

A GUIDE TO
IDENTIFYING AND ADDRESSING
CHALLENGES RELATED TO
LANGUAGE BARRIERS
IN RETURN TO WORK



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GLOSSARY OF TERMS

Language barriers

Difficulties communicating or understanding verbal or written information, which may be experienced between individuals or groups, or between individuals / groups and organizations

Interpretation

The process of translating speech orally

Translation

The process of translating written documents

Formal or professional interpreter

Interpreters with relevant professional credentials

Informal interpreter

Family, friends, employers or any other person who acts as an interpreter without relevant professional credentials

A PDF version of this guide is available as a free download at: <http://hdl.handle.net/11375/25331>

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BACKGROUND

PURPOSE OF THE GUIDE

This guide provides advice on how to identify and address challenges that arise from language barriers after a work injury or illness and in the return-to-work (RTW) process. Language barriers involve difficulties communicating or understanding verbal or written information. The guide is designed to be used by stakeholders in the RTW process, including:

- **Workers' compensation staff** who process and manage claims, and facilitate health care and RTW
- **Worker advocates** such as union members or legal advisors who support workers and provide information to them
- **Employers** who support the safe recovery and RTW of injured and ill workers
- **Vocational rehabilitation providers** who help workers stay at work or retrain for new work
- **Health care providers** who assist in recovery and are often an important conduit to workers' compensation entitlement
- **Injured workers** who want to learn ways to better advocate for themselves

The guide is intended to promote understanding of how language barriers can impact a worker's situation after a work injury or illness, contribute to delays and complexities in the claim process, slow recovery and impede RTW. It provides suggestions on ways to tackle these challenges with the objective of promoting recovery and timely, safe and sustainable RTW. Although the guide was developed from research in Ontario, the information may be applicable to other jurisdictions.

Some of the suggestions may not be possible for some stakeholders to implement due to policy or practical constraints. Implementation of the suggestions may, therefore, require the support of decision-makers through policy changes and resource allocation.

LAYOUT OF THE GUIDE

The guide is composed of three sections:

- 1) A stakeholder resource with challenges and suggestions related to language barriers in the RTW process
- 2) A resource called "Four steps to identify language needs"
- 3) A resource called "Tips on working with an interpreter"

The guide outlines challenges that workers who experience language barriers may face in the following contexts of RTW:

- ◆ Claim processing
- ◆ Health care delivery
- ◆ Workplace relations
- ◆ Recovery/rehabilitation

For each context, a composite case that reflects the experiences of an injured worker is presented. The guide then identifies challenges and suggestions for how different stakeholders can better facilitate RTW in each context. These stakeholders are identified with the following names and symbols:

- ⚙ Employer
- ⊕ Health care provider
- 👤 Workers' compensation staff
- 👥 Workers' representatives
- 📋 Assessors (vocational, language)
- 🔍 Employment services providers

In addition, a printable pamphlet for workers who experience language barriers, called "What to do if you get injured or ill from work", is available in 7 languages: <http://hdl.handle.net/11375/25326>

The tips provided in the pamphlet are specific to Ontario but can easily be adapted to other contexts.

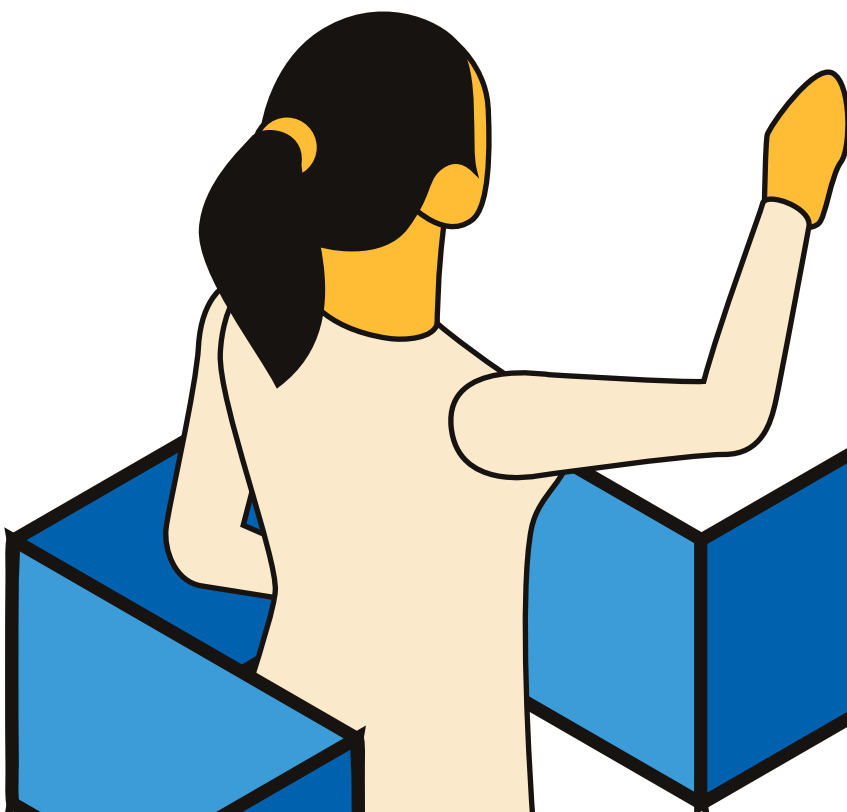
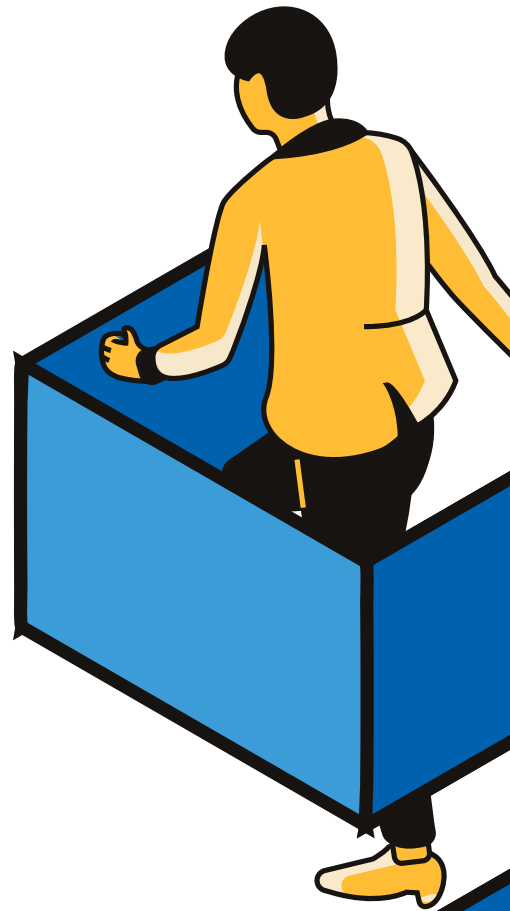
INTRODUCTION

Workers who experience language barriers

- are usually immigrants or migrants, who in some cases have been in their host country for many years.
- may be highly skilled or educated, but often work in manual, low paid and precarious jobs where hazardous conditions and lack of safety training and equipment expose them to an increased risk of injury or illness.
- typically face challenges reporting their work-related health problem to their doctors or employers, or filing workers' compensation claims, because they fear losing their jobs and lack knowledge and support.
- regularly experience difficulties throughout the claim process, such as challenges communicating the nature of their work and injury.
- often have difficulties recovering and returning to work, either with the pre-injury employer or with a new employer, due to their multiple barriers (language, disability, lack of relevant work experience, etc.).

