



GENERAL GUIDELINE - 5

CONFLICT OF INTEREST AND NEAREST DAC GUIDELINE

**Statement of Intent**

Designated Assessment Centres (DACs) must not only *be* neutral, they must also be *perceived* to be neutral. This Guideline is intended to ensure and continue to *promote the neutrality* of the DAC system by fine-tuning current practices.

**ALL DACS ARE EXPECTED TO FOLLOW THIS AND ALL OTHER DAC GUIDELINES. FAILURE TO DO SO WILL BE CONSIDERED NON-COMPLIANCE ON THE PART OF THE DAC.**

**A. CONFLICT OF INTEREST**

To ensure that the assessment process remains independent and free of bias, the Statutory Accident Benefits Schedule, Accidents after November 1, 1996 (SABS) provides conflict of interest rules for DACs.

Assessment centres are responsible for establishing procedures to ensure that conflicts of interest are identified early in the process. When a conflict of interest exists, the DACs must ensure that it is declared and resolved satisfactorily. DACs must adhere to the conflict of interest rules in section 53 of the SABS. The existence of a conflict of interest does not mean that the assessment in question can not be provided objectively and impartially.

The rules are not intended to penalize a DAC for declaring a conflict of interest. Rather, the purpose is to support and encourage transparency and neutrality in the DAC system.

The SABS state that a DAC has a conflict of interest relating to an assessment if,

1. The insurance company, the claimant, or a lawyer acting on behalf of the insurance company or the claimant has a financial interest in the DAC; or
2. The DAC, a related person or a facility owned or controlled, directly or indirectly, in whole or in part, by the centre or a related person,
  - (i) has provided goods or services, including an independent assessment, to the person to be assessed, other than a previous DAC assessment,
  - (ii) prepared or approved a treatment plan for the person to be assessed, or
  - (iii) is identified by a treatment plan as a person who will provide goods or services to the person to be assessed.

Related person means an owner of, employee or, partner in, business associate of or consultant retained by the DAC.

In addition to identifying and resolving direct conflicts of interest outlined in the SABS, DACs are required to establish procedures to monitor and respond to situations in which the assessment centre, its staff or members of the assessment team contracted by the centre, may receive a non-financial benefit for providing particular

goods or services to a claimant.

Regulated health professionals involved in DAC assessments are also governed by the conflict of interest rules of their respective regulatory professional colleges.

### *DAC RESPONSIBILITIES*

The DAC is responsible for establishing whether or not there is a conflict of interest.

After receiving a referral, the DAC should review the material for any conflict of interest. The DAC will declare in writing to the insurance company and the claimant the nature of any conflict that arises prior to an assessment.

Upon receiving the written conflict of interest declaration, the insurance company and the claimant may agree to use the original DAC, if it is felt by both parties that the declared conflict will not interfere with the assessment.

If the insurance company and the claimant can not agree, the original DAC will be informed by either the insurance company or claimant and the referral information will be returned immediately to the insurance company. The insurance company must then arrange, at its expense, to refer the claimant to the next nearest DAC that is qualified to assess the claimant.

### **B. POST-DAC TREATMENT AND EXAMINATIONS**

The above conflict of interest guidelines prevent health practitioners, who have provided treatment or conducted medical-legal examinations on behalf of either party, from performing DAC assessments on the same claimant, unless both parties agree otherwise. This section of the guideline deals with DAC assessors providing treatment, conducting medical-legal assessments or Insurer Examinations (on behalf of either party) *following* a DAC assessment.

### *DAC RESPONSIBILITIES*

In order to maintain objectivity and a neutral position once a DAC assessment is

completed, the DAC assessor(s) are not permitted to provide treatment (except as provided in Section 54 of the *Statutory Accident Benefits Schedule*), or conduct a medical-legal assessment for either the claimant or the insurer. If the matter is not resolved after the DAC assessment, and the matter continues to arbitration or court, the DAC assessor may have to testify. This assessor must remain and appear to remain neutral. This objective cannot be met if the assessor has provided/performed post-DAC treatment, a medical-legal assessment or an Insurer Examination at the request of one of the parties. Please note this applies to all post-DAC medical-legal assessments whether the request is to conduct a paper review and/or an actual examination. The DAC is, however, permitted to conduct a further DAC assessment of the claimant.

### **C. NEAREST DAC**

A referral to a DAC must be made to the one closest to the claimant's residence that is qualified to conduct the requested assessment. If the request is for a disability or medical/rehabilitation assessment and there is no qualified DAC within 100 km. of the claimant's residence, then the insurance company and the claimant can agree for the evaluation to be conducted by any qualified person(s) or facility within the 100 km. area. This does not apply to attendant care assessments and catastrophic impairment assessments.

If the insurer and the claimant can not agree on a qualified individual or facility within the 100 km. area, the assessment must be conducted by the next nearest qualified DAC on the roster. The DAC roster indicates the types of assessments that each DAC is authorized to conduct and the types of impairments that each DAC is authorized to assess.

NEAREST refers to the distance from a DAC facility to the claimant's residence.

A signed OCF 11A must be sent to the insured and/or insured's representative when an insurer is referring a claimant for a

DAC assessment. This form notifies the claimant of the referral question, the list of documents sent by the insurer, and the name of the nearest DAC qualified to perform the assessment (Part 3). It is the responsibility of the insurer to select the nearest DAC to the resident that is authorized to assess the impairment(s) sustained and to conduct the type of assessment required. If the insurer does not choose the nearest DAC, the form also requires it to provide an explanation as to why another DAC is being chosen. If an insured and/or his/her representative believe that he/she has been referred to a DAC facility that is not the nearest to their residence, any complaint should be referred to the insurance company's ombudsman liaison officer.

**c/o The Accident Benefits Analysis Unit  
Financial Services Commission of Ontario  
5160 Yonge Street,  
Box 85, 15th Floor  
North York, ON  
M2N 6L9**

### *DAC RESPONSIBILITIES*

If a DAC is aware that it is not the nearest centre, and an explanation has not been provided on the OCF 11-A as to why it has been chosen, then the DAC must seek written clarification from the insurer and copy the insured on all correspondence. If an explanation is not provided that is in accordance with the SABS and its guidelines, the referral must be returned to the insurer.

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September/October, 2000

*This document is also available in French  
upon request.*

**We encourage feedback regarding this Guideline. Please let us know your experiences, and provide your suggestions, so that we may continue to improve the DAC system. Comments can be directed to:**

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**The Minister's Committee on the  
Designated Assessment Centre System**

