

PROTOCOLS FOR MEDICAL ASSESSMENTS DURING CORONAVIRUS PANDEMIC

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MEDICAL ASSESSMENTS DURING CORONAVIRUS PANDEMIC



New South Wales

**Personal Injury
Commission**

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The Personal Injury Commission (the Commission) is continuing to deliver services during the coronavirus pandemic, while making the health and safety of its staff, injured workers and injured road users, members, mediators, medical assessors, the parties to a dispute, and other stakeholders its top priority.

The Commission is following the advice and directions of the national and state health and government authorities. The Commission reserves the right to introduce stricter COVID-19 safety controls and to suspend in-person examinations in response to community out-breaks, new public health orders or medically recommended measures.

This document sets out the expectations for any Personal Injury Commission medical assessments during the coronavirus pandemic.

BACKGROUND

The Commission's legacy agencies (the Workers Compensation Commission (WCC) and State Insurance Regulatory Authority's (SIRA) Dispute Resolution Service) suspended in-person medical assessments in late March 2020 and resumed them in July 2020. Since March 2020 directions were provided to Medical Assessors about the conduct of assessments in line with COVID-19 requirements and the agencies monitored the COVID-19 risk profile in NSW and took appropriate steps as required.

Information for injured people, legal representatives and other stakeholders was provided by the WCC and SIRA through bulletins and on their websites.

This *PROTOCOL FOR MEDICAL ASSESSMENTS DURING CORONAVIRUS PANDEMIC* is issued on 19 May 2021, replacing any directions issued by the legacy agencies, the Workers Compensation Commission and State Insurance Regulatory Authority's Dispute Resolution Service.

[Procedural Direction 10 – Hearings during COVID-19](#) sets out how legal proceedings will be heard during the COVID-19 pandemic.

PRINCIPLES GUIDING MEDICAL ASSESSMENTS - CORONAVIRUS PANDEMIC

The Commission's direction regarding the conduct of medical assessments during the coronavirus pandemic strikes the balance between:

- Optimising the health and safety of the people involved in a medical assessment in accordance with the best possible advice and information; and
- Meeting the objects of the Personal Injury Commission Act, 2020, to:
 - resolve the real issues in proceedings justly, quickly, cost effectively and with as little formality as possible; and
 - ensure that the decisions of the Commission are timely, fair, consistent and of a high quality.

This protocol relates to all medical assessments, including when a Medical Appeal Panel or Medical Review Panel requires assessment of the worker/claimant.

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

PROTOCOLS FOR MEDICAL ASSESSMENTS

All Personal Injury Commission medical assessments will resume to be conducted in-person for all appointments arranged on and after 21 May 2021.

Medical assessments arranged prior to 21 May 2021 and set down to be conducted other than in-person, such as by video-conference, will proceed as arranged.

A medical assessment may be conducted by video-conference for reasons related to the coronavirus pandemic if requested and agreed by all parties and the Medical Assessor.

A medical assessment may proceed by video-conference with agreement from the parties, the Medical Assessor and if the assessment is:

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

1. MEDICAL ASSESSMENT BY VIDEO-CONFERENCE

1.1 Requesting a medical assessment by video-conference

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

Medical Assessors may continue to conduct assessments by video-conference by advising the Commission.

Factors such as limiting travel, whether an injured person or Medical Assessor is in a high-risk group (e.g. over 70 years of age; over 60 years of age with other health issues; over 50 years of age for Indigenous Australians) will be considered.

If the matter is not able to be assessed by videoconference and the worker/claimant does not want to proceed with an in-person assessment, they must notify the Commission and the dispute will remain pending, subject to any representations from the other parties.

1.2 Allocation of medical disputes for video-conference assessment

Medical disputes will only be referred to Medical Assessors who have advised the Commission that they are available to undertake video-conference assessments and who have appropriate technological resources and the skill to use the technology. Medical Assessors should contact the Commission to advise of any changes to their availability and ability to conduct assessments by video.

1.3 Medical Assessor discretion to undertake videoconference assessment

If a matter is referred to a Medical Assessor for assessment by video-conference, the Medical Assessor will consider whether consultation by video assessment is

clinically appropriate. It is essential for the Medical Assessor to be satisfied that the assessment can be undertaken accurately.

A Medical Assessor is under no obligation to assess a medical dispute referred for video assessment if not satisfied the assessment can be done accurately. The Medical Assessor should review the material immediately upon allocation of the dispute to make a preliminary judgment as to whether the assessment can be done by video. If not satisfied, the matter should be returned to the Commission with reasons why the assessment is unable to be undertaken by video-conference.

