

Fit for Duty

KELLY INGRAM-MITCHELL, MPT, CEAS, CWCHP

UNIFY HEALTH SERVICES, LLC

WWW.UNIFYHS.COM



Objectives



- ▶ Definition
- ▶ The Facts
- ▶ Presentism
- ▶ FFD Program
- ▶ The Evolution
- ▶ Indicators
- ▶ Resistance and Internal Program Support



FFD: What Does It Mean?

- ▶ An individual is in a physical, mental and emotional state which enables the employee to perform the essential task of his or her job which does not threaten safety or health of oneself, co-workers, property or public at large.
- ▶ For purpose of this policy, “fitness for duty” refers to the readiness of an employee to perform the essential functions of the job



Ability to exert required energy to perform functional task
MET Levels Sufficient

No Conditions and or Medical Conditions do not interfere with physical requirements

Physiological Status is within normal limits based on set standard

Clear Mental Status

Range of Motion and Strength meet functional criteria

Enhanced knowledge on workplace ergonomics and safety

How Many of Us are Fit for Duty ?

MET= Energy Cost of Physical Activity

PHYSICAL DEMAND CHARACTERISTICS OF WORK

1993 Leonard N. Matheson, PhD

PHYSICAL DEMAND LEVEL	OCCASIONAL 0 - 33% of the workday	FREQUENT 34 - 66% of the workday	CONSTANT 67 - 100% of the workday	Typical Energy Required
SEDENTARY	10 lbs.	Negligible	Negligible	1.5 - 2.1 METS
LIGHT	20 lbs.	10 lbs. and/or Walk/Stand/Push/Pull of Arm/Leg controls	Negligible and/or Push/Pull of Arm/Leg controls while seated	2.2 - 3.5 METS
MEDIUM	20 to 50 lbs.	10 to 25 lbs.	10 lbs.	3.6 - 6.3 METS
HEAVY	50 to 100 lbs.	25 to 50 lbs.	10 to 20 lbs.	6.4 - 7.5 METS
VERY HEAVY	Over 100 lbs.	Over 50 lbs.	Over 20 lbs.	Over 7.5 METS

Increased Illness and Injury Rates are Constant Drivers for :

- ▶ Safety Awareness
- ▶ Prevention Programs
- ▶ Applied Ergonomics
- ▶ Implementation of Comprehensive FFD Program

The Facts



- ▶ The Surgeon General reported 60% adults overweight & Unfit
- ▶ Bureau of Labor Statistics(BLS) ½ WC \$ to MSD ;600,000 per yr OSHA
- ▶ \$20billion of Direct Cost of WC ;\$1 in Every \$3 Spent
- ▶ 5X Indirect Cost for Hiring/Training/Recruiting
- ▶ MSD comprise 1/3 of Occupational inj.
- ▶ Largest job related injury cost in USA
- ▶ American Industries in 2014 spent over trillion dollars on HC
- ▶ 151 million workers were covered for disability insurance under the SSDI program at the conclusion of 2013, a 0.2 percent increase annually

The New:Presentism



- ▶ Working but less productive due to health but no indicators appear because employee is not absent
Result of : Stress/Illness/Medications & Non Compliance/Abuse

5 Generations at Work

Traditionalists:

- Formal yet personal
- Through proper channels
- One on one

Boomers:

- Somewhat formal through structured network
- Mix of electronic and face to face

Generation X:

- Casual, direct, and Electronic
- Sometimes Skeptical
- Need Feedback
- Hate Supervision

Generation Y:

- Fast, Casual, Direct, and High-Tech
- Eager to please

Generation Z:

- Love conversation, hate lecture
- Communicate with many people at the same time
 - Utilize social media sites
 - Value speed versus accuracy
- Continuously share their personal and private thoughts, ideas, and lives

Aging Work Force

55 >= 25 % of WF by 2020

- ▶ Lower rates of work-related injuries
- ▶ Severity and fatality
- ▶ >65 4x rate fatal events (8,11, 18 days)

Consider

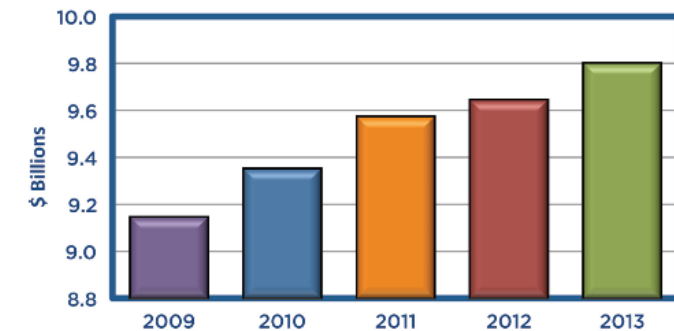
- ▶ RTW additional instruction
- ▶ Greater integration between recovery of function and return-to-work medical care with work-based health promotion programs (Step up to RTW)
- ▶ Metrics of workers' compensation, medical and productivity metrics will facilitate analysis and development of best practices.



