

Purpose

Despite tools such as Functional Abilities Forms, medical reports, and other resources available to us, determining physical precautions can be challenging. The Best Approaches document, *Recognizing Time to Heal – Assessing Timely and Safe Return to Work*, provides the decision-maker with some factors to consider when determining ability to work.

It is even more challenging to determine precautions when there is a non-organic component to the entitlement. The functional abilities and limitations can't be based on the organic injury alone. The psychological and/or pain components require their own assessment in the determination of the overall precautions for the worker. The purpose of this document is to assist the decision-maker in determining precautions or work limitations for workers with psychological entitlement or entitlement for chronic pain disability.

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Return to Work Considerations - Workers with Psychological Entitlement and Chronic Pain Disability

Principles

- Entitlement for psychological conditions should be assessed in the same manner as organic entitlement issues. In some cases, the entitlement will flow directly from the initial accident (example head injury cases) while in other cases it will arise as a secondary condition some time after the accident.
- Where a psychological condition is identified as contributing to the worker's impairment, the issue of entitlement and level of impairment must be assessed based on all relevant medical evidence.
- Where entitlement is granted, it is important that the precautions placed upon the worker's employment capacity be properly assessed and documented for the entry activities. This applies whether the impairment and precautions are temporary or permanent in nature.
- Because medical reporting in relation to psychological conditions often fails to address the issue of precautions, including the effects of medication on the worker's functional capacity, such information should be obtained either through direct conversations with the treating health care professional or through psycho-vocational testing of the worker.
- It is important that the distinction between chronic pain resulting directly from an organic injury and the condition known as chronic pain disability (CPD) be well understood since the treatment and nature of the

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worker's precautions will be significantly different for each.

In cases where CPD has been recognized, the genuineness of the worker's pain is accepted and it is the pain experience that will determine the functional restrictions rather than the functional restrictions of the original organic injury. The use of functional ability assessments and psycho-vocational testing are often the best ways of determining precautions in CPD cases, provided such assessments recognize that the pain experience is then the limiting factor.

Policy

15-04-02 – Psychotraumatic Disability

A worker is entitled to benefits when disability/impairment results from a work-related personal injury by accident. Disability/impairment includes both physical and emotional disability/impairment.

In all cases where history of a prior psychiatric condition is shown to exist the question of allowance on an aggravation basis is considered, having regard for the emotional effect of the occupational occurrence and a condition resulting from the work-related injury (see 11-01-15, Aggravation Basis).

Given the above policy, precautions must relate to both the physical and the emotional impairment. The decision-maker must consider the person as a whole, taking into account factors such as depression, if that depression is related to the injury. It is not sufficient to base the precautions on the physical limitations alone, and state that the other elements will take care of themselves once the individual is in the workplace. It is generally accepted that the best recovery does happen in the workplace, but the person has to be starting with an employment situation that is suitable on all levels for that recovery to happen.

15-04-03 – Chronic Pain Disability

The WSIB will accept entitlement for chronic pain disability (CPD) when it results from a work-related injury and there is sufficient credible subjective and objective evidence establishing the disability.

Not all claims involving persistent pain are adjudicated according to this policy. If pain is predominantly attributable to an organic cause or to the psychiatric conditions of post-traumatic stress disorder or conversion disorder, the worker will be compensated pursuant to the WSIB's policy on that organic or psychiatric condition.

It is important that the distinction between chronic pain resulting directly from an organic injury and the condition known as CPD be made, since the treatment and the nature of the precautions will be significantly different.

For example, if an individual has had a multi-level back fusion, combined with degenerative disc disease and/or osteoarthritis, he or she may have chronic pain, but it will be localized at the injury site. If, on the other hand, the individual originally suffers a back strain and goes on to experience a condition which is recognized under the CPD entitlement policy, the pain may no longer be localized and will likely have a different pattern and impact than the original pain arising from the back strain.

