



The Employer's Return to Work Handbook

How to Retain Healthy Employees and Reduce Costs of Illness and Injury

wma
Westen Medical Assessments
Evidence-based Clarity™

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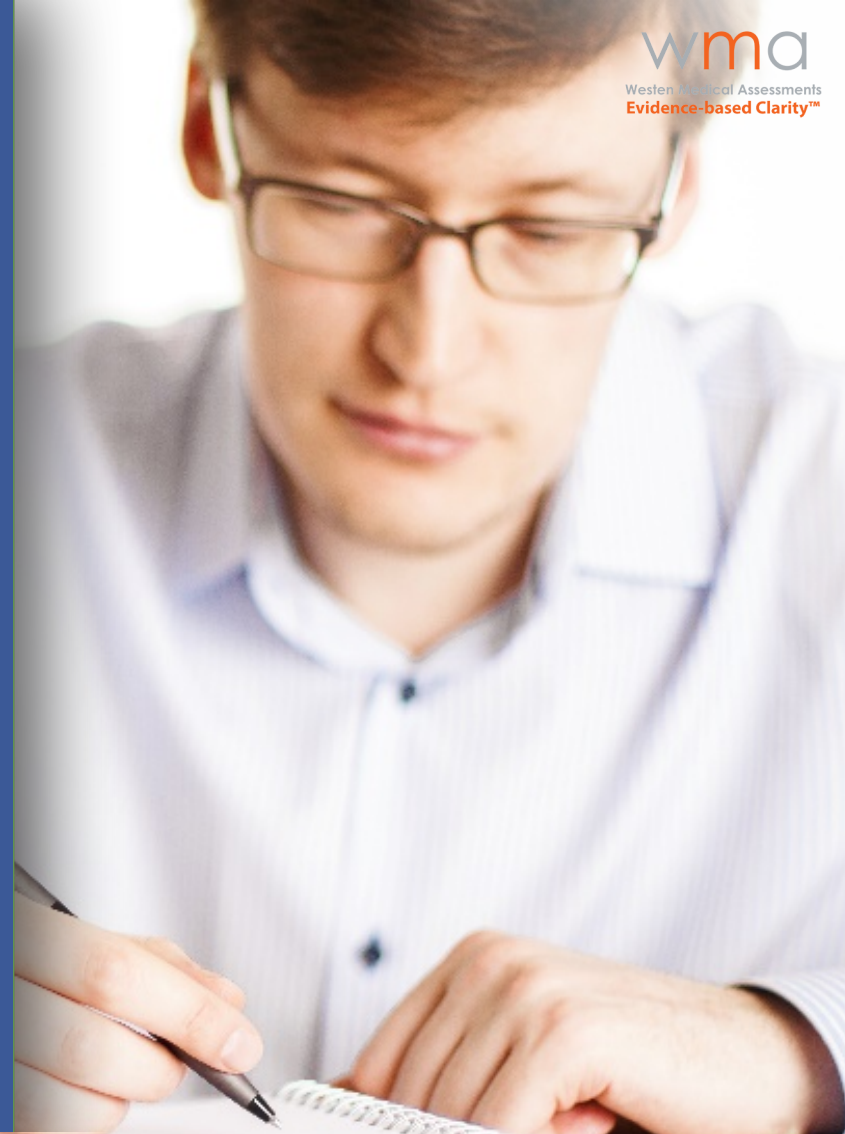
How to Achieve a Successful Return to Work

When an employee is on disability leave, it doesn't have to be all-or-nothing when it comes to getting them safely back to work. In fact, given that only three per cent of workers who are off work for a year or more will return to work ever, it's in everyone's interest to get the return to work process figured out fast.

Tip 1: Write Everything Down — And Where Possible, Collaborate

No one wants a confrontational relationship with the employee — it pays off to work together. When both sides have bought into a written plan, the chances of it succeeding increase. If you set a date the employee is uncomfortable with, the employee may look for ways to extend their leave — to say nothing of the chances of them reinjuring themselves should they have genuinely not recovered enough.

Accept that an appropriate amount of full leave may be best in order for the employee to recover, but nonetheless ensure that you've set a firm goal date if at all possible. All this said, there's always the chance that return to work dates get delayed — and we'll talk about what to do there later.