Long Term Disability Trends

- **Total claim payments increased.** Long term disability insurance claim payments by CDA-surveyed companies grew 1.6 percent to \$9.8 billion in 2013.

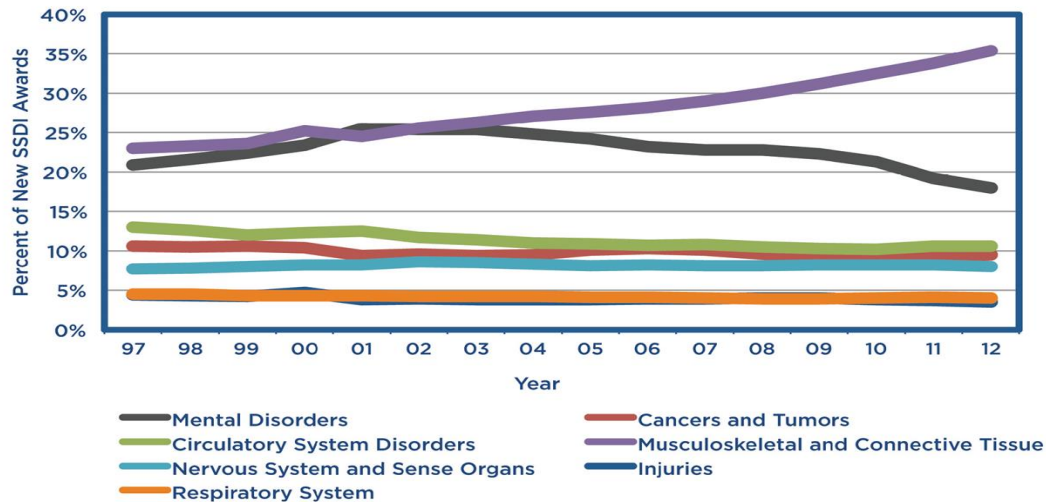
Total Long Term Disability Payments



\$9.8 billion in long term disability claim payments were made by CDA member companies in 2013, an increase of 1.6% over 2012.

Male 52% Female 48%
MSDs #1- DDD, LBP, Sciatica, Tendonitis
Age = Increase \$
(\$400-\$1400 per month SSDI Awards)

15-Year Trends of Diagnostic Causes of New SSDI Awards



Source: US Social Security Administration

Why Fit For Duty ?



- ▶ Prevent inadequate job matching
- ▶ Safety tools are in place risk/exposure is frequently addressed now need to address worker
- ▶ Aging and Generational WF
- ▶ Applicants have multiple and significant medical conditions
- ▶ Population unfit, unhealthy and sedentary
- ▶ Change workplace culture and behavior

When to Consider Fit for Duty ?



- ▶ To meet goals of zero recordables and reduce claims cost WC and Medical
- ▶ In conjunction with or following employer /partner incorporation of all reasonable workplace ergonomic interventions minimizing demands and modifying procedures
- ▶ After effectively ergonomic stressor elimination
- ▶ Post Hire
- ▶ At Work
- ▶ Return to Work

Who are the team players?



- ▶ HR
- ▶ Safety
- ▶ Partner- Medical/Clinical Consultant
- ▶ Supervisors/Manager
- ▶ Employee Liaison

FFD Indicators



- ▶ Goal to reduce health risk & company liability
- ▶ Maintain safety of co-workers/self
- ▶ Clarify poor job performance verse illness/injury
- ▶ Metrics illustrate increased injuries /recordable ; frequent near misses; Sick or unpaid time trends
- ▶ Minimize/Exaggerate Health Conditions
- ▶ Trend of Excessive sick or unpaid leave
- ▶ Request for Job Accommodation

2014. Prevention of MSD Injuries OSHA

Scientific evidence associates MSDs with stresses to various body parts caused by tasks performance.

