Have you been off work because you were injured on the job or because you became ill? Obviously, you saw your own physician, but now, your employer is requesting that you see a Health Canada physician and submit a Fitness to Work Evaluation.

Do you have to do this? Does the employer have the right to request it?

**WHAT IS MEANT BY “FITNESS TO WORK”?**

“Fitness to work” is a medical assessment done when an employer wishes to be sure an employee is capable of performing the duties and responsibilities of a specific job. The purpose is to determine if medically the employee can perform the job or task under existing working conditions. Fitness to work assessments are most often done to determine medical fitness after an illness or injury, but are sometimes done as a precondition to employment in certain fields such as firefighter or airplane pilot or as a condition of a job transfer. They may also be done in order to determine what sort of accommodation is required in the case of an employee returning to work after an injury or illness. Among other things, such accommodations could take the form of changes to an employee’s work schedule, modifications to work equipment such as computers, or an agreement to allow the employee to work from home all or part of the time.

**SITUATIONS WHICH MAY LEAD TO A FITNESS TO WORK EVALUATION**

There are a number of different situations which may lead a department to request a fitness to work evaluation. For example, departments can request such evaluations:

- When an employee has been exposed to a health hazard (e.g. chemical spill);
- As a result of a job change where the employee will be exposed to different hazards;
- If an employee appears incapable of preforming the duties of his position because of reasons of physical or psychological health;
- If an employee is absent for a long period and no return date is set; or,
- If an employee is returning to work after a long period of leave and the employer is concerned with his/her ability to perform the duties of his/her position.

**WHY ARE FITNESS TO WORK EVALUATIONS USED?**

These evaluations may be helpful in determining:
- If employees are able to continue to work without detriment to their health or that of others;
- If a candidate meets the health requirements of a specific position prior to appointment; or,
- The conditions under which employees with illnesses, injuries or disabilities are able to continue to work.

Fitness to work evaluations conducted by Health Canada are not intended to replace a medical examination or treatment carried out by personal or family physicians. It should be noted that, upon the employee’s written request, any information obtained from the fitness to work evaluation will be sent to the employee’s physician by Health Canada.

It is important to note that if a return to work plan has been developed and approved by the employee’s physician and the insurance
company’s rehabilitation staff, a fitness to work evaluation is not mandatory for departments. Normally in cases of accommodation, a fitness to work evaluation should only be requested when the employee’s physician has not provided sufficiently detailed information to enable management to determine what specific accommodation measures are necessary. To this end, it is suggested that employees urge their personal physicians to be as precise as possible in recommending specific accommodation measures.

**Fitness To Work Evaluation Process In Cases of Illness**

As a first step, an employee should provide the employer with a medical certificate obtained from his/her personal physician stating the necessary accommodation measures.

Should this not prove sufficient to the employer, managers must, in accordance with departmental policies, inform an employee that a Fitness evaluation is required and provide the reasons for the request. The employee must consent to it. Should an employee refuse to undergo a fitness evaluation, a departmental staff relations advisor is consulted. In such cases, members should contact their union representative. In many cases, the union representative will be able to persuade the employer to drop the request for a fitness to work evaluation providing that the employee returns to his or her physician and requests a more detailed report providing more specific guidance as to necessary accommodation measures.

If the employee agrees to the fitness evaluation, the employer will send an explanatory letter containing factual, objective and pertinent information related to the purpose of the referral to the Health Canada Occupational Health physician.

Should the employer request a Fitness to Work evaluation, the employee may see his own physician. In such cases, the department will provide the appropriate Health Canada medical form, a description of the work including the hazards, the extent of exposure and the use of protective equipment. The physician fills out the appropriate forms, performs required tests and forwards results to Health Canada. The employee should also consent, in writing, that Health Canada contact his physician should additional information be required.

All information which employees’ physicians send to Health Canada should also be sent to the employee, thus ensuring transparency and preventing unauthorized release of personal information. It is important to note that medical references to an employee’s condition must only address the accommodation measures required. Specific details regarding an employee’s illness must not be included either by Health Canada or by the employee’s personal physician.

**Who Performs Health Evaluations?**

Health evaluations are conducted by occupational health professionals such as physicians, nurses or mental health specialists hired by Health Canada. They must be knowledgeable in the employer’s workplace health hazards, OSH legislation, human rights legislation and government policies.

**Results of the Evaluation**

Once the evaluation is completed, a written report of the results is sent to both the employer and the employee. The report shall outline the assessment of the employee’s ability to carry out the duties and responsibilities of their position and/or the employee’s limitations or physical restrictions.

Should the employee be unable to perform the duties of his position under existing working conditions, the department must make every reasonable effort, to the point of undue hardship, to accommodate the employee. Employees who find that their managers are unwilling to provide the accommodation proposed by their personal physicians or Health Canada should consult their union representatives. If need be, the union representative can help them file a grievance or a human rights complaint.

Should a health problem be discovered in the course of an evaluation performed by a Health Canada physician, the individual will be referred to his or her own physician and copies of medical records will be forwarded to the physician upon written request from the employee.

Should the employee’s physician disagree with the Health Canada assessment, the physician should write a letter to the Health Canada physician who performed the assessment as well as to the employer. The letter should clearly state the objections and reasons.