from full and unconditional – concerning accidents taking place at an agricultural holding that the injured party maintains or works at, to a one limited by certain conditions – concerning the circumstances of an accident taking place outside that agricultural holding. The legislative term “during agricultural work” is here defined as a time restricted, local, but primarily functional relation of events with agricultural activity<sup>6</sup>. It should be added that using the phrase “activities related to conducting

4. *Ustawa z 20 grudnia 1990 r. o ubezpieczeniu społecznym rolników*, t.j. Dz. U. 2022 poz. 933.

5. The analysis of the definition of an accident during agricultural work can be found, for example, in the court rulings, see: Sąd Rejonowy w Łomży – IV Wydział Pracy i Ubezpieczeń Społecznych z 30 grudnia 2019 r., IV U 56/19, Legalis nr 2274206; Sąd Rejonowy w Bydgoszczy – VII Wydział Pracy i Ubezpieczeń Społecznych z 22 lutego 2021 roku, VII U 1006/19, Legalis nr 2555794. Moreover, the analysis of the definition of an accident during agricultural work carried out by E. Jaworska-Spićak: E. Jaworska-Spićak, *Pojęcie wypadku przy pracy rolniczej*, “Ubezpieczenia w Rolnictwie. Materiały i Studia” 2010, nr 37, p. 83–99. Additionally: D Puślecki, *Przedmiot i zakres ochrony ubezpieczenia wypadkowego rolników*, “Ubezpieczenia w Rolnictwie. Materiały i Studia” 2010, nr 37, p. 63–82.

6. Wyrok SN z 12 stycznia 2001 roku, II UKN 176/00, Legalis nr 54365.

agricultural activity” of Art. 11 sec. 1 of the Act on social insurance of farmers definitely refers to the term of “agricultural activity” determined in Art. 6 point of this Act, which should be understood as activity concerning plant or animal production, including gardening, orchards, beekeeping, and farming fish, and therefore all types of professional activity characteristic for the functioning of an agricultural holding.

### **The external and internal cause for an accident during agricultural work**

Both in terms of judicature, including of the Supreme Court, as well as in the doctrine there is a fixed belief concerning widely understanding the external cause of an accident during work. In accordance with it, the external cause of an accident during work can consist in any factor from outside the body of the injured party able to – under the prevailing conditions – result in adverse effects<sup>7</sup>. This belief is also reflected in later rulings of the Supreme Court, which added that within this meaning, an external cause can be not only a work tool but also natural forces and the sole activity of the injured party<sup>8</sup>. However, it must be emphasized that both the doctrine and the judicature of the Supreme Court accept that an external cause does not have to be the sole reason for an accident during work. It is enough if it contributes to an injury. Therefore, if the cause of an accident has a mixed character, it is enough to prove that there would not be any adverse outcome without the external factor<sup>9</sup>. The above means that it is important for the external cause to be the causative reasons for an accident, but it does not have to be the only one.

The doctrine shows that it is correct to state that the external cause for an accident consists in a factor causing it and releasing, in its course, an external factor resulting in injury or death. These can be: forces of nature, work tools, machines, falling objects, or other persons, as well as deliberate or unintentional actions of the injured party, for example tripping over, a reflex, or falling over, even on a smooth surface<sup>10</sup>. It should be emphasized that performing work under normal conditions may be regarded as an external cause of an accident during work consisting in an internal injury if these conditions were incorrect due to the worker’s health condition. Already in a resolution of seven judges of the Supreme Court of February 11, 1963<sup>11</sup>,

