

OCCUPATIONAL HEALTH AND SAFETY

YOUR OHS FILE IN 10 STEPS

# PREVENTIVE | TEAM OUTLOOK | OUTLOOK

## WORKING TOWARDS



2<sup>nd</sup> EDITION

This brochure, produced by the *Fédération interprofessionnelle de la santé du Québec-FIQ* as part of the activities for the 2014 OHS Week, is the result of a close collaborACTION of the Occupational Health and Safety Sector (OHS), the OHS Committee, the lawyers on the OHS team and the Communication Service.

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# Table of Contents

Foreword .....	p. 2
Introduction .....	p. 3

## COLLABORaction

The team, a protective factor in health at work .....	p.4
An entire team at the FIQ for your health and safety.....	p. 6

## collaborACTION

Your OHS file in 10 steps.....	p. 8
<b>1<sup>st</sup> step:</b> The declaration to your immediate superior and the medical consultation.....	p. 10
<b>2<sup>nd</sup> step:</b> Sending your claim to the CNESST and its eligibility .....	p. 12
<b>3<sup>rd</sup> step:</b> The right to compensation in the event you are unable to carry out your job .....	p. 14
<b>4<sup>th</sup> step:</b> Temporary work assignment by your employer .....	p. 16
<b>5<sup>th</sup> step:</b> Request for reimbursement of your medical expenses.....	p. 18
<b>6<sup>th</sup> step:</b> The final report and its conclusions on the consolidation of your injury .....	p. 20
<b>7<sup>th</sup> step:</b> Your right to rehabilitation in the case of permanent impairment and limitations.....	p. 22
<b>8<sup>th</sup> step:</b> The right to return to work for your employer .....	p. 24
<b>9<sup>th</sup> step:</b> Contesting a decision in your file .....	p. 26
<b>10<sup>th</sup> step:</b> Contesting a report at the <i>Bureau d'évaluation médicale</i> .....	p. 28
Diagram of the progress of an OHS file .....	p. 30
To reach the CNESST .....	p. 34
Mini-lexicon .....	p. 35
Useful links .....	p. 38

## Foreword

The pleasure of working as a team, what a feeling of well-being! Of course, everyone has to actively collaborate, if not professional life can rapidly turn into a nightmare and result in relational suffering. Hence, the importance of working towards collaborACTION, the coinage used by the OHS Committee at the Federation to underscore the dynamic and positive nature of the word collaboration. The action of collaborating with her teammates and establishing harmonious relations with them contributes to developing a culture of prevention in her workplace.

The FIQ wants to make the healthcare professionals aware of the beneficial effects of a team, a protective factor in occupational health and safety. The members can also count on the support of an entire team working in OHS at the Federation. Whether it is in helping them to eliminate the risk factors in their environment or in defending their rights in matters of prevention and compensation of their employment injuries, the FIQ is present throughout Québec, at the service of its healthcare professional members.

Promoting prevention in health and safety in the care settings is without a doubt one of the Federation's priorities. Equipping its members to recognize the employment injuries that they suffer when prevention fails is another. It is with this twofold view that the FIQ has designed the Working towards collaborACTION – Your OHS file in 10 steps publication.

*Sylvain Allard, Patrice Dulmaine, Isabelle Groulx, David Lambert, Jean-Louis Pelland, Joëlle Thiébaud and Céline Tranquille, members of the OHS Committee (2014)*

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# Introduction

*“In a team synergy perspective, the others are certainly seen as partners in reaching the professional objectives, but they are also regarded as people with whom we share respect, consideration, solidarity and affection. Quality of work and quality of relations go hand in hand. One without the other leads to a loss of meaning.”<sup>1</sup> (our translation)*

Sharing this vision of collaborative work, the FIQ is making a real team with the healthcare professional members, by sharing with their local union team, so that they can work in a healthy and safe work setting. In the same way, the Federation is offering its members who suffer an employment injury the necessary support in the complete defence of their case. This brochure falls within this context.

It is composed of two main sections. Under the theme of COLLABORaction, the first section shows the undeniable virtues of collaborating as a team as a protective factor in health at work. It describes the composition of the FIQ team that you can count on to represent your interests in matters of occupational health and safety along the same lines.

The second section, on collaborACTION, explains the progress of an OHS file in 10 steps<sup>2</sup> in order to simplify its understanding and for the appropriate actions to be carried out in due time. Each step includes what you need to know or do and some helpful advice. A diagram then summarizes all of these steps.

Other than the immediate notice to your employer and the quick consultation of a physician, the best advice to follow when you have suffered a work accident is to inform your local union team as soon as possible. They can help you and accompany you as your OHS file evolves. When all is said and done, you are not alone, as there is **an entire team at the FIQ, to advise you in OHS matters!**

<sup>1</sup> LAFLEUR, Jacques. « De l'utilitarisme à la collaboration », *Travail et Santé*, Vol. 30, No. 1, March, p. 8-12.

<sup>2</sup> Although the procedure to follow in the case of an occupational disease or a recurrence-relapse-aggravation (RRA) is more or less the same, the section Your OHS file in 10 steps mainly deals with employment injuries as a result of a work accident. This section therefore does not apply to the protective reassignment of the pregnant or breast-feeding worker, which is dealt with in the Maternity without danger, Parental leaves – What are my rights and obligations? Brochure – For the exclusive use of the healthcare professionals produced by the FIQ in June 2013 and updated in February 2017, available at [www.fiqsante.qc.ca/2017/02/15/maternite-sans-danger-conges-parentaux/](http://www.fiqsante.qc.ca/2017/02/15/maternite-sans-danger-conges-parentaux/).

## The team, a protective factor in health at work

How can the action of collaborating on a team influence your well-being? Is it beneficial for your health? Can it help you better manage your stress and act positively on that of the other members of the team? And if this collaboration could even make your work more meaningful and your life happier?

You spend a significant amount of your life at work, with colleagues, the patients and their loved ones. The tasks you perform, the professional goals you pursue, the care you provide and the services you give to people contribute to giving meaning to your work, a genuine rationale. However, the need to belong to a team is equally as important. Relationship poverty generates stress, frustration and dissatisfaction, so the quality of relationships developed at work can make all the difference in your motivation and your well-being in general<sup>3</sup>.

It is scientifically recognized, a team is a powerful antidote to destructive stress, to psychological distress and professional burnout. Positive and significant social relationships, helping behaviours and social support at work contribute to protecting your health, notably by decreasing the production of the steroid hormone cortisol in difficult situations which is released in the body in response to physical or psychological stress. This hormone plays a vital and key role in controlling blood pressure, cardiovascular function, the immune system and in the metabolism of carbohydrates. However, prolonged secretion of cortisol has a devastating effect on health by causing a multitude of problems, from insulin resistance to the destruction of nerve cells, from a lowered immune system to inflammation and chronic diseases. In contrast, collaboration in a team is undeniably healthy. What's more, it increases the degree of well-being and satisfaction, even happiness at work<sup>4</sup>.

