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Accommodation Works !

A user-friendly guide to working together on health issues in the workplace



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Introduction

Workplace accommodation is one of the greatest challenges employers face. Employers, employees, unions, health care providers, and insurers all understand accommodation differently.

The "Accommodation Works!" web-based application helps everyone see the process from the other's perspective. It provides a common language and guidelines to enable everyone to focus, not on the process, but on the person.

Stream 1 - Disabling Health Event

Phase 1 - Notice of Injury, Illness or Reassessment

Step 1 - Accommodation Need Identified

A disabling health event is an incident in which an individual is injured or becomes sick, physically or mentally. This injury or illness affects an employee's health and ability to perform work duties. The injury or illness may result from a single disabling health event or a series of events.

If an employee can no longer perform his or her job duties due to injury, illness or disability, the employee must inform the employer as soon as possible. Both parties are affected. To determine the consequences, the employee and employer should find out:

- if the employee will require treatment; and
- if the injury, illness or disability will have a significant and lasting impact on the employee's capabilities.

A health care provider should assess the employee's health and capabilities.

An injury or illness may be acute or chronic. Acute injuries and illnesses last a short time. Chronic injuries and illnesses last longer—some for life. Lung disease is one example of a chronic illness. Many chronic injuries and illnesses have no cure, but with medication, treatment and support, people can manage their symptoms and continue working.

A physical injury or illness can limit an employee's capabilities to twist, bend, lift heavy items and perform other activities. A mental illness may also affect a person's ability to work. Examples of mental illness include:

- schizophrenia;
- mood disorders;
- personality disorders; and
- eating disorders.

Early detection and intervention reduce the severity, complexity and costs of mental illnesses.

Links

[Fit to Work \(Canadian Centre for Occupational Health and Safety\)](#)

This website explains what fit to work means, how the assessment is done, and why an employer can request this assessment.

[Mental Health/Mental Illness \(Health Canada\)](#)

This website provides information on mental illness including types, causes, symptoms, treatment and minimizing risk.

Santé et Services sociaux Québec – [Mental Health in the Workplace](#)

This site contains information on mental illnesses and more precisely on mental health at work

Labour Program – [If you have an accident – What to do and how to do it](#)

This website explains to federal employees what they should do if they are injured at work.

Step 2 - Notify the employer of the illness, reassessment or disability

If the employee has an injury or sickness that limits his or her ability to work, the employee must tell the employer. This responsibility belongs to new hires and established employees alike.

An injury or illness is either occupational or non-occupational.

A non-occupational injury or illness occurs or originates outside the workplace. An occupational injury or illness occurs or originates at the workplace. Provincial and territorial workers' compensation boards provide benefits to people who have occupational injuries and illnesses.

An injured or ill employee may submit a claim to the applicable workers' compensation board for benefits. The board reviews the information to determine if the worker is entitled to benefits. If the board accepts the claim, benefits are paid to the employee.

An employee who has been injured in the workplace should tell the employer as soon as possible. The employee may be entitled to take a leave of absence. The employee should talk to the employer or insurance provider for information about this accommodation. If the employer requests the employee provide a written medical certificate, the employee should do so.

The employer must meet a number of obligations to support injured and ill employees. Responsibilities include:

- providing the employee with information about return-to-work assistance;
- obtaining information related to the employee's ability to work, such as the employee's medical status and functional capabilities;
- investigating bona fide occupational requirements; and
- working with the employee on decisions and next steps.

Links

[Personal Emergency Leave \(Ontario Ministry of Labour\)](#)

For Ontarians, this website describes durations, communication requirements and other aspects of leaves of absence.

[Sick Leave and Work-Related Illness and Injury Leave](#)

Pamphlet 7 – Labour Standards (Government of Canada)

This website discusses sick-leave provisions, entitlements, duration and other aspects under the Canada Labour Code.

[EMPLOYMENT STANDARDS](#)

[LEAVES OF ABSENCE](#)

Pregnancy, Parental, Personal Emergency, Family Medical & Reservist (Government of Ontario)

This document describes the types of leaves of absence that Ontarians are allowed to take under provincial legislation.

[Injured at Work? The Office of the Worker Adviser \(OWA\)](#)

For non-unionized employees in Ontario, this independent agency provides advice and assistance regarding workplace insurance matters.

[Association of Workers' Compensation Boards of Canada](#)

Contact workers' compensation boards and insurance boards in every province and territory across the country.

Sample forms and templates

[WORKER'S REPORT of Injury or Occupational Disease C060 \(Workers' Compensation Board – Alberta\)](#)

This is the form employees would fill out and give to the compensation board, so the board can assess the employee's claim and compensate the worker if warranted.

Step 3 - Notify employee representative of the illness, reassessment or disability as required

Employers must provide information to employees about accommodation and return-to-work assistance.

If an employee is injured or ill, he or she has certain responsibilities to the employer, such as:

- advising of a workplace injury or illness as soon as possible;
- providing information about medical status and functional ability; and
- participating in meetings to identify potential accommodations.

An employer may request an injured or disabled employee take part in a fitness-to-work evaluation before returning to work. This evaluation involves the employee, employer, insurance boards, employee representatives and health care providers.

Employee representatives want employees to report problems promptly—not only information about injuries, but also details regarding near misses and close calls. Representatives expect workplaces to investigate such incidents to prevent them from happening again. Representatives also expect workplace health and safety committees to be involved in those investigations. Section 135 (7)(e) of the Canada Labour Code enshrines committees’ rights to participate in workplace health and safety investigations.

Employee representatives should support injured and ill employees by:

- helping employees fill out forms;
- assisting employees to attend return-to-work meetings;
- providing advice about accommodations and work arrangements; and
- identifying conflicts with collective agreements and contracts.

Links

[Information for Employees](#)

[Benefits of using the Employee Assistance Program \(Health Canada\)](#)

For federal public servants across Canada, this website provides information and tools regarding the federal government Employee Assistance Program (EAP).

[WHAT IS FITNESS TO WORK EVALUATIONS \(The Professional Institute of the Public Service of Canada\)](#)

This article explains fitness-to-work evaluations: when they are used and how they are conducted.

Fitness to Work Evaluations

[Beware of Medical Consent Forms \(The Professional Institute of the Public Service of Canada\)](#)

This web page describes privacy concerns regarding fitness-to-work evaluations and medical consent forms, and how to address potential problems.

[Health & Safety \(Public Service Alliance of Canada\)](#)

This page leads to various topics relating to occupational health and safety regulations, workplace accident investigations and other topics regarding the safety and rights of PSAC members.

Phase 2 - Assess Employee & Workplace Needs

Step 1 - Assess Employee

The employer should consider not only the employee's medical condition or disability, but also the worker's emotions, beliefs and values. Even a minor injury or illness can affect an employee's mental state. He or she may have difficulty coping.

To determine the employee's capacity to work, the employer should assess information such as:

- the employee's functional abilities and medical status;
- the job description and job tasks;
- whether the employee can perform job tasks given his or her limitations, considering the position's physical and mental requirements and environmental conditions;
- job standards or legal requirements such as licenses;
- the employee's perspective on which duties are beyond his or her functional ability;
- non-medical issues that may prevent the employee from working, such as transportation or labour relations; and
- return-to-work aids including assistive devices, ergonomic assessments and help from an employee assistance program.

The employer must have reasonable grounds to request a medical certificate, which provides the results of a health care provider's examination of the employee. The employer needs the employee's written consent before requesting the certificate. This document can help the employer determine if the employee can perform the duties of his or her job with or without accommodation.

An employer may require an injured or ill employee to have a health care provider submit a fitness-to-work certificate. The certificate should indicate:

- the date of the examination;
- the injury or illness;
- the employee's capabilities;
- if the employee is fit to work with or without accommodation; and
- accommodation options.

The employer should give health care providers as much information as possible, so the medical specialists can offer practical advice that, in turn, helps the employer support sick and injured employees.

Be aware that a workplace rule or the collective agreement may prevent employers from requesting fitness-to-work certificates for short-term illnesses.

Employees should be aware that all parties must keep medical assessment information confidential.

In some cases, employers wish to submit employees to drug and alcohol tests. Under the Canadian Human Rights Act, such testing is considered discriminatory unless the employer can prove a bona fide justification.

Once the employer has evaluated the employee's abilities, the employer should assess the workplace.

Links

[MEDICAL CERTIFICATES \(Illnessandabsenteeism.com\)](#)

Read Chapter 7 of this manual on illness and absenteeism. It explains medical certificates: the employer's rights, obligations and actions.

[Handling Disability Management Cases – Medical Assessment \(Treasury Board Secretariat\)](#)

This web page provides information to help federal government directors manage employee medical assessments.

[Fit to Work \(Canadian Centre for Occupational Health and Safety\)](#)

This web page defines "fit to work" and explains fit-to-work assessments.

[HEALTH CANADA ASSESSMENTS – FITNESS TO WORK EVALUATIONS \(Union of Taxation Employees\)](#)

This web page explains fitness-to-work evaluations, including the health care provider's role and the reasons an employer may request an evaluation.

