



## 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 suspended in-person medical assessments on 25 March 2020, except in urgent cases. In-person assessments recommenced on 20 July 2020 on an opt-in basis, that is, workers were required to inform the Commission of their willingness to attend an in-person assessment. If a worker is unwilling during the pandemic to attend an in-person assessment, their medical dispute will remain in a 'medical assessment pending list'.

Despite the recommencement of in-person assessments, the Commission has continued to first list each medical dispute for telephone conference before an Arbitrator, 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.

Given the continued low incidence of community transmission and the positive feedback about the in-person assessment process, the procedure of first listing a medical dispute for telephone conference before an Arbitrator will cease for disputes lodged from 21 September 2020. Instead, medical disputes lodged from 21 September 2020 (where liability is not in issue) will be referred direct to an AMS for in-person assessment, except for psychiatric and psychological disorders (discussed at **3.1 Psychiatric and psychological disorders**).

The Commission continues to monitor the COVID-19 risk profile in NSW and will take appropriate steps as required.

## 2. SCREENING OF MEDICAL DISPUTES

### 2.1 Telephone conference before referral for assessment

Medical disputes lodged with the Commission will no longer first be listed for telephone conference before an Arbitrator.

## 3. REFERRAL FOR VIDEO ASSESSMENT

### 3.1 Psychiatric and psychological disorders

If a dispute involves a psychiatric or psychological disorder, the Commission will arrange for the assessment to be conducted by video unless advised by the worker or legal representative that the worker is unable to participate by video. The inability to participate by video will usually be due to the worker not having access to a smartphone or other adequate device (laptop or desktop computer) or being unable to use the device.

### 3.2 Other body systems

If a matter is for any other body system, the Commission will refer the matter for in-person assessment by an AMS unless either party requests the matter be conducted by video.

### 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 with a view to setting it down for an in-person assessment.

## 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 medical disputes lodged with the Commission from 21 September 2020, which are not appropriate for video assessment, will be set down for an in-person assessment.

Workers who do not wish to participate in the in-person assessment will be required to notify the Commission immediately upon receipt of the medical appointment notification that they do not wish to participate in the in-person assessment due to the current pandemic.

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.

### 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).

The appointment will be rescheduled to an appropriate date if the worker has:

- Symptoms of COVID-19 (as set out by the Department of Health at <https://www.nsw.gov.au/covid-19/symptoms-and-testing>);
- Travelled overseas or travelled to Victoria during the preceding 14 days; or

- Been to a COVID-19 hotspot location in Sydney during the preceding 14 days. Importantly, if a worker advises that they have not been to a hotspot during the relevant period, the Commission will email the worker a link to the Department of Health's list of COVID-19 case locations (<https://www.nsw.gov.au/covid-19/latest-news-and-updates>) with instructions for the worker to review the locations and contact the Commission ASAP if they need to reschedule.

### 6.3 Pre-examination conference

Prior to the physical assessment, the AMS will conduct a telephone or video consultation with the worker to take a history and to address any relevant issues. This is intended to reduce the actual time taken for the in-person assessment. The telephone or video consultation will usually be conducted on the day prior to the physical assessment however, where the AMS has sufficient office accommodation such as a spare room, the pre-examination can be conducted on the same day, immediately before the physical examination at the AMS's premises. If the pre-screening conference is conducted at the AMS's premises, it is expected that the AMS will arrange for cleaning of the office space and equipment between clients.

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.

Note also: If a matter involves an interpreter, the Commission will arrange a three-way conference call between the AMS, worker and interpreter.

### 6.4 Exception to pre-examination conference

A medical assessment may be exempt from the pre-examination conference if it is necessary for the AMS to conduct the full assessment with the worker in-person. This may arise in cases where a worker would have difficulty participating in the pre-examination conference by telephone or video, such as in the case of worker with a traumatic brain injury.

Workers will be notified in advance of the appointment if the in-person assessment is to proceed without the pre-examination conference.

### 6.5 Reception screening

When the worker presents for an assessment, the AMS or their staff member will monitor the worker:

- For symptoms of COVID-19, even mild symptoms (as set out by the Department of Health at <https://www.nsw.gov.au/covid-19/symptoms-and-testing>);
- To determine if, during the preceding 14 days, the worker has travelled overseas or to Victoria or has been in close contact with a person who has travelled overseas or to Victoria.

A close contact requires:

- Face-to-face contact for more than 15 minutes (cumulative over the course of a week) with someone known to have COVID-19, while that person was or may have been infectious, including in the 48 hours before the symptoms started; and/or
- Shared a closed space (e.g. waiting room, classroom) for more than two hours with someone known to have COVID-19, while that person was or may have been infectious, including the 48 hours before their symptoms started;
- To determine if, during the preceding 14 days, the worker has attended a COVID-19 location (as identified at <https://www.nsw.gov.au/covid-19/latest-news-and-updates>). The worker should be asked to review the list of locations and related instructions regarding self-isolation and getting tested. Different hotspots have different requirements.

The staff member will ask the worker the COVID-19 triage questions to determine if they should be assessed.

Any worker who refuses to answer the COVID-19 triage questions or presents with a raised temperature (37.5° C or more) or other COVID-19 symptoms (as set out by the Department of Health at <https://www.nsw.gov.au/covid-19/symptoms-and-testing>) will not be assessed.

### 6.6 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.

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- 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.

### **6.7 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).

### **6.8 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.

### **6.9 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.

### **6.10 Face masks**

The Commission provides all workers attending in-person medical assessments with a protective face mask and hand sanitiser.

The transmission of COVID-19 occurs particularly within closed environments and where prolonged close contact occurs.

The main value of wearing a mask is that it will protect other people, that is, wearing the mask will reduce the chance of passing on the virus to others. While there is currently no requirement to wear a mask, it is an important protective measure for people with increased risk of severe COVID-19 because of older age or chronic illness.

The requirement for a worker to wear a mask during the appointment is at the discretion of the AMS. It is recommended that a worker wears a mask to/from the appointment, and during the appointment where it is practical to do so, subject to the AMS's concurrence.

## **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.