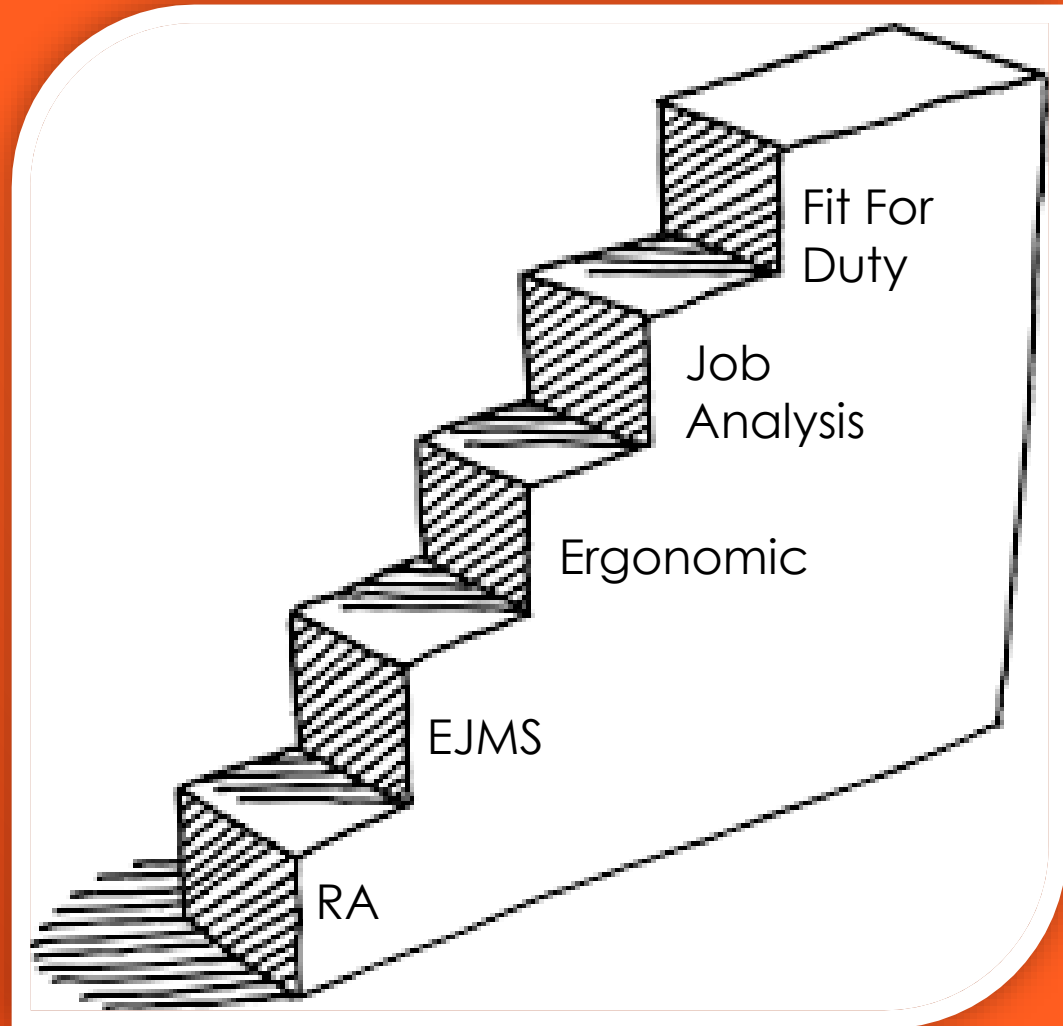
Body position and physical work type may cause pain and lead to deterioration of the affected joints, tissues, and muscles.

The longer in fixed or awkward posture, exerted force, repeat same movements, experience vibration, or handle heavy items > the risk for occurrence

These job-related stresses are "workplace risk factors," the scientific literature demonstrates that exposure to these risk factors, significantly increases an employee's risk of developing a work-related musculoskeletal disorder.

The Good News

There are feasible means of addressing and reducing these risks to prevent the development or aggravation of such disorders, or to reduce their severity. To address in steps reduce cost of implementation.