Tip 2: Mutually Establish Appropriate Transitional Return to Work Goals

Perhaps an employee has had a significant back strain and needs some time outright off work as they're unable to meaningfully perform any of their job duties.

After some time, however, they may be capable of their desk work but not able to do any heavy lifting. You may be able to arrange with the employee and their GP a graduated return to work after a certain date. Work out what that date is based on, the expected recovery times, and agree on what duties would be appropriate at that time.

Even if these duties are relatively minor, it's well worth doing. Most importantly, your employee may be back sooner and avoid the permanent disability trap. You also get access to their valued contribution — even if they're not able to do physical work, they're on-hand to advise those who are.

Tip 3: Explore Accommodations That Can Help Return them to Work

There are many things employers can do to help employees return before they're fully recovered, or to account for new permanent disabilities that don't affect crucial job functions.

If there's a lot they could be doing with their hands if only they could get their wheelchair in, a simple ramp might be all you need. If they'd be able to accomplish some of their work remotely and it would promote their recovery to work from home at least part of the week, that could be something worth considering.

[We've written more about accommodations, including the topic of how far is too far, here.](#)





What to Do in a Dispute?

All of this is well and good when the employee is committed to returning, but what about when they're not?

If you're having issues with the employee in general, unrelated to the disability, you have to step lightly. You're certainly well-advised to not use a disability as a means to discriminate against them, and you can't use it, for example, as an excuse to terminate them.

There are many ways an uncooperative employee can delay or sabotage the return to work process. There's a difference between that and an injury genuinely taking longer than expected to heal. And there's a difference between both these and the [possibility of medicalization having convinced the employee of a problem that might not exist](#). Employers should know that they do have a tool to help get answers when the return to work process results in a dispute.

This is the Independent Medical Examination. But before we get into that, you should be aware of the responsibilities both you and your employee bear.

What's the Employer's Duty to Accommodate?

While an employer's duty to accommodate may fall into one of 13 categories recognised under the Canadian Human Rights Act, in a return to work context we are most likely looking at disability.

It's not about employee preference, but about preventing an employer from discriminating against an employee's disability. So, an employee complaining about an uncomfortable chair is one thing if they simply don't like it, but another if a medical condition means they are unable to use it.

In a case where an employee is returning to work, it's probably more than just not liking a chair. It may involve an injury that permanently prevents a person from seamlessly stepping back into their old role.

How Far Does an Employer Need to Go?

There are limits to how much an employer can be expected to accommodate. They can't be required to create an unnecessary job, for instance, and there are legitimate means by which a person's inability to perform some task can disqualify them from a job — a person medically unable to hold a driver's license is not entitled to a job that involves driving.

These cases are when said ability is a bona fide occupational requirement. If a job role intrinsically requires it, you don't need to accommodate — though you may need to find an alternate role.

The other thing to keep in mind is an employer does not need to go so far that an accommodation would cause undue hardship, although that can be hard to define in particular cases. If a small business without the means to renovate an old building finds themselves with a demand to install expensive accessibility equipment, they may not need to follow through.





Making a Concerted Effort to Accommodate

Every case is different and there's no authoritative formula. If something is found to cause undue hardship, it will be a balance of costs, ability to pay, health, safety, the facilities, severity of accommodation and even more factors.

Many accommodations can be easy to implement. It could be an inexpensive wheelchair ramp, access to an additional short break or two, or more ergonomic equipment. [Sleep disorders are common in some fields, and it's sometimes easy to accommodate these.](#)

But the tougher cases can really trip up an employer. When someone is physically unable to do some or all of their job, says they can no longer lift things, requires unreasonably flexible shifts, or any combination of a number of other more difficult demands, it's not an easy question to answer.

These issues only compound when you're unsure of what the medical issue is, how severe it is, or even if the employee might be exaggerating or [being misled about their condition.](#)

What are the Employee's Responsibilities?

Any good employer should be well-aware of their own responsibilities in the return to work process. But there's the other side of the coin: the employee's responsibilities. You'll need to have a good understanding of what you have a right to expect if you want to ensure a smooth return to work process that gets your employee safely back to work without a costly, lengthy, derailment that's all too common.

Here's what you should expect from your employee as they recover.

The Employee Must Seek Immediate Medical Treatment

If an issue is bad enough that it requires time off work to recover, then it's also bad enough that the employee should be receiving reliable medical advice on how to deal with it. Obviously, this is for the good of the employee, but it also allows the employer a degree of certainty essential for compensating for an absence.