In a recent research study, on better understanding of the relationship between stress, satisfaction at work and the well-being of the nurses working in end-of-life palliative care, conducted by the *Institut de recherche Robert-Sauvé en santé et en sécurité du travail*<sup>5</sup>, the researchers highlighted the key role of colleagues, notably regarding the support that they give each other. Following the example of what can be seen in the health and social services network, dissatisfaction and burnout of the healthcare professionals are linked to stress and the higher intensity of their work in particular over the last few decades. Among the possible solutions recommended in this study are the support and preservation of the community as support for the caregivers, an improvement in the methods of communication and collaboration on the care teams as well as the creation of venues for exchanges on the sources of stress at work.

<sup>3</sup> LAFLEUR, Jacques. « Les relations : l'autre facette du sens du travail », *Travail et Santé*, Vol. 29, No 3, September 2013, p.32-35.

<sup>4</sup> LEGAULT, Lucie. « La collaboration au cœur du travail d'équipe ! », *Revue Sans pépins*, Vol. 16, No 1, March 2014, p. 3-5.

<sup>5</sup> INSTITUT DE RECHERCHE ROBERT-SAUVÉ EN SANTÉ ET SÉCURITÉ DU TRAVAIL. *Amélioration des services et des soins de fin de vie - Mieux comprendre les effets sur la satisfaction et le bien-être des infirmières*, Rapport R-794, [Online], 2013. (Towards an improvement in end-of-life care and services – A better understanding of the impacts on nurses' satisfaction and well-being) [[www.irsst.qc.ca/media/documents/PubIRSST/R-794.pdf](http://www.irsst.qc.ca/media/documents/PubIRSST/R-794.pdf)] (Consulted on June 18, 2014).

Other researchers have also come to the conclusion that the healthcare professionals who suffer moral distress caused by events at work must be able to count on the support of their team to be able to quickly express their emotions, share their experiences and better face it<sup>6</sup>.

There is no possibility of the benefits of a team without a key component: collaboration. It is defined as the action of collaborating with someone, in something, for the purpose of attaining a common goal, hence the coinage, collaborACTION to which the FIQ OHS Committee is referring in its slogan. It is through positive social action and interaction that a person is successful at work just like in other aspects of her life.

Collaboration implies an acknowledgement<sup>7</sup> of self and others as people rather than as resources essentially focused on performing tasks. Working in a collaborative manner also requires respectful communication, good will, motivation, listening, openness to others' opinions, the sharing of power and decision-making, showing appreciation, concern and, obviously, pleasure.

Lastly, we cannot talk about real collaboration at work without making a reference to the basic value of parity, enshrined in an Act respecting occupational health and safety (OHS Act). This landmark legislation on prevention provides for the active participation of all employees in the institution, their union representatives and their employer in accomplishing its purpose, the elimination at the source of hazards for the health, safety and well-being of the personnel.

In conclusion, moving towards collaborACTION at work, means adopting the attitudes and the behaviour of a person who is far-sighted and a visionary towards herself and her environment. Team spirit and the willingness to help make up the main components seen in such a person<sup>8</sup>. Having a vision of prevention, is working together to achieve a goal keeping in mind the vision of a team for her own well-being and that of the community.

## **Moving towards collaborACTION at work, it's good for the health!**

<sup>6</sup> DORRIS, Sylvie. « La détresse morale – Comprendre la détresse morale des infirmières en milieux de soins pour pouvoir mieux y faire face », *Perspective Infirmière*, Vol. 10, No 5, November-December 2013, p. 29-31. [Online], [www.oiiq.org/sites/default/files/uploads/periodiques/Perspective/vol10no5/10-ethique.pdf](http://www.oiiq.org/sites/default/files/uploads/periodiques/Perspective/vol10no5/10-ethique.pdf) (Consulted on June 18, 2014).

<sup>7</sup> LAFLEUR, Jacques. « De l'utilitarisme à la collaboration », *Travail et Santé*, Vol. 30, No 1, March 2014, p. 8-12.

<sup>8</sup> COSSETTE, Renée. « Un esprit préventif, ça se développe », *Travail et Santé*, Vol. 29, No 2, June 2013.

## An entire team at the FIQ for your health and safety

Because it is important for your health to be able to count on the support of a team in your workplace, know that you can also rely on the team at the FIQ to defend your rights in occupational health and safety, both in the prevention and compensation of employment injuries.

At the service of the healthcare professional members, the large OHS team at the FIQ is composed of the following pillars:

- the OHS Sector;
- the OHS Committee;
- the team that pleads OHS cases;
- the Labour Relations Sector;
- the local union teams in the health institutions.

The OHS and Labour Relations Sectors and the team that pleads OHS cases being interrelated, the people working there collaborate so that the members can practice their profession in a healthy and safe work environment, and benefit from the full recognition of their rights under the FIQ collective agreement, OHS Act and Act respecting industrial accidents and occupational diseases (AIAOD).

The main functions of the **OHS Sector** are:

- make aware, inform and equip the members so that they can identify the risk factors that exist in their workplace and take preventive action in demanding their elimination. The OHS Committee also participates in achieving this goal;
- act as a resource for the OHS team pleading cases and the union consultants in the Labour Relations Sector assigned to the local union teams in the institutions;
- participate in the development and distribution of OHS training sessions to the local union representatives in order for them to be able to adequately support the members in claiming their rights and defending their case.

The **OHS Committee** collaborates with the OHS Sector in:

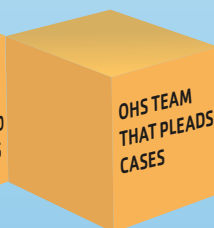
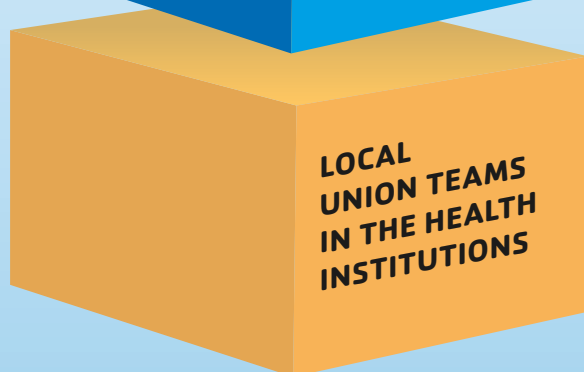
- developing awareness-raising and information tools intended for members for the Annual OHS Week;
- supplying material for L'eSSenTiel page on the FIQ website and writing the editorials on current topics;
- participating in the organization of the Network of OHS Union Representatives;
- making recommendations to the FIQ Executive Committee.

**The team pleading OHS cases** assumes the representation of the members with a dispute before the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (CNESST), the *Direction de la révision administrative* (DRA) or the Administrative Labour Tribunal (TAT). It works in close collaboration with the **Labour Relations Sector** union consultants working in one of the eight offices of the FIQ, who are in regular contact with the **local union teams** in the health institutions where the Federation is present.



# PREVENTIVE | TEAM OUTLOOK | OUTLOOK

Moving towards collaborACTION!



