

# Administrative Practice Document

## Determining Maximum Medical Recovery and Permanent Impairment

**Note:** This is not a policy; it is a supplementary document to illustrate how the WSIB will administer the *Workplace Safety and Insurance Act, 1997*, (WSIA) and [Policy 11-01-05, Determining Permanent Impairment](#), in practice. If there is a conflict between this Administrative Practice Document and the WSIA and/or WSIB policy, the decision-maker will rely on the WSIA and/or WSIB policy, as the case may be.



August, 2015

# Determining Maximum Medical Recovery and Permanent Impairment

## INTRODUCTION

Decision-makers at the Workplace Safety and Insurance Board (WSIB) must decide a worker's entitlement to benefits and services under the *Workplace Safety and Insurance Act* (WSIA). Decision-makers collect information and weigh evidence to make adjudicative decisions at the initial entitlement stage and throughout the life of the claim.

The Workplace Safety and Insurance Board (WSIB) has adopted the evidence-based principle of "[Better at Work](#)" to guide our approach to case management. This approach recognizes the importance of timely access to health care, integrated with return to suitable and safe work to realize optimal recovery. The goal of case management is to assist workers to achieve full recovery from the work-related injury/disease and reduce the likelihood of a work-related permanent impairment.

A key adjudicative decision is the determination of when maximum medical recovery (MMR) of the work-related injury/disease is achieved. When MMR is achieved, decision-makers must then determine if the worker has made a full recovery or if there is evidence of a work-related permanent impairment. In some cases, such as an amputation, evidence of permanent impairment may be known before MMR is achieved.

This document focuses on the approach for determining MMR and a work-related permanent impairment. In making these determinations, decision-makers are guided by [Policy 11-01-05, Determining Permanent Impairment](#).

## Maximum Medical Recovery

Decision-makers must gather all relevant information that is available with respect to a case in order to make entitlement and case management decisions. While the specific information needed in a claim will vary based on the circumstances of the case, clinical information about the worker's injury/disease and treatment is needed in all cases. Decision-makers continuously review and assess the clinical information to monitor the worker's recovery.

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## KEY PRINCIPLES

- Decision-makers will gather relevant information and weigh evidence in order to make adjudicative decisions, including a likely permanent impairment.
- When assessing and weighing medical evidence, decision-makers will be guided by the Administrative Practice Document on [Weighing of Medical Evidence](#).
- Workers are entitled to receive benefits for injuries and diseases that result from accidents that arise out of and in the course of employment.
- Work-relatedness is established when determining initial entitlement. Decision-makers continue to evaluate the work-relatedness of a worker's ongoing impairment and treatment throughout the life of a claim.
- Return to work is part of the recovery process and acting early is the key to achieving full recovery and thereby minimizing the likelihood of a permanent impairment.
- Workers are entitled to a Non-Economic Loss (NEL) Benefit for permanent impairments resulting from work-related injuries/diseases.
- The WSIB makes its decisions based on the merits and justice of each case.

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As decision-makers monitor the worker's recovery, they must regularly consider whether MMR has been achieved. The identification of MMR is a policy concept that is not always clearly specified in medical reports.

MMR is an administrative decision made by decision-makers based on the information contained in the claim file. This can be challenging for decision-makers because similar injuries/diseases do not always follow the anticipated path to recovery depending on the specific circumstances of the case.

## Considerations for Determining MMR

When establishing the MMR date, the date selected must be clinically supported. Decision-makers must assess and weigh all the information on file and be satisfied that further significant improvement in the work-related injury/disease is not likely to occur after the date selected.

A significant improvement is one which is noticeable as evidenced by a measurable change in clinical findings.

The following should be considered when determining whether MMR has been reached:

- Is the worker receiving, or been recommended to receive, active treatment with clear expectations to improve the worker's function, mobility, stability and/or strength relative to the work-related injury/disease?
- Has the worker received adequate treatment for the nature and severity of the injury/disease?
- Are further diagnostic or investigative studies recommended to clarify the extent or severity of the injury/disease?
- Is surgery scheduled?
- Is there evidence of a pre-existing condition or other non-work-related factor which is a barrier to further significant improvement of the work-related injury/disease?

