

**RESIDUAL EARNING CAPACITY  
DESIGNATED ASSESSMENT CENTRE  
ASSESSMENT GUIDELINES**

*-- a guide to conducting REC DAC assessments --*

**Minister's Committee on the Designated Assessment Centre System**

Revised July, 1999

# TABLE OF CONTENTS

1.0	INTRODUCTION .....	1
2.0	PURPOSE OF THE RESIDUAL EARNING CAPACITY ASSESSMENT .....	3
2.1	CRITERIA IN SELECTING THE EMPLOYMENT TYPE .....	3
2.2	DETERMINING CLAIMANT EFFORT .....	4
	The Importance of Sincerity of Claimant Effort in Evaluating Function .....	4
	DAC Practice Guideline for Determining Sincerity of Claimant Effort .....	5
3.0	REC DAC ASSESSMENT TEAM .....	10
3.1	QUALIFICATIONS AND ROLES .....	10
3.1.1	Physician .....	11
3.1.2	Psychologist .....	11
3.1.3	Physiotherapist or Chiropractor .....	12
3.1.4	Occupational Therapist .....	12
4.0	DECISION POINTS AND PROCESS FLOW ALGORITHM .....	13
5.0	REC DAC ASSESSMENT PROCESS .....	15
5.1	INTAKE .....	15

5.1.1	Stage I - Processing the Referral . . . . .	15
5.1.2	Stage II - Claimant Contact . . . . .	17
5.1.3	Stage III - Referral is Complete . . . . .	18
5.1.4	Stage IV - Preparing the Claimant File . . .	18
5.2	ASSESSMENT - WEEK 1 . . . . .	19
5.2.1	Day 1 . . . . .	19
5.2.2	Day 2 and 3 . . . . .	23
5.2.3	Hypothesis Building Meeting . . . . .	27
5.2.4	Delaying Week 2 . . . . .	28
5.3	ASSESSMENT - WEEK 2: THE SITUATIONAL ASSESSMENT . . . . .	28
5.3.1	Occupational Therapy Planning Cycle . . . .	29
5.3.2	Simulated Work Environment . . . . .	30
5.3.3	Standardized Instruments . . . . .	32
5.3.4	Off-Site Placements . . . . .	32
5.4	SELECTING THE EMPLOYMENT TYPE . . . . .	32
5.4.1	Suggested Sources for Accessing Occupational Information . . . . .	33
5.5	ASSIGNMENT OF WAGE . . . . .	34
5.6	ARRIVING AT CONCLUSIONS . . . . .	35

6.0 REPORT ..... 37

    6.1 REC DAC REPORT FORMAT ..... 38

7.0 STANDARD CLAIMANT LETTER ..... 43

8.0 STANDARD INSURER LETTER ..... 45

9.0 ACKNOWLEDGEMENTS ..... 46

APPENDIX A ..... 47

## 1.0 INTRODUCTION

In monitoring and evaluating Residual Earning Capacity DACs, the Minister's Committee on the Designated Assessment Centre System (DAC Committee) is committed to achieving:

1. Consistent service regardless of the DAC location in the province;
2. Reliability between DACs;
3. A network of providers who work together to continuously improve the service they provide; and,
4. A well-designed assessment process that relies on the most current research to produce valid and defensible outcomes.

With these goals in mind, the DAC Committee undertook a review and refinement of the REC DAC assessment guidelines. The process of refining and testing the protocol will be ongoing and hence the assessment guidelines should be considered a "**living document**" that REC DACs will participate in evolving.

In order for the REC DAC system to achieve its goals, it is important that a formalized assessment process be maintained to control variation and increase the ability to evaluate the system as a whole. Formalized means that all REC DACs will use a common, sequential process delivered by assessment teams comprising the same discipline types. This does not mean that every claimant seen at the REC DAC will receive the identical assessment; assessment resources will vary, as will the situational assessment which is tailored to meet the specific needs of the individual.

It is acknowledged that there is a considerable range of assessment systems, approaches and tools used by a cross-section of disciplines within the current practice of assessing residual earning capacity. It is further acknowledged that there is a paucity of sound experimentation that supports any one assessment approach over another. It is **not**, therefore, the intention of the DAC Committee to require individual sites to purchase any one system of evaluation or to acquire specific evaluation equipment. Rather, the assessment guidelines provide a guide for selecting the most appropriate resources to employ in the assessment. Over time, the assessment guidelines may contain more specific requirements when supported by new evidence.

It is further assumed that each clinician on the REC DAC team will use their own clinical judgement when planning the assessment and interpreting the outcomes. The assessment guidelines, which were developed with extensive consultation and consensus reached by practice experts, is meant to guide the process. When, in the opinion of the clinician, the

assessment should deviate from these guidelines, the rationale must be noted in the report.

Finally, the issue of determining evaluatee effort, which is central to any assessment of performance, is considered a key element of the REC DAC assessment. A guide for REC DAC teams to use when determining claimant effort is included in these assessment guidelines (Section 2.2).

## 2.0 PURPOSE OF THE RESIDUAL EARNING CAPACITY ASSESSMENT

The Bill 164, Statutory Accident Benefits Schedule (SABS), Part VI, outlines the Loss of Earning Capacity Benefits (LECB)<sup>1</sup>. All REC DACs should be familiar with the SABS in general, and in particular, this part.

REC DACs participate in determining a claimant's residual earning capacity when the claimant and the insurer have been unable to agree on the claimant's residual earning capacity (Part VI, Section 23). In some cases, the claimant and the insurer will agree to pursue a DAC assessment of residual earning capacity prior to the insurer making an offer of LECB (Part VI, Section 25). In either of these instances, the purpose of the REC assessment is to determine an employment type (as well as the gross annual income that the person could earn from that type of employment), that best represents the claimant's current residual earning capacity.

## 2.1 CRITERIA IN SELECTING THE EMPLOYMENT TYPE

In selecting the employment type, the REC DAC team must ensure that the employment type meets the criteria outlined in the Bill 164 SABS (Part VI, Section 30). These criteria can be viewed as 'tests' for the employment type selected. The team should review these criteria during their collaborations to ensure that all relevant and necessary information is collected. Each of these criteria is specifically addressed in the report executive summary.

The specific Bill 164 SABS criteria are as follows:

1. ***The person<sup>2</sup>:***
  - i. ***is able and qualified to perform the essential tasks of the employment,***  
***or***
  - ii. ***would be able and qualified to perform the essential tasks of the employment if the person had not refused to obtain treatment or participate in rehabilitation that was reasonable, available and necessary to permit the person to engage in the employment.***

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<sup>1</sup> For accidents on or after January 1, 1994 and before November 1, 1996.

<sup>2</sup> *Italics* represent actual SABS language.

2. ***The employment exists in the area in which the person lives and is accessible to the person.***
3. ***It would be reasonable to expect the person to engage in the employment having regard to the possibility of deterioration in the person's impairment and to the person's personal and vocational characteristics.***

***The SABS define personal and vocational characteristics as: employment history, education and training, vocational interests and aptitudes, vocational skills, physical abilities, cognitive abilities and language abilities.***

***The SABS define A person is able and qualified to perform the essential tasks of an employment if,***

***(a) the person does not have any impairment that permanently prevents the person from performing those tasks; and,***

***(b) the person has the job skills and any licence or other credentials required to perform those tasks, or could obtain those skills and a licence or credentials without significant effort.***

## **2.2 DETERMINING CLAIMANT EFFORT<sup>3</sup>**

This section presents guidelines that govern all DAC assessments where a claimant's functional ability, and the sincerity of the claimant's effort in demonstrating their ability, is determined.

### **The Importance of Sincerity of Claimant Effort in Evaluating Function**

The issue of whether an evaluatee is giving a sincere effort to an assessment has long been identified as a central challenge in assessing functional performance. While there are a variety of ways that purport to measure sincerity of effort, there is little consensus on the best methodology. The following guidelines were developed with extensive consultation and consensus reached by research and practice experts for use in DACs who are evaluating a claimant's function as part of their assessment.

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<sup>3</sup> The section on determining claimant effort (Section 2.2) is a specific application of principles derived from: Strong, S. Westmorland, M. (1996). *Determining Claimant Effort and Maximal Voluntary Effort Testing - A Discussion Paper. Unpublished.* Work Function Unit, School of Rehabilitation Science, McMaster University, Hamilton, Ontario, Canada.



## **DAC Practice Guideline for Determining Sincerity of Claimant Effort**

### The Complexity of the Issue

Claimants referred for a REC DAC assessment typically will have a history of disability. In any assessment process, individuals with long-standing disability and pain can be expected to demonstrate some inconsistency of performance and some exaggeration of symptoms or overreaction. The challenge for the DAC team will be to appropriately interpret assessment outcomes to determine those cases where claimants have clearly and consistently, across time and context, given an insincere performance.

A DAC assessment of a claimant's functional ability is, by nature, an inductive process where a combination of quantitative and qualitative methods are used to arrive at a judgement or understanding of the claimant's functional status. In determining the assessment outcome, the team must ensure the assessment has:

- Employed appropriate methodologies driven by clinical reasoning, i.e., methods used are consistent with the method's original design and match the claimant's population;
- Interpreted and reported results with sound clinical reasoning rather than with an array of quantitative data (numbers, scores and quotients) that may not be meaningful to the primary users of the report (insurers and claimants);
- Integrated results as a strategy to ensure rigour. This means that the team confirms emerging results by making comparisons across time and context using different assessment methods. The judgement, therefore, is based on a pattern of outcomes observed by different team members in a variety of assessment situations;
- Addressed any inconsistencies in findings; and,
- Documented outcomes clearly and objectively as they occurred, making every effort to remove personal bias and to accommodate individual variation (e.g., culture).

