



New South Wales

**Personal Injury
Commission**

PROTOCOL FOR MEDICAL ASSESSMENTS DURING CORONAVIRUS PANDEMIC

1 February 2022

MEDICAL ASSESSMENTS DURING CORONAVIRUS PANDEMIC

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This *Protocol for Medical Assessments during the Coronavirus Pandemic (Protocol)*, 1 February 2022, sets out the requirements for medical assessments arranged by the Personal Injury Commission (the **Commission**) during the COVID-19 pandemic. This Protocol must be read with ***Procedural Direction PIC 11 – Medical Assessment Procedure - COVID-19***.

The purpose of the Protocol is to ensure in-person medical assessments are conducted in a manner that minimises, to the extent reasonably practicable, the risk of COVID-19 exposure, transmission and/or infection.

The Protocol brings together the Commission’s commitment to:

- meet obligations under the Personal Injury Commission Act 2020;
- comply with Work, Health and Safety (**WHS**) obligations, and
- apply any relevant Public Health (COVID-19) Orders (**PHO**).

The Protocol applies to all Commission medical assessments, including when a Medical Appeal Panel or Medical Review Panel requires an examination of the worker/claimant.

The Protocol replaces any previous protocol or guidance issued by the Commission, the former Workers Compensation Commission and State Insurance Regulatory Authority’s former Dispute Resolution Service.

When required, specific or different requirements for medical assessments in the Motor Accidents Division and Workers Compensation Division will be stipulated.

The Protocol has been revised during the pandemic, since March 2020, in response to changes in PHOs, COVID-19 presentation in the community and accepted COVID-19 protections and risk mitigation approaches.

It is effective from 1 February 2022 until it is revoked.

BACKGROUND

The coronavirus pandemic declared in NSW in March 2020 resulted in PHOs which included stay-at-home orders from March to June 2020 and again from June to October 2021. The Commission and its legacy agencies suspended in-person medical assessments when stay-at-home orders were in place.

Since March 2020, the Commission and its legacy agencies have issued guidance and directions about medical assessments to ensure compliance with WHS obligations and PHOs.

In October 2021 revised PHOs included access to some services and activities based on vaccination status of individuals. The Commission resumed in-person medical assessments with provisions determined by Procedural Direction PIC 11 – Medical Assessment Procedure – COVID-19 (**PD PIC 11**) on 25 October 2021.

In January 2022 the Commission again suspended in-person medical assessments in response to escalating coronavirus (omicron variant) in the community and to revise the settings under which assessments can safely proceed.

CONTEXT

This Protocol directs the conduct of medical assessments from 1 February 2022. It affirms any relevant PHOs and will be updated to adapt to any changes in rules or restrictions.

COVID-19 vaccination, screening for COVID-19 and mask wearing are the key requirements for meeting WHS and PHO duties. This is underpinned by expecting compliance with isolation requirements for people with COVID-19 or close (household) contacts, and that people with COVID-19 symptoms stay home.

This Protocol addresses requirements for Medical Assessors, their staff, workers/claimants, and any other person attending an in-person medical assessment, such as a support person or interpreter approved to attend in person.

Those who cannot meet the Commission's vaccination requirements, cannot participate in an in-person medical assessment until further notice.

PROTOCOL FOR MEDICAL ASSESSMENTS

This Protocol aims to ensure medical assessments are conducted in a manner that minimises, to the extent reasonably practicable, the risk of COVID-19 exposure.

Medical assessments will be conducted by video-conference, on the papers or in combination if the Medical Assessor determines that such an assessment can be satisfactorily conducted and the parties agree.

This will be most likely when the assessment is:

- for a psychiatric or psychological disorder or injury, or
- for other body systems or injuries and the Medical Assessor agrees video-conference, on the papers or a combination is suitable.

When a medical assessment requires an in-person examination it must be conducted to minimise and limit any risk of COVID-19 exposure or transmission.