15-03-02 Traumatic Mental Stress

A worker is entitled to benefits for traumatic mental stress that is an acute reaction to a sudden and unexpected traumatic event arising out of and in the course of employment.

Resources

The treating health professional(s) will be a primary source of information regarding precautions, based on the organic injury and any psychological or CPD entitlement. Conversations with the worker are also an essential part of this process. The following areas of inquiry can assist in evaluating function and capability:

1. Is the worker able to perform activities of daily living? (E.g. self-care, personal hygiene, communication and travel unaided).
2. Is the worker able to interact with others including supervisors, peers and members of the public?
3. Is the worker able to perform activities commonly found in the workplace such as regular attendance, making decisions, scheduling and completing tasks in a timely manner?
4. Are there specific persistent fears or issues associated with the workplace and the accident – (e.g. fear of machinery following amputation of body part by machinery)
5. Frequency and prescribed dosage of medication, any potential adverse effects of medication that may impact functioning.
6. Global Assessment of Functioning scores as recorded by treating professionals (note - these should be congruent with clinical descriptions and should not be taken on a stand alone basis)

If the worker is experiencing psychological symptoms delaying

his/her recovery and/or RTW, a referral to the NCM for case conferencing should be considered. Additionally, the decision maker may consult the medical and psychological consultants. In some situations timely treatment by a psychologist can assist in quickly addressing coping skills. The return to work mediator and/or NCM may be helpful in situations involving a fear of returning to the workplace as these situations are best dealt with through direct meetings/discussions.

Where appropriate, the following is a list of some resources that can, among other important considerations, aid the decision-maker in identifying precautions needed to help facilitate an effective RTW. The estimates of health professionals regarding a worker's precautions may not always fully capture their capabilities and an assessment in a work-like setting can help valid this information.

WSIB Specialty Clinic Functional Restoration Program (FRP) - Pain Management Program - Toronto

Referral to the FRP should be considered if within four months of a workplace injury the worker reports or demonstrates any of the risk factors for chronic pain disability. Early identification of symptoms, diagnosis and treatment results in improved RTW and recovery outcomes. This referral by the decision-maker should be made in consultation with the NCM.

Treatment in the FRP is provided through a multi-modal, cognitive behavioral, functional restoration program that provides an opportunity

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for injured workers to learn scientifically proven pain coping techniques in a supportive, goal-oriented atmosphere. The program assists to understand pain problems and barriers to recovery, and provides recommendations on functional abilities and facilitates successful vocational outcomes. The FRP Return to Work Coordinator works collaboratively to identify and facilitate RTW.

Depending on where the worker lives, there may be other programs that provide comparable services, closer to home.

**WSIB Specialty Clinic
Psychological Trauma Program
(PTP) – Toronto
Traumatic Stress Service Workplace
Program (TSSWP) – London**

These programs provide multidisciplinary assessment, diagnosis, and treatment for workers who are suffering significant psychological and/or emotional distress as a consequence of a workplace accident, illness or traumatic event. This referral by the decision-maker should be made in consultation with the NCM.

Assessment clarifies diagnosis, level of impairment/ability to work, precautions/restrictions, prognosis for return to work and treatment recommendations. Treatment may include individual, group and psychiatric therapies to assist the worker to return to normal functioning at work, within the family and community. The PTP Return to Work Coordinator works collaboratively to identify and facilitate RTW.

Functional Capacity Evaluation (FCE)

Functional capacity evaluations and psycho-vocational testing can be very helpful in determining precautions in CPD cases. These interventions are most useful when the service provider understands the nature of the injury and entitlement.

An FCE is carried out by a regulated health professional. It can identify the worker's physical capabilities to handle the demands of the pre-accident job or other position (i.e. the worker's abilities and limitations). The FCE can be done with or without a job match. The decision-maker in consultation with the NCM should arrange this type of assessment.

Please note the Adjudicative Advice document, *Requesting Functional Capacity Evaluations*, for more information about using and requesting this service.