FFD Program Components



Post Offer Testing



- ▶ Post Offer Testing is used to assure that final applicants have the physical ability to do the essential functions of the job before they begin working. The offer is contingent on this process.
- ▶ Medical Questionnaire
- ▶ Medical /Physical Screen
- ▶ Physical Abilities Testing / Baseline Testing Data Collection
- ▶ May include: Hearing, Drug, Vision, Other
- ▶ ADA reasonable accommodation
- ▶ Set Criteria- Medical clearance, Retest , conditional offer withdrawal, training
- ▶ Metrics: Pass /Fail, Gender, Occupational

At Work Programs



- ▶ Identified area of concern through either FFD Post Offer Results. Functionally able to perform but identified areas of improvement Scoring systems
- ▶ Company to provide enhanced program to ensure safety and maximize fitness
- ▶ Physical Demand Analysis
- ▶ Workplace Conditioning
- ▶ Work Fit /Work Sim
- ▶ Wellness Checks
- ▶ Early Intervention
- ▶ Return to Work At Work Program Criteria

Return to Work

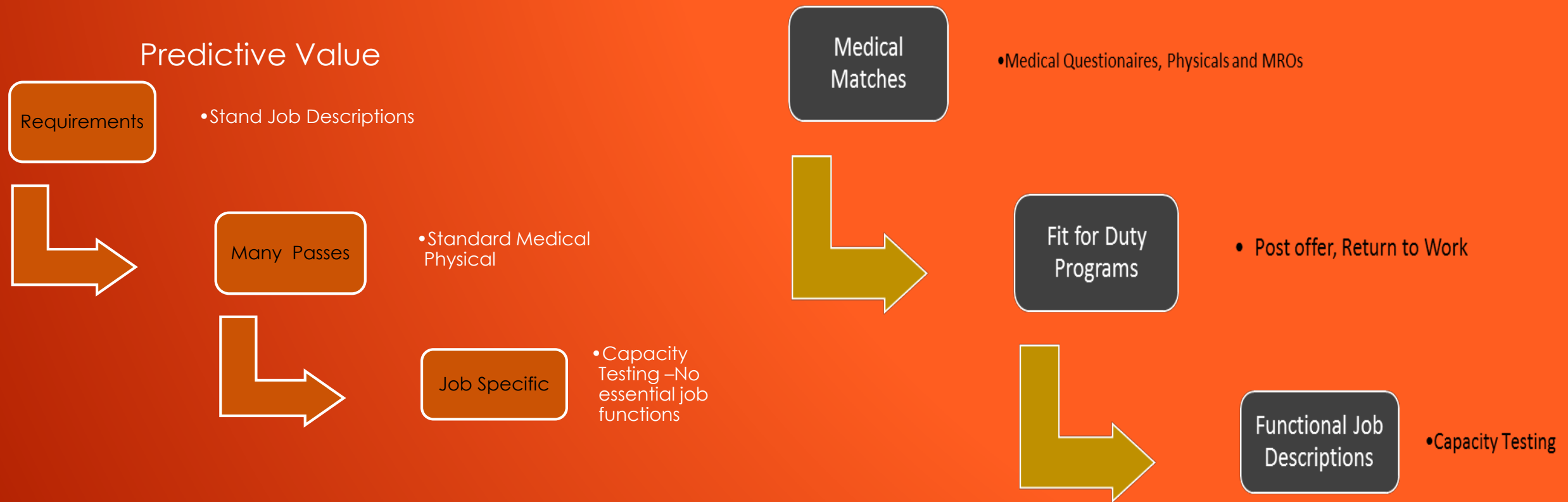
- ▶ Fit for Duty Certification
- ▶ Additional Evaluation and Testing
- ▶ Need a Set Criteria for FFD RTW Process may include Workplace Conditioning
- ▶ Functional Capacity Evaluation
- ▶ FMLA/ Return to Work Comp claim

One Size Fits All ? NEVER

- ▶ National /International
- ▶ Mobile
- ▶ Surge/Causals/Temps
- ▶ Training /Roll-out
- ▶ Generic Testing Systems verses custom
- ▶ Multi-Service Companies



The Evolution of Testing and FFD Programs



Rules and Regulations



- ▶ Acceptable under FMLA, ADA & EEOC
- ▶ Must be uniformly applied(non-discriminatory)
- ▶ Must be based on specific job description and essential functions

Medical /Physical Examinations and Inquiries of Employee Under ADA



Employer has right under ADA to obtain medical and or disability related information once conditional job offer has been made or after the individual is an employee .

NOTE: Conditional Job- defined as all other steps met offer only on completion of medical examination, then permissible.

EEOC: Police Department 50 applicants and 25 positions
 Employer request to hold on contact until post offer

What is Disability Inquiry?