[Ethics in Occupational Medicine \(University of Alberta\)](#)

Learn about the health care provider's role in occupational health, including responsibilities to store and disclose medical information.

[Occupational Medicine Specialists of Canada \(OMSOC\)](#)

Learn about what occupational medicine physicians do, and how they help organizations to serve their employees better and to ensure a healthy workplace.

[Accommodation at Work: Assuring the continued employment of New Brunswickers after a permitted leave or a workplace accident](#)

This guide helps stakeholders understand their rights and obligations relating to the Return-to-Work and the Duty to Accommodate.

[Office of the Privacy Commissioner of Canada](#)

Learn about this federal government organization's mandate, such as advocating Canadian's privacy rights, investigating privacy complaints and reporting problems with management of personal information.

[The Disabilities of the Arm, Shoulder and Hand \(DASH\) Outcome Measure](#)

This questionnaire helps health care providers assess the physical capabilities of patients with musculoskeletal disorders of the upper limb.

Sample forms and templates

[Fitness for Work Form \(Workers' Compensation Board – Alberta\)](#)

This is a sample of the fitness-to-work form that a health care provider would fill out.

Step 2 - Assess the Workplace

Employers must meet occupational health and safety standards set out in provincial and federal government legislation and regulations.

An employer is legally obligated to provide a safe and healthy workplace. Accommodations for injured and ill employees help employers meet that requirement. But accommodations may also affect health and safety for other workers. For instance, a modified job for an injured employee may mean a heavier workload for another employee.

Employers that have the resources to do so should conduct a workplace health and safety assessment. Involve employees and employee representatives in the evaluation. Some of the best return-to-work accommodations and ergonomic solutions come from staff members.

When an employee requires accommodation, the employer, employee representatives and others will need to answer a number of questions, such as:

- Will an accommodation or change in tasks affect the safety of the employee, co-workers or the public?
- Does the employee have any safety or accessibility issues to discuss with employee representatives?
- Will the employee be able to meet operational requirements?
- During the employee's absence, will the employer have to bring in another employee to perform work?
- How much money and time will the employer have to spend to hire and train a replacement employee?
- How will the injured or ill employee's absence affect other employees? Think about workloads, productivity and work quality.
- How much money will the employer have to spend to refit the workplace so the employee can return to work?
- Does the absence or accommodation result in undue hardship?
- Does the absence or accommodation conflict with collective agreements, human resources policies or other contracts, policies or procedures?

Assessments take time to plan and carry out. If the employer lacks the resources to conduct the evaluation, the employer may contact an insurance board, a workers' compensation board, or an occupational health and safety services provider to do the inspection.

Insurance boards and workers' compensation boards play an important part in the return-to-work process. Their responsibilities may include:

- making entitlement decisions and enforcing applicable legislation for occupational illnesses and injury, and;
- making entitlement decisions based on benefits policies and contract provisions.

Links

[Safety at Work \(WorkSafeBC\)](#)

For employers and employees in B.C., this website provides industry-specific safety news, updates and resources.

[Rights and Responsibilities \(WorkSafeBC\)](#)

This section of B.C.'s occupational health regulations discusses workplace health and safety programs, inspections and other topics of interest for employers, employees and employee representatives in the province.

[Environmental Health Assessment \(Health Canada\)](#)

Learn how Health Canada's role in environmental assessments helps minimize the health effects of mining, highway and other development projects.

[Occupational Health and Safety \(Health Canada\)](#)

This website explains how Health Canada helps employers maintain safe workplaces through efforts such as emergency management, hazardous substance control and fitness-to-work evaluations.

[Public Online Services for Employers \(Workers' Compensation Board – Alberta\)](#)

This website provides information about workers' compensation premiums and managing worker injuries.

[Association of Workers' Compensation Boards of Canada](#)

Contact workers' compensation boards and insurance boards in every province and territory across the country.

[Employer Rights and Obligations in Connection with Employee Personal Medical Information \(Canadian Law Privacy Review, November 2010\)](#)

This article discusses legal issues for employers requesting employee medical information, including privacy, human rights and workplace safety.

[Obtaining and responding to medical information in the workplace \(Alberta Human Rights Commission\)](#)

This web page for employers and employees discusses disabilities, medical information, and reasonable accommodation.

Step 3 - Information Exchange

In order for the return-to-work and accommodation process to succeed, the employer and employee must share information.

The employer may request access to the employee's medical information. These details enable the employer to develop a reasonable accommodation for the employee's return to work. The employer should obtain written consent from the employee before requesting a medical certificate. The employer must keep the employee's medical information confidential. In most cases, the employer only needs to know about the employee's functional abilities to explore return-to-work and accommodation options.

The employer, employee and others should meet to share information. Meetings are an opportunity to obtain perspectives on return-to-work and accommodation issues and solutions. A meeting may include a manager or supervisor, a human resources representative and employee representatives.

Information these parties should share include the employee's functional abilities, and aspects of collective agreements, contracts and employment provisions that could affect return-to-work options.

The employer should have standard consent-to-release forms that are easy for employees to understand and simple for health care providers to complete. The employer may have to enforce time limits on employees, health care providers and others to keep the process moving along.

Best practice: All parties are responsible for providing relevant information and demonstrating due diligence in their attempts to get the employee back to work.

Links

[What to Do When an Employee Reports or Exhibits Mental Health Problems: Medical Information and Accommodation \(Roper Greyell LLP\)](#)

This insight paper addresses challenges for employers managing mentally ill employees. It discusses privacy, medical evaluations and undue hardship.

Step 4 - Meeting Re: Impact on Ability to Work

The employer, the employee and employee representative will meet to discuss the impact the disabling event has on the employee's ability to work.

Parties involved in the meeting may address numerous questions, such as:

- How will the injury or illness affect the employee's abilities when he or she returns to work?
- How will the injury or illness affect the employer and other employees?
- Can other workers take on the employee's work during his or her absence?
- Will productivity levels change?
- Will accommodating the employee cause the employer undue hardship? Undue hardship means accommodation is impossible without causing serious negative safety, health or cost effects for the employer.

The employer may know the answers, but all parties should have this information so they can work together to provide reasonable accommodation.

Best practice: All parties—especially the employee—should remember that accommodation is about needs, not wants.

Links

[Duty to Accommodate \(Canadian Human Rights Commission\)](#)

At this web page, employers learn the meanings of duty to accommodate and undue hardship under the Canadian Human Rights Act.

Step 5 - Meeting Re: Workplace Safety and Accessibility

For employees returning to work, a key concern is having a safe and accessible workplace.

Before getting involved in accommodation or return-to-work planning, the employee may want to talk about safety and accessibility concerns. The employee should meet with the employer and employee representatives to discuss these matters.

How much does accommodation cost an employer? Certainly less than the cost of future injuries and illnesses at the workplace. All parties should work together to protect employees from further injury or illness. Everyone should stay involved in the accommodation and return-to-work process until all issues have been addressed.

Links

[Safety Inspections Reference Guide and Workbook \(WorkSafeBC\)](#)

This workbook includes the requirements for inspection and monitoring programs.

[How to Make Your Computer Workstation Fit You \(WorkSafeBC\)](#)

This guide provides information on chair adjustment, office layout and other ergonomic matters.

[Mental Health at Work \(Canadian Centre for Occupational Health and Safety\)](#)

Learn why employers should be concerned about mental health, how to support mental health, and how to establish a comprehensive workplace health and safety program.

[Health Promotion / Wellness / Psychosocial \(Canadian Centre for Occupational Health and Safety\)](#)

This site links to information about stress, violence, bullying and mental health.

[Depression & Work Function:](#)

[BRIDGING THE GAP BETWEEN MENTAL HEALTH CARE & THE WORKPLACE \(Centre for Applied Research in Mental Health and Addiction\)](#)

This publication examines causes of depression, treatment options and how depression affects employers and employees.

[Occupational Health Evaluation Standard \(Treasury Board of Canada Secretariat\)](#)

For federal public service workers, this website discusses evaluation, monitoring and other aspects of the standard, which helps prevent workplace illness and injury.

[Tools and Toolkits for Employers \(Canadian Centre for Occupational Health and Safety\)](#)

Access publications and links for developing, maintaining and evaluating healthy workplaces.

Frequently Asked Questions About [Physical Activity in the Workplace](#) (The Canadian Council for Health and Active Living at Work)

Why is physical activity important? How much is enough? How can people increase physical activity at work? Find answers to these and other questions at this website.

[Environmental and Workplace Health](#) (Health Canada)

Access links and information regarding workplace environmental issues including radiation, water quality and contaminants.

[PSYCHOLOGICAL HEALTH & SAFETY](#)

[AN ACTION GUIDE FOR EMPLOYERS](#) (Mental Health Commission of Canada)

This guide helps organizations promote workplace psychological health and safety, which benefits employee morale, work-life quality and productivity.

Step 6 - Assess Impact of Leave on All Parties

When an employee is injured or falls ill, he or she may be entitled to a leave of absence. The employee, employer and others will need to consider how that leave—whether short-term or long-term—may affect the organization.