7. Wyrok SN z 18 sierpnia 1999 roku, II UKN 87/99, Legalis nr 47975.

8. Wyrok SN z 28 kwietnia 2005 roku, I UK 257/04, Legalis nr 288985.

9. Wyrok SN z 29 listopada 1990 roku, II PR 52/90, PiZS 1991 nr 4 poz. 63.

10. Wyrok SN z 16 czerwca 1980 roku, III PR 33/80, Legalis nr 22091.

11. Wyrok SN z 11 lutego 1963 roku, III PO 15/62, OSNCP 1963 nr 10 poz. 215.

it has been determined that the causative-external cause of an event may consist in any external factor (meaning one that does not result from the internal properties of a human) able to result in adverse effects under the prevailing conditions. Within this meaning an external cause may consist not only in a work tool, machine, forces of nature, but also the labour and activities of the injured party (for example tripping over, an unfortunate reflex, in the discussed case lifting a significant load). The excessive effort of a worker is also such a cause, which, in terms of a person suffering from a spontaneous illness, can consist in work performed as a daily task under normal conditions, and that is because a worker's excessive effort should be assessed taking into consideration that person's individual characteristics – current health, functioning of the body. Especially in reference to physical effort, it is assumed that performing ordinary, daily tasks under conditions typical for a given position, taking into consideration the individual health predispositions of the worker, may constitute an excessive load and become an external cause of an event that constitutes an accident during work (also agricultural).

## Evidence proceedings

The conducted post-accident proceedings aim at determining all conditions and causes of an accident during agricultural work, including determining or rejecting negative premises<sup>12</sup>. According to Art. 45 sec. 1 of the Act on social insurance of farmers<sup>13</sup>, a farmer, household member, or other related person should inform the Fund about the occurrence of an accident during agricultural work without delay, but not later than within 6 months from the day of the event<sup>14</sup>.

Pursuant to Art. 45 sec. 4 of the Act on social insurance of farmers<sup>15</sup>, the Fund determines the circumstances and causes of an accident during agricultural work. An employee entitled by the head of the Fund<sup>16</sup> has the right to perform an inspection of the location and items related to the accident and acquire evidence from interviews with the injured party and witnesses of the event.

12. W. Jaskuła, *Użytki a prawo do jednorazowego odszkodowania*, "Ubezpieczenia w Rolnictwie. Materiały i Studia" 2011, nr 41, p. 97.

13. Ibidem, Dz. U. 2022 poz. 933.

14. See: P. Kraska, *Nowe spojrzenie Sądu Najwyższego na pojęcie wypadku przy pracy rolniczej*, "Ubezpieczenia w Rolnictwie. Materiały i Studia" 2019, nr 70, p. 113–114.

15. Idem.

16. A prevention worker conducting evidence proceedings must be provided with authorisation of the head of the Fund and a valid service card.

In 2005, the Minister of Social Policy issued an ordinance on the manner and mode of reporting accidents during agricultural work as well as determining the circumstances and causes<sup>17</sup>. This document regulated the manner of conducting post-accident proceedings by KRUS. Currently, the detailed principles for accepting by the Fund reports of an accident during agricultural work, determining its circumstances and causes, as well as considering applications for a one-time compensation due to permanent or long-lasting loss of health or death as a result of an accident during agricultural work or an agricultural occupational illness are determined by an ordinance of the head of KRUS from 2017<sup>18</sup>.

It should also be emphasized that as an institution possessing a quality certificate and an implemented and maintained Integrated Management System, KRUS has implemented procedural proceedings in specific areas of its activity. One of the main is the "Preventive activities and rehabilitation process", in terms of which the Fund possesses an implemented "Procedure for handling agricultural accidents and agricultural occupational diseases" (PL: *Procedura obsługi wypadków przy pracy rolniczej i rolniczych chorób zawodowych*)<sup>19</sup>, intended for workers conducting evidence proceedings. Furthermore, the Prevention Office developed training materials under the name "Guidelines for prevention workers on the rules of evidence in the case of an accident in agricultural work" (PL: *Wytyczne dla pracowników ds. prewencji dotyczące zasad prowadzenia postępowania dowodowego w sprawie wypadku przy pracy rolniczej*)<sup>20</sup>, as well as a plan for interviewing the injured party/witness/other person under the conducted evidence proceedings concerning an accident during agricultural work<sup>21</sup>.

The issue of events caused by sudden illness is referred to in the mentioned regulations in the following manner:

- determining the cause-effect relation of the injured party's death or sudden illness with the performed work at an agricultural holding<sup>22</sup>;
- in the case of conducting evidence proceedings concerning sudden illness, death of the injured party caused by sudden illness, or the death of the injured

17. Rozporządzenie Ministra Polityki Społecznej z 28 kwietnia 2005 r. w sprawie sposobu i trybu zgłaszania wypadku przy pracy rolniczej oraz ustalania jego okoliczności i przyczyn, Dz. U. 2005 nr 76 poz. 669.