## Your OHS file in 10 steps

You have suffered an employment injury arising out of or in the course of an industrial accident at work?

You ask yourself what actions need to be taken so that your injury is recognized by the CNESST?

You want to know how you should be compensated? What happens with the reimbursement of your medications, care and treatments that you receive because of your employment injury?

Can your employer temporarily assign you to work during the period of consolidation of your injury? Are you paid all the amounts and benefits to which you are entitled?

How to contest a CNESST decision or one by the employer in your file?

Can your employer or the CNESST contest a medical report from your attending physician, or can you?

What importance should you give to the final report from your physician which in turn consolidates your injury?

What does having a permanent impairment and functional limitations from your injury mean? What are the consequences for your return to work?

What are your rights, obligations and recourses? How to exercise them?

Who can help you with your OHS file? How can the union representatives on the FIQ team support you?

In order to facilitate understanding of an OHS file when you have a work accident, the OHS Sector, in collaboration with the OHS Committee, the OHS team that pleads cases and the Communication Service at the FIQ, has identified ten steps through which a file may pass. Although not an exhaustive list, each one of these steps presents the substance of the information as well as some pertinent advice to guide you towards the right actions to take<sup>9</sup>. Then a diagram summarizes all of these steps.

<sup>9</sup> This brochure has no legal value and is not intended to replace the provisions of the AIAOD, OHS Act and their regulations, including the Regulation on medical assistance. Only these provisions can be used to settle a dispute.

## The 10 steps of an OHS file:

1<sup>st</sup> step: The declaration to your immediate superior and the medical consultation

2<sup>nd</sup> step: Sending your claim to the CNESST and its eligibility

3<sup>rd</sup> step: The right to compensation in the event you are unable to carry out your job

4<sup>th</sup> step: Temporary work assignment by your employer

5<sup>th</sup> step: Request for reimbursement of your medical expenses

6<sup>th</sup> step: The final report and its conclusions on the consolidation of your injury

7<sup>th</sup> step: Your right to rehabilitation in the case of permanent impairment and limitations

8<sup>th</sup> step: The right to return to work for your employer

9<sup>th</sup> step: Contesting a decision in your file

10<sup>th</sup> step: Contesting a report at the *Bureau d'évaluation médicale*

These ten steps make up the main themes of an OHS file. It may happen that you will not go through all these steps or that some will take place concurrently, depending on your situation. The key is to roughly understand the progress of an OHS file and to know that you can count on the support and expertise of the FIQ team to advise you and represent you.

## Here then, step by step:

- what you need to know or do;
- a few tips.

## The declaration to your immediate superior and the medical consultation

### WHAT YOU NEED TO KNOW OR DO

- It is very important **to inform your immediate superior**, or another employer representative, when you suffer an employment injury **before leaving the institution** if you are able to, if not, as soon as possible:
  - you must inform him of the work accident even if your injury does not result in a work stoppage or does not immediately require medical care. In fact, your injury could become apparent later, require care or render you unable to carry out your job;
  - note that the AIAOD does not stipulate any time period (24 hours, 48 hours, etc.) for declaring your work accident. However, it is crucial that it be done as soon as possible.
- At the same time, you must **complete the internal work accident report**, give it to your employer and keep a copy.
- You must **quickly consult a physician** to:
  - have your injury diagnosed, even if it seems minor or trivial;
  - receive the care and treatments required by your condition;
  - obtain an **initial medical certificate** on the CNESST form. When you are unable to do your job after the day of the accident, this certificate must be given to the person responsible for the administration of the CNESST files in the employer's health services office. This person would normally give you the Worker's Claim form required by the CNESST at the time the certificate is submitted.

You will need this initial medical certificate to make a claim with the CNESST. Although you have **six months** to complete and send the Worker's Claim form to the CNESST, it is important to do it as soon as possible. Refer to the **2<sup>nd</sup> step**.

## A FEW TIPS

The declaration to your immediate superior and the medical consultation are **two very important things to do as quickly as possible**. In addition to contributing to the prevention of other work accidents and minimizing the risks of aggravating your condition, they greatly facilitate the handling and eligibility of your claim by the CNESST.

You are **entitled to choose the attending physician** who will take care of you. Choose a physician who you trust and who you can count on, because it is he who must give his opinion on the medical findings, such as the diagnosis and the care and treatments required, throughout the course of your injury. Since it is possible that you will not be able to see the physician of your choice for the first consultation, get an initial medical certificate just the same and choose the physician who will follow the evaluation of your injury as soon as you are able to do so.

Your immediate superior, any other representative of your employer or the personnel, such as the secretary or the receptionist cannot access the medical documents regarding your employment injury without first obtaining **your written consent**. Only the health professional designated by your employer is entitled to see the CNESST medical file on your injury.

**Your physician's notes in your medical file** are instrumental in the eligibility of your claim:

- inform your physician from the outset that you have had a work accident, providing him the date and the description of the event and the actions taken so that he can put this information in your medical file;

- write the name of the attending physician involved on each copy of the medical notes that you receive and make sure that these copies are legible.

Avoid consulting the physician in the hall and prescriptions on the run which leave no trace of medical follow-up in your OHS file.

**Keep a legible copy of all documents and medical reports** dealing with your employment injury. File them in chronological order. Write the dates of your medical visits, the care and treatments received for your employment injury.

Make a brief note of the various discussions that you have with your employer, the health services office and the CNESST about your OHS file.

Sort the mail received by date. Do the same with the mail that you send, taking care to keep a legible copy.

Consult **your local union team** about your work accident as soon as possible. Your representative can help you in the progress of your OHS file. Give her a copy of all documents concerning your employment injury so that she can properly advise you.

**A word of caution:** avoid making comments or posting photographs or video clips on social media, such as Facebook or Twitter that could be linked to your OHS file.

## Sending your claim to the CNESST and its eligibility

### WHAT YOU NEED TO KNOW OR DO

- In order for your employment injury to be recognized by the CNESST, you must complete the Worker's Claim form given to you by your employer. It is also available on the CNESST website.

The CNESST worker's claim and the declaration of the event to your employer, including the internal accident report, are two very different things.

- The worker's claim must be done **within six months of the employment injury**. However, it is vital to do it as soon as possible after the event has occurred. The same time period applies for a recurrence, relapse or aggravation. In the case of an occupational disease, this form has to be produced within six months of the date when it is brought to your attention that you have such a disease. Talk to your local union team.
- Take care to describe, in simple language, the incident that happened at work that includes **the following elements**:
  - **the link with the job**: the location and activity performed at the time of the incident;
  - **the accident**: how your injury occurred, the acts carried out at the time of the accident;
  - **the resulting injury**: the injury or symptoms felt, without forgetting to specify the part(s) of the body affected;
  - **the date and time of the incident**;
  - **the witnesses**, direct or indirect of this incident;
  - **the fact that you declared the incident** to your immediate superior or another representative of your employer.
- After receiving this form, the CNESST will evaluate your file and render a decision on the eligibility of your claim in relation to the diagnosis made by your physician. As need be, they will contact you and your employer to obtain information. Its decision can be contested, **within 30 days**, at the *Direction de la révision administrative* (DRA). Refer to the **9<sup>th</sup> step**.

