

August 13, 2004

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Dear Rochelle:

Canadian Manufacturers & Exporters wishes to thank you for the opportunity to provide feedback on the Workplace Safety & Insurance Board's Functional Abilities Form (FAF).

CME has been active in the area of Workers' Compensation since before the inception of the workplace compensation system in Ontario. Workers' Compensation has been identified by our members as a priority issue. Our long standing history in this field includes submissions to Justice Meredith in 1914 when debates regarding the establishment of a workers' compensation system were occurring. Our ongoing participation in the debates surrounding workers' compensation issues continues to this date and occurs at all levels within the WSIB and at the Ministry of Labour level.

In response to your request for submissions to the FAF, we canvassed our members for feedback. The following comments were received from those of our members who directly use the form as a tool in managing occupational disability in the workplace. The submission is divided into two sections. The first section contains general comments received, which may or may not be answers to the survey questions themselves. The second part is the answers we received from our members to the specific questions posed in your letter. You will note that some answers appear more than once. These multiple answers have been included as we believe that the fact that more than one person has repeated the same answer is indicative of the importance of the answer.

Please do not hesitate to contact me should you have any questions.

Regards,

Maria Marchese
Director
Workplace Safety & Compensation
CME-Ontario Division

**CANADIAN MANUFACTURERS & EXPORTERS' SUBMISSION TO THE WSIB'S
FUNCTIONAL ABILITIES FORM REVIEW**

In response to your request for feedback to the WSIB's Functional Abilities Form (FAF), CME submits the following comments.

General Remarks

- Respondents expressed they have the most difficulty with the section marked "as tolerated" as it is difficult to interpret. Most health practitioners don't provide additional detail and often the employee is not really sure what it expected of him/her either when this is checked off. Health care practitioners are checking the box even if it has no bearing on the person's disability (i.e. shoulder or wrist injury will have "walking, standing and sitting as tolerated). It is generally felt that the section should be deleted.
- The "as tolerated" section should be removed from the form. This is too subjective and doctors should be basing completion of the form on objective medical signs and symptoms. I would also like to see "employee is able to return to modified work immediately" as an option for doctor's to check "yes" or "no". It would then be very clear to both the employee and employer that the person is able to return to work. Right now the form states "capable of returning to work immediately without restrictions", "yes" or "no".
- I think the WSIB should continue using the FAF. However, additional guidelines should be given to physicians on completion of the FAF.
- If mental health issues become a contributing factor to a delay in recovery, the current FAF has limitations as it does not address these issues.
- The FAF is a useful form when the health practitioner takes the time to complete it properly and independent of the worker's direct input [i.e., what would you like me to put down here?]
- There is a problem with the fact that many doctors document the same information on the initial form and subsequent forms. A solution may be a follow-up FAF [different format] which will assist in more accurately obtaining changes in worker's capabilities, and not focus on limitations.
- The "Complete Recovery Expected" area is often ticked off as "yes" and then changed to "no" at a later date with no explanation provided. A line should be added requesting an explanation for the change in status.
- It is frequently found that the health professional completing the form does not fill in "estimated duration of limitations". The WSIB should not pay for such incomplete forms as the health professional has the responsibility of being part of the rehabilitation and return to work plan and omitting a response to this question does not assist in the return to work process.
- It is confusing to have both pounds and kilograms listed on the form. Often, the weight is included on the FAF but the employer doesn't know whether the practitioner has used pounds or kilograms as it is not specified. Our experience indicates that most health practitioners are still using pounds measurement.
- The form serves the purpose of getting some sort of documentation as some doctor's refuse to complete an employer's own report of injury/illness and will only complete a WSIB Form.
- Measurements related to frequency of repetitive movements should be added to the FAF.
- The form should express an injured worker's capabilities (to stand, walk, bend, climb, squat, kneel, twist, crawl etc.) as a frequency ranging from intermittent (less than ½ hr. per day) to 12 hours per day. Asking the doctor to place a checkmark on a graphic bar or line whose length represents a range of frequency (e.g. 0 to 12 hours in length), would also help from a visual interpretation perspective. The reason this suggestion would be helpful is twofold. First, most physical demand analyses are compiled on the basis of frequency; and, second, having the doctor state a permitted frequency corresponds more closely to how the workday is thought of in the workplace (i.e. time spent doing