Asking the following questions...

- ▶ disability the nature and extent?
- ▶ medical documentation of disability?
- ▶ prior workers compensation history?
- ▶ prescription medication or has taken?

EEOC Medical Examination



Medical Exam

Physical /Mental Impairments

Range of motion, muscle strength and motor function

Pulmonary function

Physiological test

Diagnostic procedure MRI/CAT/X-Rays

Vision

Blood/Urine Breath (BAT)

Blood Pressure/Cholesterol/HR

Non Medical

Physical Agility – Job simulated task only
NOT: FCE

Physical Fitness- physical task running and lifting

Psychological task that measure personality traits – cant diagnosis mental disorders

What happens if Post Offer Screen or Disability Inquiry screens out an individual because of a disability?

- ▶ Employer must be able to demonstrate rejection was job related and consistent with business necessity.
- ▶ If conditional offer revoked must be able to show that can't provide reasonable accommodation that would permit individual to perform essential functions of job

Note :Must address in documentation that p this poses direct threat and significant risk of harm to self and cannot be reduced below the direct threat level

FFD for Current Employees under ADA

- ▶ In order to ask for a FFD exam of current employees, the employer must have a reasonable belief based on objective evidence of:
 - 1) Employee's ability to perform essential functions will be impaired by medical condition
 - 2) an employee will pose direct threat due to medical condition

Or By :

Observed or learns of symptoms

Return to Work (ADA/EEOC/FMLA)

Under ADA and EEOC employer may require examinations for those returning to work from medical leave if the employer has reasonable belief that the employee's present ability to perform essential functions will be impaired pose a direct threat

- ▶ All inquiries limited to ability to work
- ▶ Tailored to actual medical condition and essential functions

FMLA Regulations Regulate Employer's ability to Require FFD Assessment upon employee's return for FMLA leave

- ▶ As a condition of restoring an employee to work following an FMLA leave employer must have a "uniformly-applied policy under FMLA employer can not require return to work certificate in a particular case
- ▶ Must be in designation notice
- ▶ Employee bears cost
- ▶ Not entitled to pay for time or travel



FFD and FMLA

An employer can ask the employee to obtain a medical certificate regarding his/her serious health condition before returning to work. This is done to ensure employee is able to perform essential job functions.

29C.F.R 825.310

The Employer can only request info contained in DOL Certification of Health Care Provider Form. Note: requests and reports must be limited to the condition that caused the absence or disability and ONLY seek FFD certification for this condition

- ▶ Require certification to address the employees ability to perform the essential functions of the job – Employer to provide list required no later than designation notice and this notice must state what needs to be addressed 825.307
- ▶ Employer may contact HC provider to clarify and authenticate certification
- ▶ A healthcare provider can seek clarification of FFD with the employee's written consent
- ▶ An employer can delay return to work until an employee submits a fit for duty form
- ▶ Employee may bear expense
- ▶ Delays

FMLA Intermittent Leave



- ▶ May require FFD certification if on intermittent or reduced schedule leave if condition on leave cause reasonable belief of risk or harm to employee or others- Must state in designation notice for each subsequent instance of intermittent leave you will be required to submit fit for duty certification
- ▶ Every 30 days or longer intervals

FFD and Workers Compensation



- ▶ Employer may view any files of their own injured worker in connection with pending claims. Even where employer does not have authority to require a medical examination may use information obtained about an employee's fitness for duty through WC process. IME/FCE

What if employer reasonably believe the employee poses direct threat?

- ▶ Employer allowed to have employee examined by medical professional of employee choice – exam limited to determining if employee can perform his or her essential functions without posing threat

EEOC



What if employee applies for job transfer or promotion?

- ▶ The EEOC requires employers to treat these employees as a job applicant. Applicant may only be given a fit for duty after a job offer has been extended and may be conditioned on passing the examination
- ▶ www.eeoc.gov/policy/docs/guidance-inquiries.html

What If Employee Requires/Request Accommodation?

- ▶ When an employee request for accommodation then employee has the choice of doctor. An employer can only require to go to doctor of choice. If the information provided by the employee is insufficient to establish that employee is disabled or needs a reasonable accommodation
- ▶ Employer can have an accommodation process in place onsite
- ▶ When the identified condition constitutes a disability and the employee asks for an accommodation, which might be the restriction, the employee should be informed of the Disability and Accommodation Determination Process and that process should be implemented.