A worker may have reached MMR while still receiving treatment, such as physiotherapy, chiropractic treatments, or medication, when the likelihood of significant improvement is low.

## Definitions

### **Maximum Medical Recovery (MMR)**

occurs when a plateau in recovery has been reached and it is not likely that there will be any further significant improvement in the work-related injury/disease.

**Significant improvement** refers to a marked degree of improvement in the work-related impairment that is demonstrated by a measurable change in clinical findings.

**Impairment** means a physical or functional abnormality or loss, including disfigurement, which results from an injury and any psychological damage arising from the abnormality or loss.

**Permanent impairment** is evident when the impairment continues to exist after maximum medical recovery (MMR) has been reached.

**Pre-existing condition** is any condition that existed prior to a work-related injury, and may include injuries, diseases, degenerative conditions, and psychiatric conditions. The existence of the condition must be confirmed by pre-injury or post-injury clinical evidence and may have been evident prior to the occurrence of the work-related injury or it may become evident afterwards. (See [Policy 15-02-03, Pre-existing Conditions](#))

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Information that may indicate MMR has been achieved includes, but is not limited to:

- Return to work with no further medical interventions aside from follow-up to review type and level of medication
- Specialist report noting the discharge of the worker with no further treatment, surgery or diagnostics recommended or being considered
- Treatment discharge report recommending no further treatment, medical intervention, or follow-up
- Recommendation for additional treatment but with no clear anticipation of functional improvement and/or medication reduction
- Clinical progress reports which do not reveal any significant change over time
- Discharge from treatment with a recommendation for a home maintenance program
- Discharge from a WSIB Specialty Clinic with no further treatment/diagnostic recommendations

Where the clinical information on file does not provide sufficient details or is unclear, decision-makers may request the assistance of the nurse consultant. In complex cases, decision-makers may also request the assistance of a medical consultant, particularly when assessing the adequacy of the treatment received and the likelihood of further significant improvement. When assessing and weighing medical evidence, decision-makers are guided by the Adjudicative Practice Document on [Weighing of Medical Evidence](#).

Where the workplace accident resulted in multiple injuries/diseases, MMR is considered achieved when further significant improvement is not likely to occur in any of the work-related injuries/diseases.

When there is evidence of a pre-existing or other condition(s), work-related and non-work-related, that may be contributing to or enhancing the impairment to the area of the work-related injury/disease, all conditions should generally have reached MMR.

## Determining Permanent Impairment

Decisions on MMR and permanent impairment are interrelated and should be made at the same time. When MMR is achieved, decision-makers must determine whether there is continuing impairment after MMR, and whether the continuing impairment is due to the work-related injury/disease.

The existence of impairment is established through the clinical findings found in the medical records. A clinical finding is a sign that can be seen, heard, felt by touch, or measured by a health care professional. Clinical findings or impairment may include, but are not limited to

- Measurable clinical findings of physical loss or abnormality,
- Measurable clinical findings of functional loss or abnormality,

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- evidence of complication in healing,
- abnormal neurological findings,
- abnormal range of motion (ROM),
- abnormal radiological findings.

In the absence of clinical findings of impairment, factors such as pain complaints and the duration or perceived severity of the treatment received are not in themselves considered to be indicators of impairment. For example, surgery is a therapeutic intervention intended to improve or fully restore function. Surgery, in and of itself, is not an indicator of impairment. The post-operative outcome and associated clinical findings may indicate ongoing impairment.

Where the accident resulted in more than one area of injury/disease, decision-makers must assess the clinical findings for each injury/disease to determine whether there is ongoing impairment after MMR. As the injuries/diseases may reach a different level of recovery, decision-makers may conclude there is no evidence of ongoing impairment for any of the injuries/diseases, or ongoing impairment is evident for some or all of the injuries/diseases. Decision-makers must clearly specify the area(s) of injury/disease with clinical evidence of ongoing impairment.

A recovery from the work-related injury/disease is considered to have been made if there is no evidence of ongoing impairment due to the work-related injury/disease when MMR is reached.