The parties will have to consider many questions, such as:

- Will operational requirements be met?
- Will the employer need to hire a temporary employee to do the work?
- How much money and time will the employer have to spend on hiring and training a new employee?
- How will the absence affect other employees?
- How much money will the employer have to spend to refit the workplace so the injured or ill worker can return?
- Does the employer have employees who administer leaves of absence and returns to work?
- Will the employee's absence result in undue hardship for the employer?

In general, the employer must hold the employee's job during the leave, unless the employer can prove that doing so is an undue hardship. Under Canada's human rights laws, an employer can neither fire an injured, ill or disabled employee, nor fail to provide accommodation.

Links

[Claims Process Map Diagram for Illness/Injuries Requiring Absence From Work](#) (Treasury Board Secretariat of Canada)

This web page provides information to help federal public service directors manage employees' work-related and non-work-related injury and illness reports.

[Bona Fide Occupational Requirements and Bona Fide Justifications](#) under the Canadian Human Rights Act – The Implications of Meiorin and Grismer (Canadian Human Rights Commission)

This guide reviews two important court cases (Meiorin and Grismer) and their implications for bona fide requirement defences.

Sample forms and templates

[Long Term Disability Claim Package – Employer](#) (SunLife Financial)

This is the claim form that an employer insured by SunLife would fill out to help an employee apply for long-term disability benefits.

[Short-Term Disability](#)

Plan Member Package (SunLife Financial)

This is the claim guide and forms that an employer insured by SunLife would use to help a sick or injured employee apply for short-term disability benefits.

Phase 3 - Decision on Work Status

Step 1 - Make a decision re: Continuation, adjustment, or departure from work

Once the employer and the employee have collected and exchanged enough information, they can make informed decisions about the return-to-work process together.

All parties will contribute to the decision of whether an injured, ill or disabled employee can return to work. Everyone will decide whether an accommodation or return-to-work plan would help. The decision should be based on the employee's functional abilities and reasonable accommodations that do not cause undue hardship.

In some cases, the employee's medical condition or disability may keep the employee from returning to work. In other cases, the employee may have temporary restrictions and the employer could implement a return-to-work program. The employer may offer support and counseling instead of accommodation and a leave of absence.

Accommodation and return-to-work plans should include time frame so the accommodation is ready when the employee returns.

See Accommodation and Return to Work Streams for more information.

Links

Handling Disability Management Cases – [Employee Is Unable to Return to Work: Options](#) (Treasury Board Secretariat of Canada)

For managers in the federal public service, this site describes steps to undertake when an employee cannot return to work.

Guide for Assessing Persons with Disabilities

[How to determine and implement assessment accommodations](#) (Public Service Commission of Canada)

Learn about the laws, roles and implementation options for workplace accommodations.

[Fit For Work?](#)

[Musculoskeletal Disorders and the Canadian Labour Market](#) (The Conference Board of Canada)

Access information about musculoskeletal disorders and recommendations to help employers manage injuries.

[Long Term Disability](#)

[Participant's Manual](#) (Reach Canada)

Learn about the duty to accommodate and disability benefits for ill and injured employees.

**[Able-Minded
Return To Work and](#)**

[Accommodations for Workers on Disability Leave for Mental Disorders](#) (Human Solutions)

This report discusses mental health promotion, treatment and workplace accommodation.

[Preparing for and Responding to Threatening / Stressful Events: A Self-Help Guide for Employees](#)
(Health Canada)

This website discusses support, coping systems and other helpful resources for workers involved in stressful events.

Sample forms and templates

[Long Term Disability Package and Forms](#) (SunLife Financial)

This package includes information and forms that employees insured by SunLife would fill out when applying for long-term disability benefits.

Stream 2 - Workplace Accommodation

Phase 1 - Is Accommodation Needed?

Canada's Employment Equity Act enshrines in law a commitment to equality in the workplace. This law means employers cannot deny anyone an employment opportunity or benefits for reasons unrelated to ability.

Sometimes the rules and policies an organization uses to run its businesses unknowingly exclude a person or group from employment. Organizations should take proactive measures to remove these systemic barriers before requests for accommodation occur.

Step 1 - Determine Current Functional Abilities

To determine an employee's capabilities and limitations, conduct a functional abilities assessment. Completed by a health care provider, this evaluation is a written assessment of an individual's mental and/or physical abilities. It helps the employer determine which duties the employee can perform. Specifically, the assessment indicates:

- restrictions that may prevent an employee from performing his or her job duties;
- whether the restrictions are permanent or temporary;
- the degree to which the individual's limitations will decrease;
- the time needed for improvements to take place; and
- any existing impairments and barriers preventing an employee from using equipment.

To conduct a thorough functional abilities assessment, the health care provider needs the employer to provide as much detail as possible about the job's requirements. The employer can fill out a physical demand form and give it to the health care provider.

Specifically for the federal government and its Disability Management Program, the terms "functional capacity" and "functional limitations" refer to functional abilities, according to the Treasury Board Secretariat's definitions, which are available here: <http://www.tbs-sct.gc.ca/hrh/dmi-igi/wds-mst/disability-incapacite10-eng.asp>.

Links

[Completing the Functional Abilities Form](#) (Workplace Safety & Insurance Board of Ontario)

This guide explains the purpose of the functional abilities form. The guide also helps employers, employees and health care providers through their respective sections.

Functional Abilities Form [For Planning Early and Safe Return to work](#) (Workplace Safety & Insurance Board of Ontario)

This fact sheet answers frequently asked questions about the functional abilities form.

The Disabilities of the Arm, [Shoulder and Hand \(DASH\) Outcome Measure](#)

This questionnaire helps health care providers assess the physical capabilities of patients with musculoskeletal disorders of the upper limb.

Sample forms and templates

[Functional Abilities Form](#) (Workplace Safety & Insurance Board of Ontario)

This is the form that an Ontario health care provider would complete with information about an ill or injured employee's functional abilities.

[Functional Abilities Form](#) (Treasury Board Secretariate of Canada)

Example of a functional abilities form to obtain medical that a health care practitioner can use.

Step 2 - Clarify functional needs of essential duties

The employer should conduct a functional needs analysis to support a request for accommodation. The employer may conduct this evaluation before receiving a request if the employer sees that an employee might have a condition that limits his or her ability to perform tasks.

A functional needs analysis describes a position in detail, including requirements related to:

- safety;
- certification;
- hours of work;
- the skills needed;
- the equipment used to perform the work; and
- the work environment, such as the premises and their accessibility.

To clarify the functional needs of a position, the employer should identify the:

- job title;
- pay rate;
- location;
- classification;
- department or division; and
- the position's reporting structure.

This analysis will help the employer identify any bona fide occupational requirements and develop potential accommodation scenarios.

During the evaluation, the employer should try to answer some practical questions:

- How does the position fit within the organization?
- Why does the position exist?
- What are the expected results from the position?

Both labour and management can provide useful perspectives on work processes, the work environment and barriers that decrease the likelihood of a person returning to work. Gather input from many sources, including:

- a human resources representative;
- the direct supervisor;
- the employee representatives; and
- current and past employees who held the position.

Give the functional needs analysis to the health care provider at the time of the functional abilities analysis. The needs assessment helps the health care provider understand the workplace context and requirements.

Links

[Bona Fide Occupational Requirements and Bona Fide Justifications](#) under the Canadian Human Rights Act – The Implications of Meiorin and Grismer (Canadian Human Rights Commission)

This guide reviews two important court cases (Meiorin and Grismer) and their implications for bona fide requirement defences.

Step 3 - Compare and rationalize functional needs vs. abilities

When an employee is unable to perform work-related tasks, the employer may have to accommodate. If the employee cannot perform the essential duties—or the bona fide occupational requirements (BFORs)—of the position, the employer may not have to accommodate. BFORs are tasks that must be performed in a position. They are the reason the position exists. Follow the assessment process to find out if accommodation is required or is not feasible due to BFORs.

When a specific accommodation request is made, the employer compares the functional abilities of the employee with the functional needs of the position. The employer and employee will review the employee's limitations and find possible accommodation options that would enable the employee to do the job.

The employer and the employee should share information with employee representatives. Through discussions, all parties can agree on alternatives that are suitable for both the employer and the employee, and decide which aspects of the work should be modified.

The employer may insist that specific tasks are bona fide occupational requirements (BFORs)—practices essential to the position. Without them, the position is useless. The following three criteria should be used to decide if the BFOR definition applies:

1. The employer has established a rational connection between the practice and the job.
2. The practice was established in good faith.
3. The employer has established that the modification required by the employee would cause undue hardship. Undue hardship means accommodation is impossible without causing serious negative safety, health or cost effects for the employer.

BFORs may seem daunting, but if the employer discusses the situation with the employee and employee representatives, together they may find a solution that satisfies all parties.

Links

[Duty to Accommodate](#) (Canadian Human Rights Commission)

This web page outlines employer obligations to accommodate to the point of undue hardship.

