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## Evidence Based Return-to-Work

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## How Do They Manage That?

# Evidence-Based Return-to-Work Guidelines

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### Learning Your Lines: Eliminating the Number One Variable in the Return-to-Work Process

As soon as an employee is injured on the job, the stage is set for a complex program that requires many important players: medical case managers, employers, physicians, insurers, third-party administrators, unions, attorneys and—the injured employee. All the involved parties are well rehearsed in their roles, considering that the number of lost time injuries averages about 1.7 million per year.<sup>1</sup> All these players—except perhaps the injured employee—know their parts well. Beginning with the first report of injury through evaluation, treatment and rehabilitation, to insurance claims, benefits delivery, disputes, and finally, but not always, return-to-work. It's a good system and it works, but not always. The system fails sometimes because the most important aspect of the return-to-work process is still left to opinion: How long will the employee stay out of work?

Although the decision is ultimately in the doctor's good hands, the doctor often receives pressure both from the patient (for a longer absence) and the insurance company (for a shorter absence). Doctors who have limited knowledge of normative disability durations based on their professional experience would have questions: How long an absence are other doctors prescribing? What have other patients experienced in similar circumstances? When is modified work possible? Even if the physician uses good judgment every time, wouldn't it be nice to have evidence to back up that judgment when one of the other parties disputes it? Wouldn't it be nice if all the players could be looking at

the same script? That's where evidence-based return-to-work guidelines come in. Within the last few years, healthcare providers have become increasingly interested in having access to lost time guidelines. After all, they are the ones controlling return-to-work decisions, and information on normal disability durations is not something they are taught in medical school. One publisher of lost time guidelines has seen the percentage of healthcare providers (primarily physicians) grow from 7% of total sales in 1996 to 49% in 2000.<sup>2</sup> Providers, along with their patients, are obviously taking an increasing interest in expectations for return-to-work and productivity after an injury or illness.

### What are Evidence-Based Return-To-Work Guidelines?

Guidelines based on evidence are different from guidelines based on opinion. Evidence-based disability duration guidelines are derived from sources that pool millions of reported cases together. From this vast pool, health statistics can be sorted and presented with respect to the variables that effect and determine disability durations.<sup>3</sup> The best guidelines, which break down the data as much as possible, show average length of disability for multiple aspects of the illness or injury, such as type of treatment, type of job, severity of case, modified work possibilities, and factors specifically impacting return-to-work for that particular diagnoses. For example, in the case of a hand, wrist, or arm injury the recommended guidelines would need to point out that repetitive dominant arm motion would certainly impact return-to-work. Other conditions, too, may influence or

lengthen time-out of work, such as comorbidities, or nonmedical behavioral factors, such as lack of self-esteem, fear of reinjury, loss of status, family problems, or even a lack of understanding of the workers' compensation system. Once doctors, case managers, employers, and insurers are aware of the recommended "norm" for a particular diagnoses and treatment pathway, they can address the issues identified. Then, they can also decide what is appropriate: more time off, additional treatment, other interventions, or modified alternative work. Using evidence-based guidelines, all parties better understand what can be and what has been experienced, thus enabling them to provide a realistic benchmark for managing the return-to-work process.

### How do Disability Guidelines Impact Return-to-work?

Disability guidelines are a key factor in reinforcing good communication among all parties.<sup>4</sup> In fact, the main "how long" variable would be eliminated if all parties utilized fair and defensible return-to-work guidelines. Then, all the players involved—doctor, claims administrator, case manager, employee and employer could be sharing the same assumptions as they begin the return-to-work process.

To establish such shared assumptions and expectations, the duration guidelines must not only be available but also understandable by all involved. Everyone should be aware that an early return-to-work is extremely beneficial to the employee, mentally, physically, and socially. The injury or illness in question may be something that *happened* to the employee, but if there is good communication among all parties,

the employee can *make* return-to-work happen, thereby counteracting the negative effects of the illness or injury. Recently the American Association of Orthopaedic Surgeons and the American Academy of Orthopaedic Surgeons issued a position statement favoring early return-to-work as beneficial to the injured worker's recovery. Therefore, when modified or alternate work is indicated and provided, work actually becomes part of the treatment and rehabilitation process.

It is of utmost importance that providers use and understand the guidelines. The treating physician determines the ultimate outcome of an individual case because only he or she has the training, knowledge, and experience to make such a judgment. Yet most doctors welcome having evidence-based guidelines to compare their particular case against. While many doctors resent having someone else's opinion imposed on their firsthand knowledge of a case, the data presented by the guidelines are a welcome point of reference. The guidelines, really, simply set a benchmark from which the doctor can work and through which he or she can come to a conclusion by adding or subtracting days depending on clinical variations with each case.

A detailed, independent case study was conducted by the Integrated Benefits Institute, the results of which IBI released in June 2000 in a Profile Summary on Nationwide Insurance. This study determined that Nationwide, in the first year of using evidence-based guidelines (in addition to other disability management interventions) reduced overall disability duration by 20% and achieved total net savings of \$3.9 million.