1. CONDUCTING IN-PERSON MEDICAL ASSESSMENTS

Medical disputes lodged with the Commission will be set down for an in-person assessment if the assessment cannot be conducted by an alternate method. In-person medical assessments will be conducted in accordance with the Protocol.

1.1 Vaccination and negative COVID-19 test requirements

Medical assessors and staff

In-person medical assessments will only be allocated to Medical Assessors who have confirmed with the Commission, that:

- they are fully vaccinated;
- staff at their premises are fully vaccinated;
- the premises has a registered [COVID-19 business safety plan](#) as required by NSW Health, which includes compliance with relevant PHOs, and
- they will adhere to PD PIC 11 and this Protocol.

Medical Assessors must advise the Commission immediately about any change that will affect their eligibility for the allocation of in-person medical assessments.

Workers, claimants, and any approved support persons

The Commission will only refer workers/claimants for in-person medical assessments who can provide:

- evidence that they are fully vaccinated with **at least 2 doses** of a COVID-19 vaccination with the second dose more than 2 weeks prior to the date of the in-person medical assessment
- a negative Rapid Antigen Test (**RAT**) which will be provided **AT** the in-person medical assessment and **MUST** be administered immediately **PRIOR** to the in-person medical assessment.

Workers/claimants **MUST** strictly adhere to any advice provided at the in-person medical assessment by the Medical Assessor or their staff in relation to administering the RAT, advising of the RAT result and/or their COVID-19 business safety plan.

If possible, claimants/workers are encouraged to administer a RAT at home prior to attending the in-person medical assessment. If the claimant/worker test positive with a RAT at home prior to the in-person medical assessment they must not attend the in-person medical assessment.

Workers/claimants are directed that they **MUST** not attend and must cancel any in-person medical assessment if they have any COVID-19 [symptoms](#) or have been directed to isolate for the period that includes the in-person assessment.

Workers/claimants must advise the Commission they are willing to meet these requirements to be able to be referred for in-person medical assessment.

This Protocol will be reviewed in April 2022 which will include reconsidering settings for people who are not vaccinated.

Support Persons

Other persons may only attend an in-person medical assessment in exceptional circumstances, approved by the President or Principal Registrar. A written application can be submitted to the President in line with PD PIC 11.

Workers/claimants who do not wish to participate in a medical assessment due to the coronavirus pandemic must notify the Commission immediately upon receipt of the medical assessment notification. If the medical assessment is not suitable for video-conference or on the papers assessment, the dispute will remain pending.

1.2 Prior to in-person assessments

The Commission does not conduct any pre-assessment screening. The Medical Assessor can contact the worker/claimant before the assessment to conduct their own pre-screening as required by their COVID-19 safety plan, operations of their practice, and in accordance with WHS obligations and PHOs.

The Commission provides standard advice to workers/claimants with the information about the in-person medical assessment that includes:

- the requirement to provide evidence of vaccination status at the in-person medical assessment;
- the requirement of a negative Rapid Antigen Test (RAT) at the in-person medical assessment;
- that a RAT will be provided at the in-person medical assessment and the Medical Assessor will advise the claimant/worker how the RAT will be administered;

- their obligation to immediately contact the Commission and cancel the in-person medical assessment if they:
 - contract COVID-19 and are required to be in isolation on the date of the appointment;
 - become a close household contact and are required to be in isolation on the date of the appointment, or
 - have any COVID-19 [symptoms](#) on the date of the appointment.

Workers/claimants are encouraged to:

- self-administer a RAT at home prior to the in-person medical assessment if they have any doubt about their COVID-19 status, and
- travel to the in-person medical assessment by private vehicle to minimise exposure on public transport.

1.3 Reception screening and RAT

Workers/Claimants must arrive 30 minutes prior to the in-person medical assessment appointment time.

Only the claimant/worker should attend the in-person medical assessment unless a support person has been approved by the Commission.

When the worker/claimant presents for an in-person medical assessment a negative RAT is required.

Administration of the Rapid Antigen Test (RAT)

A RAT will be provided to each claimant/worker and any approved support person at the in-person medical assessment premises.