CBA

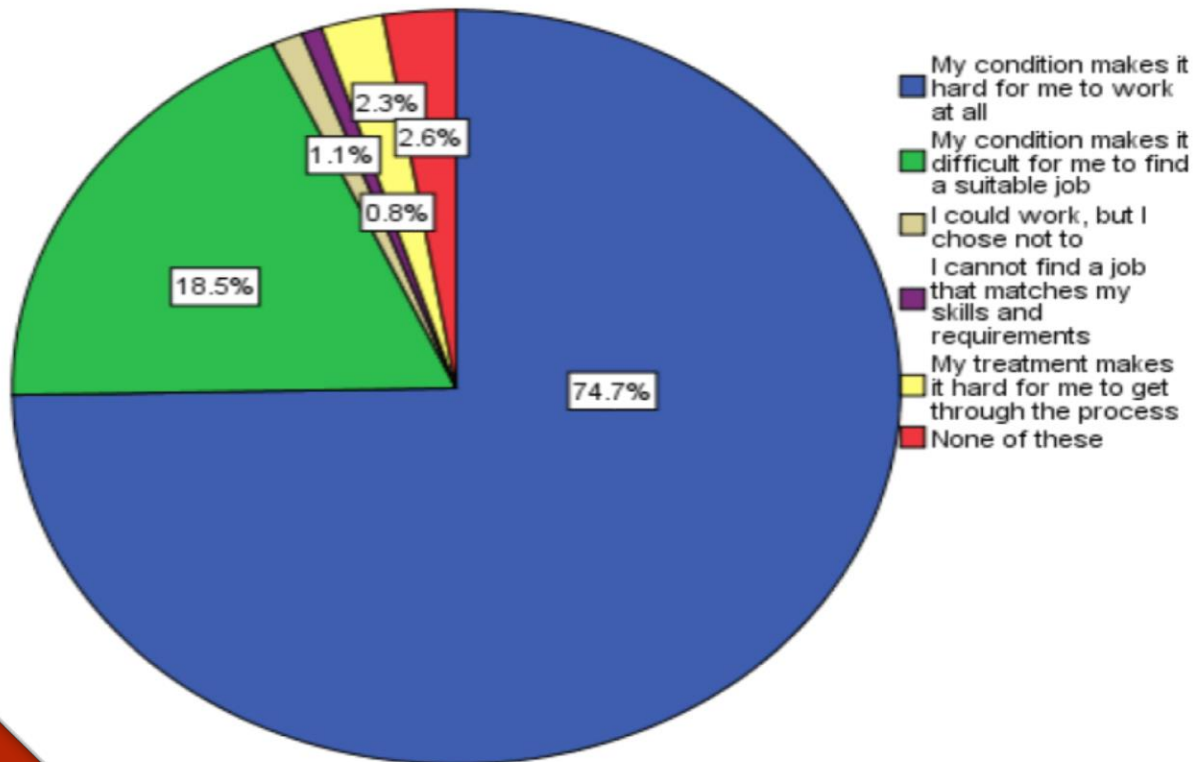


- ▶ Collective Bargaining Agreements- labor agreement can supersede employee rights and employers should negotiate CBA provisions that permit FFD exams on FMLA
- ▶ CBA must still be consistent with ADA (job related & necessity)
Could not require all FMLA submit to FFD only on conditions where employee sought leave had bearing on ability to perform job

Future Household Impact from MSD

64% Rely on Social Security

Figure 3.2. Main reason for not being in work, n = 265



MSDs often impose a substantial personal toll on affected workers who can no longer work or perform simple personal tasks like buttoning their clothes or brushing their hair quality of life without sustained job is poor.

What do you do with FFD Report Once you Receive?

Many case the employee needs something:

- Leave of Absence
- Light Duty
- Job Accommodation
- Coaching/Conditioning /Follow up
- Notification

In Conclusion :Fit For Duty Program

Enhances safety in the work place, provides a consistent tool to effectively reduce and manage injuries and illness specific to new hires and existing employees.

The benefits are ongoing and provide large financial returns.

FFD programs assist large and small organization to create a well workplace and cultivate a healthy lifestyle.

Programs must maintain compliance within ADA, EEOC, and FMLA regulations in addition must be consistent and set for the as company policy

Kelly Ingram Mitchell , MPT

Unify Health Services

Kelly@Unifyhs.com

904-635-4638