18. Zarządzenie nr 40 Prezesa Kasy Rolniczego Ubezpieczenia Społecznego Rolników z 6 lipca 2017 r. w sprawie zasad przyjmowania zgłaszania wypadku przy pracy rolniczej, ustalania jego okoliczności i przyczyn oraz rozpatrywania wniosku o jednorazowe odszkodowanie z tytułu stałego lub długotrwałego uszczerbku na zdrowiu albo śmierci wskutek wypadku przy pracy rolniczej lub rolniczej choroby zawodowej, Dziennik Urzędowy KRUS z 6 lipca 2017 roku, poz. 44.

19. KRUS, OR *Procedura obsługi wypadków przy pracy rolniczej i rolniczych chorób zawodowych*, wydanie 24, March 7, 2022, Zintegrowany System Zarządzania KRUS.

20. *Wytyczne dla pracowników ds. prewencji dotyczące zasad prowadzenia postępowania dowodowego w sprawie wypadku przy pracy rolniczej*, appendix to document 0000-BP.810.2.6.2020 of April 4, 2020.

21. Document available in the System Zarządzania KRUS/Dokumentacja Biur/Biuro Prewencji.

22. Rozporządzenie Ministra Polityki Społecznej z 28 kwietnia 2005 roku, §6 ust. 1 pkt 10.

party taking place a day after an accident, an employee of the prevention unit forwards the case to a doctor – inspector in charge of medical certification supervision in order to issue an opinion concerning the cause-effect relation of the illness or death with the performed work<sup>23</sup>;

- an opinion of a doctor – inspector in charge of medical certification supervision concerning the cause-effect relation of illness (or death) with the performed agricultural work, when the proceedings concern sudden illness or death as a result of an accident not precisely on the day of the event<sup>24</sup>;
- when addressing the doctor – inspector in charge of medical certification supervision describe in detail the circumstances and causes of the event, taking into consideration the data collected during the evidence proceedings<sup>25</sup>.

The key issue, described in all regulations of the Fund, is acquiring by an inspector for prevention an opinion of the doctor – inspector in charge of medical certification supervision concerning the cause-effect relation between the illness (for the purposes of the paper the issue of death has been omitted) with the performed agricultural work.

This issue will be presented on the example of two accident events.

### Example 1

A female farmer, 59 years old, reported an accident event at her own agricultural holding. In the phone report she stated that she lost consciousness entering the pig-gery, fell and got injured (broken arm).

After determining the entitlement of the woman to a one-time compensation<sup>26</sup>, post-accident proceedings have been initiated and as a result the following circumstances of the accident were determined:

23. Zarządzenie nr 40 Prezesa Kasy Rolniczego Ubezpieczenia Społecznego Rolników z 6 lipca 2017 roku, §2 ust. 4.

24. Action: Carry out evidence proceedings concerning a reported accident, description of point 4, *Procedura obsługi wypadków przy pracy rolniczej i rolniczych chorób zawodowych*.

25. Wytyczne dla pracowników ds. prewencji dotyczące zasad prowadzenia postępowania dowodowego w sprawie wypadku przy pracy rolniczej, point 5.

26. The one-time compensation due to an accident during agricultural work is one of the benefits that a person insured in KRUS can obtain. This benefit is paid from the Farmers' Social Insurance Contribution Fund. This fund is fully self-financing, and therefore operates without the participation of subsidies from the state budget. It provides the financing of benefits from accident, sickness, and maternity insurance. D. Walczak, *Wypadek przy pracy rolniczej – aspekty prawne i konsekwencje praktyczne*, "Ubezpieczenia w Rolnictwie. Materiały i Studia" 2018, nr 65, p. 7–17.