The Medical Assessor will determine the method of administration of the RAT which may include:

- self-administered testing by the claimant/worker - the Medical Assessor or their staff will provide the RAT and advise the claimant/worker where to perform the RAT and how to advise them of the RAT result, or
- the Medical Assessor or their staff will administer the RAT, will advise the claimant/worker of the testing procedure and advise where to wait for the result.
- informing the worker/claimant what will happen if the result is positive

Positive Rapid Antigen Test Result

If the worker/claimant tests positive with a RAT at the in-person medical assessment:

- the in-person medical assessment will be immediately cancelled;
- the worker/claimant must immediately leave the in-person medical assessment premises;
- the worker/claimant must follow NSW Health advice [Testing positive to COVID-19 and managing COVID-19 safely at home, and](#)
- the claimant/worker must register the positive test on the [Service NSW website](#).

The Medical Assessor and/or their staff will also screen workers/claimants according to the COVID-19 safety plan of the practice. This will include, but is not limited to:

- confirming COVID-19 vaccination status with an accepted document (hard copy or digital);
- temperature check, and
- questionnaire about health status and COVID-19 risk.

The in-person medical assessment will NOT proceed if the worker/claimant:

- does not provide the required evidence of vaccination status;
- does not provide a negative result to the pre in-person medical assessment RAT;
- refuses to engage in the COVID-19 screening;
- does not comply with the Medical Assessor's directions regarding conducting the in-person medical assessment in a COVID-19 safe way;
- presents with a raised temperature (37.5° C or more), and/or
- has or describes other COVID-19 symptoms or risks (as set out by the Department of Health at <https://www.nsw.gov.au/covid-19/symptoms-and-testing>).

The Medical Assessor or their staff member must contact the Commission immediately and cancel the in-person medical assessment if any of these occur.

1.4 Conducting the in-person assessment

Medical Assessors, workers/claimants and any other approved person attending the in-person medical assessment must wear masks for the medical examination, including any time spent in waiting or reception areas. Masks may only be removed **IF** directed by the Medical Assessor.

Medical Assessors must undertake the assessment in accordance with COVID-19 safety precautions and procedures following the advice and directions of the national and state health and government authorities.

Medical Assessors must provide and use all and any personal protective equipment required to ensure the examination is conducted according to required health, safety and infection control standards.

Workers/claimants must comply with any directions from the Medical Assessor that relate to the COVID-19 safe conduct of the examination.

1.5 Interpreters

Interpreters can only participate in medical assessments by video-conference or tele-conference if the President has approved an application submitted under PD PIC 11. In limited and exceptional circumstances an interpreter may be required to attend in person such as when the claimant is a minor, the worker/claimant is hearing impaired, or the nature of the medical assessment requires an interpreter to be present in person.

When an interpreter with approval attends a medical assessment in person, they must:

- provide evidence that they are fully vaccinated with **at least 2 doses** of a COVID-19 vaccination with the second dose more than 2 weeks prior to the date of the in-person medical assessment;
- test negative on a RAT which will be provided **AT** the in-person medical assessment and **MUST** be administered immediately **PRIOR** to the in-person medical assessment, and
- strictly adhere to any advice provided at the in-person medical assessment by the Medical Assessor or their staff in relation to administering the RAT, advising of the RAT result and/or their COVID-19 business safety plan.

If an interpreter fails to comply with these requirements the in-person medical assessment will be cancelled.

1.6 Support person

Support persons should not attend in-person medical assessments unless the President has approved an application submitted under PD PIC 11.

When a support person attends an in-person assessment they must have concurrence of the Medical Assessor and comply with Personal Injury Commission [Procedural Direction 6 \(49-52\)](#). The support person cannot take an active role in the examination.