The Injury or Illness Should be Reported to the Employer As Soon as Possible

As an employer, you may not be privy to specific, personal medical details, but you do need to be notified of the issue, and receive sufficient and timely information to plan around the absence.

The employee should also be in contact with you early in the process, once medical advice has been sought. The return to work discussion should begin as soon as appropriate, and communication lines should remain open during the recovery period.





They Must Be Willing to Undertake Suitable Work Opportunities

An employee may not be able to return to their full responsibilities immediately, but they should be willing to work with you to identify productive, safe tasks that they are able to do on a graduated timeline, should these tasks exist.

Any Change in their Condition or Expected Recovery Date Should be Communicated

Prognosis is a prediction but it can't be right all of the time. When things change, if a broken bone takes longer to heal than expected, or if an illness takes a turn for the worse, the employee should communicate this to you.

If you find it happening over and over, you might want to start thinking about your options. More on those soon.

The Employee Must Be Co-operative

It may not be the employee's fault that they're injured or ill, but that doesn't mean they are malingering, exaggerating their symptoms or inventing new ones. It also doesn't mean they should be prolonging the recovery period longer than is necessary. If you feel you're not united under the goal of a safe, appropriate return to work, you shouldn't let the problem linger.

The Medicalization Pitfall

It's worth it to take a moment to talk about medicalization. Even when you're convinced that your employee themselves is acting responsibly, there are forces at work that can complicate the return to work process.

When it comes to diagnosing a "real" medical problem, it's helpful to think in terms of a spectrum.

[Need a medicalization primer? This Webinar is a great way to get up to speed.](#)

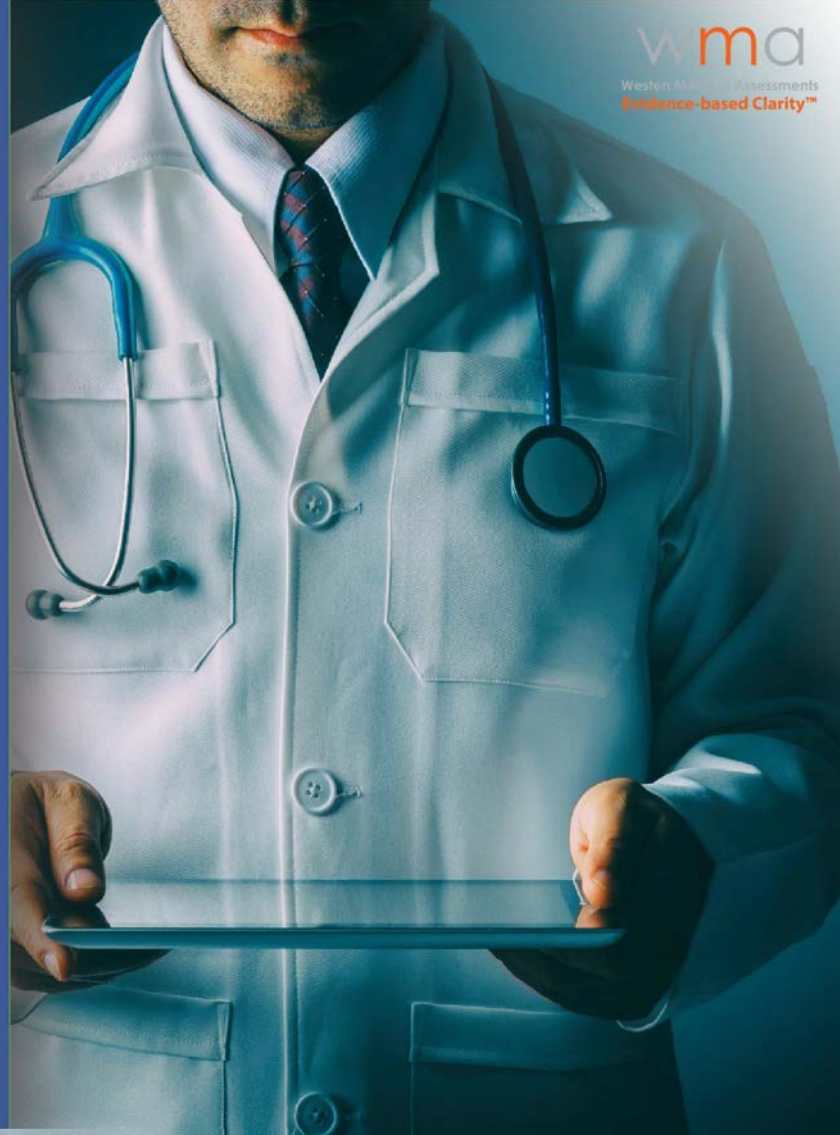
At one end is outright malingering. This is when a person is inventing or exaggerating issues for personal gain — i.e., they're well or minimally ill but want paid leave. Needless to say, that slows down the return to work process. At the other end are pathological issues. These can be objectively observed, such as a serious disease or a broken arm.