### Clarifying the Terms

There is a confusing array of labels and terms associated with the assessment of effort found in the literature and used by clinicians in the field. Four key elements that emerge repeatedly include;

- i) impairment,
- ii) symptom exaggeration or overreaction,
- iii) sincerity of effort, and

iv) malingering.

Although these four components interact with each other, **they are not synonymous**. It is important for DAC teams to view them as distinct and separate elements. A claimant's performance during the assessment may be impacted by many factors including: impairment; pain; exaggeration of symptoms, or over reaction to activity; lack of sincere effort, etc. Typically, several factors combine to impact performance. In examining claimant effort to ensure the validity of the DAC conclusion, it is important for the DAC team to track information about the impact of impairment on performance versus symptom exaggeration versus lack of sincere effort. Equally important is a shared understanding of these terms.

i) Impairment

The SABS defines "impairment" according to the World Health Organization definition, i.e., *"a loss or abnormality of psychological, physiological or anatomical structure or function"*. Within the context of the DAC evaluation, it is important to view impairments according to this definition.

ii) Symptom Exaggeration or Overreaction

There are numerous labels found in the literature and used in clinical practice that are applied when an evaluatee's response to a procedure or activity is judged to be out of proportion to what would appear warranted given the individual's impairment and/or the evaluator's observation of the evaluatee's performance in similar task situations. Regardless of the label, the observation may describe a (maladaptive) behavioural response. A behavioural manifestation is **not** equal to, nor does it by itself represent, a lack of sincere effort. Such claimants should not be judged as insincere on the basis of symptom exaggeration or overreaction alone.

Research on pain does not support the view that the absence of organic signs or a physiological basis for pain means the pain is not legitimate. Present measurement tools are not sophisticated enough to accurately measure pain or its origins. Understanding of the relative influences of personality, environment, intelligence, social, behavioural and neurological factors is limited.

DAC assessors may use traditional strategies to attempt to enhance claimant performance. For example, if the claimant is overly cautious due to unwarranted fears of re-injury, the assessor may provide the appropriate education, encouragement and practice to challenge the claimant's fears. In another instance, the assessor may teach the claimant specific strategies, such as appropriate positioning and body mechanics. Even if the claimant's fears are based on an incorrect understanding of the body mechanics or other risk factors, the DAC must consider the conviction of the claimant's belief when evaluating his/her response to encouragement and education provided during the assessment.

Functional performance assessment results will often contain significant variation, i.e., the claimant may have demonstrated a specific ability in one task and, in another part of the assessment, displayed overt self-limiting behaviour on a task requiring the same ability. The team may therefore be required to make a judgement about the claimant's ability that is not based on a consistent pattern of demonstrated ability, but with consideration as to the impact of the claimant's behavioural response on their performance. This decision relies on the team's skill, experience, and professional clinical judgement.

### iii) Sincerity of Effort

Claimants are required to cooperate with the assessment. This means that claimants are expected to provide necessary information to the assessment team, make the assessment a priority in their life, and give a sincere effort in all evaluation procedures and tasks requested of them.

Failure to cooperate with the assessment might be manifested in a number of ways from obvious refusal to attend, to a failure to consistently give a sincere effort. In order to arrive at a conclusion of 'insincere effort', the team must ensure that they have clearly observed and documented a consistent failure to put forth their a sincere effort across time and context.

### iv) Malingering

Within the context of resolving disputes between insurers and claimants, determinations of malingering should be left to the formal Dispute Resolution Process. Information from a DAC assessment may be used in this process, (e.g., a report that concludes the claimant consistently failed to give a sincere effort) and would be considered along with other evidence.

## Dealing with Inconsistencies of Performance

**The key consideration in dealing with inconsistencies of performance is the determination of the origin of the variation.** This deliberation must include a systematic review of an array of potential factors that may have altered performance such as:

- Were the instructions understood?
- Was the measurement tool or evaluator accurate?

- Was the claimant fearful of re-injury?
- Did test anxiety play a role?
- Does the claimant have a psychological, mental or brain impairment that affected performance?
- Was the claimant fatigued?
- Is the claimant de-conditioned, and did this poor fitness level interfere with performance?
- Did pain impact the result?
- Is there an unidentified impairment?
- Were test results contaminated by a learning effect?
- *Did the claimant put forth an insincere effort?*

The DAC must systematically consider all potential reasons for inconsistent performance before they conclude 'insincere effort'. Depending upon the judgement of the assessor, this deliberation may indicate the need for;

- i) retest after sufficient rest,
- ii) feedback to the claimant in a clear and nonjudgmental manner with specific examples of where his/her performance was inconsistent, asking the claimant for **their** interpretation of inconsistent performance along with an offer to repeat the assessment activity.

Through this process, conclusions can be substantiated and integrated with other data sources (e.g., other team members) and assessment methods, across time and context, to ensure validity.

### Arriving at Conclusions

The purpose of an assessment of functional ability is to construct a clear picture of the claimant's current ability considering the statutory criteria. Determining the claimant's sincerity of effort is not a process of applying selected, discreet tests which are inserted into the assessment process to 'catch' insincere claimants. Rather, the claimant's effort and consistency of performance are tracked and monitored throughout the assessment process so that the team is assured that their outcome is valid. The central task is to construct a trustworthy picture, representative of the claimant's ability to function.

The team's final conclusion regarding the employment type that best represents the claimant's current ability to earn will fall into one of three broad categories:

- The claimant's residual earning capacity is 'X' and this is a valid outcome based on consistent performance and sincere effort, and satisfies all SABS criteria.
- The claimant's residual earning capacity is 'X' and this is a valid outcome **derived** from varied performance but sincere effort, and satisfies all SABS criteria.

- The assessment findings do not represent a valid profile of the claimant's ability to earn, because of the claimant's insincere effort. Therefore, residual earning capacity has been **deemed** to be 'X'<sup>4</sup>.

Finally, the REC DAC must pay attention to the SABS criteria that states:

***The person***<sup>5</sup>:

- i. is able and qualified to perform the essential tasks of the employment,***  
***or***
- ii. would be able and qualified to perform the essential tasks of the employment if the person had not refused to obtain treatment or participate in rehabilitation that was reasonable, available and necessary to permit the person to engage in the employment.***

When the REC DAC has *sufficient information* to determine that the claimant **would have been able** to perform the essential tasks of and engage in a given employment type, had he/she not refused to obtain treatment or participate in rehabilitation that was reasonable, available and necessary, the REC DAC should determine that the claimant's residual earning capacity is that employment type, ie: the employment that she/he would have been able to engage in had he/she not refused (to obtain treatment or participate in rehabilitation that was reasonable, available and necessary).

REC DACs must interpret their findings and provide a rationale for their conclusions in the report. The assessment process is designed to be comprehensive, recognizing that the ability to perform work is complex and integrated with personal and cultural meaning. The assessment relies on skilled, experienced professionals who offer substantiated, informed judgements, free of personal bias.

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<sup>4</sup> The REC DAC **may not** submit a report that concludes '*no residual earning capacity can be determined because of insincere effort on the claimant's part*'. In such cases, the REC DAC must 'deem' an employment type that, in their judgement best represents the claimant's current earning capacity.

<sup>5</sup> *Italics* represent actual SABS language.

### 3.0 REC DAC ASSESSMENT TEAM

The residual earning capacity assessment team must include the following core group of regulated health professionals:

- ! **Physician**
- ! **Psychologist**
- ! **Physiotherapist or Chiropractor**
- ! **Occupational Therapist**

Although each member of the team contributes a unique skill set and their own individual assessment outcomes, the four must work collaboratively to make decisions at various junctures in the 2-week assessment process. In the end, the team must agree on an employment type that best represents the claimant's residual capacity to earn, satisfying the criteria outlined in the Bill 164 SABS. In this regard, it is important that team members have access to each other throughout the assessment for consultation and ad hoc meetings. They must therefore possess strong skills and experience in working with multidisciplinary teams and in arriving at collaborative decisions.

The REC DAC should identify a team coordinator who is responsible for convening a quality assessment process and product. This person also serves as the primary contact for outside parties regarding the claimant's assessment. This role involves ensuring that:

- appropriate professionals are included in the assessment;
- the assessment is comprehensive and consistent with the requirements outlined in the Bill 164 SABS and the REC DAC Assessment Guidelines;
- any inconsistencies found in the various sources of data used to determine REC DAC are addressed;
- the team reaches consensus regarding its findings; and,
- the final report accurately describes the details of the assessment process and judgement used to reach conclusions.

Although the REC DAC may elect to have other professionals and experts work with the assessment team, it is the core group that directs, and is responsible for, the assessment outcome. **No other professional or expert may be substituted for any of these core roles.**

#### 3.1 QUALIFICATIONS AND ROLES

Each team member must demonstrate all of the following qualifications:

- ! Experienced working within multidisciplinary teams and with multidisciplinary decision-making;
- ! A member in good standing and holds a current certificate of registration with the appropriate Ontario regulatory college;

- ! Demonstrated ability to articulate assessment outcomes and rationale in a manner accessible to the average lay reader;
- ! Understands the relevant sections of the Bill 164 SABS and stays current with REC DAC guidelines
- ! Experienced in identifying functional restrictions and abilities related to a vocational selection;
- ! Demonstrates knowledge, skills and ability in the area of assessment related to the determination of residual earning capacity.

The following is a brief description of each profession's role and additional qualifications, as required.

### **3.1.1 Physician**

The role of the physician is to:

- provide an interpretation of the medical documentation that accompanies the referral;
- provide information about the natural history of the claimant's impairment pertinent to selecting an employment type consistent with criteria outlined in the Bill 164 SABS; and,
- identify both coexisting and disability-based medical contraindications and cautions pertaining to employment.

