

# Order 43

## Stakeholder Consultation Feedback

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- Our key stakeholders participating in the consultation workshops included representatives from the Mining & Energy Union (MEU), NSW Minerals Council (NSWMC), Contractors, and the External Doctor Network.
- Our stakeholders agreed that rushed or poorly planned changes to the Order could exacerbate current problems or introduce new ones. A comprehensive evaluation, coupled with continued stakeholder feedback, was deemed essential to ensure that revisions to the Order will be evidence-based and serve the industry's best interests.
- A summary of the feedback is outlined in this information pack.

1. Medical Framework
2. Medical frequency
3. Medical risk profile
4. Approved Medical Practitioner Governance
5. Medical disclosures
6. Medical reviews
7. Exit medicals
8. Respirator Fit Testing
9. Medical Assessment – Delays
10. Coal Mine Worker Lists

# 1. Medical Framework

Our stakeholders asked for a clear and comprehensive framework that all Order 43 Medical Practitioners must adhere to, ensuring uniformity in assessments. They sought regular reviews and updates to the framework based on industry feedback and new medical findings. They also discussed the importance of continuous training and education for all stakeholders to ensure clarity and consistency in implementing the changes.

Risks	Dependencies	Considerations
<ul style="list-style-type: none"><li>• Concerns about how employee health disclosures are managed, especially during transfers between employers.</li><li>• Potential risk of not having adequate capability to interpret and implement the Order 43 correctly.</li><li>• Not all employers might be on board with the changes, leading to inconsistencies in medical assessments.</li><li>• Risk of drafting Order 43 too quickly without a clear understanding of its implications and interpretations.</li><li>• Limited availability of medical professionals and potential missed opportunities to identify health changes or emerging conditions.</li><li>• Sites might impose extra requirements, leading to inconsistencies.</li></ul>	<ul style="list-style-type: none"><li>• The entire framework depends on having enough qualified doctors available.</li><li>• Effective data modelling and the use of appropriate technology are crucial for the successful implementation of the framework.</li><li>• A clear and agreed-upon industry medical standard is essential.</li><li>• The framework's success depends on meeting specific site requirements and ensuring worker disclosures between medical assessments.</li><li>• The need for an agreed health standard that is consistent across the industry.</li></ul>	<ul style="list-style-type: none"><li>• Whether the focus should be on Role + Risk or just Risk Category.</li><li>• Consideration for the changeover period between the new and old orders.</li><li>• The time required to educate the industry, including coal mine workers, customers, and EDN.</li><li>• The need for a clear health standard that includes fitness for work determinations.</li><li>• Establishing an agreed process for payment, especially for workers deemed unfit.</li><li>• Concerns that the time between medicals might be too long.</li><li>• The importance of having a clear health screen declaration system, potentially using a traffic light system.</li><li>• The need for training sessions to educate the industry about the changes.</li></ul>

## 2. Medical Frequency

Our stakeholders highlighted the significance of optimising the frequency of medical assessments to ensure the health and safety of coal mine workers. They discussed the potential pitfalls of a one-size-fits-all approach and the importance of a risk-based approach that considers individual worker profiles and site-specific requirements.

Risks	Dependencies	Considerations
<ul style="list-style-type: none"><li>• The risk of the time frame being too long, leading to potential health issues developing between medicals.</li><li>• The potential pitfalls of applying a one-size-fits-all approach to medical frequency.</li><li>• The risk of individual site requirements causing inconsistencies in medical frequency.</li><li>• Challenges posed by other authorities setting their own expectations for medical frequency.</li><li>• The risk of conducting medicals too frequently, straining resources and potentially increasing exposure.</li><li>• The risk of infrequent medicals potentially missing early diagnoses of health issues.</li></ul>	<ul style="list-style-type: none"><li>• The frequency of medicals is dependent on clear and consistent health standards.</li><li>• Recognising that workers might have different risk profiles, which could necessitate varied assessment frequencies.</li><li>• The importance of a standardised approach to medical frequency across the industry.</li><li>• Ensuring that all components of the medical process, from assessments to follow-ups, are aligned and consistent.</li><li>• The success of the medical frequency process depends on the availability of resources, including qualified medical professionals and facilities.</li></ul>	<ul style="list-style-type: none"><li>• Allowing workers the flexibility to request more frequent medicals based on their individual needs or concerns.</li><li>• Determining the appropriate frequency for specific tests, such as audiometric testing and chest x-rays, and addressing potential exemptions.</li><li>• Deciding whether medical frequency should be standard or customised based on factors like age, specific conditions, or the need for earlier reviews.</li><li>• Emphasising the importance of determining medical frequency based on a risk-based approach, considering both the nature of the work and individual health profiles.</li></ul>