Step 4 - Identify Immediate Health Needs

An employer, insurance board or workers' compensation board may require a medical or a functional abilities assessment when an employee requests accommodation. The employer needs medical information to determine the validity of an employee's absence and eligibility for leave benefits. The medical information will also help the employer think of potential accommodation options and ensure that the employee is able to return to work.

Medical and functional abilities assessments should be done by qualified health care providers who treat the type of medical condition in question. An insurance or workers' compensation board may also have one of its own qualified medical experts complete an assessment.

The goal of the medical assessment is to identify what the employee can and cannot do given the nature and extent of the employee's condition.

The health care provider's role includes:

- identifying the functional abilities of the employee;
- recommending work restrictions;
- providing risk-management strategies; and
- specifying other measures such as the need for specialized equipment.

If the employer offers the employee a new or modified job, the employer should give the health care provider a written description of the position's duties. This description enables the health care provider to offer the employer useful information.

The employee should fully participate in the assessment by attending the scheduled appointment and providing the necessary information. The employee should also follow the health care provider's advice relating to abilities and restrictions, using assistive devices, and steps to follow for recovery.

Employee representatives should be aware of the medical needs of the employee and the measures taken to address them. With this information, the representatives can consider potential issues with the collective agreement and give expert advice.

Links

[Third-party Forms: The Physician's Role \(Canadian Medical Association\)](#)

This document provides guidance on third-party forms subject to provincial, territorial and federal legislation and regulations. It also outlines strategies to reduce administration time.

[Occupational and Environmental Medical Association of Canada](#)

This association of physicians has a specific interest in occupational and environmental medicine. The website provides news and breakthroughs in that area.

Step 5 - Clarify Contractual Rights and Duties

Upon hiring, the employer and the employee enter into a work contract that includes the essential duties of employment, specified dates and the terms of any applicable collective agreement. Essential duties are those that are necessary for the position. If the employee cannot perform the essential duties of a job following a disabling health event, the employer should review the contract to verify the organization's obligations toward the employee. Regardless of the contract, the employer has a responsibility to identify the employee's needs such as medical leave and benefits.

The process of identifying appropriate employee benefits varies depending on whether the employee became ill or injured as a result of work (an occupational illness or injury), or whether the employee got sick or hurt from something other than work (a non-occupational illness or injury). For non-occupational illnesses and injuries, the employer should look at the applicable insurance plan to verify the terms for eligibility of financial benefits. For occupational illnesses and injuries, the employer will communicate and work with representatives from workers' compensation boards to follow their processes.

The applicable collective agreement and disability plans may stipulate requirements relating to medical evaluations and benefits eligibility. The employer, employee and employee representatives should know about these contractual provisions to avoid misunderstandings or complaints.

Links

[Policy and guidelines on disability and the duty to accommodate \(Ontario Human Rights Commission\)](#)

For Ontario employers, this document provides policies and guidelines on the duty to accommodate disabilities.

[Guideline on Accommodating Physical and Mental Disability at Work \(New Brunswick Human Rights Commission\)](#)

For New Brunswick employers, employees and health care providers, this document defines disabilities, the duty to accommodate and obligations for everyone concerned. It includes sample medical forms and physician guidelines.

[Accommodation at Work: Assuring the continued employment of New Brunswickers after a permitted leave or a workplace accident](#)

This guide explains obligations regarding the right to return to work, particularly with respect to the duty to accommodate disabilities in the workplace.

[Duty to Accommodate \(Alberta Human Rights Commission\)](#)

For employers in Alberta, this publication discusses Alberta Human Rights Commission policies and guidelines. It also interprets certain sections of the Alberta Human Rights Act and relevant case law.

Phase 2 - Generate Accommodation and Options Plan

Step 1 - Generate and Assess Creative Accommodation Options

When the need for accommodation arises, the employee should inform the employer of his or her requirements. The employee can do this during his or her absence, or when he or she is ready to return to work.

The key to accommodation is individualization. There is no set formula. Each person may have unique needs. Accommodation involves customizing work to meet the specific needs of an individual, considering the organization, the work environment, and the worker's physical and psychological condition.

Think proactively about accommodation. Consider all employees who have conditions that limit their abilities to perform tasks—not only employees who wish to return to work following injuries, but also employees still on the job. Click on the link to see a [proactive health strategy example](#).

Depending on the accommodation needed, the employer will assess and propose various options. These possible solutions can consist of one or many changes: training, a new schedule, a temporary transfer of duties, or specialized equipment, for example.

All parties have roles to play. The employer will discuss options with the employee, health care providers and employee representatives to get information and input. Workers' compensation and insurance boards can help, too. They may have work-reintegration programs, rehabilitation specialists who can give expert advice, and other useful resources.

Employee representatives should help find alternatives and not block accommodation. The collective agreement should not be used as a reason to disregard an accommodation option. However, the accommodation of one employee should not unnecessarily strain other employees.

Recognize the difference between what the employee wants and what he or she needs. The employee should accept reasonable accommodation and not expect perfect accommodation. Accommodation is reasonable if:

- it meets the individual's disability-related needs;
- it enables the employee to perform work duties adequately; and
- the employee enjoys the same benefits and privileges as before and experienced by others.

Links

[Handling Disability Management Cases – Accommodation](#) (Treasury Board of Canada Secretariat)

For federal government managers, this website describes the steps involved in successful accommodation plans.

[The Fundamentals – Return-to-Work Plan](#) (Treasury Board of Canada Secretariat)

This website outlines the return-to-work component of the federal public service’s Disability Management Program.

[Supportive Employment Planning For Province of Manitoba Employees](#) (Government of Manitoba)

This document helps managers, supervisors and employees of the Government of Manitoba understand roles, obligations and procedures for successful accommodations.

[Employers' Guide: Employees](#) (Mid-Atlantic ADA Center)

This website provides information about accommodation policies, how to recognize and handle accommodation requests, and how to determine effective and reasonable accommodations.

Accommodations That Work ([Workplace Strategies for Mental Health](#) – Great West Life Assurance Company)

This web page discusses accommodations specifically for mental health.

[A Manager’s Guide](#)

[to Reasonable Accommodation](#) (Public Service Agency of the Province of British Columbia)

For B.C. employers and employees, this guide explains accommodation, discusses key concepts and outlines the process.

[Federal Disability Reference Guide](#) (Employment and Social Development Canada)

For federal institutions, this tool identifies, clarifies and promotes policies to address disability issues.

[The Institut de recherche Robert-Sauvé en santé et en sécurité du travail \(IRSST\)](#)

The Notion of Ethnocultural Belonging in Rehabilitation Research and Intervention

Step 2 - Assess Medical Impact

The health care provider (HCP) plays an important role in the accommodation or return-to-work process. After the employer has identified accommodation options, the employer can ask the HCP to review the options and advise on their feasibility.

Using the functional abilities analysis, the HCP will recommend how each option can benefit or affect the employee. The HCP will advise if any modifications relating to the plan are necessary or if any of those changes might risk the employee's health.

When evaluating how accommodation affects the employee's health, the HCP can also advise on when the employer should reassess each accommodation option.

Consider how the accommodation could affect the health and safety of other employees. Use advice from health care providers to assess each accommodation option.

Step 3 - Assess Workplace Impact

Accommodation can help an organization retain employees and attract new hires with needed skills. Accommodation supports the organization's positive public image.

Accommodation also affects employees. It may change their duties, schedules and the people with whom they work. The employer and employee representatives should tell employees about any changes that will affect them while ensuring the privacy of the employee who needs the accommodation.

Inform employees about the accommodation policy and how it meets the obligations of the Canadian Human Rights Act and the Employment Equity Act. With this information, employees will understand the need for accommodation and may react less negatively when coworkers make accommodation requests.

Step 4 - Assess Contractual Impact

For each accommodation option, the employer and employee representatives must assess the impact on contractual rights and duties. These entitlements and commitments involve the employer's obligations to the employee, the employee's obligations to the employer, and how those obligations are met, such as through a collective agreement.

The employer should also assess the impact on other terms of employment such as the hours of work and the benefits or premiums paid. For example, if the employee is temporarily absent from work and receiving health benefits from an insurance company or insurance board, those benefits will affect the salary that the employer must pay. An absence from work may also affect the number of sick-leave days or hours that the worker is entitled to. If the accommodation plan includes a reduction or a modification of work hours that will affect the terms of the employee's contract, and it may also affect the work hours of other employees.

Before any decision is made about modifying the terms of the employment contract, the employer has four responsibilities:

1. Gather as much information as possible about the employee's condition and expected time for recovery.
2. Test the abilities of the person.
3. Take steps to accommodate the employee.
4. Examine the accommodation to ensure it does not cause undue hardship; the employer must prove undue hardship before terminating an employment contract.

The employer and employee representatives will also assess the impact on performance standards or productivity targets set by the employer or through collective bargaining. If an accommodation significantly affects productivity, the accommodation may not be the best option. The employer and employee representatives must balance the need to accommodate employees and the employer's right to conduct business in a cost-effective manner.

Some accommodation options will require employee representatives to agree to modify or waive provisions in the collective agreement. The impact on other terms of employment such as hours of work and benefits should also be examined. The employee representatives will tell the employer if the collective agreement hinders the proposed accommodation. But the representatives cannot prohibit a reasonable accommodation, even if it contravenes that agreement.