The physician must have experience assessing a broad range of medical conditions. He/she must have a minimum of 3 years, optimally 5, of current practice<sup>6</sup> experience assessing and treating similar populations as those encountered in a REC DAC, e.g., unresolved musculoskeletal impairments / psychological disorders which have developed into chronic pain, individuals with acquired brain injury, etc.;

### **3.1.2 Psychologist**

The role of the psychologist is to:

- evaluate the claimant's vocational status from a psychological perspective, and on that basis, to generate a hypothesis with regard to possible occupational options; and,
- identify both coexisting and disability-based psychological contraindications and cautions pertaining to employment.

The psychologist must have a specific focus of practice in the area of vocational evaluation. He/she must have a minimum of 3 years, optimally 5, of current practice<sup>7</sup> experience assessing and treating similar populations as those encountered in a REC

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<sup>6</sup> Current experience means experience gained within the past 7 years.

<sup>7</sup> Current experience means experience gained within the past 7 years.

DAC, e.g., unresolved musculoskeletal impairments / psychological disorders which have developed into chronic pain, individuals with acquired brain injury.

### **3.1.3 Physiotherapist or Chiropractor**

The role of the physiotherapist or chiropractor is to:

- assess and analyse the claimant's physical function in order to define functional restrictions and abilities related to vocations; and,
- collaborate with the team to develop a hypothesis about the claimant's vocational limitations and strengths.

The Physiotherapist or Chiropractor must have experience assessing a broad range of neuromuscular and/or musculoskeletal conditions related to vocation. He/she must have a minimum of 3 years, optimally 5, of current practice<sup>8</sup> experience assessing and treating similar populations as those encountered in a REC DAC, e.g., unresolved musculoskeletal impairments / psychological disorders which have developed into chronic pain, individuals with acquired brain injury.

### **3.1.4 Occupational Therapist**

The occupational therapist is responsible for:

- completing the comprehensive intake interview;
- integrating the clinical opinions of other team members into the situational assessment; and,
- planning, supervising and overseeing the claimant's ability to perform in the situational assessment.

The occupational therapist must have a focus of practice in vocational assessment. He/she must have a minimum of 3 years, optimally 5, of current practice<sup>9</sup> experience assessing and treating similar populations as those encountered in a REC DAC, e.g., unresolved musculoskeletal impairments / psychological disorders which have developed into chronic pain, individuals with acquired brain injury.

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<sup>8</sup> Current experience means experience gained within the past 7 years.

<sup>9</sup> Current experience means experience gained within the past 7 years.



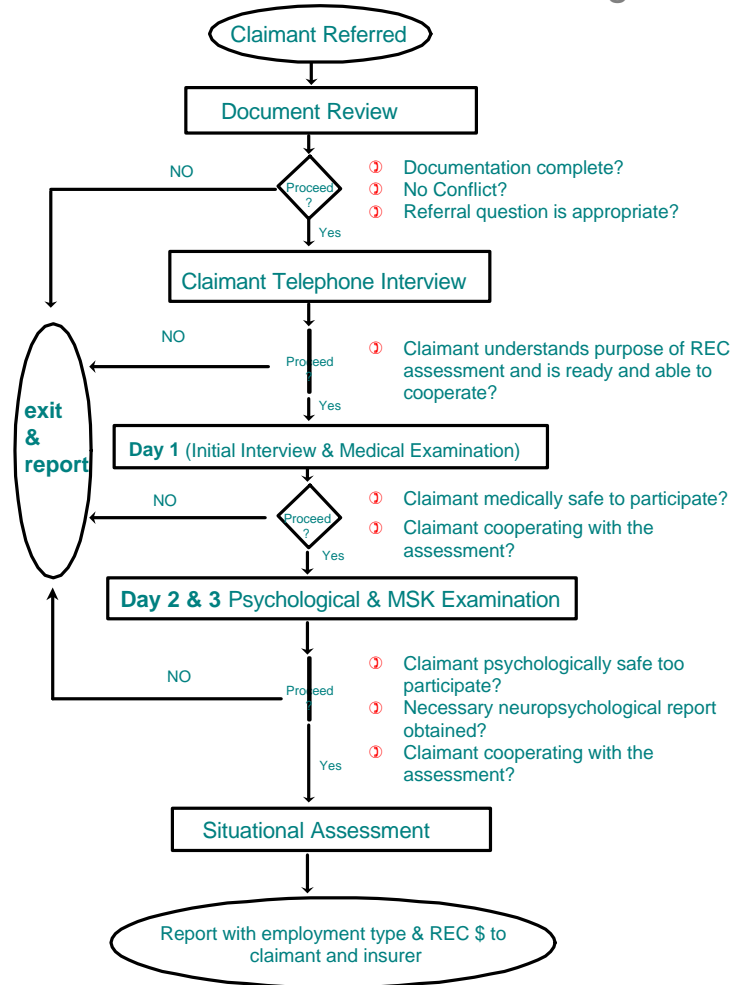
## 4.0 DECISION POINTS AND PROCESS FLOW ALGORITHM

FIGURE 1, *Decision Points and Process Flow Algorithm* provides an overview of the assessment process and indicates the points where the assessment may be terminated prior to the determination of an employment type and REC. Regardless of the point at which the REC DAC assessment is terminated, a report communicating the rationale for the discontinuation must be written and sent to the insurer and claimant.

FIGURE 1

# Residual Earning Capacity DAC

## Decision Points and Process Flow Algorithm



**After the documentation review, the assessment may be terminated when:**

- It has proved impossible to obtain required documentation (i.e., Form 2 - REC DAC Referral Form<sup>10</sup>; OCF Form 14<sup>11</sup>); or,
- The REC DAC has declared a conflict of interest and either the insurer or the claimant have indicated that they are unwilling to proceed; or,
- The referral is not a REC DAC referral; or,
- Having reviewed the available assessor pool and possible alternate arrangements, the REC DAC is unable to assemble a team with the necessary skill set to appropriately assess a claimant with an unusually unique, severe or combination of impairment(s).

**After the claimant telephone interview, the assessment may be terminated when:**

- The claimant indicates that she or he is not willing, able or ready to cooperate with the REC DAC assessment.

**After 'Day 1', the assessment may be terminated when:**

- The physician determines that the claimant is not medically safe to proceed with the assessment. (The physician may indicate if this situation is temporary and, if so, when the assessment might recommence.); or,
- The claimant is not cooperating with the assessment and it is the judgement of the REC DAC team that cooperation cannot be obtained.

**After 'Day 2 & 3', the assessment may be terminated when:**

- The psychologist determines that the claimant is not safe to proceed with the assessment from a psychological perspective; or,
- A neuropsychological report is required<sup>12</sup>. (This may result in placing the assessment "on hold" and recommencing once the neuropsychological report is completed); or,
- The claimant is not cooperating with the assessment and it is the judgement of the REC DAC team that cooperation cannot be obtained.

**Once the situational assessment commences, the assessment may not be terminated and the DAC must determine an employment type and dollar amount the claimant could earn from that employment type.**

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<sup>10</sup> See Appendix A.

<sup>11</sup> See Appendix A.

<sup>12</sup> The REC DAC may provide the neuropsychological testing if they have the resources to do so. Should the REC DAC not have ready access to the required neuropsychological assessor, the REC DAC should discuss with the insurer and claimant how this assessment will be arranged, by whom and when it will be completed.

## 5.0 REC DAC ASSESSMENT PROCESS

### 5.1 INTAKE

A methodical intake process will ensure that referrals are appropriate and that complete and consistent information is collected on each claimant. It is acknowledged that unforeseen factors may necessitate variation at any stage in this process; such variations must be identified in the report. REC DACs should make every effort to follow this procedure.

#### 5.1.1 Stage I - Processing the Referral

Who completes this stage?

It is acknowledged that processing the referral involves both “clerical” and “clinical” tasks (those that require clinical decision making). The REC DAC should decide which members within their organization are best equipped to complete these steps.

INTAKE STEP	PROCEDURE & EXPLANATION	ROLE
<b>DAC Activity Report Form</b>	Record date when initial referral package received. Complete Sections 1 & 2. Insert in claimant’s file.	Clerical
<b>Mandatory Forms</b>	Ensure mandatory forms are received with required signatures: <ul style="list-style-type: none"> <li>• <i>Residual Earning Capacity Assessment Referral (Form 2)</i></li> <li>• <i>Permission to Disclose Health Information to the Designated Assessment Centre (OCF-14)</i></li> </ul>	Clerical
<b>Inappropriate Documentation</b>	Remove and return to the submitter all correspondence between: <ul style="list-style-type: none"> <li>- the insurer and the claimant;</li> <li>- ‘cover letters’ or other ‘narratives’ from either party</li> </ul> This includes any documents with information pertaining to previous offers of LECB.	Clerical

INTAKE STEP	PROCEDURE & EXPLANATION	ROLE
<b>Appropriate Referral</b>	Determine the appropriateness of the referral: <ul style="list-style-type: none"> <li>• Ensure that the referral is for a REC DAC and not an Insurer Examination (I.E.)<sup>13</sup></li> <li>• The REC DAC is able to establish an assessment team that has the necessary clinical experience and skill set for assessing the claimant<sup>14</sup>.</li> </ul>	Clerical  Clinical
<b>Referral Question</b>	The referral question should be limited to <b>a request for determination of residual earning capacity</b> and not include requests for treatment review, disability determination or vocational recommendations.	Clerical/ Clinical
<b>Conflict of Interest</b>	Check for any conflict of interest. Follow-up with insurer and claimant as necessary.	Clerical/ Clinical
<b>Documentation Complete</b>	Ensure that all documentation has been received (as per Form 2 checklist): <ul style="list-style-type: none"> <li>• OCF-14 Permission to Disclose</li> <li>• Copies of clinical consultation and investigation reports</li> <li>• Relevant reports from case managers, rehabilitation professionals, vocational assessors/counsellors, etc.</li> <li>• Psychological consultation reports</li> <li>• DAC reports</li> <li>• Special needs of claimant (e.g., translation, mobility, other)</li> <li>• Vocational rehabilitation reports</li> <li>• Other relevant information</li> </ul> Follow-up with insurer and/or claimant regarding any referral information that is missing or needs clarification. <sup>15</sup>	Clerical/ Clinical

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<sup>13</sup> If the referral is for an I.E., then the claimant and insurer shall be informed that use of the REC DAC to perform an Insurer Examination (regarding residual earning capacity) will preclude the facility from subsequently performing a REC DAC assessment of that claimant.