Any support person attending an in-person assessment is required to:

- provide evidence that they are fully vaccinated with **at least 2 doses** of a COVID-19 vaccination with the second dose more than 2 weeks prior to the date of the in-person medical assessment;
- test negative on a RAT which will be provided **AT** the in-person medical assessment and **MUST** be administered immediately **PRIOR** to the in-person medical assessment, and
- strictly adhere to any advice provided at the in-person medical assessment by the Medical Assessor or their staff in relation to administering the RAT, advising of the RAT result and/or their COVID-19 business safety plan.

If any support person fails to comply with these requirements they may be refused entry and/or the in-person medical assessment may be cancelled.

2. MEDICAL ASSESSMENT BY VIDEO-CONFERENCE

2.1 Requesting a medical assessment by video-conference

Workers/claimants who wish to have their assessment conducted by video-conference due to the coronavirus pandemic must notify the Commission immediately upon receipt of the medical appointment notification.

If the assessment cannot be conducted by videoconference and the worker/claimant does not want to proceed with an in-person assessment, they must notify the Commission and the dispute will be considered pending.

2.2 Allocation of medical disputes for video-conference assessment

Medical disputes will only be referred to Medical Assessors who have advised the Commission that they are available to undertake video-conference assessments and who have appropriate technological resources and the skill to use the technology.

Medical Assessors must contact the Commission to advise of any changes to their availability or ability to conduct assessments by video-conference.

2.3 Medical Assessor discretion to undertake video-conference assessment

If a matter is referred to a Medical Assessor for assessment by video-conference, the Medical Assessor will consider whether video-conference assessment is clinically appropriate. The Medical Assessor must be satisfied that the assessment can be conducted satisfactorily before it can be undertaken.

The Medical Assessor must review the material immediately upon allocation of the dispute to make a preliminary judgment as to whether the assessment can be conducted satisfactorily by

video. If not satisfied, the matter should be returned to the Commission with reasons why the assessment is unable to be undertaken by video-conference.

If, at any time during the assessment by video-conference or at the conclusion of the assessment, the Medical Assessor is not satisfied the assessment could be appropriately undertaken, they must advise the Commission with reasons why the assessment was unable to be completed satisfactorily. If a matter cannot proceed by video-conference, it will be referred for an in-person assessment.

2.4 Preparation for video assessment

2.4.1 Worker/claimant capacity to participate by video

The 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. Capability of the worker/claimant will assist enabling the assessment to be conducted by video-conference.

Self-represented workers/claimants must ensure they are able to participate by video.

Modern mobile phones (smartphones) with high resolution cameras are suitable and easily accessible. The worker/claimant also must have access to a stable internet connection, with adequate bandwidth and speed.

2.4.2 Preparation by worker/claimant

The worker/claimant must undertake the following measures in preparation for a video-conference assessment:

- Be in a quiet room, where the door can be closed. This will ensure that no children, pets or others will interrupt the assessment.
- 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, they 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/claimant.
- 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/claimant should sit in front of the camera and the camera should be situated close to their eyeline, so that the Medical Assessor will be making eye contact.
- The device should be plugged into an AC adapter (power point). Battery operation should be avoided as video-conferencing equipment can quickly deplete batteries. This is particularly relevant in psychiatric interviews, which can extend over 1.5 – 2 hours.
- The worker/claimant should ensure the camera and microphone are switched on and working 24 hours prior to the video consultation.
- Where possible, the worker/claimant should practise video-conferencing with another person beforehand to familiarise themselves with the process.
- The worker/claimant should be appropriately dressed as if going to see the doctor in person and should wear loose-fitting clothing. It is not acceptable to wear pyjamas or unsuitable attire.

2.4.3 Preparation by Medical Assessor

The Medical Assessor and their staff must have adequate training and the skill to use equipment for a video assessment. The cooperation of the worker/claimant is also essential.