In the middle lie somatoform disorders. These are issues the patient very may well be genuinely feeling, but they're difficult or impossible to nail down objectively. When it comes to an employee's return to work when they're reporting one of these, it's easy to run into trouble fast.

The Subjectivity of Somatoform Disorders as a Medicalization Risk

With no ability to objectively verify and treat a condition, a somatoform disorder is at risk of medicalizing a patient. Medicalization is what happens when a non-medical issue is elevated to the status of medical problem. It can lead to over-treatment that traps a patient rather than helps them get better. At the severe end, the employee might never return to work again.

It's vital therefore, to take notice of a somatoform disorder. The cause of a one of these can't be identified, but the employee has many avenues for their experiences to be solidified into the belief that they are more ill than they are. An overly sympathetic GP may write notes for continual disability and treatment. Non-evidence-based treatment can exacerbate the issue, family and society-at-large can validate it, and as with any issue, the internet is able to confirm anyone anything they want to believe.





Common Somatoform Disorders

It's common to see a somatoform disorder described as chronic pain or vague neurological complaints. What should an employer watch out for?

Fibromyalgia

This is a medically controversial condition, with sufferers complaining of pain, feeling tired, and having issues sleeping. However, there is no known cause, and it's only diagnosed after ruling out other conditions.

Myofascial Pain Syndrome

This one involves pain in soft tissues (muscles or fascia) usually in one region of the body. There is also often reported tenderness and restricted range of motion. But again, the cause is not known, and the symptoms are subjective, which makes it hard to treat.

Chronic Fatigue Syndrome

Another example is chronic fatigue syndrome. A person with this may complain of being tired all the time and having a significantly harder time doing things that should be routine. It may occur gradually or suddenly. Again, the symptoms and diagnosis are vague.

How Should an Employer Support Their Employee and Return them to Work?

Several things tie all these and other somatoform conditions together: the cause is unknown, many details are vague, and there are no objectively verifiable aspects — your employee may well be feeling what they say they are, but you wouldn't be unreasonable to have questions about it.

With plenty of para-professionals in every shopping mall ready to take advantage of the medicalization of individuals, your employee risks getting sucked into a process that isn't good for them at no fault of their own. This could result in missed return to work dates, and a worsening condition all the way up to permanent disability.

What's best for the company is a healthy employee, not one that ends up on long-term disability and isn't able to work again. There's also an inherent cost to the employee here — foregone wages and needless decrease in quality of life. But of course, it also costs the company.



How to Reduce the Cost of a Workplace Injury?

There's a lot that can go wrong with the human body — and a workplace is often a prime place for them to happen. Trying to work out the cost of a workplace injury is highly dependent on what happened, where, and what the recovery looks like.

Your employee's away, you've got insurance to deal with, and the work still has to get done by someone. Working out the full cost involves looking at everything the accident impacts, but you can cut these costs into two broad groups: direct and indirect.



Direct Costs of a Workplace Injury

These are the obvious costs you incur. First is the increased WCB or insurance premiums that may arise out of the injury. Then there's the possibility that the injury involved damage to equipment or property, which must be fixed or replaced.

If the employee requires time off work enough that you need to hire a replacement worker, that's additional wages. Finally, if the injury arose out of an employer not being compliant with health and safety standards, that could mean legal costs as the issue moves through the courts.

Indirect Costs of a Workplace Injury

Indirect costs are subtler, but still very much connected to the workplace injury. In fact, they can add up to be even more expensive than the direct costs in many cases — often several times more. When the employee returns to work, they may have to be retrained if their workplace injury means they're not able to fulfill their original duties — or there may be costs to accommodate them.