As a result, workers who experience language barriers can face devastating consequences such as:

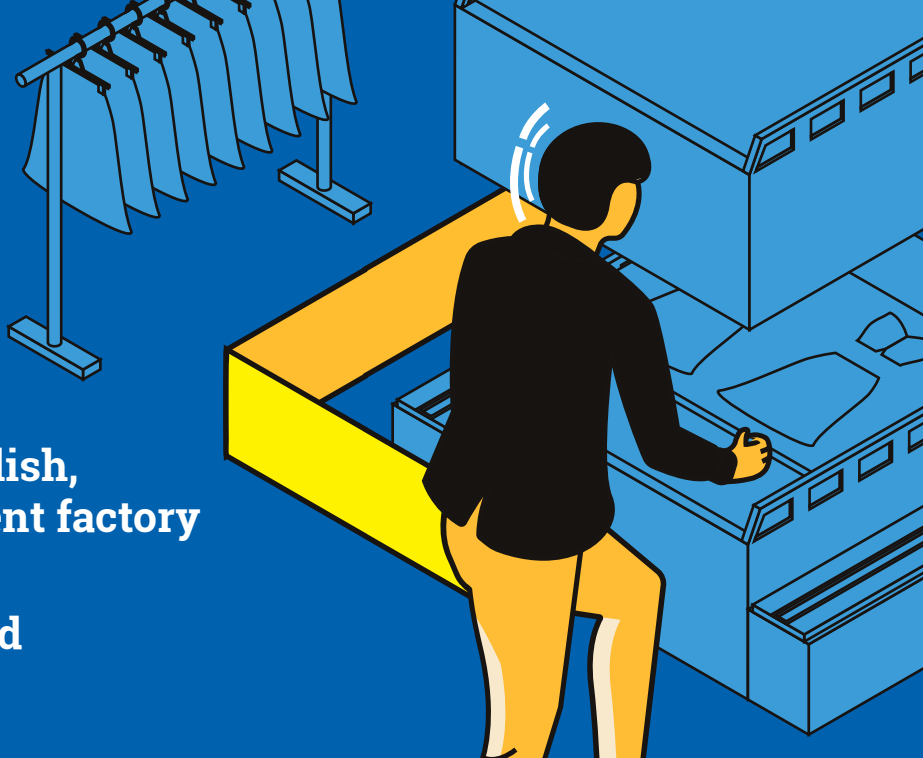
- ◆ Financial difficulties
- ◆ Family tensions
- ◆ Withdrawal from work and social life
- ◆ Mental health problems
- ◆ Re-injury



THE CLAIM CONTEXT

Sunil, who speaks some English, had been working in a garment factory for a little over a year.

One day, his hand was injured in a pressing machine.



His supervisor immediately bandaged his hand, told Sunil to go home to rest and advised him to return to work the next day.

Overnight, Sunil's injury got worse, and the next morning he went to a walk-in clinic. The doctor there did not speak Sunil's language, but it was understood that he should take some time off to recover. The doctor did not mention workers' compensation.

When Sunil asked for the additional leave, his supervisor became angry, initially denying the request. Sunil had no knowledge of workers' compensation and he feared losing wages, or losing his job completely, so he returned to work the following day. **Although his supervisor promised to accommodate his injury with modified tasks, he was given the same job as before. His complaints were ignored and his condition deteriorated. A few weeks later, unable to continue, Sunil quit.**

Sunil consulted with another doctor who told him about workers' compensation and advised him to make a claim. **Although he struggled to understand the claim form and describe his injury incident in English, he filled the form to the best of his ability and submitted it.**

A compensation decision-maker soon called Sunil to get more information about the circumstances of the injury and the reasons for the delay in

reporting. Sunil had not been offered an interpreter and he had difficulty understanding the conversation. In addition, his employer was contesting the claim, and Sunil found it difficult to express his point of view. **Later, Sunil received English-language letters that required him to submit forms and documents within certain deadlines. He was unsure what to do and who to contact with his questions. Eventually, the decision-maker informed Sunil that his claim was denied.** Sunil did not understand the explanation.

Sunil sought help from a worker representative who helped him appeal the decision. The representative prepared Sunil by explaining the roles of everyone involved, the decision-making process and the next steps. Nine months after filing, his claim was finally accepted.

Over the course of his claim, Sunil interacted with many people who were not familiar with the details of his case and who were not necessarily aware of his language needs. In interacting with them, Sunil did not always understand questions, and his answers were sometimes inconsistent. Even when interpreters were present, Sunil felt intimidated and misunderstood.

The delayed reporting and long, confusing claim process prevented Sunil's timely access to treatment. He never fully recovered and never returned to full-time work.

CHALLENGE: Delayed Reporting

Workers may delay reporting their injuries and illnesses for any of the following reasons:

- ◆ They do not know about or understand workers' compensation or are intimidated by the process, especially if they come from countries without compensation systems.
- ◆ They fear losing their jobs or facing retaliation, particularly in cases where the employer is discouraging claims (by giving deceptive advice, threatening job loss, etc.).
- ◆ They have jobs in workplaces that lack protocols for reporting injuries and structures for safe RTW, or they are reluctant to report because they work through temporary employment agencies, or "under the table", or have an insecure immigration status.
- ◆ They have difficulties accessing health care providers, including providers who are willing to engage with the compensation system.
- ◆ They have communication barriers with health care providers who, as a result, may fail to diagnose a work-related health problem or communicate information about workers' compensation.

SOLUTIONS



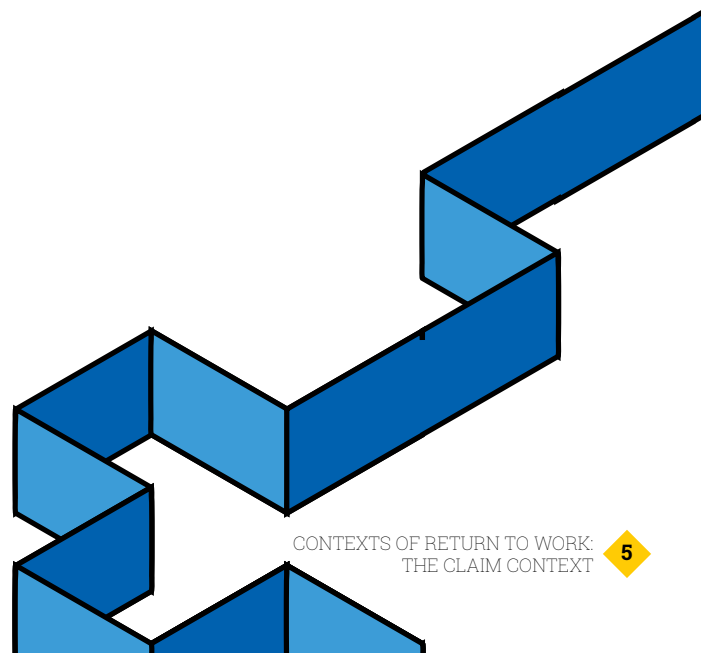
Employers could:

- Provide information about safe work practices to prevent injuries and illnesses in workers' language(s).
- Post information on health and safety rights and responsibilities in workers' language(s) throughout the workplace.
- Provide information about workers' compensation in workers' language(s) during training and review this information with workers immediately after an injury or onset of illness.
- Ask questions to better understand workers' concerns about hazards and health problems, acknowledging that workers do not usually exaggerate concerns.
- Report injuries and illnesses as mandated and let workers' compensation determine the validity of the claim. Failing to report a work-related injury or illness may result in workers not getting the support they need to properly recover and return to work. It may also be an offense subject to penalties.



Health care providers could:

- Ask workers about their occupation and, if appropriate, whether they think their work contributed to their injury or illness.
- Provide workers with information about workers' compensation and inform them that there are laws in place to protect their job security when they file a claim.
- Be aware of reporting obligations and, with workers' consent, assist with reporting work injuries and illnesses.
- Educate workers about the risks of not reporting to their health; for example, delays could complicate their injury or illness.





Workers' compensation decision-makers could:

- Take time to understand workers' reasons for not immediately reporting a work injury or illness and work with a professional interpreter to help understand workers' situations.
- Consider in their decision the factors that contributed to delayed reporting.
- Consider how delayed reporting may in turn impact the claim; for example, loss of witnesses or other evidence.
- If possible, allow more time and offer support for workers to gather or process evidence or get assistance.



Workers' representatives could:

- Educate workers about the importance of reporting their injuries and illnesses in a timely manner.
- Help workers connect with their workers' compensation board and assist them with reporting; for example, by helping them fill out claim forms.

CHALLENGE: Missed Deadlines

Workers may miss deadlines because:

- ◆ They lack the English-language skills needed to understand decisions and deadlines communicated to them, particularly in the absence of interpretation or translation. As a result, they miss opportunities to relay information about their claims or to contest decisions.