<sup>14</sup> For example, when a claimant with a an unusually unique, severe or combination of impairment(s) is referred, the REC DAC must ensure that a clinical team with the appropriate experience and skill set is assembled. If the REC DAC is unable to meet the needs of the particular claimant, the REC DAC should return the referral with an explanation and notify the Accident Benefits Analysis Unit at the Financial Services Commission of the specifics of the case.

<sup>15</sup> consult General DAC Guidelines

INTAKE STEP	PROCEDURE & EXPLANATION	ROLE
<b>Adherence to General DAC Guidelines</b>	Prior to proceeding with the assessment, compliance with all General DAC Guidelines should be confirmed, and specifically those pertaining to: ! Disclosure of Information; ! Conflict of Interest; ! Use of Surveillance in DAC Assessments; ! Complete Referral Information; and, ! Pursuit of Missing Information.	Clerical/ Clinical

### 5.1.2 Stage II - Claimant Contact

Who completes this stage?

It is recommended (but not required) that the OT complete this step as it is a natural precursor to the Intake Interview which will be completed by the OT on Day 1 of the assessment.

INTAKE STEP	PROCEDURE & EXPLANATION
<b>Claimant Telephone Interview</b>	<p>The telephone interview should accomplish the following:</p> <ul style="list-style-type: none"> <li>• Ensure that the claimant is aware of the referral and understands the purpose and scope of the assessment;</li> <li>• Obtain a brief history that might extract information missing from the referral package;</li> <li>• Respond to the claimant's questions/concerns;</li> <li>• Check further for any potential conflict of interest;</li> <li>• Ensure that the claimant is prepared to cooperate with the assessment; (i.e., views the assessment as a priority, willing to provide the assessment team with necessary information and to give their best effort to all assessment procedures and activities)</li> <li>• When necessary, request information directly from the claimant (e.g., Release of Information for information that the insurer may not have in their possession including recent reports from treating practitioner(s), etc.); and,</li> <li>• Discuss a potential start date of the assessment.</li> </ul> <p>Information from the telephone interview may require follow-up with the insurer, e.g., claimant presents instrumental problems with attending assessment. <b>If the claimant has indicated that he or she will not, or cannot, cooperate with the assessment, the insurer and claimant representative (where applicable) will be notified immediately.</b></p>

### 5.1.3 Stage III - Referral is Complete

The referral is complete once all necessary documentation (from insurer and claimant) has been acquired and the claimant has agreed to participate in the assessment.

Who completes this stage?

It is recommended that clerical staff complete this step.

INTAKE STEP	PROCEDURE & EXPLANATION	ROLE
<b>DAC Activity Report Form</b>	Complete Section 3. REC DACs are expected to begin the assessment not longer than 2 weeks from the date the referral is complete.	Clerical
<b>Schedule Assessment</b>	Schedule assessment to begin no later than 2 weeks from the date the referral is complete (see Section 3, DAC Activity Report Form). Confirm start date with claimant. Confirm scheduling with assessment team.	Clerical
<b>Confirmation: Claimant &amp; Insurer</b>	Send Standard Claimant and Insurer letters - copy both parties (see section 7.0)	Clerical

### 5.1.4 Stage IV - Preparing the Claimant File

Who completes this stage?

As with Stage I, the REC DAC should decide which team members within their organization are best equipped to complete these steps. Once again, it is emphasized that some tasks are clerical while others require clinical decision making.

INTAKE STEP	PROCEDURE & EXPLANATION	ROLE
<b>Sort Referral Information</b>	Divide referral information into appropriate subsections.	Clerical
<b>Complete Summary Overview</b>	Write brief summary of file information to provide an overview for the team.	Clinical
<b>Initiate Global Claimant Profile Form<sup>16</sup></b>	Record summary information on Global Claimant Profile Form.	Clinical

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<sup>16</sup> See Appendix A. This form serves as an ongoing working record in the claimant's file and facilitates information exchange between assessment team members.

## 5.2 ASSESSMENT - WEEK 1

The REC assessment involves incremental gathering, recording and sharing of information by the core assessment team.

During the first week, the claimant will participate in an intake interview conducted by the Occupational Therapist (OT) and be assessed by the physician (MD), physiotherapist (PT) or chiropractor (DC) and psychologist (psych). These sessions should be scheduled at a reasonable pace for the claimant in an effort to optimize performance across assessments. It is also important that sufficient time be reserved for the team to meet, analyse information and generate assessment goals for Week 2.

The order of the assessment **must** be followed as presented below:

### 5.2.1 Day 1

#### 1) Intake Interview

Who completes this stage?

The intake interview is conducted by the OT. Since the OT is the team member who will spend the most time with the claimant, this initial contact will facilitate rapport building with the claimant.

Purpose

The purpose of the intake interview is to provide an orientation session for the claimant and for direct information gathering.

The comprehensive interview allows relevant, claimant-generated information to be collected and recorded at the beginning of the assessment process so that each subsequent team member need only confirm their understanding of the claimant's history and explore, in detail, information relevant to their specific assessment role.

Procedure

- Follow the interview guide on the Global Claimant Profile Form. Record information on this form which will then be shared with other team members.
- Review the overall assessment process and expectations of the claimant.

## 2) Medical Examination

### Who completes this stage?

The medical examination is completed after the intake interview by the physician.

### Purpose

The purpose of the medical assessment is for the physician to:

- A. Collect/interpret information relevant to the Bill 164 SABS criteria<sup>17</sup>, as follows:

***The person is able and qualified to perform the essential tasks of the employment ... if the person does not have any impairment that permanently prevents the person from performing those tasks; and, the person has the job skills and any licence or other credentials required to perform those tasks or could obtain those skills and the licence or credentials without significant effort;***

***or, would be able and qualified to perform the essential tasks of the employment if the person had not refused to obtain treatment or participate in rehabilitation that was reasonable, available and necessary to permit the person to engage in the employment.***

***It would be reasonable to expect the person to engage in the employment having regard to the possibility of deterioration in the person's impairment and to the person's personal and vocational characteristics.***

- B. Determine the natural history of the claimant's impairment(s) and note specific vocational cautions or contraindications to be considered in selecting the employment type.
- C. Ensure that the claimant is medically stable to proceed with the assessment. **If the physician determines that the claimant is not medically safe to proceed with the assessment, the assessment may be halted and a report generated.** The physician may also indicate if this situation is temporary and when the assessment might be recommenced.
- D. Describe any coexisting medical problems that will impact on vocational choice.
- E. Describe any environmental or sensory limitations.

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<sup>17</sup> Refer to Part VI, Section 30 of the Bill 164 SABS for the complete text.



## Procedure

- Review relevant documentation
- Physical history and examination
- Record findings on the Global Claimant Profile Form:
  - Medical stability to proceed with the assessment
  - Details noted from medical consultation documents
  - Coexisting problems that will impact vocation choice
  - Specific vocational activity contraindications and cautions
  - Environmental limitations
  - Sensory disabilities that will impact vocational choice
  - Impressions and Flags

### **3) Musculoskeletal Assessment**

#### Who completes this stage?

This stage is completed by the physiotherapist or chiropractor.