On the day of the accident, together with her husband, the woman took care of the agricultural holding including the laying gallinaceous poultry. The woman's usual tasks included taking care of the poultry. On the day of the accident, around 11 AM, the injured party was walking unloaded from the house to the henhouse located in the back part of the farm building. When walking through the passage of the building, the farmer suddenly lost consciousness and as a result fell and broke her arm. A Medical Team was called, which drove the woman to the hospital.

According to the injured party and a direct witness, on the day of the accident the woman was on a medical leave (after a prior medical procedure) and could not carry loads since the procedure.

The prevention worker determined that when walking to the henhouse, the woman was not carrying any loads and it was her first work at the farm on that day. Walking from the house to the building required walking across a yard with an even and solid surface (distance of a few meters). In the farm building the woman walked across an even, concrete surface, over a 70 cm wide pavement, with the wall of the building on the left and boxes for pigs on the right (ceased production, empty boxes). All items for handling poultry were located in an interior in front of the henhouse, so the farmer walked across the building unloaded, freely, in her usual pace.

For the purposes of the proceedings, medical documentation from the Regional Ambulance Station (WSPR) has been acquired: an emergency medical team dispatch card, medical emergency activity card, as well as a health condition report prepared by an orthopaedist specialist doctor after treating the fracture, post-accident medical treatment card, previous medical treatment card – concerning the previously mentioned procedure.

Basing on the collected evidence material, pursuant to §2 sec. 4 of Ordinance No. 40 of the Head of KRUS of July 6, 2017, the prevention worker asked the Doctor – Inspector in Charge of Medical Certification Supervision in writing for an opinion whether there is a cause-effect relation:

- between the sudden illness: on the day of the accident-loss of consciousness (according to the injured party and confirmed by a statement of the Medical Emergency Team);
- and agricultural work carried out by the farmer: on the day of the event at approximately 11 AM, the injured party performed usual tasks at the agricultural holding related to farming laying gallinaceous poultry. She walked a few meters from the house to the farm building across a yard, unloaded. When walking through a passage of the building (towards the henhouse) she suddenly



lost her consciousness. The woman underwent surgery three weeks earlier and could not carry loads. She did not perform difficult work or carried loads (she was on a medical leave) neither on the day of the accident nor on the days preceding the event. Before the accident she did not feel dizzy (according to the injured party).

After analyzing the documents from the proceedings and the acquired medical documentation the Doctor – Inspector in Charge of Medical Certification Supervision had no doubts as to the quality of the collected evidence. No additional medical examination was required. The LRIOL determined that the loss of consciousness and fall were caused by an illness resulting from using an anti-arrhythmia medication. Due to this, the LRIOL determined that there is no cause-effect relation between the conducted work and the event that has been caused by an internal illness – a spontaneous illness. Only an internal cause for the accident has been determined. Basing on the above mentioned statements, the prevention worker issued an opinion concerning this event not being an accident during agricultural work. This opinion was affirmed by the employees of the benefits department. The case ended with issuing a decision rejecting the right to a one-time compensation due to an accident during agricultural work. The injured farmer did not file an objection.

### *Example 2*

A male farmer, 35 years old, reported an accident event at his own agricultural holding. In his phone report he stated that during transporting bags with poultry feed his upper right limb got injured.

After determining the right to a one-time compensation of the farmer, post-accident proceedings have been initiated and as a result, the following circumstances of the accident were determined:

The injured party handled special branches of agricultural production – gallinaeous poultry intended for meat. During three specific days the farmer usually performed tasks at the agricultural holding related to raising animals. On those days, Between 2 PM and 3 PM the farmer brought trolleys with feed bags to the henhouse entrance. The surface inside the henhouse did not allow for using trolleys. Then, he lifted each bag weighing 20–25 kg from the trolley (the trolley's platform was located at a height of 20 cm), moved them using both hands at a distance of 3–5 m and placed them on the floor in the henhouse, by the drop

basket. After opening a bag he lifted it at a height of approx. 1.5 m and poured the contents to the drop basket of the conveyor feeder. Each day the man moved and emptied 10–15 bags with feed in the same manner. On the last day, at approx. 3 PM the farmer felt a strong pain in his right shoulder when lifting a bag. He performed the work alone – he takes care of the farm by himself, without the help of others. The technology of the building does not allow for completely eliminating manual labour.