- something). The current practice of simply stating that an injured worker can only climb 2-3 steps means nothing. Is the worker restricted to once a day or is he/she permitted to do this all day?
- All of the limitations should also be expressed in terms of frequency per day. Even if descriptors such as *occasionally*, *frequently*, or *continually* or, more appropriately, a specific amount of hours per day are used as described above, it would be far more useful for the worker's recovery if he knows how frequently he can do something; rather than to put a blanket ban on some physical movement.
 - Given the changing nature of the workplace (more use of computers even in the workshop), there needs to be some section in the form on visual and auditory abilities.
 - I do appreciate the Functional Abilities form as a tool to help guide the company towards understanding worker limitations, however, we are often disappointed when we receive the form back from the doctor because it provides nothing more than the most obvious limitations. This makes it difficult to create modified work based on such limitations. More specific information must be requested on the FAF regarding the capabilities or limitations.
 - The Functional Abilities Form also serves as a legal document of sorts, for HR to be able to enforce limitations which the doctor sets.
 - There are times when we are unsure if the doctor really considered the patient's condition when filling out the form, or if they are simply documenting what the patient asks for. There must be some process instituted that once the form is completed an employer can go back and verify this information.
 - Overall, I would like to see more emphasis on assisting the company in creating modified duties, and updating the Functional Abilities Form is one way of achieving this goal.
 - There are a few inherent problems in the FAF. I have taken the WSIB survey for the FAF and believe the questions asked will not give enough information to access the form effectively. One of the problems is the effectiveness of the WSIB survey. The questions are not reflective on how the form actually functions for employers who use the forms.
 - The forms are vague and often not completed accurately by the physician. Forms are often completed up to a week after the initial visit to the physician. This creates a barrier to early and safe return to work. Forms are often incomplete or "as tolerated" checked off for everything not giving realistic abilities for employees and employers to work with. With this in mind the FAF can on occasion be an obstacle to an effective and progressive return to work plan.
 - The form is in need of revision from the WSIB. It can be used as an effective tool in a return to work plan and the standardization of the form is important to ensure that all employees and employers have the same RTW expectations. Physicians should be given adequate training on the form and payment should not be made to physicians who do not complete the form with some accuracy.
 - The FAF's provide basic functional information. The drawback is that the physicians don't always complete the forms in a timely manner and/or the employees don't return them in a timely manner. The WSIB should ask physicians to complete and send the form within 48 hrs of receiving it if they want to receive payment. Also, many physicians don't complete the form properly. The employer is then paying for useless information.

Survey Questions

Question #1

Overall, what are the benefits of the Functional Abilities Form? What are its drawbacks?