## Determining Work-relatedness

If there is evidence of ongoing impairment when MMR is reached, decision-makers must determine if the ongoing impairment is a result of the work-related injury/disease. Decision-makers must consider:

- whether the current diagnosis is the same as or compatible with the initial work-related injury/disease diagnosis,
- whether the clinical evidence of impairment is related to the current diagnosis, and
- whether a pre-existing condition or other non-work-related factor is causing or contributing to the ongoing impairment.

## Impairment

As noted in [Policy 11-01-05, Determining Permanent Impairment](#), impairment is defined as a physical or functional abnormality or loss, including disfigurement, which results from an injury and any psychological damage arising from the abnormality or loss. WSIB considers:

- A physical abnormality to be a change to or damage to a body part or organ system
- A physical loss to be a loss of some or all of a body or organ system
- A functional abnormality to be a malfunction of a body part or organ system
- A functional loss to be a loss of some or all of the functioning of a body part or organ system
- A disfigurement to be an altered or abnormal appearance such as an alteration of colour, shape, structure, or a combination of these, and
- Psychological damage to be the loss of or abnormal psychological functioning

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Where the clinical evidence of impairment is related to the current work-related diagnosis, and there is no evidence of a pre-existing condition or other non-work-related factor causing or contributing to the ongoing impairment, the ongoing impairment is considered to be work-related.

When information is received indicating the worker has a pre-existing or other condition(s), work-related or non-work-related, that may be causing or contributing to the worker's ongoing impairment, decision-makers will collect all relevant information, including the relevant medical reports and clinical records, about the pre-existing or other condition(s). The clinical information is of particular importance when determining the impact of the pre-existing or other condition(s) on the ongoing impairment resulting from the work-related injury/disease and the worker's entitlement to benefits. Decision-makers will be guided by Policies [15-02-03, Pre-existing Conditions](#) and [15-06-08, Adjusting Benefits Due to Post-accident, Non-work-related Change in Circumstances](#), as appropriate.

Decision-makers must carefully review and assess the clinical evidence relating to the work-related injury/disease and the pre-existing or other condition(s) to differentiate whether the clinical findings are attributable to the work-related injury/disease and/or the pre-existing or other condition(s). There must be evidence of clinical findings attributable to the work-related injury/disease in order to consider the ongoing impairment work-related.

When the clinical evidence indicates the work-related injury/disease and a pre-existing condition or non-work-related factor are contributing to the total impairment to the area, the impairment resulting from the work-related injury/disease is determined. Workers are compensated only for the permanent impairment resulting from the work-related injury/disease. See [18-05-03, Determining the Degree of Permanent Impairment](#) for more information.

If the ongoing impairment is caused solely by a pre-existing condition and/or non-work-related factor, there is no work-related permanent impairment.

## CONCLUSION

When a work-related injury/disease occurs, decision-makers continually monitor the worker's recovery. Where appropriate, decision-makers will facilitate expedited access to specialized health care and return to work services to promote full recovery. As decision-makers are monitoring the worker's recovery, they should consider whether the worker has achieved MMR and then whether there is evidence of ongoing impairment after MMR is reached.

As outlined in Policy [11-01-05, Determining Permanent Impairment](#), decision-makers must confirm that

- MMR has been reached
- evidence of ongoing impairment exists, and
- the ongoing impairment is a result of the work-related injury/disease.

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Determining MMR is an administrative decision made by WSIB decision-makers. As the date MMR is achieved is not often readily highlighted in medical reports, decision-makers must collect all relevant information and conduct a thorough review and assessment of the information and clinical evidence. Where there is evidence of other condition(s), work-related or non-work-related, that are contributing to or enhancing the ongoing impairment, decision-makers must differentiate the clinical findings attributable to the work-related injury/ disease and those attributable to the other condition(s) when determining MMR and ongoing impairment resulting from the work-related injury/disease.

When decision-makers determine MMR has been achieved and a work-related permanent impairment is likely, the worker's entitlement to non-economic loss (NEL) benefits is determined.

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## Document History:

August 2015 – replaces Adjudicative Advice, Determining Maximum Medical Recovery (MMR), February 2006.

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