SOLUTIONS



Workers' compensation decision-makers could:

- Take into account how language barriers may have contributed to missed deadlines when making decisions and, if possible, give workers new, extended deadlines.
 - Ensure that all decisions and deadlines are communicated and explained to workers over the phone or in person with an interpreter, and again in writing using plain language in their preferred language.
 - Ensure that workers understand the decisions and deadlines communicated to them by asking them to summarize the information in their own words.
-

CHALLENGE: Gaps and Inconsistencies

Workers may have gaps and inconsistencies in their claims for any of the following reasons:

- ◆ They fail to submit English-language forms or struggle in completing them.
- ◆ They sign forms without fully understanding or agreeing with their content.
- ◆ They struggle in communicating information about their work or injury in a specific and consistent way.
- ◆ They require the help of others to express their viewpoints, but these people may be unfamiliar with their circumstances or have conflicting interests.
- ◆ They cannot fully convey their point of view due to the combined lack of language skills, information and resources.
- ◆ They experience stress navigating a complex system in the absence of language skills, knowledge and support.

SOLUTIONS



Workers' compensation decision-makers could:

- Reach out to workers, employers and health care providers to fill gaps in information.
- Seek explanations for inconsistencies by giving workers an opportunity to provide details about their claims.
- Be conscious of power imbalances that may shape claim dynamics and the information presented. Ask workers if they are in a union or otherwise represented, or if they work through a temporary agency, to get a fuller picture of potential power imbalances.
- Consider the stress workers may be under and how this may contribute to gaps and inconsistencies.

CHALLENGE: Coordination Challenges

Workers' language needs or other needs may not be known or coordinated by the stakeholders involved in their claim for any of the following reasons:

- ◆ Their language needs are not assessed, recorded in their file and communicated to all relevant stakeholders in a systematic way. As a result, they are not offered interpretation and translation services.
- ◆ Their files lack detailed records of all the information relevant to their claims, requiring workers to fill in the gaps, which is difficult when there are language barriers. In addition, stakeholders may lack key information to meet the workers' needs.

SOLUTIONS



Employers could:

- Anticipate workers' language needs and communicate them to workers' compensation staff, to help avoid unnecessary delays and complications with the claim. Even if workers are able to communicate in the workplace, they may still experience language barriers in other situations.



Workers' compensation decision-makers could:

- Ensure that workers' full range of language needs are assessed as early as possible (see "Four steps to identify language needs"), recorded in their files and communicated to everyone involved in the case.
- If possible, facilitate the presence of an interpreter for interactions with other stakeholders such as health care providers, employment specialists, etc.
- Ensure that referrals are detailed and send relevant information from the file to other stakeholders as appropriate.

CHALLENGE: Communication Obstacles

Workers experience communication obstacles with stakeholders involved in their claims when:

- ◆ They struggle to understand or communicate information, particularly in the absence of interpretation or translation.
- ◆ They do not understand or trust workers' compensation.
- ◆ They feel intimidated, stressed, frustrated, unsupported or unheard when interacting with workers' compensation staff and other stakeholders.
- ◆ They nod or sign papers without understanding what they are acknowledging or agreeing to, even when interpretation or translation is provided.
- ◆ They are unsure how to disagree with decisions or clear up any confusion.
- ◆ They are not sure who, if anyone, is responsible for their case or how to reach someone if they have questions or concerns.
- ◆ They participate in phone conversations that may miss important non-verbal cues and/or that involve multiple parties, leading to confusion.
- ◆ They avoid phone calls from compensation staff because they do not understand their purpose or substance.
- ◆ They have cultural differences with stakeholders, who may view attitudes or behaviours negatively; for example, not making eye contact or not being punctual.



SOLUTIONS

Workers' compensation decision-makers could:

- Provide clear explanation about decisions to workers in their preferred language.
- If possible, prioritize face-to-face meetings, either in person or through video chat software.
- Ensure workers know who to reach and how if they have any questions or concerns. Also tell workers about workers' compensation staff changes that affect them, what this means and why.
- Avoid interpreting workers' lack of responses as lack of cooperation.



Workers' representatives could:

- Discuss cultural or other expectations with workers before meetings or hearings; for example, making eye contact and being punctual to establish credibility.

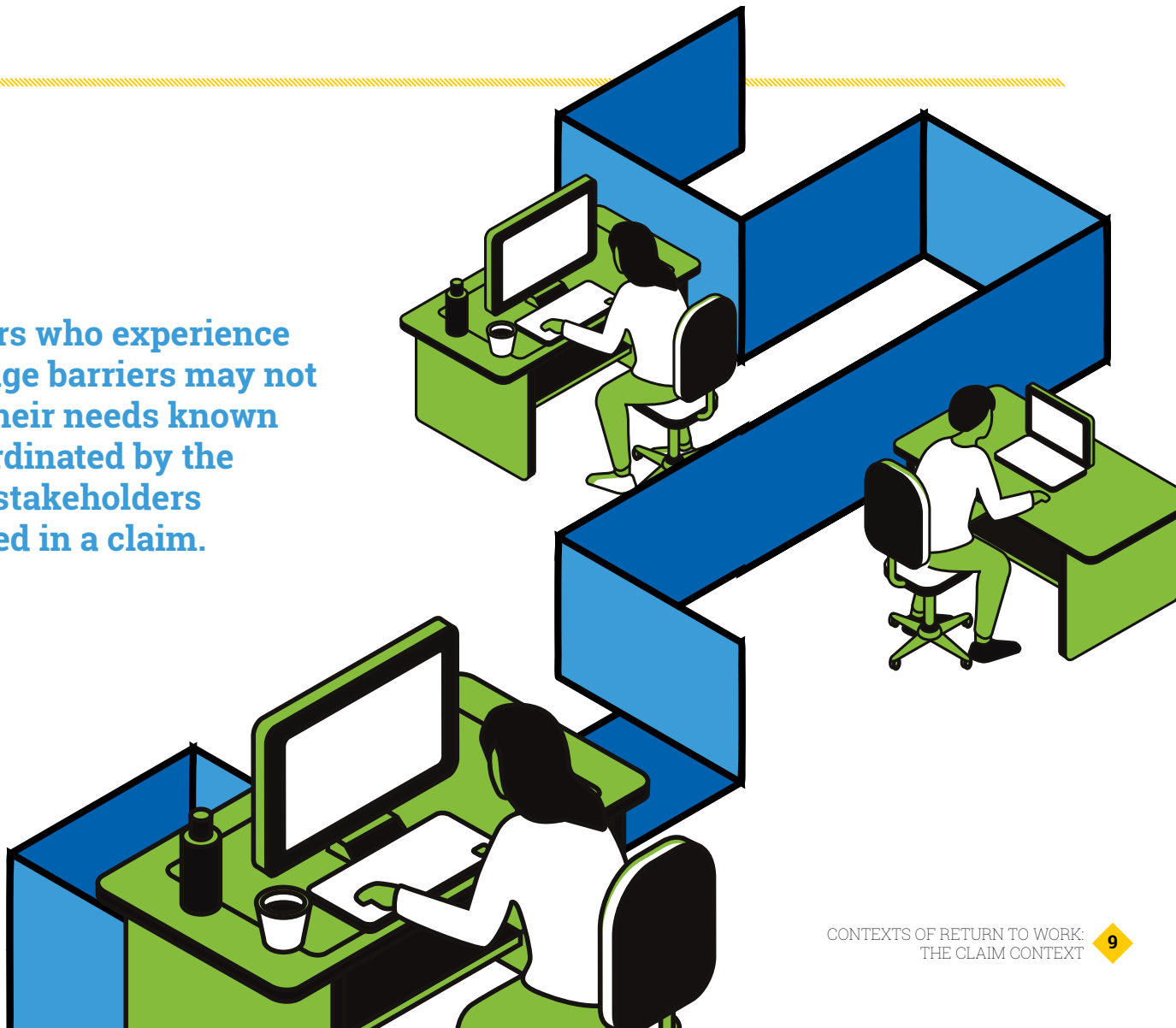


All stakeholders could:



- Work with professional interpreters (speaking/listening) and translators (reading/writing) to address the full range of workers' language needs and use these language services consistently and systematically; for example, when determining modified duties or filling out functional ability forms.
- Start by asking workers what they understand about the workers' compensation system, and be prepared to help them understand what compensation is, and the steps and people involved in filing a claim. Be especially aware of the need to explain workers' compensation to workers who are trying to learn during a time of stress.
- Work towards supportive interactions with workers and welcome the involvement of friends or family members for emotional or logistical support.
- Empower workers in their recovery and return to work by speaking directly to them.
- Ensure that workers truly understand and consent to decisions by asking them to summarize information in their own words, with the support of a professional interpreter.
- Be receptive to workers' experiences and concerns by asking open-ended questions, taking the time to really understand the situation and involving workers in the decision-making process.
- Consider how the workers' social, economic and cultural background may shape their experiences or behaviours, without jumping to conclusions or making generalizations.