## A FEW TIPS

It is up to you to complete the **Worker's Claim** form and to give it to your employer, or send it directly to the regional CNESST office, taking care to give a copy to your employer and keep a copy for yourself. You can ask for help from a union representative or give her the mandate to produce a CNESST claim.

Make sure that each one of the following forms presents an accurate description of the incident:

- **internal work accident report** provided by your employer;
- CNESST **Worker's Claim** form;
- CNESST **Avis de l'employeur et demande de remboursement** form.

The same advice applies when you receive a call from the CNESST: make sure you describe the incident accurately. Also make a note of the name and contact information of the compensation agent responsible for your file at the CNESST so that you can refer to it as needed.

Every conversation with the CNESST is written down by the agent in the progress notes, which are an integral part of your OHS file.

It is important to note the date of receipt (also called the date of notification) of all CNESST decisions, including the one on the eligibility of your claim, because the time period for contesting a decision starts as of that date.

Keep all correspondence received, including the envelope on which the postmark appears which can serve as proof of the date you received a decision. Do not forget to regularly check your mail box in case it contains a decision related to your OHS file that you should contest.

If the CNESST decision rules against you, you must contest it according to the procedure indicated in the **9<sup>th</sup> step**. To do this, call your local union team for help.

## The right to compensation in the event you are unable to carry out your job

### WHAT YOU NEED TO KNOW OR DO

□ If you are unable to carry out your job because of an employment injury, you are entitled to be compensated in the following way:

- **the day the injury occurs:** the employer must pay you 100% of your salary for the entire day;
- **during the 14 full days following the start of your disability:** the employer must pay you 90% of your net salary for each day or part of a day when you would have normally worked, even if the CNESST has not rendered its decision on the eligibility of your employment injury.

To be entitled to this salary, you must have given your employer the **initial medical certificate** issued by your physician during the first visit for your injury.

Your employer will complete the CNESST **Avis de l'employeur et demande de remboursement** form in order to be reimbursed by the Commission for the indemnity that he must pay you for the first 14 full days of your disability. **Your signature is optional, as you do not have to sign this form if you do not agree with the employer's description of the incident**, unless he makes the necessary corrections. Also make sure that he gives you a copy. **Therefore, pay attention to the content of this form and, when in doubt, refrain from signing it. If you have any difficulties whatsoever with your employer's health services office concerning your OHS file, inform your local union office immediately.**

On this form will also be the amount of the annual gross salary that the employer uses to calculate your income replacement indemnity (IRI). Check that this amount is correct. If it is not, and your employer refuses to change it, tell the CNESST compensation agent. Your local union team can help you through these steps.

- **as of the 15th full day of disability:** the employer must pay you an IRI corresponding to 90% of the net income that you derive annually from your job. To calculate this benefit, the employer must not systematically cap your income at the annual insurable maximum set out in the Act, which is set at \$72,500 in 2017. See with your local union team which amounts (overtime worked, premiums, etc.) can be included in the income used by your employer to establish your IRI.

Note that the employer does not have to continue paying the IRI after the first 14 full days of disability. He can decide, as of the 15th day, to wait for the CNESST decision on the eligibility of your claim and pay you salary insurance benefits during this time. Once the claim is accepted or refused by the CNESST, the salary adjustments will be made accordingly according to the applicable plan.



- it is important to remember that the CNESST **Worker's Claim** form must be completed as quickly as possible, even if you have six months to do it. Refer to the **2<sup>nd</sup> step**.

□ The income replacement indemnity is paid to you:

- as long as your employment injury is not consolidated and you are unable to carry out your pre-injury job;
- as long as your employer does not temporarily assign you a job. Refer to the **4<sup>th</sup> step**;
- as long as you need rehabilitation to be able to carry out your pre-injury job or an equivalent job, if not, a suitable job with your employer or, ultimately, elsewhere on the labour market;
- as long as you do not hold a job deemed suitable by the CNESST because none are available, and this, for at least one year as of the date that you became able to carry out that job. However, if that job is or becomes available during this time period and you refuse to take it without a valid reason, the CNESST can terminate your IRI.

General rule, the maximum age to be entitled to an IRI is age 68.

□ Your **bank of sick-leave days** is not affected in any way by your absence due to your employment injury. The employer may not, at any time, use this bank to pay you.

Subject to the provisions negotiated at the local level, you can ask to **postpone your annual vacation** to a later date, if you are unable to take it at the scheduled time because of your absence due to an employment injury.

## A FEW TIPS

Make sure you are paid correctly and receive the IRI that you are entitled to under the FIQ collective agreement and an Act respecting industrial accidents and occupational diseases (AIAOD).

Remember that it is important to verify the amount written by your employer in the box "*salaire annuel brut*" (annual gross salary) on the CNESST *Avis de l'employeur et demande de remboursement* form. This amount is used to calculate the IRI to which you are entitled.

If applicable, inform the employer and the CNESST of any other job that you have and the income derived from that job in order to receive the IRI that you are entitled to based on all your jobs.

Verify the **first pay stubs** issued by your employer and the **premiers avis de paiement** (notice of payment) issued by the CNESST in particular, as these are decisions that you can contest within 30 days of being notified if they go against you. Do not hesitate to ask for help from your local union team to make sure of the recourse that should be initiated, either a request for review, a complaint to the CNESST or a grievance with the employer. Keep these pay stubs and notices of payment in your file.

For any question on the compensation for your particular situation, quickly see your local union team. They can get information from the FIQ union consultant as needed.

## Temporary work assignment by your employer

### WHAT YOU NEED TO KNOW OR DO

- Your employer can temporarily assign you work, even if your employment injury is not consolidated, while waiting for you to again be able to carry out your job.
- For this assignment proposed by the employer to be valid, it must have received the prior approval of your attending physician on each one of the **three following conditions**:
  - 1) you are reasonably able to do the work, considering your abilities, your training and your skills;
  - 2) this work does not endanger your health, safety and physical well-being, considering your injury;
  - 3) this work is beneficial to your rehabilitation.

The employer must give you the proposal for a temporary work assignment on the form provided by the CNESST, after having completed the required sections, including the one regarding the nature of the assignment. You must give this form to your physician so that he can comment on each one of the three conditions.

- If your physician issues an opinion against** one or the other of these conditions, you are not obligated to do the work. Your employer and the CNESST must respect your physician's opinion and cannot contest it using a report from another physician.
- If you fail or refuse, without a valid reason, to do the assignment** that your physician agrees with, the CNESST can reduce or suspend the payment of your income replacement indemnity.
- If you do not agree with your physician**, you can contest this proposed temporary assignment with the CNESST. If you have contested it, you are then not obliged to do the work that your employer has assigned you as long as the report from your physician has not been confirmed by a final decision. The decision rendered by the CNESST can be contested **within the 10 days of its notification**. Refer to the **9<sup>th</sup> step** for the procedure for contesting a decision.