Psycho-vocational Evaluation

Where other methods of determining precautions, including discussion with the health practitioner, have not given the WSIB clear information, psycho-vocational testing may be needed. The decision-maker in consultation with the NCM should arrange this type of testing.

A registered psychologist administers a psycho-vocational evaluation. The testing can provide an independent assessment of the impact of the condition on the worker. It can address issues such as concentration or ability to focus, memory, and effects of medication.

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Conclusion

Despite the resources available, determining precautions for 'non-physical' conditions, involving psychological or pain limitations is challenging. This is true whether the condition is temporary or permanent. In some cases the degree of pain or the psychological manifestations may impact the individual's behaviour / motivation.

In addition to the decision-maker coming to an understanding of the precautions, that information has to be shared with the accident employer and/or the service provider. All parties need to have a consistent and accurate understanding of the worker's capacity/capabilities in order to effectively work together toward return to work. This helps to create a relationship of trust that is needed to sustain successful outcomes.

Putting It All Together

Match the scenario with the appropriate method of determining precautions. Check all that apply. (For the purposes of this exercise, FRP is the only pain management program mentioned. It is possible that other programs are available in local areas that would provide similar services)

Julie Brown, a 32-year-old payroll clerk, injured her lower back while attempting to move a heavy box of files.

- A. It is three months post accident, and the medical reports are suggesting a high degree of pain for the nature of the injury. No further investigations are planned, and there are no psychological issues noted.

- _____ Functional Abilities Form (FAF)
- _____ Functional Capacities Evaluation
- _____ Functional Restoration Program
- _____ Psychological Trauma Program
- _____ Psycho-vocational Evaluation

- B. It is now twelve months post accident and Julie has entitlement for CPD. She is at MMR, and a PI is evident. The WSIB is trying to clarify her precautions. The treating physician has been contacted but is not comfortable providing a lot of detail around the worker's capabilities/precautions.

- _____ Functional Abilities Form (FAF)
- _____ Functional Capacities Evaluation
- _____ Functional Restoration Program
- _____ Psychological Trauma Program
- _____ Psycho-vocational Evaluation

Julie Brown, a 32-year-old payroll clerk, was beaten in a robbery attempt.

- C. It is now three months post accident. She has been left with physical limitations as well as psychological issues. She has been provisionally diagnosed with Post Traumatic Stress Disorder (PTSD).

- _____ Functional Abilities Form (FAF)
- _____ Functional Capacities Evaluation
- _____ Functional Restoration Program
- _____ Psychological Trauma Program
- _____ Psycho-vocational Evaluation

- D. It is now one-year post accident. She has been diagnosed with PTSD, Permanent Impairment (PI) evident, MMR reached. Certain precautions have been identified. For example, she cannot do the part of her job that included occasionally covering in the reception area (where the accident happened). Her health practitioner is unable to provide an exact picture of her limitations.

- _____ Functional Abilities Form (FAF)
- _____ Functional Capacities Evaluation
- _____ Functional Restoration Program
- _____ Psychological Trauma Program
- _____ Psycho-vocational Evaluation

Answers

- A *Functional Restoration Program – It is within 4 months of a workplace injury with demonstrated risk factors for CPD.*
- B *Functional Capacities Evaluation – Often the best method to determine precautions in CPD cases*
- C *Psychological Trauma Program – Suitable for workers who are suffering psychological and/or emotional distress*
- D *Psycho-vocational Evaluation – Primarily focused on obtaining information on precautions*

Scenario A – Sample Decision Memo

Worker J. Lock – Assumption Current Date is December 15, 2005 – Memo 213

Issue: Lost time December 6, 2005 to date

History:

On June 4, 2004, this then 46-year-old precision metal press operator sustained a severe crush injury of the left (non-dominant) hand. He made several attempts to return to work with the accident employer in other capacities, the most recent being October 12 to December 6, 2005.