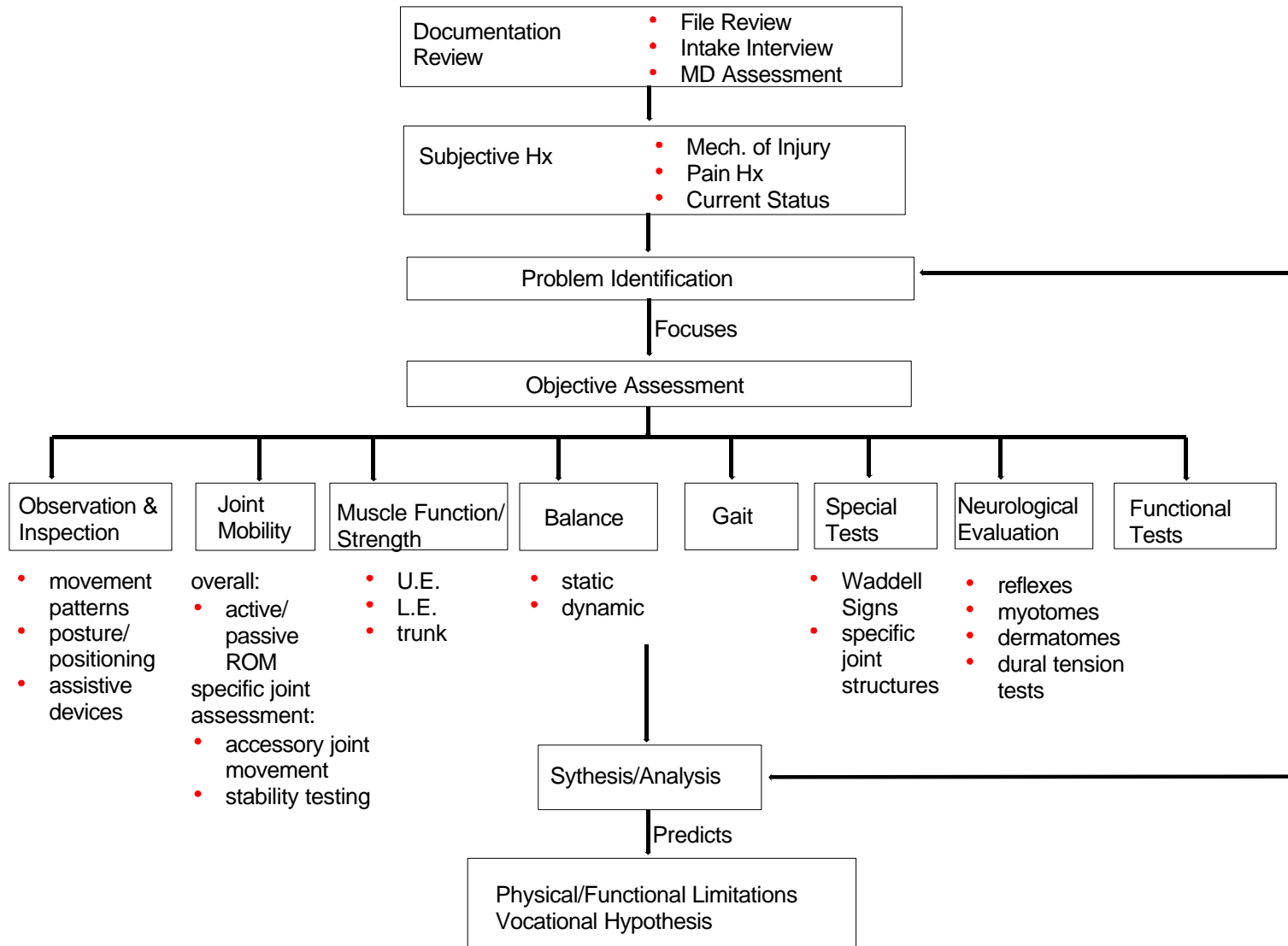
#### Purpose

The purpose of the musculoskeletal assessment is to determine any physical/functional limitations and to collaborate with the team to develop a hypothesis about the claimant's vocational limitations and strengths. See Figure 2 for a flow chart of the musculoskeletal assessment process.

#### Procedure

- Conduct comprehensive musculoskeletal assessment that includes:
  - joint accessory movement testing
  - neurological assessment
  - fitness overview
  - functional testing
  - analysis of muscle functioning
- Determine physical restrictions, vocational limitations and strengths using assessment findings combined with a sound understanding of the underlying causes of altered musculoskeletal functioning
- Record physical restrictions on the Global Claimant Profile Form:
  - Vocational activity limitations
  - Vocational activity strengths
  - Impressions and flags

## Musculoskeletal Assessment Process Flow



## 5.2.2 Day 2 and 3

### 1) Psycho-Vocational Assessment

#### Who completes this stage?

This assessment is completed by the psychologist.

#### Purpose

The purpose of the psycho-vocational assessment is to evaluate the claimant's vocational status from a psychological perspective and, on that basis, contribute to the generation of a hypothesis with regard to possible occupational options.

The task includes two principal components: a description of any psychological contraindications or cautions pertaining to employability arising from coexisting or disability-based problems; and, determination of the claimant's potential work status based on their cognitive capacities, language capabilities, interests, aptitudes and relevant behavioural and personality functioning.

In arriving at an opinion regarding both of the above, the psychologist relies on: data resulting from their own clinical history; observations and psychometric measures; referral documentation; and, information from other team members.

Where there is documentation of prior psychological or psycho-vocational assessments, the circumstances, timing and content of such assessments are reviewed and considered. A judgement is made as to test selection taking into account the possibility of any effects and/or changes in claimant status in the intervening time period.

The psycho-vocational assessment must be undertaken within the context of the information derived from both the medical and physiotherapy screenings, considering any physical impairment, its natural history and any environmental, physical and/or functional limitations that have been identified as impacting employment options.

**If the psychologist determines that the claimant is not safe to proceed with the assessment from a psychological perspective, the assessment may be halted and a report generated.** As in the case of terminating the assessment due to medical complications, the psychologist may note if this situation is temporary and when the assessment might recommence.

## Procedure

Before reviewing the assessment methodology, note the following caveat:

These guidelines suggest specific assessment instruments so that consistency of approach across REC DACs is maintained and to enable evaluation and monitoring of REC DACs. This is not, however, intended to surpass clinical judgement when the claimant's characteristics or circumstances dictate that an alternate assessment method is more appropriate. The report should discuss why an alternate method was selected.

### Review History and Obtain Additional Information as Necessary

The Global Claimant Profile Form will contain information gathered from the claimant during the intake interview. The psychologist will augment this information as necessary to obtain additional information relevant to the claimant's developmental and psychosocial history, educational background, employment and vocational training experience. The claimant's motivation for returning to work should be ascertained, as should the existence of specific plans, aspirations or perceived obstacles. In the context of the history, behavioural observations should be made pertaining to motivation, attitude, interpersonal skills, communication difficulties, cognitive functions, pain behaviour, and psychopathological symptomatology. Based on both the historical information and observational data, the selection of appropriate test measures is then made.

### Evaluate Intelligence/Cognitive Functioning

Testing is carried out to evaluate the claimant's intellectual potential and current level of cognitive functioning. Unless contraindicated, The Wechsler Adult Intelligence Scale - III (WAIS-III) is to be used as the preferred instrument. Optimally, the evaluation of intellectual and cognitive functions encompass the full range of cognitive activities, both in verbal and nonverbal domains. Where cultural background, physical limitations, sensory deficits, or language restrictions preclude full administration of the WAIS-III, subtests that may appropriately be administered are to be supplemented by other instruments, for example, the Ravens' Progressive Matrices. In the case of the claimant's primary language being other than English, a standardized version of the WAIS, available in the claimant's language, may be substituted.

Information generated from the intellectual screening may, at times, suggest specific areas of cognitive inefficiency, such as neuropsychological impairments, learning disabilities, perceptual anomalies, etc. In such cases, the psychologist may recommend further assessment through consultation with a specialist. In the case of a documented brain injury, the psychologist should consider and incorporate findings from any recent neuropsychological assessment reports. Where no such assessment has occurred or is outdated, an updated evaluation of neuropsychological functioning should be completed prior to the psychologist's recommendation of potential occupational options. This may

result in placing the assessment “on hold” and recommencing once the neuropsychological report is completed. The REC DAC may provide the neuropsychological testing if they have the resources to do. Should the REC DAC not have ready access to the required neuropsychological assessor, the REC DAC should discuss with the insurer and claimant how this assessment will be arranged, by whom and when it will be completed.

### Evaluate Achievement

Measures of academic achievement are administered to ascertain the claimant's level of academic attainment, particularly, language and numeracy skills. Depending on the claimant's educational and cultural background, use of some combination of the Wide Range Achievement Test-3 (WRAT-3) and The Canadian Adult Achievement Test (CAAT) may be preferred. The CAAT includes measures of reading comprehension, an advantage over the WRAT-3's word recognition task. Similarly, the WRAT-3 includes an actual spelling component while the CAAT, in contrast, requires only spelling recognition.

In evaluating each of the academic skill areas, the psychologist relies on his or her experience and knowledge of the claimant in making a judgement as to which of the two tests, which of their respective components and at which level of task difficulty to administer. Noted advantages of the CAAT include: it is Canadian-based; power-based; and, offers a wider choice of difficulty levels of administration.

### Evaluate Aptitudes

Testing of employment-relevant aptitudes is conducted to evaluate the presence of any specific capacities, possessed by, or required of, the claimant. While a wide variety of instruments are currently available, the General Aptitude Test Battery (GATB) remains the preferred instrument. Advantages of the GATB include its range and generation of CCDO codes which can be converted to NOC codes. While there may be a need in a proportion of cases to administer the full battery, the psychologist may select and administer only those sub-tests judged relevant.

Where performance on aptitude testing fails to identify any specific areas of occupational strength, the psychologist takes into account the claimant's prior work history and the transferability of any previously acquired skills.

## Evaluate Vocational Interests

A measure of vocational interest is to be included. There are numerous psychometric instruments designed to measure vocational interests. For use in the REC DAC assessment, the recently revised Jackson Vocational Interest Survey (JVIS) is preferred by virtue of its provision of NOC codes. Alternate consideration can be given to use the Holland Self-Directed Search which expresses interests in CCDO codes (which can be converted to NOC). However, in contrast to the JVIS, the Holland does not incorporate a forced-choice format, and may in some cases generate little useful information.

Where the limitations of language or literacy preclude use of these instruments, the Wide Range Interest-Opinion Test (WRIOT), a nonverbal tool, is to be substituted.

## Evaluate Personality/Psychopathology

A measure of behaviour and personality functioning is to be included in each case assessed. In some instances, the accident may have resulted in the emergence of a psychopathological disorder or psychological symptoms (e.g., depression, anxiety, post-traumatic stress). These may present as a primary condition or as symptoms secondary to physical injuries and the experience of persistent pain. Where these are present, they may impact on employability in general, or have a bearing on job selection in particular.

Even if testing rules out the presence of significant psychopathology, issues of temperament, behavioural style and personality predispositions are important factors which may relate to specific job suitability.