Another solution: instead of contesting the temporary assignment proposed by the employer, you can try it for a certain period of time. In the event you are unable to continue this assignment, you can return to see your physician. **Your physician can put an end to the temporary assignment at any time.**

- While you are working in the temporary assignment, the employer must pay you **the salary and benefits linked to the job you held** when your employment injury occurred and which you would have received if you had continued to work in your job. For example, these benefits can include the premiums linked to your pre-injury job or the overtime you would have worked had you not been in a temporary assignment. You are also entitled to take time off during this assignment, in accordance with your collective agreement.

## A FEW TIPS

If your employer wants to temporarily assign you work, make sure that your physician has a copy of the job description for this assignment so that he will be able to give an enlightened opinion on each one of the three required conditions.

Before contesting the assignment proposed by the employer, in the case where you do not agree with your physician:

- try, to the extent possible, to explain to your physician the reasons for which you believe that he should not agree with this work considering your injury;

- talk to your union representative to verify if other steps can be taken;
- start the assignment. If you are unable to continue it, go back and see your physician.

Your local union team can advise you and help you contest the temporary assignment proposed by the employer, if applicable. To do this, bring them all the documents related to your OHS file.

## Request for reimbursement of your medical expenses

### WHAT YOU NEED TO KNOW OR DO

- The AIAOD stipulates that the worker who has suffered an employment injury is entitled to the medical assistance that her condition requires because of this injury. She is entitled to receive her care and treatments in the institution of her choice.
- To be entitled to medical assistance, the CNESST must first decide on the eligibility of your claim for an employment injury. To do this, you must have sent them the Worker's Claim form. If the CNESST accepts your claim, it assumes the expenses for medical assistance and pays for the care and treatments provided according to the stipulated conditions, notably in the Regulation on medical assistance<sup>10</sup>.
- Medical assistance includes:
  - the services of a health professional (physician, dentist, optometrist, pharmacist);
  - the care provided by an institution in the health and social services network of Québec;
  - the medications and other pharmaceutical products;
  - the protheses and ortheses;
  - the repair or replacement of glasses damaged at work;
  - the care, treatments, technical aids and expenses determined by the CNESST in the Regulation on medical assistance, such as physiotherapy, occupational therapy, chiropractic, acupuncture, audiology, speech pathology, podiatry, psychology, home care and lab tests;
  - the travel expenses, meals and lodging related to the care and treatments received.
- For the care or treatments to be paid by the CNESST, they must respect the following conditions:
  - be required by your condition, linked to your employment injury;
  - be prescribed by your physician, before being provided;
  - be stipulated in the Regulation on medical assistance, as the case may be or, at least be first authorized by the CNESST;
  - be in accordance with the guidelines and the amounts stipulated in the regulation.

<sup>10</sup> Regulation on medical assistance, [Online] <[legisquebec.gouv.qc.ca/fr/ShowDoc/cr/A-3.001,%20r:%201](http://legisquebec.gouv.qc.ca/fr/ShowDoc/cr/A-3.001,%20r:%201)> (Consulted on October 25, 2017).

If the conditions determined by the CNESST are respected, no costs should be billed by the health care institution where you receive your care and treatments. To avoid unpleasant surprises, contact the compensation agent at the CNESST to obtain his authorization first or verify if the care or treatments required by your physician are paid by the Commission.

- If you have to travel to receive the care or treatments, the travel expenses related to the travel will be reimbursed by the CNESST, under certain conditions and according to certain rates, on presentation of receipts. You must complete and send the **Application for reimbursement of expenses** form to the CNESST **within 6 months** of the date that these expenses were incurred. This form is available on the CNESST website, Workers section.
- After the consolidation of your employment injury**, you can claim the reimbursement of the support treatments required by your health and prescribed by your physician for the injury.
- You can contest any CNESST decision that rules against you on medical assistance or one of your applications for reimbursement of expenses. Refer to the **9<sup>th</sup> step**.

## A FEW TIPS

If you are unable to go to a treatment, it is very important to advise your therapist and compensation agent as soon as possible. The CNESST could decide to reduce or suspend the payment of your income replacement indemnity in the event of an absence **without cause**.

Always attach your original receipts and bills to your application for reimbursement of expenses, taking care to keep a legible copy.

If you notice an error in the amount owed to you by the CNESST, do not cash the cheque you receive. Contact your compensation agent so that the amount can be corrected and a new cheque is issued to you. If dissatisfied, you can contact his manager or call the CNESST Complaints Service. Information is available at <[www.cnesst.gouv.qc.ca/a-propos-de-la-CNESST/Pages/plaintes-qualite-services.aspx](http://www.cnesst.gouv.qc.ca/a-propos-de-la-CNESST/Pages/plaintes-qualite-services.aspx)>.

## The final report and its conclusions on the consolidation of your injury

### WHAT YOU NEED TO KNOW OR DO

- The **final report** (CNESST form) issued by your attending physician is a very important document which indicates the end of the period of consolidation of your employment injury.

Consolidation is the healing or stabilization of your employment injury following which no improvement in your health is foreseeable. In other words, your injury has reached a therapeutic plateau.

- The final report is used to identify the following information:
  - the final diagnosis of your employment injury;
  - the date of consolidation of your injury;
  - the presence or lack of a permanent physical or mental impairment (PPMI) resulting from your injury;
  - the presence or lack of functional limitations resulting from your injury;
  - the aggravation or lack thereof of functional limitations previous to those resulting from your injury, as the case may be.

Your physician must immediately inform you and send this final report to the CNESST. You must, in turn, immediately inform your employer and give him a copy of the final report.

- Once your injury is declared consolidated by your attending physician, one or the other of the following situations can occur:

#### **1<sup>st</sup> situation ► your injury does not cause any permanent impairment or functional limitations:**

- you then become able to carry out your job and the employer reintegrates you into your pre-injury job;
- as of the reintegration into your job, you are entitled to receive the salary and benefits at the same rates and conditions as those you would have had if you had continued to work during your absence;
- the payment of your IRI ends at the same time.

#### **2<sup>nd</sup> situation ► a permanent impairment and functional limitations resulting from your injury:**

- you are entitled to the physical, social and professional rehabilitation required by your condition for your reintegration to work. Refer to the **7<sup>th</sup> step**;
- you will continue to receive your income replacement indemnity for as long as you need rehabilitation;

- your physician, or the physician to whom you are referred, will be asked by the CNESST to assess the percentage of your permanent impairment, determine your functional limitations, and, at the same time, produce the medical evaluation report, also called the REM (*rapport d'évaluation médicale*).

□ The CNESST will pay you an indemnity based on the **percentage of permanent impairment** assigned by your physician. This indemnity is payable only one time. A **functional limitation** is a permanent reduction or restriction in the physical or mental capacity to perform certain activities. It is reflected in the inability to perform certain movements, take or maintain certain positions, or suffer certain constraints in set conditions.