Workers who experience language barriers may not have their needs known or coordinated by the many stakeholders involved in a claim.



THE HEALTH CONTEXT

Aleya, a refugee who speaks a little English, worked as a cleaner in office buildings.

When she began to develop debilitating pain in her wrist, she consulted her family doctor.



Her doctor, with whom she spoke English to the best of her ability, did not ask for any detailed health and work history. He provided treatment and recommended rest, but he did not diagnose a work-related illness, nor did he mention workers' compensation.

Aleya informed her supervisor and remained off work for two weeks. After she returned to work, Aleya was laid off by her employer within three days. **Not sure what to do, and still in pain, she returned to see her family doctor. This time, he suggested that she file a workers' compensation claim.** With the help of her daughter, Aleya filed a claim.

The information submitted by her doctor included few details, and compensation decision-makers surmised that her illness was degenerative and not necessarily related to her work. **Aleya was asked to submit historical medical documentation from her family doctor and providers from walk-in clinics to support her claim. Some providers requested payment, while others required her to solicit them many times.** This was very stressful for Aleya, but with the help of her daughter, she was able to gather most of the documents.

Once documents were submitted, she waited five months for a decision, during which time she relied on employment insurance. Ultimately, to her relief, her workers' compensation claim was accepted.

Aleya was then sent to a medical rehabilitation clinic for an assessment where she had to check boxes on English-language forms she did not fully understand. When meeting with the rehabilitation specialist, an interpreter was present, but Aleya still struggled to communicate the nuances of her health situation. She found it particularly difficult to reveal that she was experiencing symptoms of depression, especially because the interpreter was from her country where mental health conditions are stigmatized. In addition, she felt rushed in the appointment.

As a result, Aleya's physical and mental issues were not properly diagnosed and treated, and this significantly delayed her recovery and RTW. Health professionals were also unable to identify the causes of the delayed recovery.

CHALLENGE: Gaps in Medical History

Workers may present gaps in their medical history for any of the following reasons:

- ◆ They have difficulties accessing a family doctor and rely instead on care providers at walk-in clinics who may not be familiar with their work and health history. This can create documentation issues, particularly for multiple areas of injuries or spreading symptoms.
- ◆ They struggle in gathering the medical documentation required to support their claims, particularly if they have accessed care from multiple providers over time and if providers are non-responsive or require payment to process requests.
- ◆ Their medical files do not include a detailed record of their symptoms and medical recommendations.

SOLUTIONS



Health care providers could:

- Take clear and detailed notes during clinical encounters about injury/illness and ability to work, in order to be able to assist workers' compensation staff with supporting optimal recovery and RTW.
- Record all complaints and proactively inquire about the spreading of symptoms.
- Note the presence of language barriers in the file, as well as the presence or absence of an interpreter.
- Provide as much detail as possible to workers' compensation staff and submit requested documentation in a timely manner.
- Waive fees for requests for medical documentation for injured workers and others in economically vulnerable situations.

CHALLENGE: Incorrect Diagnosis and Treatment

Workers may not be properly diagnosed or treated for their medical conditions for any of the following reasons:

- ◆ They struggle to describe their symptoms in a detailed manner or omit information necessary for proper diagnosis and treatment when communicating with providers who do not speak their language and who do not have access to professional interpreters.
- ◆ They find it difficult to communicate conditions that are sensitive, complex and/or chronic, even if an interpreter is present. The presence of an interpreter may, in fact, amplify communication challenges in these cases if workers are not comfortable sharing medical information in front of interpreters.
- ◆ They have difficulties communicating mental health information to psychologists who do not speak their language and may not have interpreters present during sessions.
- ◆ They inadvertently provide inaccurate responses to English-language questionnaires.
- ◆ They have difficulty understanding health information communicated to them and, as a result, may not follow treatment protocols.
- ◆ They require more time to communicate and understand information, but are constrained by the limited time allocated for appointments.
- ◆ Their attitudes or behaviours with regards to their health is incorrectly attributed to stereotypical cultural notions; for example, notions that members of certain groups catastrophize health problems.
- ◆ Their responses to pain and disability and their expectations for treatment, recovery and workplace participation are not fully understood.

SOLUTIONS



Health care providers could:

- Consider how both the absence and presence of an interpreter may shape the communication of medical information.
- Arrange for interpretation over the phone, if possible, to provide a degree of anonymity that may facilitate workers sharing information.
- Speak in plain language, and give workers an opportunity to share information, ask questions and process information.
- Avoid using English-language questionnaires to evaluate the health of workers who experience language barriers. If available, use tools that have been translated and validated; otherwise, rely on informal evaluations; for example, having conversations with workers.
- When possible, allow additional time for appointments or break up assessments over two or more appointments.



Workers' compensation decision-makers could:

- Ensure that workers understand the assessment and recommendations; for example, by translating them or their summaries and providing them to workers.
- If possible, ensure that mental health care is provided directly in the preferred language of workers.
- Gather more information in cases where workers do not follow their treatment protocol.



Health care providers and workers' compensation decision-makers could:

- Take extra steps to understand how pain, healing and treatment may be perceived by each worker, considering their social, economic and cultural contexts. This will help ensure that support and education is sensitive to the unique needs of workers and will have an impact on their recovery and RTW.
- Take care to avoid generalizations, ask questions, and always consider practical explanations.

Workers who experience language barriers may struggle in gathering the medical documentation required to support their claims, particularly if they have accessed care from multiple providers over time.



THE WORK CONTEXT

Since immigrating 20 years ago, Chan worked in factories doing manual, fast-paced work.

One day, he slipped on a wet floor and sustained a back injury.



The emergency room doctor submitted a workers' compensation claim, which was accepted.

Chan was off work for a month. During that time, he felt pressured to return to work by his supervisor and workers' compensation staff, but he did not feel he had sufficiently recovered and his doctor recommended more time off.

At a meeting in the workplace, compensation staff discussed his functional abilities and described modified tasks. Chan knew enough English to get by in his day-to-day at the factory but, without an interpreter present, he did not fully understand. Feeling intimidated, he did not speak up, but simply nodded.

When Chan returned to work, he was told to organize some papers. However, he did not understand what was written on the papers because, while he could speak some English, he could not read it. Two days later, he was told to return to his previous job, against his doctor's recommendation. Chan was not able to do the work without discomfort, which then became pain. As his pain got worse, he told his supervisor and workers' compensation staff. However, he was told that, if he stopped working, he would stop receiving compensation.

Without any other option and with multiple family members depending on him, Chan returned to his previous work, but the work was fast-paced and eventually caused a re-injury. He tried to communicate that he needed modified duties, but did not get the opportunity to fully explain himself. He felt unheard, as if his opinion did not matter.

Chan took some more time off work to try to heal from the re-injury, but again returned after being persuaded by his supervisor. This time, Chan was told to sit and not given any tasks. He felt humiliated. Some of his co-workers said he was faking the injury, while others harassed him about not sharing the workload.

Due to the pressure to return to work and the lack of accommodation, Chan's health problem worsened. He developed depression and eventually quit his job. Because he failed to follow his RTW plan, his entitlement to benefits ended.

CHALLENGE: Unsuitable Work Accommodations/Modifications

Workers may not be properly accommodated in the workplace for any of the following reasons:

- ◆ They do not understand the accommodations or modifications communicated to them.
- ◆ They do not feel comfortable raising concerns during the process of determining accommodations or modified duties, following a RTW plan, or their concerns are not considered.
- ◆ They work in jobs where employers or supervisors have no prior experience with implementing medical recommendations.
- ◆ They work in manual environments where non-manual tasks require language skills they may not possess.
- ◆ They work in jobs with production demands that make it difficult to work with a disability and continue to meet expectations.
- ◆ They are told to get help from co-workers, but co-workers may not help for reasons such as not being available, not being asked by the employer to assist, or resenting requests to do more work, etc.