The employee should consider the impact of accommodation on his or her work contract. For example, refusing an accommodation option approved by a health care provider could affect the health benefits the employee receives. If the employee refuses several reasonable alternatives, the worker could lose permanent status, or lose his or her job.

Links

[Guide to your rights and responsibilities under the Human Rights Code \(Ontario Human Rights Commission\)](#)

This guide explains Ontario employees' rights and obligations.

Step 5 - Finalize Accommodation Plan

The employer develops a detailed accommodation plan and provides it in writing to the employee. The plan consists of the best option that will not cause undue hardship, yet allows the employee to continue working with the same advantages and benefits as before the illness or injury. The plan may include steps to be implemented and information about how the employer and employee might change the plan over time.

Despite best efforts, the employee may not be satisfied with the accommodation plan. The employer should have an appeal process that enables all parties to discuss and develop accommodation that meets everyone's needs. The appeal process should be clearly stated in the accommodation policy.

The employer may avoid employee dissatisfaction by involving the worker in accommodation planning. Throughout that process, the employer must respect the employee's privacy and should not disclose medical information to other parties without the employee's consent.

All parties involved should be aware of the final accommodation plan. The plan describes the chosen option with information including:

- job title;
- location;
- schedule;
- supervisor;
- rate of pay;
- date of return; and
- job description.

The employer may implement the accommodation for a trial period and modify the plan if necessary.

Phase 3 - Implement Accommodation and Monitor Progress

Step 1 - Carry Out Accommodation (including the working team)

The employer proceeds with the accommodation by implementing the necessary changes. The employer agrees with the employee on a date to begin accommodation and informs other employees who may be affected before the changes begin.

If specialized equipment is needed, the employer and employee will select, purchase and install the equipment by the accommodation commencement date, in consultation with health care providers.

All parties have roles to play after the accommodation is in place:

- The employer should check regularly with the employee to see how his or her work and recovery are progressing.
- The employee should give the employer and employee representatives feedback on the accommodation plan.
- Health care providers should keep in contact with the employee to monitor progress and provide advice.

The insurance board and employee representatives will remain in contact with the employee to monitor how the accommodation is going. The employer must notify the insurance board and the employee representatives if the accommodation plan is not working and changes are necessary.

Step 2 - Participation

When accommodation is integrated with business activities, the employer, employees and employee representatives work together to assess risks and promote a safe workplace. As well, everyone in the organization learns to recognize specific individual needs.

Establish an accommodation policy to acknowledge workplace diversity and engage everyone in the accommodation process. The policy should:

- outline responsibilities and steps to follow when accommodation is needed;
- include guidelines on how to act quickly if a disabling health event occurs; and
- inform employees about how accommodation benefits them.

Links

[Federal Contractors Program](#)

Further the goal of achieving workplace equity for designated groups experiencing discrimination in the Canadian labour market.

[A template for developing a workplace Accommodation Policy \(Canadian Human Rights Commission\)](#)

This accommodation template is designed to help employers meet their human rights obligations.

Step 3 - Report on Accommodation – Plan and Monitor

Once the accommodation is implemented, the employer should keep the accommodation plan on record and assess progress to ensure procedures are followed. All documentation relating to cost, health assessments, meeting minutes, and telephone conversations should be kept together for easy reference. If changes to the accommodation plan are necessary or if issues arise, they should be noted in the file. Each accommodation request is unique and can be a good reference.

When the accommodation plan has been carried out and is successful, the operational manager involved should provide a summary of that success with a list of recommendations to inform future accommodations. The human resources department and employee representatives should review these recommendations, discuss relevant issues and propose changes to the accommodation policy if necessary.

After the accommodation is implemented, the employee may say the plan is not suitable. In this case, the employee should be aware of the employer's appeal system, which should enable the employee to raise and discuss accommodation issues with the employer and employee representatives. The employer has a responsibility to inquire periodically about the worker's health status and adapt to the developing needs of the employee.

Links

[Federal Disability Reference Guide](#)

This guide is a tool for identifying, clarifying and promoting policies to address issues that affect people with disabilities.

Stream 3 – Return to Work

Phase 1 - Monitor Progress and Project Length of Absence

Step 1 – Consider Possible Return to Work Scenarios

Before returning to work, an employee should speak with his or her employer and employment representatives about return-to-work options.

When learning about return-to-work options, an employee should address past workplace conflict or performance problems he or she may have had. Consult EAP managers, conflict-resolution providers and others as needed.

These discussions should be kept private unless the employee decides to share them. Canadian laws prohibit anyone from sharing employee information without the employee's written consent.

At the beginning of a leave, the employee may give the employer a return-to-work date. This date is approximate, so the employee could return sooner or later than expected. To prepare, the employer should take steps as soon as possible to get ready for the employee's return to work.

Each accommodation depends on the reason for the employee's absence. Many important factors are involved. For example, the employee may:

- need to return to work gradually;
- lack the skills to perform the job after a long absence;
- face financial challenges, such as pension-plan contributions and other reimbursements;
- worry about seniority after an extended absence; and,
- be concerned about reintegrating into the workplace.

Consider all issues specific to the workplace before creating a return-to-work plan. Sometimes an employer has to rethink jobs and tasks to accommodate an employee. Some essential questions employers should ask themselves:

- What tasks must the employee do to perform the job?
- What tasks might be swapped or shared with another employee?
- What assistive devices might help?

Talk to employees, supervisors and employee representatives to find answers to these and other practical questions. Scenarios developed during these discussions help the employer prepare for discussions with health care providers later.

Try to develop accommodations that do not interfere with any collective agreement employees have with the employer, unless doing so would cause undue hardship or affect the employee's human rights.

Links

[A Guide for Managing the Return to Work](#) (Canadian Human Rights Commission)

This site presents key legal principles, step-by-step procedures and case studies in the federal public service.

[Duty to Accommodate: A PSAC Guide for Local Representatives](#) (Public Service Alliance of Canada) (p. 30)

This guide helps public-sector employee representatives assist employees with requests for accommodation.

How do I deal with return to work or accommodation when [mental health is an issue](#)? (Workplace Strategies for Mental Health – GreatWest Life Assurance Company)

This web page provides information about mental health accommodations.

[Disability Management: Employee Wellness Resource](#) (Treasury Board of Canada Secretariat)

This web page highlights the benefits and services available to federal public servants for physical and mental health.

[Assistive Technology Glossary](#) (Inclusive Design Research Centre)

Learn about assistive technology and how it helps people with disabilities.

[Bona Fide Occupational Requirements](#) and Bona Fide Justifications under the Canadian Human Rights Act – The Implications of Meiorin and Grismer (Canadian Human Rights Commission)

This guide reviews two important court cases (Meiorin and Grismer) and their implications for bona fide requirement defences.

What do I do if I have a [work-related accident](#)? (Commission de la santé et de la sécurité du travail - Quebec) (EN)

This page explains steps to follow if an employee is injured at work.

Step 2 – Revisit/Confirm Functional Abilities Needed for Essential Duties

Determine who is responsible for collecting the employee’s medical information for a fitness-to-work (FTW) evaluation. This responsibility may belong to the employer or an insurance board, depending on the employer’s disability management structure.

The employee must work with health care providers to determine if he or she is ready to return to work. If the employee has more than one health issue, he or she may need to consult more than one health provider, such as a mental-health specialist as well as a physical-health specialist.

These specialists’ assessments of whether the employee is ready to work may conflict. One doctor might say the employee is ready to go back to his or her previous position, while another health practitioner says the employee should not do certain tasks related to that job. The employer should consider all input when developing the return-to-work plan.

When an employee is preparing to return to work, the employer may ask him or her to provide a medical certificate or a fitness-to-work evaluation. The employer may ask the employee to have his or her own health care provider perform the evaluation. Or the employer may have a different health specialist assess the employee. This evaluation can inform the employer about the employee’s ability to perform job tasks. The assessment should identify limitations such as how much time an employee can spend performing tasks.

The employer should give the employee a list of the essential duties required for the job, so the employee can give this information to health care providers performing the assessments.

Be aware that in some cases, the employee has to coordinate appointments with various health care providers who have busy schedules and may not be available immediately. Evaluations may take some time.

Think ahead: schedule medical appointments so health care providers can see the employee at least two weeks before the employee’s expected return-to-work date. As well, clearly explain to the employee why the medical information is needed: to understand any limitations the employee may have; to determine accommodations; and to enable the employee to successfully return to work.

In most instances, if the employer has requested a specific evaluation for which the service provider charges a fee, the employer should be prepared to cover those costs.

If the employee’s health care providers come to conflicting conclusions, or if the providers’ evaluations lack sufficient information, the employer may request an independent medical evaluation. This additional assessment can help the employer determine accommodations and create a practical return-to-work plan.

Once the medical information arrives, review it promptly. If more information is required, the employer may request that the employee sign a form that allows the employer to contact the health care providers for further details. In these cases, the employer is only allowed to ask for information relevant to accommodation.

