



Workers Compensation Commission

PROTOCOLS FOR MEDICAL ASSESSMENTS DURING CORONAVIRUS PANDEMIC

The Workers Compensation Commission is continuing to deliver services during the coronavirus pandemic, while making its top priority the health and safety of its staff, arbitrators, mediators, doctors, parties, legal representatives and other stakeholders.

The Commission is following the advice and directions of the National Cabinet, Chief Medical Officer, Department of Health and Ministerial directions, as released from time to time. The Commission will vary any arrangements made if any new advice requires a further change in processes.

This document sets out the Commission's expectations and protocols for conducting medical assessments.

1. INTRODUCTION

The Commission ceased in-person medical assessments on 25 March 2020, except in urgent cases. The Commission has been screening all medical disputes to identify matters that can be resolved without a medical assessment or that can be assessed by video conference. However, many assessments can only be accurately and competently undertaken by an in-person (hands-on) examination. Those matters have been placed in a 'medical assessment pending list'.

Since 25 March 2020, a number of government initiatives (travel restrictions and social distancing) have significantly reduced the incidence of COVID-19 cases in Australia. New South Wales has a small number of positive cases and community transmission remains low and limited to particular locations.

Given the low incidence of new cases by community transmission, the Commission has determined that in-person assessments may recommence, effective from 20 July 2020. This decision will remain subject to advice received, the ongoing incidence of COVID-19 cases and deemed risk to workers, doctors and their staff.

The screening of medical disputes to attempt to resolve matters or explore video assessment opportunities will continue to be undertaken, before a matter is referred to a 'medical assessment pending list' for an in-person assessment appointment to be allocated.

2. SCREENING OF MEDICAL DISPUTES

2.1 Telephone conference before referral for assessment

All medical disputes lodged with the Commission will be first listed for telephone conference before an Arbitrator. The Arbitrator may:

- Attempt to bring the parties to an acceptable resolution of the medical dispute;
- Determine the medical dispute, where appropriate;
- Attempt to narrow the evidence and issues between the parties and:
 - Refer the dispute to an AMS for assessment by video, or
 - Remit the matter to the Registrar to be held in a 'medical assessment pending list'.

3. REFERRAL FOR VIDEO ASSESSMENT

3.1 Psychiatric and psychological disorders

If a dispute involves a psychiatric or psychological disorder, the Arbitrator will need to be satisfied that:

- The matter is appropriate to be conducted by video; and
- The worker is able to participate by video, that is, he or she has access to a smartphone or other device (laptop or desktop computer), is able to use the device and has stable Internet connection with adequate bandwidth and speed.

The views of the parties will be sought at the teleconference.

3.2 Other body systems

If a matter is for any other body system, the Arbitrator will assess whether the matter is appropriate for assessment by video.

Again, the views of the parties will be sought and assessment of the worker's capacity and competence to participate by smartphone or other device.

3.3 AMS discretion to undertake video assessment

If a matter is referred to an AMS for video assessment, the AMS will first consider whether consultation by video assessment is clinically appropriate. It is essential that the AMS is satisfied that the assessment can be undertaken accurately.

The referral may have been with the consent of the parties or a party may have opposed assessment being undertaken by video.

An AMS is under no obligation to assess a medical dispute referred for video assessment if not satisfied the assessment can be done accurately.

If a matter cannot proceed by video assessment, it will be referred to the Registrar and placed in a 'medical assessment pending list' awaiting an in-person appointment.

4. PREPARATION FOR VIDEO ASSESSMENT

4.1 Worker capacity to participate by video

The worker's legal representative must ensure their client is able to participate by video, including that they have access to and the ability to operate necessary equipment. The capability of the worker will enable an assessment to be conducted by video. The Arbitrator will check this at the telephone conference.

A Commission staff member will contact the worker prior to a video assessment to check the Internet connection and the worker's capacity to participate by video.

4.2 Preparation by worker

The worker must undertake the following measures in preparation for a video consultation:

- ✓ The worker should be in a quiet room, where the door can be closed. This will ensure that no children, pets or others will interrupt the assessment.
- ✓ The worker should not take any incoming calls or text messages during the assessment and should inform family and friends not to contact them during the appointment.
- ✓ All other telephones should be disconnected or turned off.
- ✓ Before commencing the assessment, the worker must inform any other persons in the premises that they must not interrupt the consultation or enter the room for any other purpose unless it is an emergency.
- ✓ The room lighting must be adequate, and the light source should face the worker.
- ✓ The mobile phone (or other device) should be placed on a stable surface and not held. Movement requires more bandwidth and reduces both video and audio quality.
- ✓ The worker should sit in front of the camera and the camera should be situated close to the worker's eyeline, so that the AMS will be making eye contact.
- ✓ The device should be plugged into an AC adapter (power point). Battery operation should be avoided as videoconferencing equipment can quickly deplete batteries. This is particularly relevant in psychiatric interviews, which can extend over 1.5 – 2 hours.
- ✓ The worker or an assistant should ensure the camera and microphone are switched on and working 24 hours prior to the video consultation.
- ✓ Where possible, the worker should practise videoconferencing with another person beforehand to familiarise themselves with the process.

- ✓ The worker should be appropriately dressed as if going to see the doctor in person. If the consultation involves assessment of physical injuries, loose-fitting clothing should be worn. It is not acceptable to wear pyjamas or unsuitable attire.