There is a large array of psychometric instruments available to evaluate personality dispositions and psychopathology. Ideally, for the purpose of the REC DAC evaluation, a broad-based measure of personality should be utilized. It is recommended that the psychologist select one from among the following:

- The Minnesota Multiphasic Personality Inventory - II (MMPI-II);
- The Million Clinical Multiaxial Inventory - II (MCMI-II); or,
- The Personality Assessment Inventory (PAI).

In selecting an instrument, the psychologist considers their own level of experience with each of these measures and the appropriateness of the measure relative to the claimant's capacities. In the case of a non-English speaking claimant, the use of a standardized version of the test in the claimant's native language should be made, where possible. Alternatively, when translation of test items occurs, judgement and caution should be exercised in the interpretation of findings. In such instances, a greater emphasis and reliance on claimant history and clinical observation may be required. If, in considering particular types of occupational options, the psychologist regards temperamental, behavioural or cognitive styles to be important elements affecting suitability and requiring further and more specific assessment, the supplementary use of such instruments as the

Jackson Personality Inventory or the Personality Research Form should be considered. Similarly, where a judgement is made that further elaboration is necessary with respect to a claimant's depression, anxiety and/or pain experience, instruments such as The Beck Depression Inventory, Beck Anxiety Scale and/or a pain inventory, such as the Multidimensional Pain Inventory, should be considered.

It is noted, however, that the REC assessment has a specific and circumscribed mandate and time-frame so that use of supplementary tests, beyond the core protocol, is undertaken only when it is judged that additional information is essential to understand the claimant's psychological state.

### Assessment and Recommendations

Data gathered from the history, clinical observations and all measurement domains are integrated to provide a profile of the claimant's personal and vocational characteristics. On the basis of the profile, potential suitable occupations and their NOC codes are identified. A list is then generated with jobs ranked according to earning potential. Recommendations will also include any workplace activities, demands and/or environmental conditions to be avoided.

### Record findings on the Global Claimant Profile Form

- Details from the psychological consultation documents
- Coexisting psycho-social problems that will impact vocational choice
- Specific vocational activity contraindications and cautions
- Summary of psycho-vocational testing outcomes
- Impressions and flags

### **5.2.3 Hypothesis Building Meeting**

The hypothesis building meeting should be scheduled to occur at the end of Week 1 and include all core team members.

The purpose of this meeting is to:

- Review and analyse assessment outcomes, i.e., outcomes from the file review, intake interview, medical, musculoskeletal, and psycho-vocational assessments
- Generate a hypothesis(es) that will guide the development of assessment goals for Week 2. This means that, based on the assessment information collected thus far, the team will decide collaboratively on the premise(s) that will guide the assessment goals for the second assessment week. For example, the team may postulate that the claimant is most suited for clerical occupations and, from this assumption, develop

specific assessment goals, e.g., to evaluate the claimant's tolerance for sitting and completing clerical tasks.

#### **5.2.4 Delaying Week 2**

In some cases, the team may require delay in commencing Week 2 directly after Week 1, e.g., to arrange for a specific work trial. While permissible, the interval between Week 1 and Week 2 should not exceed 2 weeks. This delay should be discussed and agreed upon by both the claimant and the insurer.

### **5.3 ASSESSMENT - WEEK 2: THE SITUATIONAL ASSESSMENT**

#### Overview

During Week 2 of the assessment, the claimant will be scheduled to attend the DAC facility or off-site placement for five days, seven hours per day. (Some flexibility must be allowed to accommodate claimants who will not have the endurance to participate for full days.) This important component of the assessment process allows the team to assess the claimant's ability to attend and participate in planned, sustained activity at a simulated workplace for five consecutive days.

Planned activity may involve simulated work tasks as well as formalized and standardized measures. The activities that the claimant is asked to undertake will depend on the assessment goals developed by the team and will also be influenced by the assessment outcomes during that week. This means that the assessment should be flexible enough to allow for changes that may become necessary as daily outcomes are examined.

The assessment will be overseen by the OT who will be present each day to monitor the claimant's output and adjust the assessment process as necessary. The OT may be assisted by other vocational assessment experts, but accountability for the assessment plan, progress, **daily** debriefing with the claimant, assessment outcome and report, remains with the OT.

The OT will need to consult with other team members during Week 2 and may also need to convene ad hoc team meetings to address issues as they might arise. Given these requirements, it will be important for the other core team members to be readily available for consultation as needed.

#### Varying the length of Week 2



From time to time, the REC DAC may decide to extend or shorten the situational assessment. This decision will be made by the core team when, in their judgement, more time will clarify the assessment outcome or, alternatively, the assessment outcome is obvious before five days have elapsed and prolonging the assessment will not alter the outcome. Although this decision is left to the team, several limitations apply:

- the claimant and insurer must be advised of this decision and its rationale; and
- the overall length of the situational assessment should not exceed 10 days nor be less than 2 days.

### **5.3.1 Occupational Therapy Planning Cycle**

In planning the situational assessment, the OT selects the appropriate resources to test the hypothesis(es) and meet the assessment goals. This portion of the assessment is highly individualized and plans will vary with claimant need.

The planning cycle involves 4 key steps:

#### **1) Objective Setting**

Define the evaluation questions that will be addressed in the simulated work environment. The objectives will be defined collaboratively with the core team at the end of Week 1, although the focus may change depending on the outcomes during the simulated work assessment.

#### **2) Activity Analysis**

Define the specific physical, cognitive and interpersonal demands that must be assessed through simulated work activities or with standardized measures.

#### **3) Tool/Modality Selection**

Select the most appropriate methods and tasks to be used, guided by:

- evaluation questions
- claimant characteristics
- measurement characteristics of standard instruments

#### 4) Selection of Vocational Aids and Adaptations

It is important that the evaluator works with the claimant to facilitate their best effort. Given this principle, REC DACs should have available ergonomic aids and adaptations that are commonly used and would be considered 'reasonable' for any employer to allow in the workplace. Such equipment, employed to increase physical tolerance, should be used as required during the simulated assessment week. The DAC inventory should include, but not be limited to:

- portable ergonomic back rest, high and low back design
- foot rests
- adjustable height work surfaces including the feature that allows adjustment to a tilt work surface
- a range of seating options, including ergonomic chairs with adjustable features e.g., seat height and angle, back height, with and without arms
- adjustable computer work station with features allowing adjustment of keyboard position as well as stationary and free-moving forearm supports
- work stools including these designed to easily accommodate moving from a standing to seated position ('sit/stand' chair)
- easel style book support
- material for building up tool handles
- trolley

#### 5.3.2 Simulated Work Environment

Work performance entails complex demands, skills and behaviours. Although measurement tools can provide information about certain specific elements of a job's demands, observation of performance in a simulated work environment reveals the integration of skills, physical and cognitive capability and behaviour.

The simulated work environment is intended to imitate the characteristics of an actual workplace. Some tasks may be formalized, i.e., developed with formal instructions, materials, tools and equipment. Some formal tasks may include a measure of productivity. Other tasks may be ad hoc, imported or created to meet a particular claimant's needs. In order to have a range of appropriate tasks available for all potential claimants undergoing assessment, REC DACs should review their resources to ensure they include:

- **Actual work tasks that are authentic.** This means that tasks look, feel and are perceived by the claimant to represent real work activity.
- **Work activities that are found in the current labour market.** This means that the task base should not include activities that are usually considered leisure pursuits, e.g., assembling jigsaw puzzles.

- **A range of tasks that are predominantly oriented to: “Data, People and Things”.** This means that there will be some tasks that require working with physical materials; “things”, some that focus on data and others that have interpersonal demands as a central requirement.
- **Tasks that allow for a measure of productivity.** Productivity measures should be determined through a process that mirrors typical processes used in the actual workplace.
- **Appropriate comfort facilities for claimants.** There should be space available (such as a lunch room) for claimants to break from work, store a packed lunch, and secure valuables.
- **A range of tasks that allow for selection considering gender, when indicated.** This means that, for example, the REC DAC will need to have more than one simulated task that measures productivity which allows the OT to select an appropriate activity for claimants where gender-linked values are significant to that individual.

To evaluate the suitability of the REC DAC's simulated tasks, a matrix<sup>18</sup> should be completed and revised as required that will expose any areas where more tasks need to be developed, for example:

Task	Data	People	Things	Productivity Measure	Gender Sensitive
Reception	√	√			√
Drill Press			√	√	√
Day Care Helper		√			
Accounting Task	√				
Widget Assembly			√	√	
Computer Operation	√			√	

### 5.3.3 Standardized Instruments

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<sup>18</sup> REC DACs should be aware that during monitoring and evaluation activities, undertaken by the DAC Committee, they may be required to produce the matrix that describes their tasks

In addition to using simulated tasks, the OT will employ, as appropriate, select standardized performance measures. Standardized methods include protocols for administration and scoring, and formal data on reliability and validity. Although a review of all such measures to determine the 'best' instruments is warranted, this considerable task has not yet been undertaken. As such information becomes available, it will be included in future versions of these assessment guidelines. Nonetheless, it is essential that each REC DAC have available standardized performance measures that quantify:

- Upper extremity gross motor function;
- Hand & finger function; and,
- Lift & carry capacity.

Standard instruments should be reviewed to ensure that:

- tools were developed for use with the REC DAC population and for the purpose of assessing vocational capability; and,
- evaluators are aware of the instruments' limitations and psychometric properties.

The REC DACs should pay particular attention to measurement issues in situations where standardized instruments to measure performance **do not** exist, for example, measuring the impact of mental and psychological impairments on work or handling stressful, fast-paced, unpredictable situations.

