

Client Services Policy Manual

Policy Number: **RE-03**
Subject: **Functional Abilities Information for Return to Work**
Chapter: **Return to Work and Rehabilitation**

Preamble

ALL employers (including self-insured employers and those covered by the Government Employees' Compensation Act) and workers (the workplace parties) are obliged under the *Workplace Health, Safety and Compensation Act* (the Act) to co-operate in the worker's early and safe return to suitable and available employment.

Workers and employers, and where appropriate, health care providers, are responsible for resolving return to work issues in the workplace. The workplace parties must co-operate and be self-reliant in returning the worker to suitable and available employment.

When referencing any of the return to work policies (RE-01 to RE-11 and RE-18), it is important to recognize the responsibilities of the workplace parties within the context of the complete return to work process. Therefore, the whole return to work model must be considered in its entirety and not only the specific guidelines under an individual policy.

Construction Industry

For application of section 89 of the Act for this industry, please refer to policy RE-19 "Construction Industry".

Policy Statement

The intended use of the functional abilities information by the workplace parties is to assist with return to work efforts to the pre-injury position, comparable work or suitable employment consistent with the worker's functional abilities (refer also to policy RE-18 Hierarchy of Return to Work and Accommodation). Its purpose is to highlight what a worker can do and what limitations apply. The functional abilities information provided to the employer will not contain medical or diagnostic information.

General

To help in the early and safe return to work of the worker, the workplace parties can obtain written functional abilities information by using:

- a) the functional abilities information provided by the health care provider on WorkplaceNL's Form 8/10, and
- b) a form created by them which is specific to their own workplace should they wish to do so, or
- c) if required, a more comprehensive evaluation of functional

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ability, such as a functional capacity evaluation.

If an employer uses their own functional abilities form, or the workplace parties desire a different evaluation of functional ability, the employer must cover the fee to complete the evaluation or form, and obtain separate consent from the worker, as the consent given to WorkplaceNL by the worker when filing a claim relates only to the disclosure of information on WorkplaceNL's forms. The employer's request for disclosure of functional abilities information shall be limited to that which is required for the purpose of aiding in the worker's return to work. Where, in WorkplaceNL's opinion, a comprehensive evaluation of functional ability is required, WorkplaceNL will arrange and pay for it.

When requested to do so by an employer, worker or WorkplaceNL, the health care provider treating the worker must give the employer, worker and WorkplaceNL information concerning the worker's functional abilities.

Generally, the treating health care provider is the person who is responsible for the ongoing care of the worker (see policy HC-13 "Health Care Entitlement"). However, as recognized by WorkplaceNL, other health care providers who treat and/or assess the worker may also be called upon by the workplace parties or WorkplaceNL to provide functional abilities information.

Employers or employer representatives may disclose the functional abilities information provided by the health care provider to a person assisting the workplace parties in meeting their early and safe return to work or re-employment obligations with the consent of the worker.

Confidentiality

Anyone who contravenes this confidentiality requirement may be considered under section 125 of the Act. If prosecuted and convicted under that section, they are liable for a fine of up to \$25,000 or up to six (6) months in jail, or both.

Exceptional Circumstances

In cases where the individual circumstances of a case are such that the provisions of this policy cannot be applied or to do so would result in an unfair or unintended result, WorkplaceNL will decide the case based on its individual merits and justice. Such a decision will

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be considered for that specific case only and will not be precedent setting.

Reference: *Workplace Health, Safety and Compensation Act (the Act), Section 89, 89.3 and 125*
Policies: RE-01 through RE-11
RE-18 Hierarchy of Return to Work and Accommodation
RE-19 Construction Industry
HC-13 Health Care Entitlement

Amendment History

<i>Original Effective Date</i>	2002 01 01
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