Before conducting the video assessment, the Medical Assessor should attend to the following checklist:

- Ensure that the premises used by the Medical Assessor and the worker/claimant are quiet and fit for purpose, including that they are reasonably soundproof and free from outside noise and interruption.
- Ensure the background for the Medical Assessor is plain (e.g. curtain or blank wall).
- Ensure the Medical Assessor and worker/claimant do not have bright lights behind them and do not sit in front of a window, which will affect the clarity of the video image.
- Ensure that the equipment being used by the Medical Assessor and worker/claimant are compatible, and check the equipment proposed to be used by the worker/claimant is adequate to provide clear audio and quality visual images.
- Ensure that there is ready access to resources to manage technological difficulties.
- Establish the identity of the worker/claimant.
- Identify whether any other person is present with the worker/claimant at the time of the assessment.
- Advise the worker/claimant that they are not allowed by law to make a recording of the video assessment.
- Advise the worker that the assessment will not be recorded.
Note: A Medical Assessor should only record a video consultation in exceptional circumstances and only if the worker/claimant consents. Medical Assessors must take steps to ensure the confidentiality and privacy of health information, bearing in mind the possible security breaches that can occur with electronically stored information.

2.5 Security and Systems

2.5.1 For Motor Accidents proceedings

The video assessment will be arranged by Commission staff using Microsoft TEAMS. The Commission staff member will commence the meeting, confirm the Medical Assessor and claimant are present and the technology is suitable, and then will exit the TEAMS meeting to allow the assessment to proceed.

2.5.2 For Workers Compensation proceedings

Medical Assessors must only use platforms which provide data protection using end-to-end encryption to ensure security and privacy of the examination process. The platform used must have an enterprise license or commercial usage (not a free version) as this offers greater security controls and options to reduce the chances of a cyber security issue occurring. It is important to make sure the software being used has been updated to the latest version, as earlier versions might lack security features.

As a minimum, the platform used should support 128-bit encryption to encrypt all meeting data between systems.

Meetings should be password protected and the Medical Assessor should use 'host controls'. Meeting options while scheduling the meeting should also be used to securely moderate an assessment conference, including who participates and screen sharing must be disabled.

A secure and private internet connection will also add to security and is mandatory. This includes using a trusted network for internet access and generally excludes public Wi-Fi or hotspots. **FaceTime** is not recommended for use by Medical Assessors. While it is secure, it is only available for users who have Apple devices.

2.6 Conducting the assessment by video-conference

2.6.1 Attendance by support person

Subject to PD PIC 11, a support person may attend the video-conference assessment examination with the concurrence of the Medical Assessor and in compliance with Personal Injury Commission [Procedural Direction 6 \(49-52\)](#). The support person cannot take an active role in the examination.

2.6.2 Managing interpreters who are not physically present with the worker/ claimant

If an interpreter attends by video-conference or telephone, consecutive interpreting will be used (i.e., the interpreter listens to a segment, may take notes and interprets while the speaker pauses).

Medical Assessors should adapt their assessment to facilitate the interpreter's participation. It is likely that increased time will be needed for interpreting and interpreters must be able to finish interpreting and must not be stopped or interrupted.

2.6.3 Additional requirements for Medical Assessment Certificates

Medical Assessors must state in the Medical Assessment Certificate why the examination could be undertaken by video. The Certificate should also state the platform used to conduct the assessment, where the Medical Assessor was located for the examination and where the worker/claimant was located.

Any technical difficulties experienced during the assessment, such as poor audio or image quality, should also be documented in the Certificate.

If technical difficulties are experienced, the Medical Assessor must address in the Certificate the reasons why, notwithstanding the technical difficulties, the Medical Assessor was satisfied the assessment was able to proceed and be concluded in an appropriate manner.

The time that the Medical Assessor spent in the video assessment should be logged, as commencement time and finishing time, for all attendances.

3. CONDUCTING ASSESSMENT 'ON THE PAPERS'

3.1 On the papers assessments in limited circumstances

A matter may be referred for assessment 'on the papers' in appropriate circumstances.

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

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

An assessment on the papers may be conducted in conjunction with an assessment by video-conference.

Contact the Commission on 1800 742 679 with any concerns or questions regarding the conduct of medical assessments during the coronavirus pandemic.