There's also the cost of staff involved with investigating the incident, dealing with the claim, and the administrative costs of hiring new staff. Some workplace injuries may have a real effect on the morale of the employees, which carries hard-to-measure productivity hits.

Reducing the Cost of a Workplace Injury

The best way to lower the cost of your workplace injuries is, of course, to reduce the injuries themselves. Preventative costs of implementing a good work safety program will be lower than the cost of dealing with the injury they should have prevented.

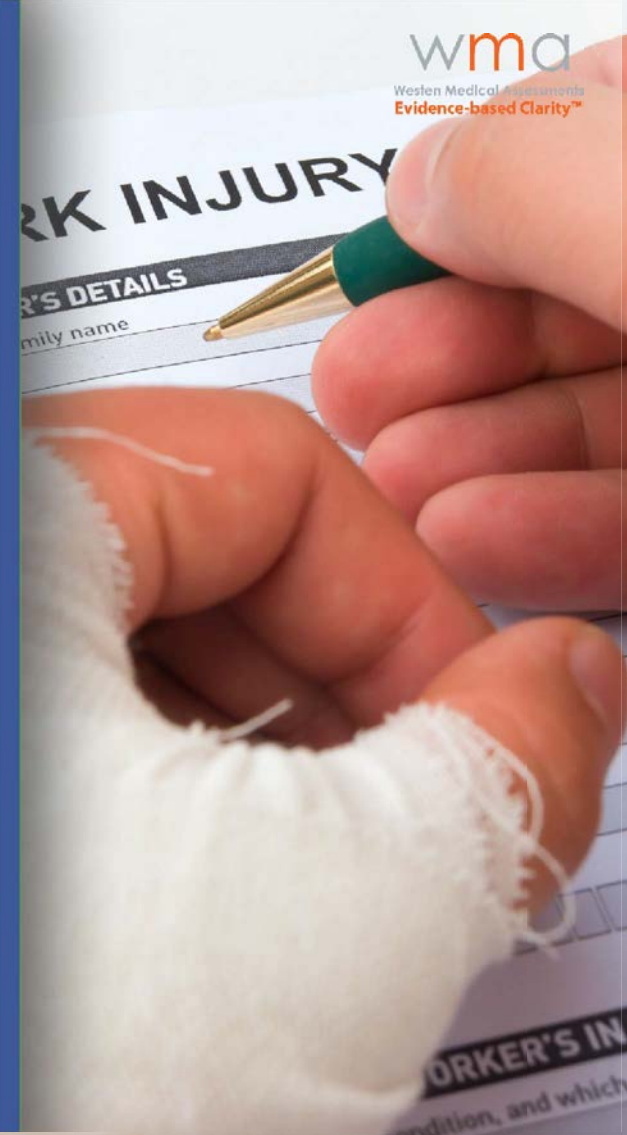
But no matter how good your health and safety program is, workplace injuries will still happen.

So when they do, being highly informed on the details of the injury should be your priority. Knowing exactly what your responsibilities are means you can prevent overshooting your response and letting internal indirect costs get out of control — or if the spectre of bad press does loom, you'll be ready to present yourself in the best, accurate, light.

This is where an independent medical examination comes in. This pairs your employee with a doctor with whom they do not have an existing relationship, in order to prevent any bias that otherwise may creep in.

Ballooning indirect costs are one thing, but an IME can also help with your potential premium increases if it finds the injury is not so bad as originally thought. Your focus as an employer should always be on the safety of your employees, and that means getting a clear, unbiased assessment with which to work.

[Think your employee is at risk of medicalization? Here's how to reduce the cost in these circumstances.](#)



Independent Medical Examinations in the Return to Work Process

When an accident happens at work, of course the most important thing is the health of the injured worker and preventing a reoccurrence. But there's also the cost to your company. Broken equipment and cost of repairs — but also your productivity, your reputation, and your operational efficiency.

If you're an employer with an employee absent due to a medical issue, you may be frustrated trying to understand when they'll be back, up to speed, and comfortable in their role. While everyone wants the employee to make a good, full, healthy recovery, you do still have to run the business in the meantime, and the uncertainty raises questions.

How long will they be gone? Is it worth hiring and training temporary staff? Will they be able to return to their full duties? Will they need specific accommodations when they return? Can you reasonably afford them?