## A FEW TIPS

In the case of a permanent impairment or functional limitations resulting from your injury, your CNESST file will be transferred from the compensation service to that of rehabilitation, in order for one of its agents to evaluate your capacity to carry out your pre-injury job or an equivalent job, if not, a suitable job with your employer, with or without rehabilitation.

If the CNESST comes to the conclusion that you are unable, because of your functional limitations, to be reintegrated with your employer, you will then have to look for a suitable job that the Commission will have determined for you or another job elsewhere on the labour market. Considering the major consequences associated with this final

option, it is essential to talk to your local union team so that all the necessary accommodation possibilities that would allow you to stay with your employer are considered.

Consequently, as soon as you are made aware that your employment injury will result in a permanent impairment (PPMI) and functional limitations, it is of utmost importance to inform your local union team of this. They can help you return to your job and can undertake steps with your employer and your CNESST rehabilitation agent with your consent. Refer to **steps 7 and 8**.

## Your right to rehabilitation in the case of permanent impairment and limitations

### WHAT YOU NEED TO KNOW OR DO

- If your employment injury results in a permanent impairment and functional limitations, you are entitled to the rehabilitation required by your condition. The CNESST then assumes the cost of your rehabilitation.
- A rehabilitation agent from the CNESST will contact you to prepare and implement, with your collaboration, an individualized rehabilitation plan, also called *PIR*. This plan may include a physical, social and professional rehabilitation programme, depending on your needs. Hereafter, what is covered and may be included in each one of these programs:

#### **A physical rehabilitation program**

Its objective is to develop the residual capacity of a person with an employment injury to compensate for the functional limitations resulting from her injury. This program may include:

- medical and nursing care;
- physiotherapy and occupational therapy treatments;
- exercises for adapting to a prosthesis or an orthosis;
- home care by a healthcare professional;
- all other care or treatment required by the person's condition when it is prescribed by the attending physician.

#### **A social rehabilitation program**

Its objective is to help the person with an employment injury to overcome the personal and social consequences of her injury, adapt to the new situation as a result of her injury and once again be self-sufficient in performing her normal activities. This program may include:

- professional psychosocial intervention services;
- implementation of means to find the person a home and a vehicle adapted to her residual capacity;
- payment of expenses for personal assistance at home;
- reimbursement of daycare expenses;
- reimbursement of the cost of routine home maintenance.



## A professional rehabilitation program

Its objective is to facilitate the reintegration of the person with an employment injury into her pre-injury job or an equivalent job or, if this objective cannot be attained, into a suitable job with her employer, if not, elsewhere on the labour market. This program may include:

- adaptation of the pre-injury work position or another position with the employer;
- a professional training program;
- support services in job searching;
- several other measures including those mentioned in the AIAOD.

□ The rehabilitation plan (*PIR*) developed by the agent is a CNESST decision that can be contested under the procedure described in the **9<sup>th</sup> step**. Moreover, this plan can be modified to take into account new circumstances. Every modification made to this plan is a new CNESST decision and can also be contested.

### A FEW TIPS

Before the determination of a suitable job elsewhere on the labour market is considered for you, it is critical that all the necessary rehabilitation measures be considered first by the CNESST in order for you to be reintegrated in your pre-injury job or an equivalent job, if not, a suitable job with your employer. Your collaboration and active participation are essential to this step being successful.

Adapting your work position to your functional limitations is a good example of what the CNESST can propose for promoting your return to work with the employer.

In the event that you are unable to return to your pre-injury job or an equivalent job, the CNESST will then ask your employer if he has a suitable job to offer you. He only has to respond in the negative for the CNESST to quickly consider a solution elsewhere on the labour market. **This is why it is so important to inform your local union team from the very beginning. They can help you, advise you and accompany you in these steps with your employer and the CNESST so that your right to be reintegrated with the employer as a priority is respected.**

## The right to return to work for your employer

### WHAT YOU NEED TO KNOW OR DO

- Once your employment injury is consolidated without any permanent impairment or functional limitations, you will be reintegrated **into your pre-injury job**. It is the same when there is a permanent impairment and functional limitations due to your injury and you are able to carry out your job.
- Once you are reintegrated in your pre-injury job, the employer must pay you **the salary and benefits** at the same rate and conditions as those you would have received if you had continued to work during your absence. In other words, you should not be penalized in any way because of the fact that you have suffered an employment injury. For example, once you return to work, you are entitled to the same quantum of annual vacation and the corresponding remuneration as if you had never been absent due to an employment injury.
- What's more, your employer cannot take disciplinary measures or reprisals against you, or impose any other sanction on you because you suffered an employment injury or because you exercised a right under the AIAOD or OHS Act. Otherwise, you can choose to **file a complaint with the CNESST** or **resort to the grievance procedure** stipulated in the FIQ collective agreement, within 30 days of the knowledge of the sanction or the measure imposed on you by the employer.  
  
**Attention:** you cannot use both these recourses at the same time. You have to opt for one or the other.
- If you remain unable to carry out your pre-injury job definitively, you will then be registered on a **special team** insofar as your residual capacities allow you to perform certain tasks with your employer.
- Being registered on the special team means that you are considered to have applied for any vacant or newly-created position, if your residual capacities allow you to perform the tasks of that position without danger to your health, safety or physical well-being, considering your employment injury. The position will be given to you if you are the employee with the most seniority on the special team, providing you meet the normal requirements of the job. If you refuse it without a valid reason, you could be considered to have resigned.

- You have the right to stay on this special team for the time necessary to obtain a position compatible with your functional limitations, unless your employer has offered you a suitable job that was available as part of the CNESST rehabilitation process.
- When you suffer an employment injury, your employer cannot terminate your employment relationship, even if your absence from work due to this injury lasts longer than three years.

## A FEW TIPS

It would be best for you to return to your pre-injury job or an equivalent job, if not, then a suitable job with your employer, rather than be looking for a job elsewhere on the labour market, without any guarantee that you will be able to find one that pays as well or is as rewarding. It is therefore important to fully understand the issues and to see that all efforts are made in this respect<sup>11</sup>.

Don't forget that the CNESST has logistical, material and financial resources, and the expertise necessary for facilitating your reintegration first and foremost with your employer. Make sure that all the means are taken into consideration before the CNESST has to decide to find you a suitable job elsewhere than with your employer.

**Everything must be implemented by the CNESST, with your collaboration, so that you keep your pre-injury job or, if that is not possible, that you obtain an equivalent job or a suitable job with your employer.**

At the risk of repeating it once again, do not hesitate to consult your local union team. They can help you in looking for an equivalent job or a suitable job with your employer as well as in the search for various rehabilitation measures so that you will be able to carry out the job. They can surely give you good advice!

<sup>11</sup> As additional information, consult the FIQ publication on dealing with suffering related to musculoskeletal injuries (MSI), particularly pages 10 and 11. [Online], <http://www.fiqsante.qc.ca/wp-content/uploads/2017/10/lessentielangmr.pdf> (Consulted on October 25, 2017).