The worker's legal representative should advise their client that they are not allowed by law to make a recording of the video assessment.

4.3 Security

AMSs must only use platforms which provide data protection using end-to-end encryption to ensure security and privacy of the examination process. As a minimum, the platform used will support 128-bit encryption to encrypt all meeting data between systems.

5. CONDUCTING VIDEO ASSESSMENT

5.1 Attendance by support person

A support person may attend the examination with the concurrence of the AMS.

A support person excludes the worker's legal representative or union delegate or treating doctor.

The support person does not take an active role in the examination.

5.2 Managing interpreters who are not physically present with the worker

If an interpreter is not physically present with the worker during the video assessment, consecutive interpreting will be used (i.e. the interpreter listens to a segment, may take notes and interprets while the speaker pauses).

Note: Interpreters provided by the Commission are not required to attend at the worker's location to interpret in-person. Interpreting by telephone or video is required only.

6. CONDUCTING IN-PERSON ASSESSMENT

6.1 Medical assessment pending list

All matters unable to be resolved at the initial telephone conference and not able to proceed by video assessment, will be placed in a 'medical assessment pending list'.

Workers whose matters are in the 'medical assessment pending list' will be invited to participate in an in-person assessment.

If a worker declines to participate, their dispute will remain in the pending list, subject to any representations from the other parties. Factors such as whether an injured worker is in a high-risk group (e.g. over 70 years of age; over 60 years of age with other health issues; over 50 years of age for Indigenous Australians) will be considered when a dispute arises about not attending an in-person assessment.

Matters will be listed for in-person assessments from the pending list in chronological order, unless a matter is identified as requiring priority.

6.2 Pre-assessment screening

If a matter is listed for an in-person assessment, the Commission will call the worker approximately 72 hours before their appointment to ask questions to determine if the worker is well enough to attend the assessment (these are COVID-19 triage questions).

If the worker has flu-like symptoms, the appointment will be cancelled and the worker advised to attend their GP for testing. A new appointment will be scheduled once the worker has recovered.

6.3 Pre-examination conference

The day before the in-person assessment, the AMS will conduct a telephone or video consultation with the worker to take a history and address any relevant issues. This is intended to reduce the actual time taken for the in-person assessment.

The AMS will also use the conference as an opportunity to check the worker's current health and whether the in-person assessment should proceed.

The face-to-face consultation will provide an opportunity for the worker to revisit and amplify any matters raised in the telephone or video conference.

Note: If a worker fails to participate in the pre-examination conference, it is likely that the in-person assessment will be cancelled.

6.4 Requirements of in-person assessment

The following procedure will apply to the assessment:

- When presenting for an assessment, the worker will be monitored for flu-like symptoms, asked the COVID-19 triage questions and their temperature will be taken. Note: Any worker who refuses to answer the COVID-19 triage questions or presents for an assessment with flu-like symptoms or has a raised temperature (37.5° C or more) will not be assessed.
- To the extent possible, the assessment will take place near the worker's place of residence, to minimise the worker's risk of exposure to the virus by travel, especially if travel is not by private vehicle.
- Travel to the in-person assessment by private vehicle or by hire car or other similar transport is strongly encouraged, where it is reasonable to do so. If travel is by hire car or similar, the hire company and driver must ensure the vehicle is properly cleansed before use.

Note: The insurer should meet the costs of transport by private vehicle or hire care in accordance with the obligation under section 330 of the *Workplace Injury Management and Workers Compensation Act 1998*. If the insurer disputes liability to pay the costs of transport by private vehicle or hire car, and where a matter is subject to a current grant of funding from WIRO, payment of the travel expenses will be considered as part of the grant.

The mode of transportation to a medical assessment and the costs of that transport should be resolved prior to the assessment date.

The worker should be appropriately dressed. If the consultation involves assessment of physical injuries, loose-fitting clothing should be worn.

6.5 Attendance by support person

Wherever possible, the worker should attend an in-person appointment alone.

Attendance of a support person will be at the discretion of the AMS regarding the necessity of their attendance to assist the consultation (for example, in psychiatric injury, traumatic brain injury or severe impairment).

6.6 Managing interpreters who are not physically present with the worker

Interpreters will not be required to attend in-person assessments and may interpret by telephone or video.

If an interpreter is not physically present with the worker during the in-person assessment, consecutive interpreting will be used (i.e. the interpreter listens to a segment, may take notes and interprets while the speaker pauses).

Note: Interpreters provided by the Commission are not required attend the assessment in-person.

6.7 Conducting the in-person assessment

AMSs are required to undertake standard precautions and procedures when conducting in-person assessments.

The examination will be conducted with minimum physical contact as is possible.

The need to wear personal protective equipment during the assessment will be determined by a risk assessment by the AMS.

Social distancing should be observed between the AMS, worker and others present, to the extent that is possible.

7. CONDUCTING ASSESSMENT 'ON THE PAPERS'

7.1 'On the papers' assessments in limited circumstances

The majority of medical disputes lodged with the Commission will require examination of the worker, either in-person or by video.

In limited circumstances, a matter may be referred for assessment 'on the papers'.

It is expected that a referral for an 'on the papers' assessment will be with the consent of the parties.

The assessment will only be completed if the AMS is of the opinion that it can be competently and accurately undertaken without examination of the worker.