Medical:

- June 4, 2004 – emergency - initial diagnosis was partial amputation index and ring fingers at the DIP joint level of the middle phalanx of the long finger and a laceration of the tip of the little finger. Pain medication was prescribed
- Reconstructive surgery – reports on file
- September 2004 – not sleeping, jumpy, avoidance
- September 2004 – referred to Dr. Curtis – psychologist – mild depression, anxiety, provisional diagnosis of post traumatic stress disorder (PTSD) – reports to be submitted quarterly
- Hand clinic – January 2005 – suggested occupational therapist locally – issues with pain control, range of motion, intolerance to cold, and amount of medication
- March 2005 – seen at Psychological Trauma Program (PTP) at suggestion of Dr. Curtis, review diagnosis and medication – diagnosis PTSD – takes little to trigger him, anxious, avoidance, not predictable, still sleep disturbances. Referred back to community for further monitoring – Dr. Curtis
- September 2005 – Dr. Curtis – condition stabilized, nightmares are few, anxiety well controlled, still unable work around machinery or power tools

Pertinent Facts:

- Maximum Medical Recovery (MMR) and Permanent Impairment (PI) – September 2005 - Memo 200 - Non Economic Loss referral made
- Physical precautions on file - Hand precautions – arthritis commencing – nothing highly repetitive, no consistent or forceful gripping, no pushing, pulling or twisting, no prolonged, repeated, or heavy lifting – consult – Dr. Grey – June, 2005
- Psychological precautions more challenging to define, noted that Mr. Lock cannot be around machinery or power tools, or work in the area of the plant where he was injured

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- Employer has a retail area where customers can purchase equipment. A job in this area was offered to Mr. Lock. This job would also include some minor book-keeping, paper work, since the retail store is only busy at peak times:
 - For complete job description, note memo 202
 - This work is within Mr. Lock's physical precautions, and employer is willing to provide this at no wage loss
 - Retail area of plant is separated from manufacturing area, different entrance and exit
 - Mr. Lock did this job before when recovering from a back injury
- Mr. Lock initially expressed some concerns about returning to the plant at all, since previous attempts at return to work had resulted in him being triggered in one way or another, and the attempts failed
- He agreed, however, to try this job noting that his overall condition was much more stable than during earlier RTW attempts
- Gradual return to work, coordinated with the return to work mediator, commenced October 12, 2005 to assist the worker with the transition.
- Mr. Lock was released from his job effective December 6, 2005. He made frequent errors in his record keeping. It was accepted that he had the skills to do the job, so it was felt by the employer that the worker was being careless and not applying himself to the task at hand
- The employer is objecting to any lost time, since the job was suitable, and at no wage loss
- They would consider offering him another job, if they have "proof" that he did not intentionally do a poor job at this one
- Mr. Lock has no reemployment rights
- Mr. Lock attributes his errors to an inability to concentrate for long periods of time, which he is relating to his injury and the medication that he is taking. He says his concentration problems have existed since the accident and that he experiences episodes of anxiety throughout the day.

Decision:

I have reviewed all of the medical information, the statements from worker and employer. I also discussed the situation with the return to work mediator, who worked closely with the parties. He is of the view that Mr. Lock entered the job in good faith, and applied himself to his work to the best of his abilities. Mr. Lock was frustrated by his lack of progress in the job but says his problems with concentration have been present since the injury. I note that concentration issues were mentioned throughout the medical reports, less so more recently. Prior to the job placement, Mr. Lock discussed this issue with Dr. Curtis, who suggested he give it a try and see how it went. He was unable to say for sure if it would be suitable.

It is my decision that there is doubt about the suitability of the job offered with the accident employer. Although physically suitable, we don't have a clear picture of the worker's ability to concentrate or what types of mental tasks will raise his anxiety to an unacceptable level. This setback has caused an increase in his symptoms, which Dr. Curtis expects will settle down shortly. I will meet with the NCM and discuss a referral for a psycho-vocational assessment. This will assist in determining his capacity and may also lead his doctor to recommend more specific treatment for these problems. It will then be appropriate to work with the accident employer to see what accommodations can be made in the workplace to facilitate an effective return to work. This will give a clearer picture of his abilities, and determine whether the accident employer can accommodate him on a permanent basis, or if a Labour Market Re-entry (LMR) referral is required. I will pay Loss of Earnings (LOE) benefits from December 6, 2005 and continuing.