Links

[Fit to Work](#) (Canadian Centre for Occupational Health and Safety)

This web page defines "fit to work" and explains fit-to-work assessments.

[Occupational Medicine Specialists of Canada \(OMSOC\)](#)

Learn about what occupational medicine physicians do, and how they help organizations to serve their employees better and to ensure a healthy workplace.

[Obtaining and responding to Medical Information in the Workplace](#) (Alberta Human Rights Commission)

This publication discusses medical information as it relates to human rights and employment.

[Online Services for Health Care Providers](#) (Workers' Compensation Board – Alberta)

This website presents information about workers' compensation, return-to-work rehabilitation and other topics.

[Public Online Services for Employers](#) (Workers' Compensation Board – Alberta)

This website provides information about workers' compensation premiums, managing worker injuries and other topics.

[Handling Disability Management Cases – Medical Assessment](#) (Treasury Board of Canada Secretariat)

This web page provides information to help federal government directors manage employee medical assessments.

[Seven 'Principles' for Successful Return to Work](#) (Institute for Work & Health)

This document presents guidelines to help return-to-work professionals, employers, insurance boards, and health care providers develop successful return-to-work plans.

Sample forms and templates

[Sample Medical Ability to Work Form](#) (Alberta Human Rights Commission)

This is an example of a medical ability form that an injured or ill employee would fill out and give to an employer, so the employer can accommodate the employee.

[Fitness for Work Form](#) (Workers' Compensation Board – Alberta)

This is an example of a Fitness to Work form an injured or ill employee would fill out so the employer can assess the employee's fitness to work.

[Functional Abilities Form](#) (Treasury Board Secretariate of Canada)

Example of a functional abilities form to obtain medical information that a health care practitioner can use.

[Employer Forms](#) (Saskatchewan Workers' Compensation Board)

Various template and sample forms are available on this page.

Step 3 – Assess Employee Condition

Health care providers are essential to accommodation and return-to-work plans. Doctors, therapists and other medical specialists support patients and give employers information required for swift and successful returns.

Health care providers must complete many forms for patients returning to work—perhaps too many. Fortunately, some jurisdictions have introduced standard forms, integrated health care systems with electronic medical records, and other measures that help reduce the number of forms health care providers have to fill out.

Links

[Third-party Forms: The Physician’s Role](#) (Canadian Medical Association)

This document provides guidance on third-party forms subject to provincial, territorial and federal legislation and regulations. It also outlines strategies to reduce administration time.

[The Role of the Primary Care Physician](#) in Timely Return to Work (Ontario Medical Association)

This paper outlines issues and obligations for the treating physician involved in an employee’s return to work. The paper also outlines the roles of the employee, the employer and the return-to-work coordinator.

[Online Services for Health Care Providers](#) (Workers’ Compensation Board – Alberta)

This website presents information about workers’ compensation, return-to-work rehabilitation and other topics.

[Guideline on Accommodating Physical and Mental Disability at Work](#) (New Brunswick Human Rights Commission)

This document defines disabilities, the duty to accommodate and obligations for everyone concerned. It includes sample medical forms and physician guidelines.

[Seven ‘Principles’ for Successful Return to Work](#) (Institute for Work & Health)

Principle 7 indicates the need for communication and the employee’s consent.

[Assistive Technology Glossary](#) (Inclusive Design Research Centre)

Learn about assistive technology and how it helps people with disabilities.

Sample Forms and Templates

[Forms](#) (Commission de la santé et de la sécurité du travail) (Québec) (EN)

Employers and employees can access forms for temporary work assignments, occupational diseases and other accommodation matters.

[Fitness for Work Form](#) (Workers' Compensation Board – Alberta)

This is an example of a Fitness to work form an injured or ill employee would fill out so the employer can assess the employee's fitness to work.

[Sample Medical Ability to Work Form](#) (Alberta Human Rights Commission)

This is an example of a medical ability form that an injured or ill employee would fill out and give to an employer, so the employer can accommodate the employee.

Step 4 - Ongoing Communication

People on extended disability-related leaves often feel forgotten. The employer should communicate with the employee as often as needed to help fight that loneliness. Try not to go overboard, though. An employee contacted too often may feel pressured to return to work before he or she is ready.

The employer should tell the employee to expect regular contact. Send the employee information about significant policy, senior-personnel and other important changes during his or her leave. Consider contacting the employee every two to four weeks. Communicate more or less often according to the employee's wishes.

The employee may not know about the employer's disability-management programs and return-to-work procedures. Tell the employee about those measures. Outline time frames and steps so the employee can be ready to provide information or attend meetings to discuss recovery, accommodation and returning to work. The employer should be ready to answer any questions the employee might have about what happens next and why.

If the employer's insurance provider offers access to rehabilitation services, the employer should encourage the employee to use them.

The employer should clearly explain to the employee how he or she will be paid on leave. The last thing the employee wants to worry about is a lack of information about finances. In some cases, the employee may need the employer's help to understand financial issues. For instance, the employee might have to pay money back to an insurance board if he or she also received money from an insurance company at the same time.

The employee on leave should communicate with the employer. Stay in touch by:

- providing the employer medical information relevant to recovery and potential return-to-work scenarios;
- attending planned meetings with employer representatives, employee representatives and other helpful resources; and
- keeping the employer informed of current status and expected progress.

Links

[A Guide for Managing the Return to Work \(Canadian Human Rights Commission\)](#)

This site presents key legal principles, step-by-step procedures and case studies in the federal public service.

[Mental Health First Aid in the Workplace: Manager's Guide \(National Managers' Community\)](#)

For federal institutions, this website provides information about mental health, mental illness and how to manage employees with mental health issues.

**[Managing for Wellness – Disability Management Handbook](#) for Managers in the Federal Public Service
(Treasury Board of Canada Secretariat)**

This handbook discusses employee disabilities, leaves of absence, and other topics of interest for federal government managers.

[Seven ‘Principles’ for Successful Return to Work](#) (Institute for Work & Health)

Principle 5 concerns the employer’s responsibility regarding contact with injured and ill employees.

Step 5 – Is the Employee Ready to Return?

Depending on the health care provider's fit-to-work evaluation of the employee, the employee may be ready to return to work. Or he or she may need more time.

According to the Canadian Centre for Occupational Health and Safety, health care providers assessing the employee's fitness to work will come to one of three conclusions: that the employee is:

1. fit;
2. unfit; or
3. fit subject to work modifications.

With conclusions two and three, the health care providers' conclusion may be temporary or permanent.

Links

[Fit to Work \(Canadian Centre for Occupational Health and Safety\)](#)

This web page defines "fit to work" and explains fit-to-work assessments.

Step 6 – If yes, reach out to Employee Representatives and Employer

Once an employee receives confirmation that he or she is ready to return to work, the employee should inform the employer and employee representatives. Many employers have specific supervisors or human resources representatives whom the employee should contact.

Step 7 – If not, return to first four steps

If medical evaluations indicate the employee is not fit to work, start the accommodation and the return-to-work planning again at a later date. Take into account the health care providers' assessments of when the employee likely will be ready.

The employee may never be ready to return to work. He or she may have a permanent disability that prohibits him or her from coming back to the workforce. In this case, the employee may consider options such as medical retirement or receiving income through the Canada Pension Plan (CPP) disability benefit or the Quebec Pension Plan (QPP) disability benefit.

Links

[Disability Weblinks](#)

This web page provides links to information for people with disabilities and people assisting them.

[People with Disabilities \(Service Canada\)](#)

This web page provides links to information for people with disabilities and people assisting them.

[Persons with Disabilities Online \(Government of Canada\)](#)

This site provides access to services and information for caregivers and people with disabilities.

[Assistance for Persons with Disabilities \(Emploi Québec\) \(EN\)](#)

This website has tools to help employers hire and retain people with disabilities.

Phase 2 – Negotiate Return to Work Plan and Terms

Step 1 – Launch a Return-to-Work Meeting

Hold a return-to-work plan meeting. It is a good way for an employee to reintegrate into the workplace. The meeting might be the employee's first time back to the work environment and possibly his or her first time seeing colleagues face to face since the leave started.

If the employer has return-to-work coordinators, get them involved. They know how to run these meetings, and they know who should take part.

A number of people may have been involved in managing the employee's absence. Together, these individuals make up the case management team—and they should participate in the return-to-work plan meeting. The team may include people from departments and organizations such as:

- human resources;
- disability-management services;
- assets;
- accommodations;
- occupational health and safety;
- insurance boards;
- insurance companies; and
- health services.

When applicable and possible, bring these individuals together for the return-to-work plan meeting. Their input can help an employee return to work much more smoothly. Before meeting, all parties should do any necessary research to understand the return-to-work planning process.

Not all disabilities are visible. Some cannot be seen—diabetes, cardiovascular diseases, mental health problems and fibromyalgia, for instance. But employers must consider these invisible challenges just as seriously as they would other disabilities when creating the return-to-work plan.

Even though the return-to-work process might seem overwhelming, it is not as difficult as it can appear. In any case, it is worth the effort. Employers that commit to successful returns to work and taking into account everyone's needs have high employee morale and low long-term costs.