### **What are the Medical-Legal Implications for a Standard of Normative Guidelines?**

In order to study the American healthcare delivery system, the Committee on the Quality of Healthcare in America was formed in 1998. In the second of two reports, one of which was released this year, the Committee proposed recommendations that could create substantial improvement in the nation's healthcare system. The recommendations require commitment to the provision of evidence-based care and decision-making that does not vary illogically from clini-

cian to clinician or from place to place and is responsive to individual patient's needs and preferences.<sup>5</sup>

Over the last seven years there has been a substantial evolution in the admissibility of medical testimony in court, and this evolution has mirrored the growth in evidence-based medicine. Three US Supreme Court cases, beginning with the 1993 *Daubert* Decision,<sup>6</sup> which held that judges were obligated to evaluate the basis for expert testimony. The following two additional expert testimony cases, *GE v. Joiner*<sup>7</sup> and *Kumho Tire v. Carmichael*<sup>8</sup> have set the standards for the way federal courts approach expert testimony, and increasingly are profoundly affecting state court practice as well. According to the Claims Support Professionals Association, experts with a long tradition of being readily admitted, such



as clinical medical doctors, are now being excluded from court when they testify based on their opinions alone.<sup>9</sup> A recent roundtable workshop was held by the federal guideline Agency for Healthcare Research and Quality (AHRQ)<sup>10</sup> and the Institute of Medicine, which concluded "Evidence-based medicine in practice defines the likelihood of something happening. It is never 100%. It is not absolute truth." The workshop identified that population-based evidence is most important in court.<sup>11</sup>

As a result of these Supreme Court decisions, the Federal Rules of Evidence were recently amended in December, 2000. The new rules state that statistical studies will be admissible under the Federal Rules of Evidence, and that such methods generally satisfy important aspects of the "scientific knowledge" requirement articulated in the *Daubert* Decision.<sup>12</sup> Furthermore, it states that "courts have described surveys as the most direct form of evidence that can be

offered, and several courts have drawn negative inferences from the absence of a survey."<sup>13</sup> These developments have significant impact on the outcome of court cases involving workers' comp claims, and they may even lessen the weight of Independent Medical Examination (IME) testimony that does not also reference evidence-based medicine. Furthermore, primary credence will be based on actual experience data, and not just expert judgment in determining what should happen. When this experience data is backed by a credible survey, such as the CDC National Health Interview Survey, it will have even more weight.

### **What is Important in Disability Duration Return-To-Work Guidelines?**

Disability duration return-to-work guidelines need to be the focal point of the entire return-to-work process. They also need to be based on actual reported data in order for all parties to accept them as a reliable source. Potential benefits will be negated if any party resents the guidelines or questions the validity of the source. Therefore, the most essential requirement of disability guidelines is that all constituents perceive them as fair and independent, and that they also understand what the guidelines show. What has *actually happened* and not someone's opinion of what *should happen*. Before purchasing and relying on guidelines, ask the publisher where the data came from, and whether it is defensible, and also representative of the population at large.

When choosing the guidelines other factors need to be considered, too. First, the guidelines should identify the important factors for all cases that make a difference in return-to-work. Did the person have surgery or drug treatment? What kind of surgery was it? Is modified early return-to-work possible? Are there certain factors of the job that might make return-to-work longer, such as overhead work with a shoulder injury? Are there measurable indicators of severity and different respective return-to-work pathways? Are the pathways specific to the illness or injury, or do they only break it down into "Light," "Medium" and "Heavy" work? For example, repetitive use of the wrist, such as typing, may be considered "Light" duty in the department of labor job categories but typing could not realistically be considered "Light" duty for someone recovering from carpal tunnel syndrome.


## Conclusion: You Have a Part Now— Learn Your Lines

The findings in this article are a result of my research, which was sparked by a client who inquired about disability

***“These guidelines are called the Official Disability Guidelines from the Work Loss Data Institute.”***

duration guidelines. As a result of my research, I have concluded that it is essential for doctors, medical case managers, claims administrators, and employers to know where the data for return-to-work guidelines comes from and to trust that it is credible. Physicians and medical case managers refer to disability duration guidelines to facilitate and benchmark the progress of medical care as they assess, analyze, make outcome identifications, plan, implement, and evaluate care and progress of a case. I recently attended a CCWC-CSIA Symposium in July 2001 on Workers' Compensation where a frustrated attorney posed the question: "On whose authority can we dispute a medical issue before the WCAB?" The answer given was not very helpful; however, evidence-based disability duration return-to-work guidelines—in addition to standards of medical practice—offer a solid beginning answer. Insurers and third-party administrators also utilize disability duration guidelines to assist and facilitate in administering claims since not all claims have a medical case manager assigned to them. It is important that doctors, medical case managers, and claims administrators add these guidelines to their existing opinion-based reference

libraries. These guidelines are called the Official Disability Guidelines from the Work Loss Data Institute. Ideally, if evidenced-based guidelines were consistently used by insurers, employers, case managers, TPAs, unions, and attorneys, they would create a nationally recognized "standard" for determining disability durations. Such a standard would be fair to workers, defensible by employers, and instrumental in slashing the exorbitant direct and indirect costs of lost time, lost productivity, and litigation.

The benefits of informed and active case management, using evidence-based disability duration guidelines in the return-to-work process, have produced significant and tangible results across the board. They have a positive impact on the mental, physiological, emotional, and financial well-being of an employee, his or her family, coworkers, employer, and insurer. The Federal Rules of Evidence regarding admissibility of statistical studies, coupled with the recommendations from Quality of Healthcare Study for evidence-based practice, care, and decision-making should convince every interested party to use consistent, unbiased and proven data obtained from forecasting, measuring, and benchmarking a patient's recovery. When this is done, and with a successful return-to-work program, workers' compensation costs have been shown to be reduced by as much as 30 to 40 percent.<sup>15</sup> As a player in this complex program, you have a part—now go learn your lines! 

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