Scenario B

The following is a second possible scenario, resulting in an adverse decision to the worker.

- Mr. Lock has recently had psycho-vocational testing that supports his ability to do the job offered by the accident employer-there was no evidence of significant concentration issues
- Previous return to work efforts had failed, so mediator involved
- He was making record keeping errors and, although his employer brought this to his attention, they were willing to work with him to improve his skills.
- He does not feel he can do the job offered by the employer and left the work
- He would like to be retrained in another field. He has always wanted to go back to school and provided information around a 2 year college level program.

Sample Decision Letter to Employer – Based on Scenario A



200 Front Street West
Toronto ON M5V 3J1

(416) 344-1000
1-800-387-0750
Fax: (416) 344-4684
TTY: 1-800-387-0050

200, rue Front Ouest
Toronto ON M5V 3J1

(416) 344-1000
1-800-387-0750
Télécopieur: (416) 344-4684
ATS: 1-800-387-0050

Date

MR (FIRST NAME) ROSE
ROSE'S PRECISION TOOLS
2345 ANYWHERE STREET
SOMEWHERE ON M5W 3J9

LOCK, (First Name)
Claim 12345678

When writing the WSIB please
quote the above file number.

Indiquez le numéro de dossier
dans toute correspondance
avec la CSPAAT.

Dear Mr. Rose:

As we discussed today on the telephone, you have concerns about the payment of loss of earnings benefits (LOE) related to Mr. Lock's lost time since December 6, 2005. You feel that the lost time is not related to his work injury since you contend he was released from employment due to errors in his record keeping.

A worker who has a loss of earnings as a result of a work-related injury or disease is entitled to loss of earnings benefits.

Mr. Lock's gradual return to work started on October 12, 2005, and was coordinated by the Workplace Safety and Insurance Board (WSIB) return to work mediator. Mr. Lock was offered a job working in your retail store, at no wage loss. There are times when there is very little business in the retail store, so the person working in that store has other duties, including bookkeeping and simple accounting. Everyone agreed that the work was physically suitable, and that Mr. Lock had the skills to do the job as he had done it once before. Mr. Lock did not mention any particular difficulties with the job, except that he was concerned about his ability to concentrate on anything that was complicated.

By mid November Mr. Lock was working full time hours, and becoming increasingly anxious about his work. He was making frequent errors in his record keeping and on December 5, 2005 you told him that the job was no longer available to him. In our conversation, you felt he was not fully focusing and applying himself.

I talked to Mr. Lock. He stated that his errors were caused by an inability to concentrate for long periods of time, which he is relating to the injury and to the medication he takes. He said that he did the best job that he could, but as he had told us all along, he felt that he was making mistakes because of his inability to focus on the task at hand.

Lock, First Name
Claim 12345678
Date
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Mr. Rose, I have carefully considered all of the information available to me: your statement, Mr. Lock's statement, feedback from the return to work mediator, and the reports from his doctor. While there is no question the job was physically suitable, there is reason to question the suitability from a psychological perspective. I have decided that his wage loss is related to his injury. That being the case, I have paid LOE benefits from December 6, 2005 to date.

Mr. Lock has had a minor setback caused by the anxiety around this situation. His doctor considers it to be temporary, and when he has stabilized, I will arrange a psycho-vocational assessment that will provide a much clearer picture of his abilities. Once that information is available, I will be in touch with you to see what work you may have available.

If you have any further information that you would like me to consider, please call me so we can talk about it.

If you do not understand the reasons for the decision, or if you do not agree with the conclusions reached, I would be pleased to discuss your concerns.