SOLUTIONS



Employers could:

- Assign productive and meaningful work.
- Recognize the importance of adhering to medical recommendations in order to allow workers to recover and avoid re-injury.
- Implement health care provider recommendations; for example, by providing necessary equipment or allowing workers to work at their own pace.
- Communicate concerns about the ability to fully implement recommendations to workers' compensation staff.
- Prepare colleagues by clarifying roles, as appropriate, and engage the direct supervisor in the RTW plan.
- Thoroughly assess the suitability of the work and investigate situations where workers express concerns or decline work.



Workers' compensation decision-makers could:

- Proactively assess workers' understanding of their functional abilities.
- Have ongoing conversations with workers about the nature, timing and rationale of accommodations and modified work, and ensure that they are active participants in, and feel comfortable with, the decisions made.
- Fully explain to workers the purpose and format of meetings where RTW decisions are made.
- When possible, maintain communication with primary health care providers in this process since workers may have trust in their provider.
- Consider the reality of the physical work environment in evaluating potential accommodations and modified duties, if possible, by undertaking worksite evaluations to determine the availability of appropriate work and flag any potential constraints; for example, high production demands, lack of co-worker support, etc.
- Make sure that workers have the language skills required to perform accommodated or modified jobs.
- Instruct employers that any change(s) to agreed-upon tasks should be discussed with workers and workers' compensation staff, if necessary, before workers are assigned to new tasks or regular duties.
- If workers are declining work or express concerns, thoroughly assess the suitability of the work.



Health care providers could:

- Speak to workers about their capabilities for return to work, and speak to the workplace manager or the workers' compensation staff about workers' abilities and possible RTW plans.
- Provide clear functional abilities information to assist with guiding RTW, developed in collaboration with workers to improve workers' understanding of, and comfort level with, their plans.
- Translate medical summary letters, when possible.
- Arrange regular follow-up appointments to help ensure workers are able to manage the workplace demands including new issues that could interfere with or complicate the RTW transition.
- Seek opportunities to collaborate with workers' compensation to discuss suitable work accommodations/modifications; for example, by writing letters to workers' compensation staff and taking time to clarify misconceptions about the nature of workers' conditions.

CHALLENGE: Challenging Work Relationships

Workers may face challenging relationships after becoming injured/ill or when returning to work due to any of the following reasons:

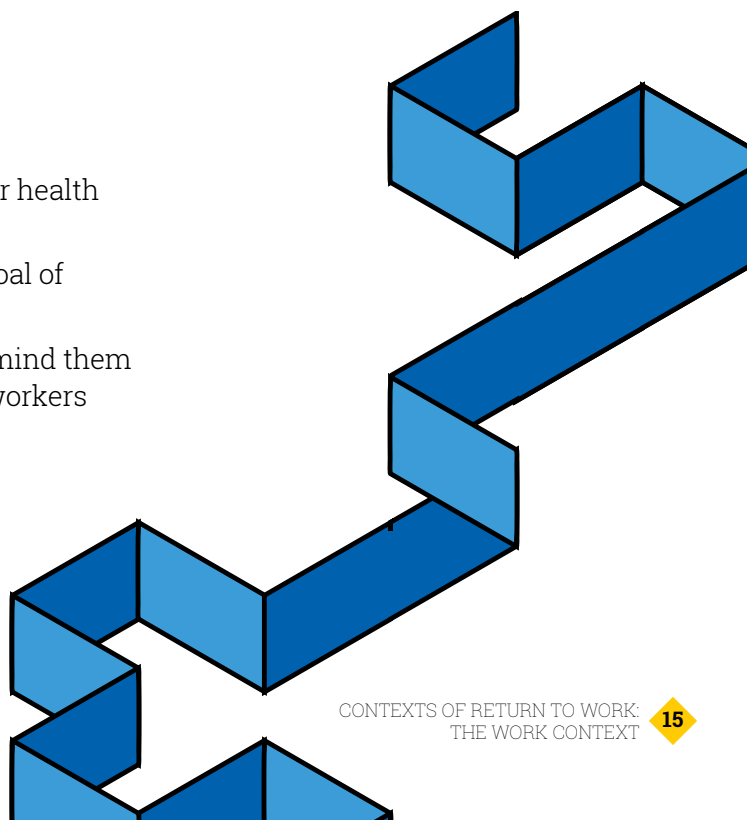
- ◆ They work in jobs where the employment relationship is weak and they may easily be replaced. They may therefore feel like they cannot speak up about their needs and, when they do, they may be ignored.
- ◆ They file claims against their employers' wishes, deteriorating a relationship with the employer that may never have been good to begin with. They may therefore be subjected to poor treatment following injury or illness and upon returning to work.
- ◆ They lack the support of co-workers, who may judge them for working with accommodations or having modified duties, or who may be unable to assist them as needed; for example, due to their own workloads.
- ◆ They feel pressure to return to work by employers and workers' compensation staff when they do not feel ready, and fail to understand the reasoning for returning at that juncture, particularly if their doctor disagrees.

SOLUTIONS



Employers could:

- Seek, listen to and address workers' concerns about their health and accommodation needs.
- Adopt a supportive attitude towards workers, with the goal of facilitating recovery and successful RTW.
- If co-workers are harassing accommodated workers, remind them of the workplace's anti-harassment policy. Educate co-workers about their role in supporting RTW.





Workers' compensation decision-makers could:

- Consider the reality of the psychosocial work environment in evaluating potential accommodations and modified duties.
- Assess the stability of workers' job situations and help mitigate tensions workers might describe with employers, supervisors and/or co-workers.
- Remind employers of relevant anti-harassment legislation with respect to workers who feel they are being harassed by co-workers or other parties when being accommodated.
- If possible, arrange regular meetings with the workplace parties to evaluate the progress of recovery and RTW and to address any barriers.
- Ensure, when possible, that workers are not asked to negotiate their working conditions directly with employers.
- Act as supportive mediator between workers and employers.
- Work with workers' representatives to help support workers.



Workers' compensation decision-makers and health care providers could:



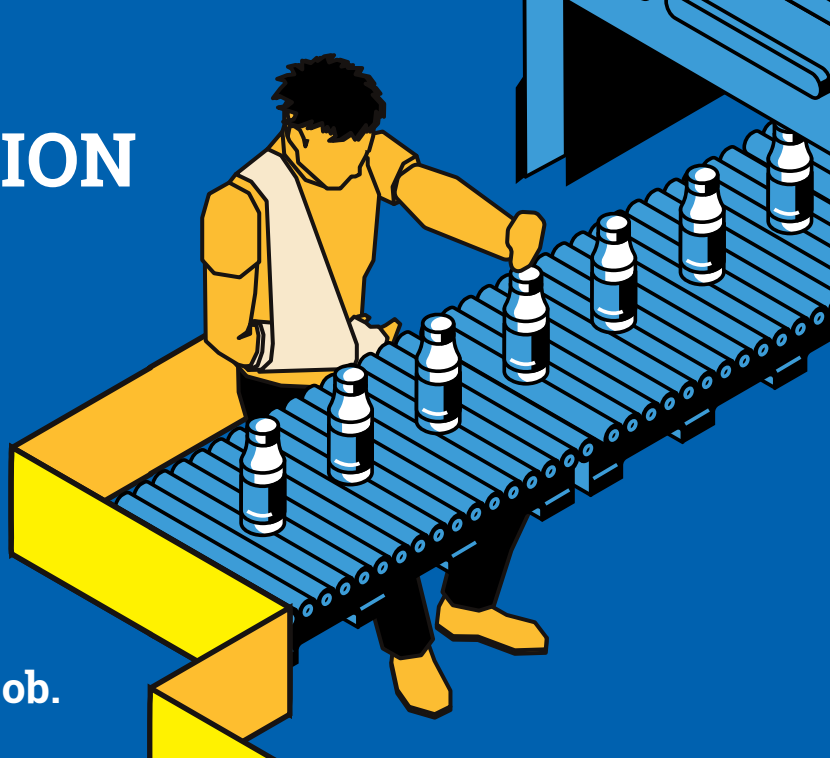
- Discuss with workers the potential benefits of gradually returning to work that respects workers' abilities; for example, the potential benefits to their physical and mental health.

Workers who experience language barriers may work in jobs with production demands that make it difficult to work with a disability and continue to meet expectations.



THE REHABILITATION CONTEXT

Ali, a recent immigrant who does not speak a lot of English, sustained multiple injuries and re-injuries in his manufacturing job.