That's where an Independent Medical Examination (IME) comes in. An unbiased third party can provide the clarity that helps you through this difficult period.

What Does an IME Do?

When somebody is away from work due to an injury or illness, an employer doesn't necessarily need to or have the right to know exactly what the issue is, but they do have a right to know what the prognosis for recovery is in order to effectively compensate for the employee's absence and ensure that when they are able to return to work, they're able to do so safely.

An Independent Medical Examination can get you these facts if you're not already privy to them. You are also able to access a wide network of specialists who might be better equipped to examine the issue over a generalist your employee might be using, giving an extra layer of clarity that otherwise may be lacking.

With a medical examination performed by an independent expert, you eliminate any bias that may arise from a relationship with a person's GP. You reduce the chance that the employee receives excessive treatment, and have an opportunity to assess the potential for malingering.

How an Independent Medical Examination Reduces Cost of Injury or Illness

“The body has a remarkable ability to heal itself, otherwise we wouldn’t live so long!” Western Medical Assessments’ Medical Director Dr. Roger Hodkinson says. “This is often forgotten in cases of injury where there is not orthopedic trauma. Strains and sprains do heal naturally.”

The point of an IME with regards to a workplace absence comes down to achieving two things. One is discovering if a disease or other medical issue is indeed present, and if so its extent and an appropriate level of evidence-based treatment.

If a medical condition is not as severe as originally reported — or absent entirely — then the employer reduces their liability with regard to enduring the costs of accommodation, increased premiums, and ultimately the possibility of litigation and bad press.

If the injury is likely to heal itself rather than require a lengthy treatment regime, an IME may provide this information and allow a speedier and safer return to work without medicalizing the issue.



When is the Right Time for an IME?

Certainly, not every situation calls for an IME. If a GP's note appears reasonable and you don't see any red flags with the employee, many return to work issues are simple affairs best left to work themselves out. Many employees are eager to get back to work as quickly and safely as possible.

But if the GP note is vague, if you're having trouble getting information, if there's no referral to a specialist, and you're approaching the limit of STD, that's a good time to reach out at and least have a conversation with an expert about having an IME performed.

When You Can Request an Employee Submit to an IME

The full legal question of whether you can compel an employee to subject to an IME will be different with every case. But if you feel you're not getting a reliable or sufficient account of the facts to which you're entitled — or if something seems odd, vague, or just not quite right about the employee's doctor's medical notes, you may have a legitimate case to demand an IME.

You may also want to consider one if the information you have suddenly changes, such as being told a person is completely unfit to work, and then unexpectedly being given a proposed schedule of availability and conditions, especially when these conditions would cause you undue pain to accommodate, or if the job cannot reasonably be done under them in the available time. Or an IME might be helpful if the prognosis suddenly changes from an estimated full return in a number of months to being unable to work for a now indefinite amount of time.

How to Begin the Independent Medical Examination Process

The best way to ensure you're getting the full range of benefits afforded by an IME is to work with an organisation with access to a full range of medical expertise so that you know you're getting the most relevant specialist. Given the complicated legal and medical issues in question, you'll also want to seek out experienced help, to better guide you through the process. Finally, to help ensure an unbiased perspective, the organisation should not offer treatment on top of the examination, as this may constitute a conflict of interest.

Ideally, the IME can help a swift return to work, but unfortunately, IME or no, any return to work situation may turn into a legal battle. If this happens, you'll want the security of a relevant, experienced, truly independent medical authority on your side.

Western Medical Assessments prides itself on its long history of high quality results and independence, To find out more about our IME process, drop us a line and let's get started.

THREE THINGS

To ensure in an Independent Medical Examination



EXPERTISE

An expert with the right area of speciality means your Independent Medical Examination can produce a more relevant and specific result.

EXPERIENCE

Between legal and medical aspects, a difficult return to work situation is best navigated by seasoned advisors.



INDEPENDENCE



Vet your IME examiner for true independence to ensure your IME produces an authoritative, unbiased result.



Contact WMA

We've handled more than 63,000 Independent Medical Examinations and share our decades of expertise with employers, lawyers, and insurers looking to get reliable assessments.

Ready to get started? Give our [Medical Director Dr. Roger Hodkinson](#) a call at 780.433.1191 — or reach out to any of our channels!

<https://westernmedical.ca>