I also wish to inform you that the Workplace Safety and Insurance Act (the Act) imposes time limits on appeals. If you plan to appeal the decision, the Act requires that you notify me in writing by (insert six month deadline).

Yours sincerely,

Adjudicator's Name
Adjudicator
Service Delivery Division

Phone Number

Copy: Worker
 Representative, if applicable

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Sample Decision Letter to Worker – Based on Scenario B



200 Front Street West
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TTY: 1-800-387-0050

200, rue Front Ouest
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(416) 344-1000
1-800-387-0750
Télécopieur: (416) 344-4684
ATS: 1-800-387-0050

Date

MR (FIRST NAME) LOCK
1234 ANYWHERE STREET
SOMEWHERE ON M5W 3J9

LOCK (First Name)
Claim 12345678

When writing the WSIB please
quote the above file number.

Indiquez le numéro de dossier
dans toute correspondance
avec la CSPAAT.

Dear Mr. Lock:

As we discussed today on the telephone, you are requesting the payment of loss of earnings benefits (LOE) related to your lost time since December 6, 2005. You are also requesting referral for a Labour Market Re-entry (LMR) assessment and retraining. This letter is to confirm what we talked about.

The WSIB provides a worker with an LMR assessment if:

- it is unlikely the worker will be re-employed by the accident employer due to the nature of the injury
- the employer has been unable to arrange suitable and available work for the worker that restores the pre-injury earnings, or
- the employer is not co-operating in the early and safe return to work (ESRTW) process.

You were offered a job working in the retail store at Rose's Precision Tools at no wage loss. The job involved waiting on customers and other duties, including bookkeeping and simple accounting. Everyone, including you, agreed that the work was physically suitable, and that you had the skills to do the job. You had filled in on that job once before. You did, however, express some concerns about your ability to concentrate long enough to do the more technical aspects of the job. I arranged for you to undergo a psycho-vocational assessment. The assessment indicated that you demonstrated sufficient capability to meet the demands of the position. Your gradual return to work started on October 12, 2005 and was coordinated by the Workplace Safety and Insurance Board (WSIB) return to work mediator.

You continued to express concerns about your ability to do the work involved. You had researched other career opportunities, and identified one that you thought would be more suited to your personality. You would need a fair amount of academic upgrading and retraining to do that job.

Lock, First Name
Claim 12345678
Date
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In our discussion, I noted that the work provided by your employer is permanent, and at no wage loss. It allows you to apply your expertise in precision tools when dealing with customers.

By mid November you were working full time hours. Your employer started to note that you were making frequent errors in your record keeping. They brought this to your attention but indicated that they were willing to work with you to improve your accuracy. On December 5, 2005 you left the work indicating that the work was not for you and not within your abilities.

You contacted me to explain what had happened, and to enquire if you would now qualify for Labour Market Re-entry (LMR). I explained that your employer had work for you at no wage loss that appeared to be both suitable and sustainable. Further, I indicated you recently underwent a vocational assessment and there is no indication in your file that your condition has changed from the time of that assessment.

Mr. Lock, you suffered a traumatic injury, and have been left with a significant impairment, both psychological and physical. However, on balance, the information available to me indicates the position your employer has offered remains suitable for both your physical and psychological conditions. Therefore, I will be unable to pay you LOE benefits beyond December 5, 2005. Should you have any additional information to suggest that it is not suitable, please send it to me and it will be considered. At this time, I cannot approve your request for an LMR assessment, or consider any retraining.

If you would like to discuss this further, please feel free to call me.

If you do not understand the reasons for the decision, or if you do not agree with the conclusions reached, I would be pleased to discuss your concerns.

I also wish to inform you that the Workplace Safety and Insurance Act (the Act) imposes time limits on appeals. If you plan to appeal the decision, the Act requires that you notify me in writing by (insert deadline).

Yours sincerely,

Adjudicator's Name
Adjudicator
Service Delivery Division

Phone Number

Copy: Employer
Representative, if applicable

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