Eventually, those injuries prevented him from returning to his employment, and Ali was informed by the workers' compensation staff that he would return to work in a new job.

To evaluate his vocational skills, Ali was sent to a specialized centre where he was asked to fill out an English-language questionnaire. He was accompanied by an interpreter who helped him understand the instructions, but the interpreter was not allowed to translate the questions. The person at the specialized centre reviewed the results of the assessment with Ali, but due to the limited time of the appointment, Ali did not fully understand.

Ali was also sent for a language assessment. The plan was for him to take English as second language (ESL) classes, followed by a professional training course. **During the meeting with the workers' compensation staff, Ali felt that his opinion on his future job and training was not taken into account.** He explained that he wanted to take a different course and pursue a career related to his previous occupation in Turkey. However, the workers' compensation staff explained that Ali's idea was not the most efficient way to restore pre-injury wages. Ali did not have the language skills to persist, so he remained silent and signed the document without fully understanding or agreeing.

It was difficult for Ali to sit in the ESL class, due to discomfort caused by his injuries and the effect of his pain medication. Despite this, he completed the course with high grades. **Ali then began his professional course, but struggled to understand his instructor. Yet, to his surprise, he received high marks, although the college could not arrange a placement for him because they said he lacked sufficient English-language skills.**

Ali was then sent to an employment specialist for help with his job search, which offered an English-language training workshop, assistance adapting resume and cover letter templates, and the names of job search websites. **Due to language barriers, Ali was unable to customize his applications, so with the help of his teenage son, Ali applied to jobs using a single resume.**

Despite trying for many months, Ali was unable to find employment in the target field. He was advised to find a job with a Turkish employer, even though he lived far from the Turkish community. **Eventually, Ali found a lower-paying job unrelated to his previous work or recent training, also for lower pay.**

CHALLENGE: Improper Assessments

Workers may not be properly assessed due to any of the following reasons:

- ◆ Their skills are assessed by formal, English-language tools that do not capture their full range of competencies.
- ◆ Their language skills are assessed informally, or by ESL instructors who may feel pressure to pass students.
- ◆ Their language skills are not formally assessed before a RTW plan is established.
- ◆ Their language assessments do not reflect their actual language skills in the context of the job market.
- ◆ They do not fully understand the results of their assessments.

SOLUTIONS



Vocational assessors could:

- Avoid using English testing tools or having an interpreter translate test questions, since these may affect the validity of tests, and proactively seek appropriate tests.
- Working with an interpreter, assess workers' experience, skills and potential to succeed in their preferred vocation, and, if needed, help them understand why their plans may not be feasible; for example, because of education, physical capabilities, etc.
- Carefully review with workers the results of their assessments to determine if their skills and abilities are accurately reflected. Allocate additional time for appointments, if possible.



Workers' compensation decision-makers could:

- Have an ongoing conversation with workers about their skills and abilities. These informal assessments should consider education and experience, both formal and informal, acquired in Canada and in workers' countries of origin.
- Translate summaries of assessment results into workers' preferred languages and verbally review results with workers, with the help of an interpreter.
- When language barriers are known or suspected, always formally assess English-language skills before establishing RTW plans.
- When possible, formally and independently assess workers' language skills before sending them to skills training, placement and/or job search services, even if workers have completed ESL training.
- Conduct ongoing informal language assessments through discussion with workers (taking into account their self-assessments) and with stakeholders with whom the worker interacts; for example, health care providers, worker representatives, etc.

In Canada, CLARS Language Assessment Centres provide free English- and French-language assessments and class referrals to eligible immigrants.

CHALLENGE: Choosing a Suitable Occupation

Workers may be assigned to unsuitable work due to any of the following:

- ◆ They lack a voice in the process of determining suitable jobs or are unsure how to contribute to decisions.
- ◆ They do not fully understand or agree with decisions around suitable occupations, even if they appear to agree by nodding, signing documents, etc.
- ◆ They agree with an unlikely choice of occupation because they believe workers' compensation will make sure they get a job.
- ◆ Their language skills, interests, experience, functional abilities and years remaining in the workforce are improperly considered in decisions. Workers' language abilities may be overestimated, while the language skills required for jobs may be underestimated.

SOLUTIONS



Workers' compensation decision-makers could:

- Have an ongoing conversation with workers about their skills, abilities and interests in a way that encourages them to take a leading role in the process of determining a suitable occupation.
- Recognize that language barriers may limit workers' abilities to research potential employment paths, and provide support to workers in this regard. For example, when possible, involve career counsellors, job coaches or labour market specialists early in the process to help workers set goals, develop strategies and keep engaged.
- Consider the full range of tasks involved in potential jobs, not only those indicated in written job descriptions; for example, by consulting with potential employers and employment specialists. Job descriptions sometimes do not encompass all actual responsibilities.
- Realistically consider the language skills required for tasks when assessing workers' suitability for jobs, as well as other potential barriers, such as physical abilities, experience, years remaining in the workforce, etc.
- Translate documentation summarizing decisions on suitable employment into the worker's preferred language. Also, verbally review decisions with workers, with the help of an interpreter.



Workers' compensation decision-makers and workers' advocates could:

- Inform workers that there is no guarantee they will be hired into the occupation for which they are being trained, and that after training they will look for work.

CHALLENGE: Training Challenges

Workers may face challenges with ESL and skills training for any of the following reasons:

- ◆ They are not offered training, or the training offered may be insufficient in terms of length or quality.
- ◆ They do not have, or do not feel confident they have, the necessary language skills to engage in skills training, even after completing ESL classes.
- ◆ In addition to experiencing language barriers, they have fewer years remaining in the workforce, lower levels of education, a manual labour background, low literacy levels in their first language, and/or difficulties learning, particularly in a classroom environment due to a physical or mental health condition or use of medication. As a result, they may become discouraged with training and stop attending class without explanation.

SOLUTIONS



Workers' compensation decision-makers could:

- Offer English-language and skills training when it might reasonably increase the likelihood of successful RTW and decrease the potential for re-injury.
- Make sure workers understand the parameters of training decisions, such as time frames, objectives, etc.
- Have realistic expectations when determining workers' potential for success, and consider their years remaining in the workforce, education, literacy, employment background and health, including medications they are taking.
- Regularly assess the need to extend training periods to support the employment goal.
- Consider, when appropriate and available, alternative or supplementary formats to classroom learning; for example, on-the job ESL training, skills training with a job coach, English conversation groups, etc.
- Ensure that workers' language skills are properly assessed before beginning skills training, whether or not workers have completed ESL training.
- Avoid raising the possibility of benefit cuts when workers express feeling challenged in their training. Instead, try to understand and address the challenges and barriers to their training plans.
- Investigate cases when workers miss classes, stop attending classes or fall behind to determine if more support or a revised training plan is needed.

CHALLENGE: Difficulties Finding and Keeping Work

Workers may struggle finding and keeping work for any of the following reasons:

- ◆ They do not have sufficient language skills to search for, find or keep work.
- ◆ They experience other barriers to employment, including health problems and lack of experience in the identified occupation.
- ◆ They struggle with online environments and require the assistance of others to look for work, write resumes and cover letters, and complete applications.
- ◆ They are unable to work in their language communities because these jobs may also require English-language skills, for example, being a server in a Chinatown restaurant. Language communities also have fewer job opportunities overall and may be far from workers' homes.
- ◆ They lack job search supports that are targeted to their needs and that encourage them to search for jobs independently.

SOLUTIONS



Workers' compensation decision-makers could:

- Ensure that workers' language skills are properly assessed before they begin job searches by conducting formal and/or informal assessments, including workers' self-assessments. At the same time, ensure workers receive sufficient vocational training prior to job searches.
- Provide job search supports targeted to workers' needs, and consider options such as job placements, which may help provide practical experience and increase employability.
- Unless no other options are available, avoid encouraging workers to seek jobs in their language communities.
- Ensure job targets match functional abilities to avoid workers having to hide or minimize their disability when applying for work, since they may not be able to keep a job due to their limitations.
- Avoid the use of pressure in the job search process while making sure workers are aware of the time parameters. When possible, be flexible about job search periods.
- Conduct proactive follow-ups to verify employment status and offer additional support as needed.