## Contesting a decision in your file

### WHAT YOU NEED TO KNOW OR DO

- You have the right to contest each and every one of the CNESST decisions in your file.**  
Your employer also has the right to contest these same decisions.
- The same appeal procedure applies to every decision contested from the beginning until obtaining a final decision.

**A file related to a single incident can therefore contain several CNESST decisions and, by the same token, several appeals.**

- Once received, verify the content of the mail you receive about your OHS file in order to contest, within the required time period, any decision that rules against you. Even if a decision is partly in your favour, you must contest it in order to win the part that ruled against you. **Better to contest it now and withdraw later than to lose a right.**
- Verify all correspondence received, because the employer can also contest a CNESST decision that rules against you. Let your local union team know as soon as possible.
- The **procedure for contesting a decision** is the following:
  - you or your employer can contest each one of the CNESST decisions at the *Direction de la révision administrative* (DRA) of the CNESST **within 30 days** of being notified;
  - you or your employer can also contest each one of the DRA decisions at the Administrative Labour Tribunal (*Tribunal administratif du travail*) (TAT) **within 45 days** of being notified.

However, these delays are **reduced to 10 days**, at both the DRA and the TAT, if there is a question of contesting a decision on:

- temporary work assignment;
  - prevention under the OHS Act.
- Once you or your employer contest a decision in your OHS file, **the FIQ assumes the costs of a lawyer that pleads cases on the OHS team to represent you**, including the fees for a medical expert opinion, if applicable.

## □ Opening of your OHS file at the FIQ

For a lawyer on the OHS team to represent you, you must promptly submit the following documents to your local union team:

- the CNESST decision being contested, accompanied by the request for review filed at the DRA by you or your employer;
- or the DRA decision being contested, accompanied by the appeals form filed at the TAT by you or your employer.

And, a representative from your local union team will ask you to sign a mandate to represent form to authorize the FIQ to make representations with the appropriate bodies and to have a copy of your OHS file sent to them.

**Your collaboration is essential for the file to proceed efficiently.**

- You are entitled to **leave without loss of salary** from the employer where your employment injury occurred for the hearing on your case. Find out about this from your local union team.

## A FEW TIPS

If you want to contest a CNESST or DRA decision in your file, **it is best to first contact your local union team** so that they can help you carry out the necessary steps.

Give your local union team all the correspondence that you send or receive related to your OHS file, including the appeals filed by you or your employer.

**Although you are represented by the FIQ, only you receive the decisions, hence the importance of promptly informing your local union team.**

Keep the proof that each one of the appeals that you file with the CNESST, DRA or TAT was sent.

Remember that an OHS file, though linked to a single incident, can contain several decisions. You must read every letter received carefully, because it could be a decision that it would be in your interest to contest. **Don't forget to keep the envelopes on which the postmark appears, because they can serve as proof of receipt.**

## Contesting a report at the *Bureau d'évaluation médicale*

### WHAT YOU NEED TO KNOW OR DO

- You must submit the medical report (CNESST form) from your attending physician to your employer after every medical appointment during the period of consolidation of your employment injury. Keep a legible copy. Your physician cannot charge you for these reports.
- You cannot contest the medical conclusions of your attending physician or the physician that he refers you to.
- To render a decision, the CNESST is bound by the conclusions of your attending physician<sup>12</sup> concerning the five following matters:
  - 1) the **diagnosis(es)** of your employment injury;
  - 2) the **date of consolidation** of your injury;
  - 3) the nature, necessity, undergoing or length of the prescribed **care or treatment**;
  - 4) the existence or percentage of **permanent impairment** to physical or mental well-being that could result from your injury;
  - 5) the existence or evaluation of **functional limitations**.
- However, the CNESST or the employer where the employment injury occurred can contest a report issued by your physician if he obtains an expert opinion from a health professional who, after having examined you, reverses the medical conclusions of your physician on one or several of the five matters previously mentioned. **The expenses that you incur to go to this appointment for an expert opinion will be assumed by the body that requires this examination, either the employer or the CNESST.**
- If the CNESST or your employer obtains such an expert opinion, they must send you, as well as your attending physician, a copy as soon as they receive it. The latter may provide the Commission with **a complementary report** to support his findings on the form prescribed for this purpose and include, where applicable, **a consultation report containing reasons**, within 30 days of receipt of the report. Your physician must promptly inform you of the content of his report.
- The CNESST promptly sends its reports, including the additional report from your physician and the complete medical file that it has on your employment injury, to the **Bureau d'évaluation médicale**, commonly known as the **BEM**, a body independent of the Commission.

<sup>12</sup> In the AIAOD, the attending physician is denoted by the expression "physician in charge of the worker".

- The health professional appointed by the BEM, and not by the CNESST, examines your file and can, if he deems it appropriate, or at your request, examine you. In his written and reasoned opinion, he confirms or reverses the diagnosis and the other conclusions issued by your attending physician. He must give his decision within 30 days of the date your file was sent to him by the Commission. He sends you a copy, as well as the CNESST, your physician and your employer.
- The CNESST is bound by this opinion from the BEM and must render a decision accordingly. This decision can be contested by you or by your employer within 30 days of being notified, according to the procedure in the **9<sup>th</sup> step**. **It is not the BEM opinion, that is the expert medical opinion, that you must contest, but the CNESST decision that follows that BEM opinion.**

### A FEW TIPS

You must go to the appointment for the medical expert opinion asked for by the CNESST or by your employer. If you refuse without a valid reason, the CNESST may reduce or suspend the payment of your income replacement indemnity for impeding a medical examination.

However, when your employer convenes you for a medical expert opinion, he must do so as part of the medical evaluation procedure provided in the AIAOD. It happens that some employers, as a hearing is approaching, wrongly use this procedure to beef up their defence. Consult your local union team to verify if the employer is entitled to have you examined by his physician.

Inform your physician of any expert opinion required by the CNESST so that he can issue an additional report letting him give more support to his conclusions in your file.

