

Client Services Procedure Manual

Procedure: 35.00

Subject: Preliminary Functional Abilities Information

35.01 Introduction

Preliminary functional abilities information is a reasonable estimation of a worker's physical abilities/limitations by the health care provider (usually the treating family physician), which specifically addresses the broad job-related functions that most workers must perform, thereby providing "baseline" functional information for the employer and worker (the workplace parties).

This information can be utilized for several different purposes such as:

1. to determine the individual's functional limitations;
2. to determine whether an individual needs further treatment, or whether they can perform full duties or participate in suitable and available employment opportunities at the pre-injury work site, and/or
3. determine whether an individual is ready to return to work to the essential duties of pre-injury employment after a work-related injury.

Employers and workers are encouraged to effectively use this preliminary assessment to expedite the return to work process. Information on WorkplaceNL's Form 8/10 should include (as appropriate) exceptions to the performance of normal duties such as:

1. use of upper extremities;
2. lifting;
3. standing;
4. walking;
5. sitting;
6. bending, twisting or kneeling, and
7. climbing stairs/ladders.

35.02 Information Flow

The worker is required to seek appropriate medical treatment immediately following a work-related injury. The treating health care provider uses WorkplaceNL's Form 8/10 to provide medical information to the worker and WorkplaceNL, to provide functional restrictions/limitations to the workplace parties and to provide billing information to WorkplaceNL.

The worker will be responsible for providing the employer's copy of the form 8/10 to the employer by the next working day. This process facilitates contact between the workplace parties and initiates co-operation in the early and safe return-to-work process. The treating health care provider will also fax a copy of the Form 8/10 to WorkplaceNL.

Faxes will be received directly in the Image Processing Centre. Form 8/10's which do not meet the following criteria will not be accepted and will not be imaged - they will be immediately faxed back to

the health care provider with a form letter (which will be imaged to the worker's claim) outlining the criteria for Form 8/10 acceptance:

1. the form must be legible;
2. the form must contain information in the "work capability" section, and
3. the form must contain the worker's MCP and WorkplaceNL claim number (where appropriate).

Upon receipt of a Form 8/10 which does not contain a clear diagnosis and objective medical findings, the Case Manager will take the following steps to try and rectify the situation:

1. call the health care provider to advise of the problem;
2. write the health care provider to advise of problems;
3. notify the Director of Health Care Services of the issue, and, where appropriate,
4. advise the worker that his/her health care provider is not appropriately providing the necessary information.

Usually, WorkplaceNL will not provide medical information to the employer; however, where WorkplaceNL receives a request from a worker's employer for medical information related to an injured worker and WorkplaceNL believes that providing the information to the employer is reasonably necessary for the determination of the worker's fitness to return to work, WorkplaceNL, after discussing the matter with the worker, may provide the information to the employer.

Employers and worker are encouraged to contact the treating health care provider jointly and directly should they require clarification or additional functional abilities information. The Case Manager may play a facilitation role in this process as part of the ongoing medical management of the claim.

35.03 Violating Confidentiality

WorkplaceNL staff, employers and their representatives are prohibited by *the Workplace Health, Safety and Compensation Act, 2022* (the Act) and Policy RE-03 (Functional Abilities Information) from disclosing a worker's functional abilities information except to a person assisting the employer in returning the injured worker back to work.

This means that such information cannot be used by the employer in a job competition process, in performance reviews, etc. Such usage may also be in violation the *Newfoundland Human Rights Act*.

Where a decision maker is made aware of a violation of this confidentiality provision from the health care provider, the worker, worker's representative or employer representative, the file will be referred to the Investigations Division for a fact finding exercise. Should the investigation result in findings to support a violation, the matter will be referred to the appropriate authorities for prosecution under Section 147 of the Act.

If prosecuted and convicted, violators are liable for a fine of up to \$25,000 or up to six (6) months in jail, or both.

35.04 When is Additional Information Required?

To determine if a more comprehensive evaluation of functional ability (e.g. Functional capacity evaluation) is necessary, the Case Manager considers the nature of injury, diagnostic and prognostic information available, the nature of the employment being proposed, the opinion of the health care provider and the opinions of the workplace parties on the issue.

Where a claim has been submitted and is awaiting adjudication, WorkplaceNL will only pay for additional evaluations required to adjudicate the claim.

35.05 Paying for Functional Abilities Information

WorkplaceNL will pay for all functional abilities information provided by health care providers recognized by WorkplaceNL, on the Form 8/10.

As part of their internal disability management program, some employers may have their own functional abilities form which is designed specifically for their own workplace. Employers who use these forms should pay the health care provider directly for their completion.

One or both of the workplace parties and/or the health care provider may determine that additional functional abilities information is necessary to facilitate an early and safe return to work. Such information may be gathered through a functional capacity evaluation, job screening or job placement assessment. Where the decision maker determines that an additional evaluation is necessary, WorkplaceNL will arrange and pay for same.

Reference: *Workplace Health, Safety and Compensation Act, 2022, Section 103*
Policy RE-03, Preliminary Functional Abilities Information

Amendment History

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