Employment services providers could:

- Develop individualized job search action plans with workers and offer tailored job search supports that build workers' capacities to seek employment independently.
- Consider that some avenues, such as English-language job search workshops and online database searches may not be effective for workers who experience language barriers.
- Prioritize job search services or job coaching over directing workers to online databases.

Cultural factors may also shape interactions between workers and service providers when there are language barriers. Please consult the following resources for more information on cultural differences and how to take them into account:

The Country Insights resource from Global Affairs Canada, which provides information on communication styles, punctuality and formality, among other things, in various countries:

https://www.international.gc.ca/cil-cai/country_insights-apercus_pays/ci-ic_ca.aspx?lang=eng.

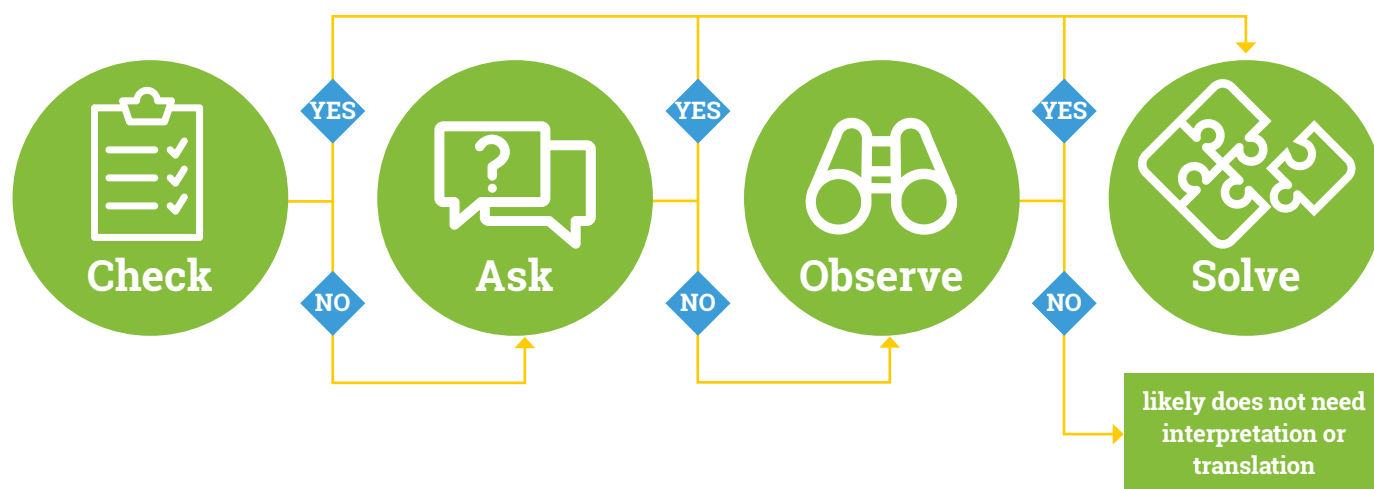
A document for health professionals and occupational health and safety practitioners called "Intercultural Encounters: Issues and Intervention Strategies Involving Immigrant Workers with an Occupational Injury" from the Institut de recherche Robert-Sauvé en santé et en sécurité du travail (IRSST):

<https://www.irsst.qc.ca/media/documents/PubIRSST/DS-1078.pdf?v=2019-10-18>

4 STEPS TO IDENTIFY LANGUAGE NEEDS

Language needs are not always easy to spot. People may be able to converse in English in day-to-day interactions, yet struggle in unfamiliar circumstances or when reading or writing.

Service providers should consider these quick steps to identify language needs.



STEP 1: Check

Are language needs indicated in the worker's file (on forms, in the notes, referral emails, etc.)?

YES / NO

- › If YES, go to **Step 4**
- › If NO, continue to **Step 2**

STEP 2: Ask

Inform the worker that, in order to provide the best support, it may be helpful to arrange for interpretation and translation. Ask the worker:

Would it be helpful to have an interpreter present to assist with conversations, or to receive letters in another language? This service would be provided at no cost to you.

YES / NO

- › If YES, go to **Step 4**
- › If NO, continue to **Step 3**

STEP 3: Observe

Sometimes, both workers and providers underestimate language barriers, especially if workers are able to have conversations in English. It is important to also observe interactions and ask yourself:

Is the worker difficult to understand? Does he or she respond in a limited way (yes and no answers)?

Is the worker showing signs that he or she is having difficulty understanding you? For example, do you have to repeat questions, speak very slowly or simplify your vocabulary?

Is the worker able to summarize what you have told him or her?

Is the worker receiving the help of someone to communicate with you, to fill out forms, etc.?

Saying 'yes', nodding or signing documents does not mean that the worker understands or agrees.

➤ **If YES to any of the above, explain to the worker the importance of professional interpretation and translation.** For example, explain that terms and topics discussed in meetings are complicated, and that important information and deadlines are communicated in letters. Explain that, if he or she prefers, the interpreter may assist only as needed. Emphasize that friends and family members are welcome to provide support in other ways, such as setting up appointments or providing emotional support.

Be sensitive to the worker's feelings when addressing the need for language services.

➤ **If the worker agrees, go to step 4.**

➤ **If NO to all, the worker likely does not need interpretation or translation.**

Sometimes, for simple conversations, workers and service providers may prefer to communicate without an interpreter. However, the responsibility rests on the service provider to make sure that an interpreter is introduced proactively in cases where the communication is likely to be stressful (e.g. adverse decisions) or complicated (e.g. referral to a specialty clinic).

STEP 4: Solve

To identify the worker's specific language needs, ask the following:

What language do you prefer we speak?

In what language do you prefer I send you letters?

Do you prefer a specific form of your language (i.e. a dialect)? (For example, Brazilian or European Portuguese)

Are you able to read the news in that language?

Are you able to write a few short sentences about your life in that language?

The question is to identify possible literacy needs

Is there anything else I should know about inviting an interpreter to help us when we speak?

If a language need is identified, make sure that all important information is communicated in writing and verbally, in plain language and in the worker's preferred language.

The Canadian Language Benchmarks (CLB) is a descriptive scale for assessing a person's ability to listen, speak, read and write in English as a second language. It includes 12 benchmarks, from basic to advanced. The CLB can be used as a reference point when assessing or describing a worker's English-language skills. Information on the benchmarks can be found here:

<https://www.canada.ca/content/dam/ircc/migration/ircc/english/pdf/pub/language-benchmarks.pdf>

The Can Do Statements are based on the CLB benchmarks and describe in accessible language what learners can do at each of the benchmarks:

https://www.ecala.org/wp-content/uploads/2018/11/CLB_Can_Do_Statements_web.pdf



TIPS ON WORKING WITH AN INTERPRETER



BEFORE A MEETING WITH A WORKER

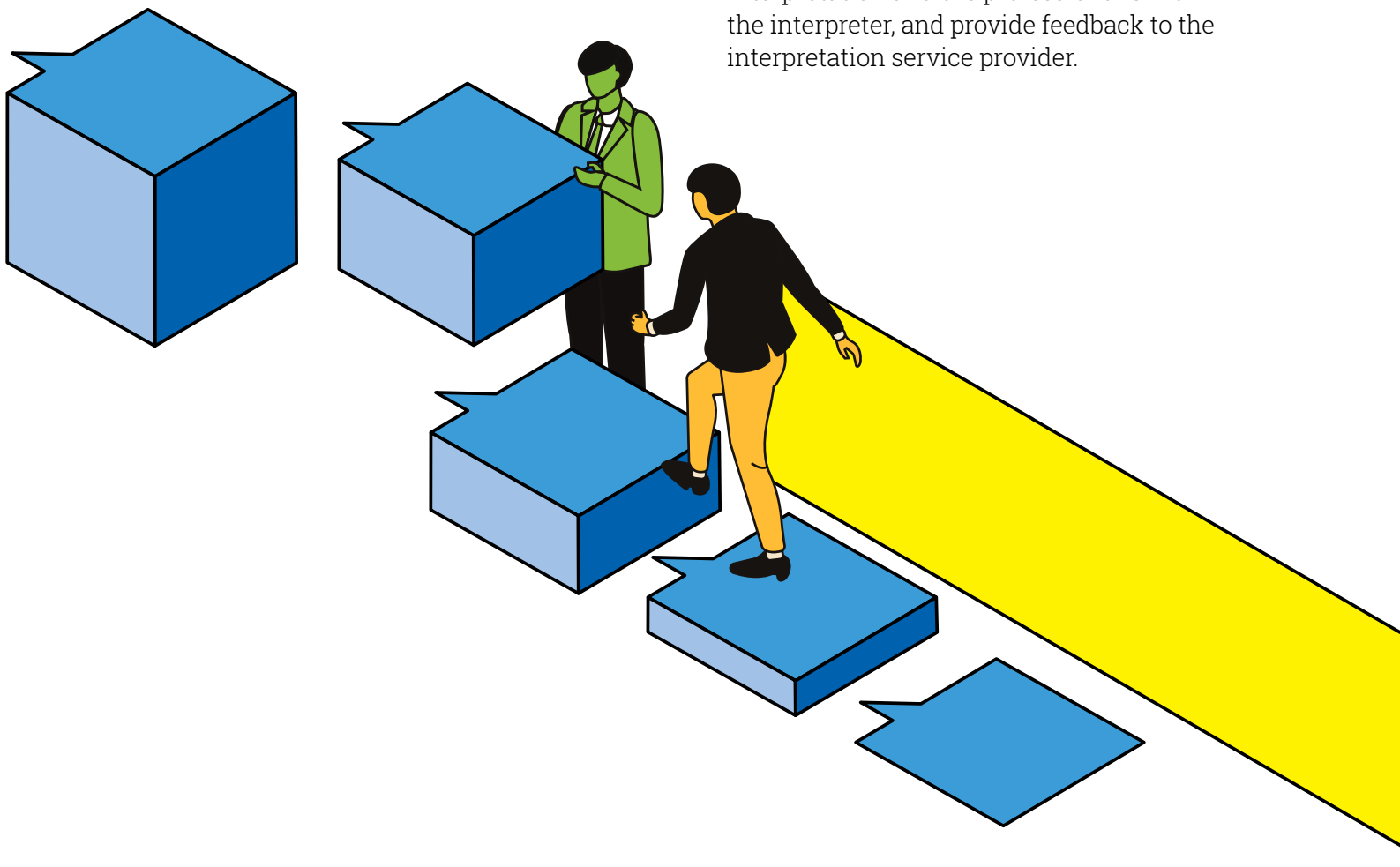
- ◆ Make sure the interpreter possesses the required language skills (e.g. knows a required dialect) and has the necessary credentials/certification. This can often be accomplished by using an accredited provider of interpretation services.
- ◆ Avoid working with informal interpreters such as friends or relatives of the worker, since this can jeopardize confidentiality and the accuracy of the information communicated, particularly when the information is sensitive and/or complicated. It can also be disruptive or upsetting for friends and family to be in this role. However, welcome family and friends to provide support to the worker in other ways.
- ◆ When complex matters or important decisions need to be discussed, or when the worker is under psychological distress, plan to conduct the meeting in person, with the worker and interpreter both physically present. For short and simple communications, such as confirming an appointment, telephone conversations may be appropriate.
- ◆ If sensitive matters are to be discussed, ask the worker if he or she would prefer to have the interpreter present in person or over the phone. Working with an interpreter over the phone may provide a degree of anonymity that may help the worker feel more comfortable sharing information.
- ◆ Consider the social position of the worker and interpreter (e.g. with respect to gender, religion, etc.) and how it may affect the dynamic of a meeting.
- ◆ Allocate additional time for meetings that require interpretation.
- ◆ Ask the worker how the interpreter may assist him or her, such as interpreting only as needed. Discuss with the worker the need to speak slowly and to pause regularly in order for the interpreter to do his or her best job.
- ◆ Brief the interpreter about the meeting participants, format, objective, topics of discussion, relevant terminology, and ethics (confidentiality).
- ◆ Discuss with the interpreter his or her role (e.g. as a neutral actor) and emphasize the importance of word-for-word translation. Ask the interpreter not to add opinions, answer questions or summarize responses.
- ◆ Do not include more than three people in telephone conversations involving interpreters, not including the interpreter. Be very clear about the presence and role of the interpreter in telephone conversations, since workers may not know who is who on the call.

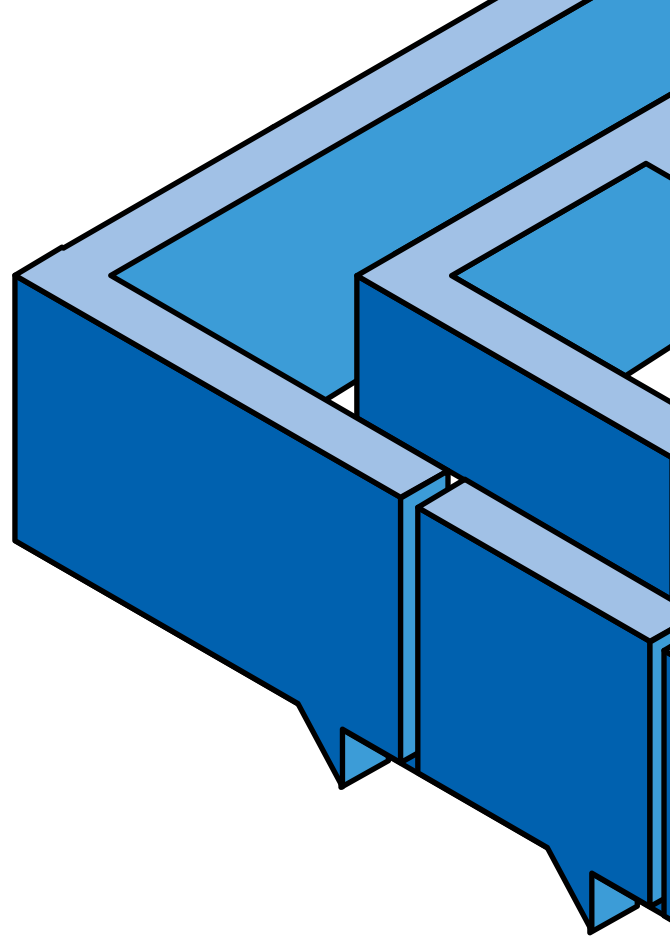
DURING THE MEETING

- ◆ Speak slowly and clearly, and pause periodically to allow the interpreter to relay the information back and forth.
- ◆ Avoid acronyms, jargon or technical language, which may be difficult to translate.
- ◆ If meeting in person, make eye contact with, and speak directly to, the worker, not the interpreter.
- ◆ Take extra time to make sure the worker fully understands what is being said; for example, by repeating information multiple times and in different ways, and by asking him or her to summarize the information communicated.
- ◆ Do not hesitate to remind the worker to pause when giving long answers, in order to allow the interpreter to catch up and to get the most accurate interpretation possible.
- ◆ Make sure that the worker is given opportunities to fully express himself or herself. Pay attention to non-verbal communication such as gestures and expressions.
- ◆ If an interpreter provides only a few words after a worker has given a long answer, remind the interpreter that he or she should interpret word for word.
- ◆ If it becomes necessary for the interpreter to engage in a back and forth with the worker because the worker does not understand a question, advise the interpreter that you need to know what the interpreter said, not just the worker's answer.
- ◆ Take breaks and periodically check in with the interpreter and worker. Address issues, as needed.

AFTER THE MEETING

- ◆ Ask the worker about the quality of the interpretation and the professionalism of the interpreter, and provide feedback to the interpretation service provider.





HOW THIS GUIDE WAS DEVELOPED

This guide emerged from the results of a research study that looked at challenges to successful RTW among injured workers who experience language barriers in Ontario, Canada. The study involved in-depth interviews with injured workers who experienced language barriers to varying degrees, as well as key informants involved in RTW, including worker representatives, workers' compensation staff, health care providers, skill and language instructors, employment service providers and employers.

The guidance presented is based on information collected from the injured workers and key informants who participated in the study, as well as from a review of existing best practices for providing services where language barriers are present.

The study is described in detail in the report "Strategies for the Successful Return to Work of Injured Workers Who Experience Language Barriers".

<http://hdl.handle.net/11375/25330>

The contents of the guide and worker pamphlet were reviewed by a research advisory committee and, subsequently by other stakeholders in the RTW process—through focus groups and individual consultations. Advisory members and stakeholders included 7 health care providers, 12 workers' compensation staff members, 4 employers / employer representatives, 1 employment service provider, and 8 worker representatives. The worker pamphlet was additionally reviewed by 6 workers who experienced work injuries and language barriers.