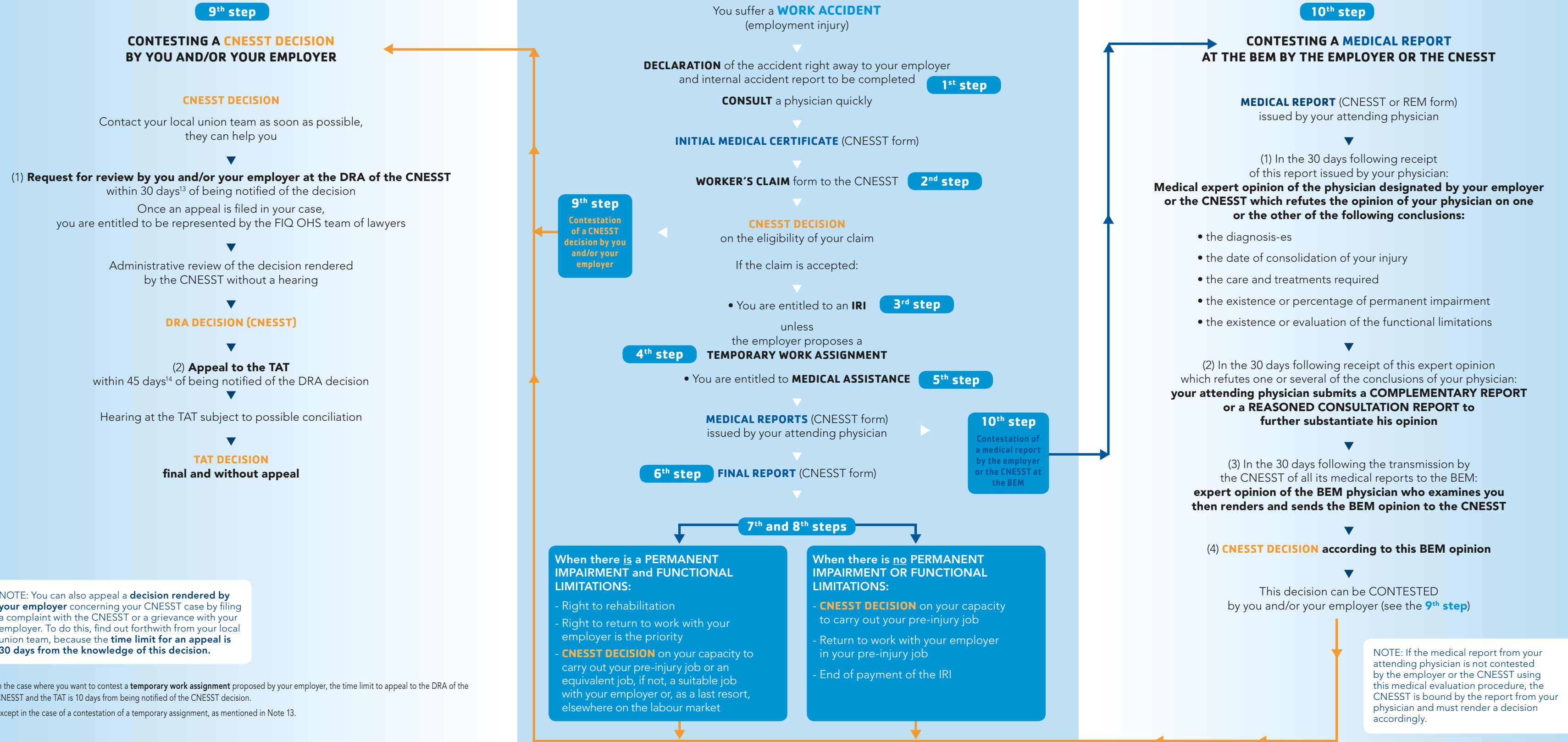
Although your employer is entitled to access to the file the CNESST has on your employment injury, only the health professional that he appoints may consult your medical file subject to the relevancy of its link to your injury. As vigilance is needed, find out from your local union team. They can help make sure that your rights are respected in the various medical aspects of your OHS file.

Look at the diagram to  
visualize the progress  
of an OHS file.





# PROGRESS OF AN OHS FILE



## To reach the CNESST

If you make a claim with the CNESST, a compensation agent will be assigned to your file. Take note of his/her name and contact information. You will then be able to contact this person for information, among other things, concerning your OHS file.

You can also reach the CNESST using the following number, regardless of the region in which you live.

**To reach the CNESST, only one number:  
1-844-838-0808**

## Mini-lexicon

### A

**ADR:** the *Avis de l'employeur et demande de remboursement* (Notice from the employer and application for reimbursement) form from the CNESST that has to be completed by the employer for him to be reimbursed the salary that he must pay you during the first 14 days of incapacity to work because of your employment injury.

**AIAOD:** an Act respecting industrial accidents and occupational diseases, the object of which is the compensation of employment injuries and the consequences they entail for the workers who suffer them. Compensation includes the necessary care and treatments for the consolidation of the injury, the payment of the income replacement indemnities, rehabilitation and the right to return to work.

### B

**BEM:** the *Bureau d'évaluation médicale* (Medical Evaluation Office) where the expert-physicians are independent of the CNESST and your employer.

### C

**Consolidation:** the healing or stabilization of your employment injury following which no improvement of your state of health is foreseeable.

**CNESST:** the *Commission des normes, de l'équité, de la santé et de la sécurité du travail*.

### D

**DRA:** the *Direction de la révision administrative* (Administrative Review Office) of the CNESST.

### E

**Equivalent employment (job):** employment of a similar nature to the employment you held when you suffered the employment injury, with regard to the required professional qualifications, wages, social benefits, duration and conditions of practice.

**Employment injury:** an injury or a disease arising out of or in the course of an industrial accident, or an occupational disease, including a recurrence, relapse or aggravation. It can also be an injury or a disease arising out of or in the course of the care that you receive for an employment injury or the omission of such care, or of an activity.

## Mini-lexicon (cont'd)

### I

**Industrial accident:** a sudden and unforeseen event, attributable to any cause, which happens to a person, arising out of or in the course of his work and resulting in an employment injury for him.

**IRI:** the income replacement indemnity that your employer must pay you in accordance with the collective agreement and the AIAOD, when you are unable to carry out your employment because of an employment injury.

### M

**MAA:** the maximum insurable annual salary which serves to establish the IRI under the AIAOD, which is \$72,500 in 2017. To calculate the benefit to which you are entitled under clause 23.19-c) of the FIQ collective agreement, your employer cannot systematically cap the income that you derive annually from your employment at this maximum insurable salary set out in the Act.

### O

**Occupational disease:** a disease contracted out of or in the course of work and characteristic of that work or directly related to the risks peculiar to that work.

**OHS:** occupational health and safety

**OHS Act:** an Act respecting occupational health and safety, legislation for the prevention of employment injuries with the object of the elimination, at the source, of dangers to the health, safety and physical well-being of workers.

### P

**PIR:** the individualized rehabilitation plan prepared and implemented by the CNESST, with your collaboration, in the case where impairment and functional limitations result from your employment injury.

**PPMI:** the permanent impairment to the physical or mental well-being that can result from your employment injury once consolidated.

**Pre-injury employment:** the employment you held at the time your employment injury occurred.

## Mini-lexicon (cont'd)

### R

**Recurrence, relapse or aggravation (RRA):** the progressive resumption, reappearance or worsening of an employment injury or its symptoms, including the aggravation of a pre-existing personal condition arising out of or in the course of work.

**REM:** the *rapport d'évaluation médicale* (medical evaluation report) issued by your physician or a physician to whom he refers you, to determine the percentage of permanent impairment to the physical or mental well-being and the functional limitations that result from your employment injury.

### S

**Suitable employment:** appropriate employment that allows a worker who has suffered an employment injury to use his remaining ability and his vocational qualifications, that he has a reasonable chance of obtaining and the working conditions of which do not endanger the health, safety or physical well-being of the worker, considering his injury.

### T

**TAT:** Administrative Labour Tribunal, an administrative tribunal independent of the CNESST where the decisions are final and without appeal.







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