#### **5.3.4 Off-Site Placements**

The REC DAC may opt to use a work station that is not part of their assessment facility but that represents a more appropriate, controlled environment to observe a particular claimant's performance than could be offered in the assessment facility. There are numerous instances where this may be the case, for example, if it is necessary to expose the claimant to tasks that involve retail sales or other 'people-related' work. It is the responsibility of the REC DAC to ensure that such off-site placements are appropriately supervised and monitored, and that any necessary agreements with employers/owners are in place.

### **5.4 SELECTING THE EMPLOYMENT TYPE**

Selecting the employment type is the final outcome of the assessment and should be completed with input from the entire team. The employment type selected will represent the claimant's **current** earning capacity. It is important to note that, in this instance, "current" means what the claimant can do in the present, not what they *might* do if interventions take place. DACs must take care to ensure that the employment type passes the 'test' in the SABS criteria of " the person has the job skills and any licence or other

credentials required to perform those tasks, or could obtain those skills and a licence or credentials without significant effort"

The National Occupational Classification (NOC) is the compendium used to define employment types, i.e., select the NOC code that corresponds with the employment type selected. The four digit NOC code is then accessed on the Wage Table to determine the gross annual income the claimant could earn from the designated employment type.

The assessment outcome should provide adequate information for the team to ensure that the employment type selected is consistent with the criteria outlined in the SABS. The executive summary section of the report addresses each of the criteria in turn.

#### **5.4.1 Suggested Sources for Accessing Occupational Information**

The following suggested resources may be utilized when investigating existence and accessibility of an employment type.

##### **1) Human Resources Development Canada**

The local Canada Employment Centre may be of assistance in determining the existence of specific types of jobs and provide information on the market conditions for a given type of work. The Regional Economist may also provide relevant information. For example, in the Ottawa area, two publications are available, a wage survey and a job opportunities survey; in Hamilton, The Hamilton Labour Market Information Unit produces an annual Wage Book.

##### **2) Occupational or Professional Associations**

Many occupations have associations, typically with headquarters located in major centres, and a network of regional representatives. A number of these associations are identified in the publication, Job Futures, published by Employment and Immigration Canada.

##### **3) Unions**

The Yellow Pages list unions under Labour Organizations.

##### **4) Newspapers**

The Help Wanted section of local newspapers may assist in identifying the existence of certain jobs and provide potential contacts who may serve as valuable information sources.

##### **5) Employers**

Employers or personnel officers of larger companies are not always willing to provide information. They should not, however, be overlooked as useful information sources,

especially regarding the issue of accessibility. Clarifying the purpose of the enquiry may assist in obtaining realistic data. It may be important to ask such questions as, "How are your positions advertised?" or, "Who can apply for positions?"-- these questions address the issue of in-house hiring and may help to identify entry level positions. The Yellow Pages, business white pages or business and industry guides may be the starting point for a survey of local employers.

**6) Personnel Counsellors**

Experienced personnel counsellors may be able to address the accessibility issue. They may, however, expect to be paid for their services.

**7) Personnel Agencies (including temporary placement services)**

Personnel agencies are another potentially useful source of information about both the existence and accessibility of various jobs.

**8) Colleges, Universities and Training Schools**

The placement offices of these organizations may be of assistance in answering the existence question.

**5.5 ASSIGNMENT OF WAGE**

The Wage Table must be consulted to select the wage to be assigned. This table is organized by NOC code to facilitate this process.

The Wage Table provides a NOC code, a job title and 3 columns that align wages with years of experience.

- If the claimant has not previously worked in the employment type selected to represent their residual earning capacity, the wage assigned will be drawn from the first column, i.e., less than 36 months.
- If the claimant has experience in the employment type selected, the appropriate column should be referenced.

- In some instances the Wage Table is not useful. Some examples, of this would be:
  - i) the employment type (or a reasonable proxy) is not listed;
  - ii) the claimant is found to only be able to work on a part-time basis;
  - iii) the claimant is able to return to their previous employment; and,
  - iv) the claimant is working and this employment type best represents their residual earning capacity.

The REC DAC is instructed to use other appropriate methods to determine a wage amount when they elect not to use the Wage Table. However, it is essential that the DAC note this in the report, and provide an explanation of the alternative method they used to determine the wage amount.

## 5.6 ARRIVING AT CONCLUSIONS

The purpose of an assessment of functional ability is to construct a clear picture of the claimant's current ability considering the statutory criteria. Determining the claimant's sincerity of effort is not a process of applying selected, discreet tests which are inserted into the assessment process to 'catch' insincere claimants. Rather, the claimant's effort and consistency of performance are tracked and monitored throughout the assessment process so that the team is assured that their outcome is valid. The central task is to construct a trustworthy picture, representative of the claimant's ability to function.

The team's final conclusion regarding the employment type that best represents the claimant's current ability to earn will fall into one of three broad categories:

- The claimant's residual earning capacity is 'X' and this is a valid outcome based on consistent performance and sincere effort, and satisfies all SABS criteria.
- The claimant's residual earning capacity is 'X' and this is a valid outcome **derived** from varied performance but sincere effort, and satisfies all SABS criteria.
- The assessment findings do not represent a valid profile of the claimant's ability to earn, because of the claimant's insincere effort. Therefore, residual earning capacity has been **deemed** to be 'X'<sup>19</sup>.

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<sup>19</sup> The REC DAC **may not** submit a report that concludes '*no residual earning capacity can be determined because of insincere effort on the claimant's part*'. In such cases, the REC DAC must 'deem' an employment type that, in their judgement best represents the claimant's current earning capacity.

Finally, the REC DAC must pay attention to the SABS criteria that states:

***The person<sup>20</sup>:***

- i. is able and qualified to perform the essential tasks of the employment,***  
***or***
- ii. would be able and qualified to perform the essential tasks of the employment if the person had not refused to obtain treatment or participate in rehabilitation that was reasonable, available and necessary to permit the person to engage in the employment.***

When the REC DAC has *sufficient information* to determine that the claimant **would have been able** to perform the essential tasks of and engage in a given employment type, had he/she not refused to obtain treatment or participate in rehabilitation that was reasonable, available and necessary, the REC DAC should determine that the claimant's residual earning capacity is that employment type, ie: the employment that she/he would have been able to engage in had he/she not refused (to obtain treatment or participate in rehabilitation that was reasonable, available and necessary).

REC DACs must interpret their findings and provide a rationale for their conclusions in the report. The assessment process is designed to be comprehensive, recognizing that the ability to perform work is complex and integrated with personal and cultural meaning. The assessment relies on skilled, experienced professionals who offer substantiated, informed judgements, free of personal bias.

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<sup>20</sup> *Italics* represent actual SABS language.



## 6.0 REPORT

A report will be completed and sent within 3 weeks following the conclusion of the assessment. A copy of the report will be sent to the insurer and to the claimant. Guidelines specify that the report should be written in language that is “clear and free of jargon and medical terms and when it is necessary to use a medical or technical term, the term should be carefully explained”.

Sections 5 and 6 of the DAC Activity Report should be completed. The cover page of the report will be the signed summary form, i.e., "Residual Earning Capacity Assessment Referral (Form 2)". This form requires the signature of the core assessment team. The body of the document will include a combined report generated jointly by the core assessment team (MD, PT/DC, psych and OT). Although the report will include separate sections generated by each core team member, the final result should be cohesive, flow reasonably as an integrated report, and not contain redundant or contradictory information. In this regard, it will be useful for team members to have a copy of sections B. and C. of the report (see below) before they generate their contribution; information for sections B. and C. should be complete after the file review and intake interview which enables these sections to be completed early in the assessment process.

The team coordinator is ultimately responsible for ensuring that the report is comprehensive, integrated, consistent with Bill 164 SABS in general, and the REC DAC Assessment Guidelines, and signed by all core team members.

More specifically, the report will be consistent with the Bill 164 SABS, Part VI, Section 27 (5):

- (5) *The centre<sup>21</sup> shall submit a report to the insured person and the insurer that includes,***
- (a) *a statement identifying the employment designated by the centre under subsection (4);***
  - (b) *the centre’s determination of the gross annual income that the person could earn from the type of employment designated by the centre under subsection (4);***
  - (c) *a statement of the centre’s reasons for the conclusions referred to in clauses (a) and (b), including,***
    - (i) *a description of any possible deterioration in the insured person’s impairment that the centre had regard to under***

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<sup>21</sup>*Italics* represents actual SABS language.

*paragraph 3 of subsection 30 (2), and*

*(ii) a description of the insured person's personal and vocational characteristics at the time of the assessment that the centre had regard to under paragraph 3 of subsection 30 (2); and*

*(d) copies of any reports made by people who examined the insured person under clause (3) (b).*

## 6.1 REC DAC REPORT FORMAT

### A. Executive Summary:

The REC DAC Report should include an executive summary which provides the following:

- information about when the claimant was assessed and who the assessment team was;
- a clearly stated conclusion about the employment type selected that best represents the claimant's current capacity to earn;
- the gross annual income that the person could earn from the type of employment;
- a list the various documents that the team reviewed prior to the assessment;
- a summary statement **for each** of the SABS criteria with an explanation of the DAC's consideration of each, ie:

## Executive Summary(cont'd)

SABS Criteria	DAC's explanation of their consideration of the criteria in selecting the employment type
<p>Is able and qualified<sup>22</sup> to perform the essential tasks of the employment, or            Would be able and qualified to perform the essential tasks of the employment if the person had not refused to obtain treatment or participate in rehabilitation that was reasonable, available and necessary to permit the person to engage in the employment.</p>	<p>The DAC should clearly explain why they believe the employment type selected best represents the claimant's current earning capacity. Particular attention should be paid to the explanation when the conclusion is based on the DAC '<b>deeming</b>' an employment type because the claimant gave an insincere effort during the assessment.</p> <p>Particular attention should also be given to the explanation in the cases where the REC DAC has <i>sufficient information</i> to determine that the claimant <b>would have been able</b> to perform the essential tasks of and engage in a given employment type, had he/she not refused to obtain treatment or participate in rehabilitation that was reasonable, available and necessary.</p> <p>Similarly, if the DAC concludes that the claimant does not have the the job skills and/or the licence or other credentials required to perform those tasks <b>but</b> could obtain those skills and a licence or credential without significant effort - the rationale should be well explained.</p>
<p>It would be reasonable to expect the person to engage in the employment having regard to the possibility of deterioration in the person's impairment and to the person's personal and vocational characteristics.</p>	<p>The medical opinion regarding the possibility of deterioration of the claimant's condition should be summarized here as well as the psycho-vocational conclusions that match the claimant's personal and vocational characteristics to the employment type selected.</p>
<p>The employment exists in the area in which the person lives and is accessible to the person.</p>	<p>The DAC should explain why they believe the employment type 'exists' in the 'area' and why it is 'accessible' to the claimant. The DAC must use their own judgement regarding the meaning the terms: area, exists and accessible. They should explain their interpretation in the report.</p>

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<sup>22</sup> A person is able and qualified to perform the essential tasks of an employment if,  
 (a) the person does not have any impairment that permanently prevents the person from performing those tasks; and,  
 (b) the person has the job skills and any licence or other credentials required to perform those tasks, or could obtain those skills and a licence or credentials without significant effort)

## **B. Background, Accident and Rehabilitation History**

This section of the report provides demographic details about the claimant, a brief review of the claimant's accident, impairment(s), current problems and treatment history. It is not necessary to document this information in detail since it is not the purpose of this assessment to review or recommend treatment, address issues of causation or determine the existence of a disability.

Individual team members who contribute to the report should **not** repeat this general history in their specific section.

## **C. Education, Training and Vocational History**

This section of the report details the claimant's education/training history and vocational background including appropriate detail relevant to their most recent job in addition to any vocational rehabilitation that has occurred since the accident. This section **should** be completed in detail as it is pertinent to the central referral question.

Individual team members who contribute to the report should **not** repeat this specific history as this adds unnecessary and tedious redundancy and length to the report.

## **D. Medical Report**

The physician's report should follow a format similar to the assessment guide in the Global Claimant Profile Form. This is not an examination to confirm diagnosis, review treatment appropriateness or determine disability. Subtitles of the physician's section of the report should include:

### *History and Clinical Examination*

Briefly summarizes the physician's examination, relevant outcomes and any previously unreported and relevant history.

### *Impact of Impairment(s) on Vocational Choice*

Highlights how the claimant's impairment(s) will influence choice of vocations. Clearly specifies, where appropriate, any medical contraindications or cautions that were considered in selecting the employment type. This will include a review of any specific environmental limitations or sensory disabilities that were considered in selecting the employment type.

### *Coexisting Medical Problems that Impact Vocational Choice*

Details any coexisting problems that were considered in selecting the employment type.

## **E. Musculoskeletal Report**

The physiotherapy or chiropractic report is inserted here. Subtitles should include:

### History and Clinical Examination

Describes the assessment, relevant outcomes and includes any previously unreported and relevant history.

### Vocational Activity Limitations

Interprets the results of the assessment and identifies the functional vocational limitations that were considered in arriving at the employment type.

### Vocational Activity Strengths

Interprets the results of the assessment and identifies the vocational activity strengths that were considered in arriving at the employment type.

## **F. Psycho-Vocational Report**

The psychologist's report is inserted here. Subtitles should include:

### History

Outlines the relevant history of psychological and neuropsychological impairment(s), previous employment, and the impact of psychological impairments on post accident vocational efforts, work trials, and rehabilitation.

### Current Status

Reviews current psychological and neuropsychological functioning and impact of physical impairment(s) on psychological function.

### Behavioural Observations

Describe client's behaviour during interview and formal testing.

### Objective Findings

Details results of interview, observation, and testing.

## Impact of Impairment(s) on Vocational Choice

Describe how psychological impairment(s) effect the ability to carry out activities of likely vocations.

### Summary and Conclusions

Presents a synthesis of the psycho-vocational assessment and list of suggested occupations.

(Note - it is important that these *suggested occupations* be framed as suggestions used in the hypothesis-building meeting and not as conclusions so that the reader is not confused by '*suggested occupations*' that were not considered in the final selection of employment type.)

## **G. Occupational Therapy Report**

The occupational therapist's report, detailing the situational assessment and outcome, is inserted here. Subtitles should include:

### Assessment Objectives

Summarizes the hypothesis building meeting and details the objectives that were established by the team that guided the planning for the situational assessment.

### Situational Assessment

Provides an overview of the situational assessment by describing the individualized nature of the assessment. This should include notation of any tools/modalities used, aids and adaptations applied and a summary of the physical, cognitive and interpersonal demands of the employment type relevant to the assessment. Particular attention should be paid to describing the setting, the people who were present, and the degree to which the simulation succeeded in being a realistic evaluation of the job in question.

### Situational Assessment Results

Describe the outcomes of the situational assessment.

## 7.0 STANDARD CLAIMANT LETTER

The content of this section should be used by the REC DAC when creating a standard letter that they will send to claimants after the telephone interview and after the assessment date has been established. REC DACs will include a copy of the Financial Services Commission of Ontario (FSCO) Information Sheet,<sup>23</sup> “Residual Earning Capacity Assessments”, with their letter. This correspondence should be carbon copied to the insurer.

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Dear (*claimant's name*):

As we have already discussed by telephone, you will begin your assessment at (*DAC name*), on (*1st day of assessment*). This letter and the enclosed materials are intended to provide you with details about your assessment, what you can expect and what is expected of you.

As we discussed, (*DAC name*) is a “Designated Assessment Centre”. This means that the Financial Services Commission of Ontario (FSCO) has selected our centre to conduct assessments for automobile accident victims who have made claims. The FSCO is responsible for regulating the insurance industry in the province according to Bill 164. We are accountable to the FSCO who expects us to complete impartial and accurate assessments. This means that the assessment must be fair to both you and your insurance company.

### What will the assessment involve?

We gave you some idea of what to expect during our telephone conversation. These details are further outlined in the enclosed information sheet. As a reminder, the assessment usually takes **2 weeks from start to finish**. If we anticipate any change to this time-frame, we will discuss it with you first. During the first week you will have appointments with everyone on our assessment team. Our assessment team includes: an Occupational Therapist, a Physician, a Psychologist and a Physiotherapist or Chiropractor. Each team member will interview you, explain their part of the assessment and give you an opportunity for input or to ask any questions. Although the physician and physiotherapist/chiropractor will be examining you, this will not involve any tests or investigations such as x-rays or lab work.

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<sup>23</sup> See Appendix A.

Your specific appointments for the first week are:

*DAC will list appointment times for week one*

During the second week of the assessment, you will come in every day from 9:00 a.m. to 4:00 p.m. as though you were going to a job. You will be asked to do a variety of tests and work activities. Our occupational therapist is responsible for this part of the assessment and will be meeting with you each day to discuss the assessment.

### **What do I need to bring?**

You should bring your eyeglasses, if you use them, and any aids or adaptations that you have been using since your accident that might make you more comfortable or assist your ability to do things. You will be asked about any medications that you are taking, so it would be helpful to write these down and bring the list with you. You do not need your health card as your insurance company is paying for this assessment.

You should wear comfortable clothing and shoes. You will be at the assessment centre all day so you may wish to bring a lunch - a refrigerator is available. *Also available is a cafeteria, coffee shop etc. (DAC should complete details as they apply - if no facilities are available for claimants to purchase food, this should be part of the letter so they know that they must bring a packed lunch from home)*

### **Who do can I contact if I have questions?**

If you have any questions about the assessment or any problems that you think will interfere with your ability to attend the assessment, please contact: *DAC should identify a contact person that is able to respond to a range of questions, at, DAC phone number.* If you have questions for your insurance company, the person who referred you to us is: *insurer contact name as per referral form* and can be contacted at: *insurer contact phone number.*

### **How do I find the assessment centre?**

*DAC completes necessary detail, including a map where appropriate.*

CC: Insurer



## 8.0 STANDARD INSURER LETTER

As with the standard claimant letter, the REC DAC should create a standard letter to the insurer that includes the following content. This letter should be carbon copied to the claimant.

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Dear (*insurer contact as per referral form*):

Re: (*claimant's name*), Residual Earning Capacity Assessment

The referral for a REC DAC assessment of the above claimant is now complete. We have established a start date for the assessment of: *assessment start date*. The assessment is expected to conclude on: *final assessment day*. If there are any changes we will notify you. Our report will be mailed to you within 3 weeks of the conclusion of the assessment. If there are any difficulties that delay the assessment or if your claimant is noncompliant, we will notify you at once.

We have appended a copy of the letter we sent to your claimant for your review and records. This letter was accompanied by a copy of the Information Sheet "Residual Earning Capacity DAC Assessment", published by the Financial Services Commission of Ontario.

The cost of this assessment is estimated at: *DAC inserts the estimated cost of the assessment*. If there is any significant variation in this amount, we will notify you to discuss this and obtain your approval. Unless we receive other direction from you, we will proceed with the assessment on the date specified.

If you have any questions, please contact: *DAC should name an appropriate contact who is able to respond to a full range of questions - this might be a DAC coordinator or the specific case coordinator, at, DAC phone number*.

CC: Claimant

## 9.0 ACKNOWLEDGEMENTS

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## **APPENDIX A**

- 1) Form 2 - REC DAC Referral Form
- 2) OCF Form 14
- 3) Global Claimant Profile Form
- 4) "Residual Earning Capacity Assessments" Information Sheet