Links

[A Guide for Managing the Return to Work \(Canadian Human Rights Commission\)](#)

This site presents key legal principles, step-by-step procedures and case studies in the federal public service.

[Return-to-Work Planning Meetings \(Workers' Compensation Board– Alberta\)](#)

This fact sheet provides information to help employers prepare a return-to-work meeting with an employee.

[Disability Management: Employee Wellness Resource \(Treasury Board of Canada Secretariat\)](#)

This web page highlights the benefits and services available to federal public servants for physical and mental health.

Step 2 – Develop a Return to Work and Accommodation Plan

A return-to-work plan is a tool that is meant to help employees return to work after an absence related to an illness or injury. Return-to-work plans list specific details about measures to be put in place to help an employee reintegrate into the workplace: performance objectives, rate of pay, training, time commitments, schedules, modified work, assistive devices, communication arrangements, mentoring, and other measures.

The goal of the return-to-work plan is to return the employee to the pre-injury position and/or status of employment. Return-to-work plans are transitional and should include end dates for each of the items listed when applicable. These dates may change based on updated medical information, and the needs of the employee, employer or others.

When developing the return-to-work plan, the employer may generate a number of potential return-to-work scenarios. Each scenario will need to be researched to determine its feasibility. For example, costs may need to be calculated, other employees may need to agree to make changes to their work duties or schedules, and safety may need to be examined.

The measures listed in the return-to-work plan are a form of accommodation; however, for the purposes of planning, anything in the plan that the employee requires on a permanent basis should be listed as an accommodation, not a return-to-work measure. This differentiation may be important for the purposes of properly monitoring accommodation processes within an organization.

As with the duty to accommodate, the return-to-work plan should address the employee's needs. Sometimes an employee may prefer a particular accommodation, but this option might not be available. Within the law, the accommodation must meet the employee's needs up to the point of undue hardship.

For more information about return-to-work planning, view [Consider possible return-to-work scenarios](#).

Links

[A Guide for Managing the Return to Work \(Canadian Human Rights Commission\)](#)

This site presents key legal principles, step-by-step procedures and case studies in the federal public service.

[Handling Disability Management Cases – The Tool \(Treasury Board of Canada Secretariat\)](#)

This website provides advice and steps to follow for federal government directors managing cases of employee sickness and injury.

[Learn how to formalize a Modified Work Program \(Workers' Compensation Board– Alberta\)](#)

This website offers hints to help employers develop modified work programs.

[Case Management and Return to Work Programs](#) (Workers Compensation Board of Manitoba)

This document identifies roles and responsibilities in the return-to-work process.

[Return-to-Work Planning Meetings](#)

(Workers' Compensation Board– Alberta)

This fact sheet provides information to help employers prepare a return-to-work meeting with an employee.

[2014 WCB-Alberta Employer Handbook](#) (Workers' Compensation Board– Alberta)

This handbook gives an overview of Workers' Compensation Board – Alberta's services for employers dealing with sick or injured employees.

How do I deal with return to work or accommodation [when mental health is an issue?](#) (Workplace Strategies for Mental Health – GreatWest Life Assurance Company)

This web page provides information about mental health accommodations.

[Assistive Technology Glossary](#) (Inclusive Design Research Centre)

Learn about assistive technology and how it helps people with disabilities.

[Place for All: A Guide to Creating an Inclusive Workplace](#) (CHRC)

This guide discusses employer return-to-work procedures, the duty to accommodate, and key court decisions.

Sample Forms and Templates

[Functional Abilities Form](#) (Treasury Board Secretariat of Canada)

Example of a functional abilities form to obtain medical that a health care practitioner can use.

Step 3 – Prepare Work Team for Return of Employee

Once the employer develops return-to-work plan scenarios, confirm the feasibility of these options with employees who may have to share work, switch positions or make other changes to accommodate the employee returning to work. Think about changes to the workplace environment, for example, new policies related to allergies, new assistive technologies and other measures for successful returns.

Be sensitive. Co-workers may worry about an employee's return to work. Try to choose options that disrupt the workplace as little as possible. Be aware that employees may have to deal with some disruption in any case.

Staff may not understand accommodation. To deal with this, provide employees with regular training on diversity, mental health and accommodation. Note all feedback that requires action in relation to an employee's return to work.

Links

Return to Work: [Addressing co-worker reactions](#) when mental health is a factor (Ontario Occupational Health Nurses Association)

This paper helps employers and employee representatives address co-worker concerns when an employee who has experienced mental-health issues returns to work.

[Seven 'Principles' for Successful Return to Work](#) (Institute for Work and Health)

This document presents guidelines to help return-to-work professionals, employers, insurance boards, and health care providers develop successful return-to-work plans.

Sample Forms and Templates

Return to Work and Accommodation: [Support and Address Co-Workers' Reactions](#) (Workplace Strategies for Mental Health – GreatWest Life Assurance Company)

This worksheet helps employers track activities related to communication with co-workers in accommodations and returns to work.

Step 4 – Assess Feasibility of Return to Work Plan

Health care providers may be asked to review the return-to-work plan to determine if it meets the employee's needs. If the plan is inconsistent with the employee's abilities and limitations, the employer may need to change the plan or get more information to understand the impact of the plan on the employee.

Health care providers may provide written amendments to the employer or to insurance boards. In certain cases, health care providers may communicate directly with the employer by phone or meeting.

If health care providers offer conflicting medical opinions or incomplete functional analyses, the employer may ask for an independent medical evaluation, also known as a non-treating medical examination.

Whenever possible, health care providers should tell the employee about preventative measures that the employee can implement at work to avoid re-injury or further injury.

Links

[Guideline – Independent Medical Examinations](#) (The College of Physicians and Surgeons of Newfoundland and Labrador)

These guidelines help health care providers perform independent medical examinations and make decisions about appropriate care.

[Medical assessment](#) (Workers' Compensation Board– Alberta)

This web page offers guidance related to independent medical examinations.

[Handling Disability Management Cases – Medical Assessment](#) (Treasury Board of Canada Secretariat)

This web page gives federal government managers advice about handling employee medical assessments.

[The Physician's Role in Helping Patients Return to Work after Illness or Injury](#) (Prevention Wellness Rehabilitation Health Consultants)

This policy addresses the role of attending physicians in assisting their patients to return to work after an illness or injury.

Return to Work After Occupational Injury: [Family Physicians' Perspectives on Soft-Tissue Injuries](#) (Canadian Family Physician, Vol 48: December)

This article discusses recovery challenges for workers with occupational soft-tissue injuries.

Sample Forms and Templates

[Care Provider Forms](#) (Saskatchewan Workers' Compensation Board)

[Fitness for Work Form](#) (Workers' Compensation Board – Alberta)

This is an example of a Fitness to Work form an injured or ill employee would fill out so the employer can assess the employee's fitness to work.

[Functional Abilities Form](#) (Treasury Board Secretariate of Canada)

Example of a functional abilities form to obtain medical that a health care practitioner can use.

Step 4 – How to Decide on a Return to Work Plan

After reviewing all return-to-work plan scenarios and weighing input from health care providers, employee representatives, insurance boards and the employee, the employer decides whether or not the plan is acceptable.

If the employer believes that accommodating the employee would be an undue hardship, the employer must clearly document its rationale related to health, safety, and cost. Legal precedence has shown that an employer must have strong evidence for believing that an accommodation would be an undue hardship. Accommodating an employee often costs much less than expected. Make the proper enquiries and avoid making assumptions about health, safety and cost.

Links

[Bona Fide Occupational Requirements](#) and Bona Fide Justifications under the Canadian Human Rights Act – The Implications of Meiorin and Grismer (Canadian Human Rights Commission)

This guide reviews two important court cases (Meiorin and Grismer) and their implications for bona fide requirement defences.

[Place for All: A Guide to Creating an Inclusive Workplace](#) (Canadian Human Rights Commission)

This guide discusses employer return-to-work procedures, the duty to accommodate, and key court decisions.

[A Guide for Managing the Return to Work](#) (Canadian Human Rights Commission)

This site presents key legal principles, step-by-step procedures and case studies in the federal public service.

Step 5 – What if the Plan is Unacceptable?

If none of the return-to-work scenarios are acceptable, consider different solutions. For instance, if the plan could be implemented at a later time, perhaps because a suitable position may become available within the foreseeable future, the employee may need to be on leave a little longer. Or the employee may need to think about other options such as retraining, transferring to a different department, or retiring on medical grounds. Whatever the outcome, the employee deserves support and compassion.

If the employee believes the employer has not done enough to accommodate his or her limitations, the employee may file a grievance with the employer, or file a complaint with external agencies such as the Public Service Labour Relations Board, the Canadian Industrial Relations Board, Labour Canada, and the Canadian Human Rights Commission.

Links

[Canadian Human Rights Commission](#)

The Canadian Human Rights Commission welcomes your questions, comments and suggestions. Access this web page for the Commission's email address, street address and phone numbers.