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

1.4 Preparation for video assessment

1.4.1 Worker/claimant capacity to participate by video

The legal representative must ensure their client is able to participate by video, including that they have access to and the ability to operate necessary equipment. Capability of the worker/claimant will assist enabling the assessment to be conducted by video.

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

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

1.4.2 Preparation by worker/claimant

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

- Be in a quiet room, where the door can be closed. This will ensure that no children, pets or others will interrupt the assessment.
- Not take any incoming calls or text messages during the assessment and should inform family and friends not to contact them during the appointment.
- All other telephones should be disconnected or turned off.
- Before commencing the assessment, they must inform any other persons in the premises that they must not interrupt the consultation or enter the room for any other purpose unless it is an emergency.
- The room lighting must be adequate, and the light source should face the worker/claimant.
- The mobile phone (or other device) should be placed on a stable surface and not held. Movement requires more bandwidth and reduces both video and audio quality.

- The worker/claimant should sit in front of the camera and the camera should be situated close to their eyeline, so that the Medical Assessor will be making eye contact.
- The device should be plugged into an AC adapter (power point). Battery operation should be avoided as video-conferencing equipment can quickly deplete batteries. This is particularly relevant in psychiatric interviews, which can extend over 1.5 – 2 hours.
- The worker/claimant should ensure the camera and microphone are switched on and working 24 hours prior to the video consultation.
- Where possible, the worker/claimant should practise video-conferencing with another person beforehand to familiarise themselves with the process.
- The worker/claimant should be appropriately dressed as if going to see the doctor in person and should wear loose-fitting clothing. It is not acceptable to wear pyjamas or unsuitable attire.

1.4.3 Preparation by Medical Assessor

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

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

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

1.5 Security and Systems

1.5.1 For Motor Accidents proceedings

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

1.5.2 For Workers Compensation proceedings

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

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

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

A secure and private Internet connection will also add to security and is mandatory. This includes using a trusted network for Internet access and generally excludes public Wi-Fi or hotspots.

FaceTime is not recommended for use by Medical Assessors. While it is secure, it is only available for users who have Apple devices.

NOTE: The Personal Injury Commission intends to utilise only Microsoft TEAMS for all medical assessments conducted by video-conference in the future.

1.6 Conducting the assessment by video-conference

1.6.1 Attendance by support person

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

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

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

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

1.6.3 Additional requirements for Medical Assessment Certificates

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

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

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

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

2. CONDUCTING IN-PERSON ASSESSMENT

Medical disputes lodged with the Personal Injury Commission, which are not conducted by video-conference, will be set down for an in-person assessment.

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

Factors such as limiting travel, whether an injured person is in a high-risk group (e.g. over 70 years of age; over 60 years of age with other health issues; over 50 years of age for Indigenous Australians) will be considered. See [1.1 Requesting a medical assessment by video-conference](#)

If a worker/claimant does not want to proceed with an in-person assessment and the assessment is not suitable for video-conference assessment, they must notify the Commission and the dispute will remain pending, subject to any representations from the other parties.

In-person assessments will only be allocated to Medical Assessors who are available to undertake those assessments. Medical Assessors should contact the Commission if there are any changes to their availability to conduct in-person assessments.

2.1 Pre-assessment screening

The Commission does not conduct any pre-assessment screening. However, the Medical Assessor may contact the worker/claimant prior to the assessment to

conduct their own pre-screening, aligned with the operations of their practice and in accordance with advice and directions of the national and state health and government authorities.

The Commission provides standard advice to injured workers/claimants with the referral for their medical appointment that includes their obligations to cancel the appointment if they have cold or flu-like symptoms or have had any COVID-19 transmission risk or exposure.

2.2 Reception screening

When the worker/claimant presents for an in-person assessment, the Medical Assessor or their staff member may screen them according to the COVID-19 safety procedures of the practice.

Any worker/claimant who refuses to engage in the COVID-19 screening, presents with a raised temperature (37.5° C or more) or other COVID-19 symptoms or risks (as set out by the Department of Health at <https://www.nsw.gov.au/covid-19/symptoms-and-testing>), should not be assessed. The staff member or Medical Assessor should contact the Personal Injury Commission immediately.

2.3 Conducting the in-person assessment

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

3. CONDUCTING ASSESSMENT 'ON THE PAPERS'

3.1 'On the papers' assessments in limited circumstances

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

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

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

Contact the Personal Injury Commission with any concerns or questions regarding the conduct of a medical assessment during the coronavirus pandemic