For the purposes of the proceedings, complete medication documentation has been acquired from the clinic in which the post-accident treatment has been carried out. Basing on the collected evidence material, pursuant to §2 sec. 4 of Ordinance No. 40 of the Head of KRUS of July 6, 2017, the prevention worker asked the Doctor – Inspector in Charge of Medical Certification Supervision in writing for an opinion whether there is a cause-effect relation:

- between the sudden illness, namely tearing the long biceps tendon of the right shoulder in the day of the accident;
- and the work performed by the mentioned farmer: over the course of three consecutive days, the injured party performed usual activities related to maintaining gallinaceous poultry intended for meat at the farm. On those days between 2 PM and 3 PM the farmer moved bags with feed (at the weight of 20–25 kg each) to drop baskets. He lifted each bag from a trolley (platform height approx. 20 cm) and then, using both hands, moved it at a distance of 3–5 m and placed it on the floor. After opening a bag he lifted it at a height of approx. 1.5 and poured the contents into a drop basket. Each day he moved and emptied 10–15 bags with feed in the same manner. At approx. 3 PM on the following, final day of work, when lifting the bag the farmer felt a strong pain in his right shoulder.

After analyzing the provided documentation from the proceedings and the medical documentation, the Doctor – Inspector in Charge of Medical Certification Supervision determined that the evidence material is exhaustive and that there is a cause-effect relation between the event and the performed work. The cause of the event was excessive physical effort – repeated over a longer period of time, which led to an injury due to overload. Therefore, an external cause of the accident has been determined. On this basis, the prevention worker issued an opinion of accepting the accident as an accident during agricultural work. The above mentioned opinion was affirmed by the employees of the benefits department. Currently the case is at the stage of judicial proceedings, in the course of which a medical valuer will determine the farmer's amount of percentile health loss due to the accident during agricultural work.

## Summary

An analysis of examples of post-accident proceedings described in the paper showed the complexity of conducting evidence proceedings, especially when determining and specifying the causes in case of an accident event due to sudden illness. The publication emphasizes the differences in preparing evidence material in the case of events from the “sudden illness” category distinguishing between an external and internal cause of an accident. A prevention worker is equipped by the employer is specific “tools” (provisions, guidelines, etc.). However, even the most accurate manual will not eliminate the human factor and engagement, which is shown by results of analyses and inspections carried out by the employees of the Fund Central Prevention Office. That is why conducting regular training of prevention workers is essential in terms of the discussed issue, especially because each accident and injured party must be treated individually – there are no two identical accidents. Conducting evidence proceedings is a form of implementing the Fund’s mission<sup>27</sup>. In its essence it requires both solid factual knowledge as well as a wide range of soft skills necessary to correctly react in a situation of human dramas resulting from the outcomes of accident events.

Properly collected and prepared documentation in cases concerning sudden illnesses constitutes the base for correctly determining the causes of an accident and issuing a correct medical opinion by the doctor – inspector in charge of medical certification supervision. And in turn, a correct opinion of LRIOL is binding for ultimately closing an accident case – issuing a correct decision concerning a one-time compensation due to an accident during agricultural work.

Properly conducting post-accident proceedings allows developing detailed analyses, developing correct directions of the Fund’s prevention activities, which ultimately leads to reducing the number of accidents in agriculture. This is confirmed by statistics: at the beginning of the functioning of KRUS there were more than 60 thousand accidents reported annually to organizational units (in 1993 – 66 thousand). In 2021 there were 12 thousand reports, meaning more than 80% less, and at that time the accident index<sup>28</sup> dropped from 24.6 to 8.4.

27. The mission of the Agricultural Social Insurance Fund is effectively and professionally implementing tasks resulting from the Act on social insurance of farmers, KRUS, *Księga Zintegrowanego Systemu Zarządzania*, Zintegrowany System Zarządzania KRUS, Wydanie XXI, September 1, 2022, p. 15.

28. Accident rate: number of decisions granting the one-time compensation for an accident during work per 1000 insured in KRUS.

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