[Links to workers' compensation boards and commissions](#) (Association of Workers' Compensation Boards of Canada)

Visit this website to find contact information for every provincial and territorial workers' compensation board in the country.

[Human Resources and Skills Development Canada Workers' Compensation Offices](#)

This is the contact information for the Labour Program for federally regulated employees and employers.

[Canada Industrial Relations Board](#)

This web page contains contact information for the Canada Industrial Relations Board.

Step 6 – Implement the Return to Work Plan

When all parties have accepted the return-to-work plan, put the plan into action. Buy assistive technologies, arrange for training and make any other changes to make the return a success.

In some instances, health care providers may be involved in the implementation of the return-to-work plan implementation. They may provide the employer with details such as calibrations for assistive devices and how to create an ergonomic workstation.

Links

[Recognizing Time to Heal – Assessing Timely and Safe Return to Work](#) (Workplace Safety & Insurance Board of Ontario)

This document outlines principles to assess timely and safe return to work.

Phase 3 – Retrain/ Modify Return to Work (Phased Return)

Step 1 – Prepare Work Team for Return to Work

The employer will most likely have consulted with the work team during the return-to-work plan negotiation. Now that the plan is ready, tell the work team about the employee's return to work and how this may affect specific policies and/or practices within the workplace. If the employer noted any particular concerns during the initial discussions with the work team, the employer should address them as soon as possible.

In general, the employer has a responsibility to support accommodation measures and to ensure they are implemented in a timely fashion. This means removing administrative barriers that could inhibit an accommodation and properly resourcing measures once they have been approved.

Links

[Returning to Work – Realistically \(Mental Health Works\)](#)

Find inspiration in Laura's return-to-work success story following her leave of absence for severe depression.

[Mental Health First Aid in the Workplace: Manager's Guide](#)

This website describes mental illness risk factors, steps to take during an employee's leave of absence, and other topics of interest for federal government managers.

[Mental Health First Aid Canada \(Mental Health Commission of Canada\)](#)

Learn about Mental Health First Aid and the resources this organization offers.

Step 2 – Re-train or Re-orient as Needed

Before the employee returns to work, he or she may need to train for a new position or retrain to recall practices and procedures related to a previous job. The employee may also need updates on changes introduced when he or she was away.

As with new employees, an employee returning from leave may benefit from mentoring, coaching and other workplace-integration measures.

Links

[A Guide for Managing the Return to Work \(Canadian Human Rights Commission\)](#)

This site presents key legal principles, step-by-step procedures and case studies in the federal public service.

Step 3 – Return to Work

Now that all of the steps in the return-to-work process have been completed, the employee can return to work within the terms of the return-to-work plan.

Links

[Recognizing Time to Heal – Assessing Timely and Safe Return to Work \(Workplace Safety and Insurance Board of Ontario\)](#)

This document outlines principles to assess timely and safe return to work.

[Returning to Work – Realistically \(Mental Health Works\)](#)

Find inspiration in Laura’s return-to-work success story following her leave of absence for severe depression.

Step 4 – Update Employer on Patient Condition as Needed

Once an employee has returned to work, the employee should see his or her health care providers regularly, whether for therapeutic purposes or to monitor the employee’s health. If an employee requires an amendment to the return-to-work plan or further accommodation, the health care provider should notify the employee and the employer.

Links

[The Physician’s Role in Helping Patients Return to Work after Illness or Injury](#)

This policy addresses the role of attending physicians in assisting their patients to return to work after an illness or injury.

Step 5 – Report on Progress as Agreed

Ideally, the return-to-work plan will list specific dates when the employee can meet with a supervisor or another contact person to discuss progress. These meetings are a good time to talk about successes, challenges and updating the return-to-work plan if needed.

Step 6 – Ongoing Assessment of Patient Fitness in Course of Reinstatement

Monitor and review accommodation processes and return-to-work plans at predetermined intervals or when needed. These checks ensure that the plan still meets the needs of the employee and others involved.

Employers and employees alike should keep track of return-to-work plans and accommodation measures. Tracking is a good way to make sure each accommodation is effective, and that a given accommodation is only in place as long as it is needed.

When an employee first returns to work, he or she should meet with the employer regularly: once a day, a few times a week or once a week.

What makes a return to work successful? The employee, the employer, co-workers and others may have different perspectives. Discuss those points of view. Even if different groups have different priorities, employers and employees benefit by hearing everyone's opinion. Workers and managers develop better relationships. Productivity improves. And co-workers show their support for a colleague who has returned from leave.

Links

Towards a New Definition of [Return-to-Work Outcomes](#) in Common Mental Disorders from a Multi-Stakeholder Perspective (PLOS ONE)

This research article investigates perspectives on the definition of successful return to work after absences related to mental disorders.

[How do you measure return to work success? \(Workers' Compensation Perspectives\)](#)

For insurance boards and HR specialists, this blog post discusses how to measure return-to-work success.

Glossary of Terms

Employee

A person who performs work for, or supplies services to an employer for wages, and receives instruction or training related to the employer's profession. Includes full-time, part-time, seasonal, term, casual and permanent employees.

Note: Partially from the CHRC's internal policies

Employer

An organization or individual acting on behalf of an organization involved in managing, coordinating or implementing any part of the accommodation or return-to-work process.

Note: This definition describes how "employer" is used within the web application.

Health-Care Provider

A nurse, doctor, occupational therapist and any other certified health care specialist.

Note: Although Health Care Provider is not explicitly defined, this wording was found in A Guide to Managing the Return to Work (CHRC)

Employee Representative

A union or association to which employees pay dues.

Insurance Board

A corporation such as a workers' compensation board that financially protect employees if they are injured at work. Employees and/or employers pay premiums to these boards.

Disabling Health Event

An event in which an employee is injured or develops an illness, affecting the employee's ability to work.

Accommodation

Adjustments made by an employer to enable ill or injured employees to perform essential job duties. Adjustments also ensure an employee is neither denied services nor placed at a disadvantage for employment opportunities.

Note: Adapted from the CHRC's internal policies

Workers' Compensation Board (WCB)

A not-for-profit corporation that runs workplace insurance systems for workers and employers in provinces and territories. WCBs are funded by employer contributions.

Note: A not-for-profit corporation that runs workplace insurance systems for workers and employers in provinces and territories. WCBs are funded by employer contributions.

Employee Assistance Program (EAP)

An employee benefits program offered by employers. An EAP helps employees and their families solve problems that might affect them personally and impact the employee's health, well-being and work performance.

Note: From CHRC materials and policy related to accommodation

Fitness-To-Work (FTW) Evaluation

A medical assessment of an employee that helps an employer determine if the employee can perform a job. Usually FTW evaluations are performed after an employee is injured or becomes ill. Sometimes employers request evaluations after offering employment or before transferring an employee to a new job.

Note: From the Canadian Centre for Occupational Health and Safety

Bona Fide Occupational Requirement (BFOR)

A task or qualification that an employee must do or possess to perform a job.

Note: DTA Leaders' Guide

Bona Fide Justification (BFJ)

In the provision of service, a Bona Fide Justification (BFJ) is a restriction that is based on a legitimate health, safety, or cost issue, and which limits the service provider to accommodate.

Note: DTA Leaders' Guide

Accessibility

The extent to which buildings, products, services, technology or infrastructure are accessible to everyone regardless of physical, mental or other disabilities.

Undue Hardship

The limit beyond which employers are not expected to accommodate. Undue hardship occurs when an employer cannot afford the accommodation in terms of health, safety and financial cost.

Note: Adapted from the Canadian Human Rights Commission

Respectful Workplace

A workplace where employees are treated with dignity, and can be safe, engaged and productive.

Note: From HRMM

Accommodation Plan

A plan that outlines an employer's responsibilities and processes to help an employee perform job duties.

Short Term Disability (STD)

An income-benefits program to compensate an employee for income lost as a result of short-term absences from work due to injury or illness.

Long Term Disability (LTD)

An income-benefits program to compensate an employee for income lost as a result of long-term absences from work due to injury or illness.

Assistive Device

A device designed to help a person with a task. Canes, crutches, walkers, wheel chairs, and shower chairs are examples of assistive devices.

Assistive Technology

A device or system to help a person with a task. Assistive technology includes walkers, wheel chairs and other assistive devices, and electronic items such as Personal Emergency Response Systems, hearing aids and computer screen-reading software.

Independent Medical Evaluation

A medical assessment of an individual's abilities and expected recovery from illness or injury performed by a specialist other than the individual's own health care provider.

Disability

The limit of a person's ability that results from impairment. A disability may be physical, cognitive, mental, sensory, emotional, and developmental or some combination of these. A disability may be present from birth or occur during a person's lifetime.

Note: From the CHRA

Substantive Equality

Equal opportunity for everyone. Substantive equality ensures each individual's needs are accommodated.

Note: Adapted from the CHRC's Intranet

Universal Design

Design of buildings, products and environments accessible to everyone regardless of physical, mental or other disabilities.

Note: Adapted from the CHRC publication on International best practices in Universal Design (March 2006)

Demonstration Webinar

<https://chrc-ccdp.adobeconnect.com/p4ortskv3m9/>