- It is a means of getting information back quickly without getting a medical diagnosis. The emergency physicians will fill this form in when they won't fill in others. The form is also concise. Sometimes I would like the diagnosis but this form does not provide that. I don't use the form often but it is helpful when needed.
- The overall benefit of a FAF is to provide a venue by which both the worker and the employer have the tools to consider early and safe RTW. It is an important tool in working towards the legal obligation on both parties to fully co-operate and communicate for the purpose of mitigating loss arising from a work-related injury. Employer's now have the legal right to question the worker's health care practitioner about functional/vocational issues regarding a RTW. It forces the treating physician to consider, notwithstanding subjective complaints, whether the worker is objectively capable of performing tasks in the workplace that would cause harm or injury. It also compels a worker to participate in the process by taking the document for completion with his treating physician rather than remaining passive on the issue of early return to work. The doctor often relies on history conveyed by the worker about how disabled they feel. Unless the treating physician objectively questions the worker about light work in the workplace, which they invariably never do, early RTW is inevitably defeated.
- The drawback of the form is that some times the lack of it being completed suggests to employers that an offer of modified work cannot be made to a worker. In fact, the form is just a guideline. We cannot over emphasis that common sense is a prerequisite. The FAF compels the Board to adjudicate the issue of early return to work and offers of modified work.
- Provides a tool whereby we can determine what the employee is limited to after an initial injury.
- The benefits are it provides restrictions and limitations to facilitate ESRTW.
- The drawback is that every completed form costs \$40.00 whether initial form or update.
- Overall the main benefit is assisting in providing modified work and progressing workers to regular duties based on information supplied.
- The main drawback is that doctors do not fill out the form completely and over use the "as tolerated" sections so that we don't get good information on a worker's restrictions.
- Benefits of FAF is its use as a tool that allows employer access to an employee's capabilities and their limitations in order to determine appropriate modified work duties.
- Its drawback is that it is not always completed according to the instructions by some doctors and/or physiotherapists. Doctors tend to complete form based on employee's say so. As an employer, we have concerns with the assessment/testing that is used in order to identify the employee's limitations and capabilities information.
- Benefits of the FAF are its use as a communication tool between the employer, WSIB and employee, its use as an information source and, when completed accurately, its use in reducing lost time.
- Drawbacks include lack of needed information and the form is often not completed accurately.
- Payments are made for incomplete forms, which should not occur.

Question #2

In your opinion, should the Functional Abilities Form be revised? If so, why and how?

- I don't see any need for revisions.
- No - the form is only to be used as a guideline and it is not intended to supplant simple common sense. For the most part the document is completed as accurately as possible. However, from time to time the treating practitioner relies on subjective evidence from the worker, i.e. as tolerated. This information is obviously subject to merit and justice and is adjudicated much in the same vane as standard restrictions. To make changes to the Board document would only invite confusion and avenues for appealing additional benefits on the arguments that the current document is inaccurate or incomplete. We don't need the confusion or lengthy consultation process to set off whole new grounds for appeal.
- Not really anything to change on it.
- Yes it should have the "as tolerated" section revised or eliminated so that the doctors provide meaningful restrictions.
- This form should be revised by removing the "as tolerated" options as this is not a restriction or limitation.
- The form does need to be revised. This "tool" is valuable in determining an employee's modified work placement. The "as tolerated" limitation is being abused by some employees and used to their advantage. The form needs to better clarify what an employee is able to do. For example, use a scale to identify what an employee is able to do, 0%, 25%, 50%, 100% of an activity, such as sit, stand, walk, lift, carry, push, pull, etc. Eliminate the "as tolerated" check off box.
- Yes, the form should be revised as follows:
 - to make it easier to understand what the employee is able to do and how it relates to their job activities pre-injury;
 - the form should say HEALTH CARD Number;
 - duration of limitations should be listed for each limitation
 - there is no mention of vision restrictions
 - define "OPERATING" motorized equipment --- what about driving an A or D class truck, forklift, overhead crane etc.
 - when capabilities are identified is it inherent that these are limitation?
 - FAF shall be completed by treating health care professional at the time of treating not days later and by another doctor
 - more clarification is required when there is a limitation identified especially if the limitation is not a required part of their job the worker should be able to come back to work. i.e. - if lifting waist to shoulder is a limitation but not part of their job then they should be able to come back to work full time/full hours. Some examples of changes could include the following: **Capabilities Walking:** short distance only; as tolerated; other (e.g. uneven ground) Duration of Limitation: **Standing:** less than 15 min.; less than 30 min; as tolerated; Duration of Limitation:

Question #3

Do you have any concerns about the ways in which the Functional Abilities Form is being used? If so, what are they?

- No concerns.
- FAF's are Board approved forms used specifically for work-related injuries. The document was originally taken from private insurance management to mitigate cost. However, sometimes the FAF's are used in place of STD forms. In the past the Board has used the completion of an FAF as evidence to suggest work-relatedness or AE's

tacit acknowledgment of a work-related injury. Its sloppy use is intended to circumvent statute of limitation obligations on the part of the worker making an explicit claim for work-relatedness. FAF's should not be used for non-worked related problems.

- I do not believe the Board adheres to an employee's ability to perform some task as opposed being off work due to pain.
- My main concern is that unauthorized person are getting FAF forms and having them filled out. We had a case a little while ago where we found that the union rep was ordering FAF forms and handing them out to employees and we would be charged for this activity and have no control over the issuing of the forms. When it was reported to the WSIB it was basically dismissed as not possible even though we had proof (the form section of WSIB had mistakenly sent bundles of FAF forms to our Oakville shop addressed to the union rep.)
- Unclear about the need to continually provide new forms for updates of form already indicates how long the restrictions are in effect. Also, doctors are not completing the form properly and need training.
- Yes, some doctors don't complete the form as per the instructions. It's frustrating when a doctor just writes "off work" under the comment section. The doctor still would be paid by WSIB for completing the FAF when an employee's limitations or capabilities are not even identified in order to help the employer provide medically appropriate modified work.
- Although, the FAF is to be completed at the request only of the employer, some centres, or union representatives have copies of these forms and they have the FAF completed. The employer is still responsible for the service fee.
- Sometimes there is a delay in getting the completed FAF returned to the Company. Doctor says they're "too busy", form will follow. This delay may result in lost time depending on the cooperation of the employee.

Question #4

What other methods could employers and workers use to facilitate safe and timely return to work?

- We use the same disability case management process for injuries and illness. We have standardized forms and letters to obtain the same functional information.
- Not sure, this tool does work for most cases.
- I think we would generally benefit from some type of guidelines on the duration of restrictions putting 12 months as an expected duration of limitations does not make sense to me. I also feel strongly that Doctors should be held more accountable for filling out the forms properly.
- Obviously, communication between employer and employee is critical but the FAF provides detailed information for the purpose of accommodation.
- Employers need a return to work policy to support their return to work process and plan. Employees need to be fully aware of their responsibility to participate in their return to work program. Although, the WSIB "recommends" Workplace Party Cooperation", the cooperation depends on the attitude/cooperation of the employee and the union.
- More communication from the doctors. they are impossible to locate (especially ER doctors) when there is a question about the FAF or you can't READ IT!
- All parties involved in a RTW program should conference call to ask questions and get answers at the same time - eliminated confusion and unnecessary delays.

Question #5

Overall, do you think WSIB should continue the Functional Abilities Form? Why or why not?

- Yes, because it is useful in some cases. I find that some physicians are more likely to complete this form in a timely manner.
- Yes we should continue with the FAF but only if we get functional abilities and not simply "as tolerated".
- Yes, I think they should continue the FAF as it is an effective ESRTW tool when completed properly and appropriately by doctors/physiotherapists or other approved health care providers.
- There is definite value to having this type of tool and a familiar tool (form) for treating practitioners to complete. However, the FAF needs to be modified to limit the above identified problems.
- Yes they should continue to use the form. If we didn't the worker would never get back to work.

Question #6

Is there anything else that we should consider as we evaluate the Functional Abilities Form?

- Yes they should continue to use it as Physicians are currently familiar with it.
- Nothing.
- You should consider it from the position of how the information will be used.
- There needs to be a timely return of the FAF to the employer. Sometimes there are delays with employees getting appointments, with their doctor or physiotherapist for the completion of the FAF; sometimes the employee sees the doctor and then the doctor says "too busy to do form now will complete within the next day or so."
- You should consider reviewing the revised Form 8 to align that information with the FAF.
- Remove the carbon copies!

Closing Remarks

It is clear from the comments which we have received that there is ongoing support for the continued use of the FAF. However, the form requires modifications to better assist employers and workers in the early and safe return to work process with the goal of returning injured workers to the workplaces as soon as possible after an injury.

As well, the WSIB must address the problem of payment of incomplete FAFs. Payment should only be issued for totally completed forms.

We ask that you consider the comments which our members have taken the time to present to the survey group.

All of which is respectfully submitted.

August 13, 2004.