# 3. Medical Risk Profile

Our stakeholders highlighted the complexities surrounding the risk profile. They emphasised the importance of setting clear standards and ensuring consistent application across the board. The discussions also touched on the challenges of role changes, employer transitions, and the need for clear definitions, especially concerning "duty of care." The overarching sentiment covered the need for a balanced approach, considering worker wellbeing and industry standards.

Risks	Dependencies	Considerations
<ul style="list-style-type: none"><li>• The risk of setting the bar too high, which might lead to workers losing their jobs.</li><li>• Potential for inconsistent application, such as assessing workers to incorrect levels without a proper risk profile.</li><li>• The risk associated with workers not disclosing changes in their roles.</li><li>• Risks related to changing employers and the associated medical risk profiles.</li><li>• Ambiguities or misunderstandings regarding the definition of "duty of care."</li><li>• Differences in opinion regarding risk, especially from individual workers.</li><li>• The risk of assigning inappropriate or incorrect risk profiles to workers.</li><li>• PCBU's might adopt a conservative approach, potentially leading to overestimations of risk.</li></ul>	<ul style="list-style-type: none"><li>• The success of the medical risk profile depends on developing an agreed process for determining and managing risk profiles.</li><li>• The risk profile is dependent on employers' or site assessments of role risk.</li><li>• Effective data management is crucial for maintaining and updating risk profiles.</li><li>• Engaging with coal mine workers (CMW) for consultation and education.</li><li>• Ensuring external doctors are integrated into the risk profile process.</li><li>• The need for a clear and consistent industry medical standard.</li><li>• Ensuring that the definitions used are accurate and appropriate.</li></ul>	<ul style="list-style-type: none"><li>• Clarifying risk determination methods.</li><li>• Detailed SEG-to-risk profile mapping with employer guidelines.</li><li>• Considering non-coal risks like silicosis and asbestos.</li><li>• Prioritizing role over individual or environmental factors.</li><li>• Addressing role or SEG changes in risk profiles.</li><li>• Supporting evidence for risk profile disagreements.</li><li>• Linking risk profiles to fitness for work, not just surveillance.</li><li>• Factoring in specific SEGs in risk determinations.</li><li>• Allowing worker-initiated frequent medical requests.</li><li>• Evaluating audiometric and chest x-ray test frequencies.</li><li>• Addressing exemptions and standardizing risk profile criteria.</li><li>• Prioritizing a risk-based approach.</li></ul>

## 4. Approved Medical Practitioner Governance

Our stakeholders emphasised the importance of a robust governance structure for medical practitioners, ensuring consistent standards and addressing potential impacts on both doctors and the broader industry. They highlighted the challenges of maintaining a network of medical practitioners, especially in remote areas, and the need for continuous professional development.

Risks	Dependencies	Considerations
<ul style="list-style-type: none"><li>• Limited practitioner availability in remote areas.</li><li>• Potential decrease in network doctors due to governance workload.</li><li>• Deterrence of EDN members from increased governance tasks.</li><li>• Remote medical providers might devalue few medicals.</li><li>• Risk of expired inductions for non-updated doctors.</li><li>• Overly prescriptive legislation challenges.</li><li>• External providers deterred by burdensome requirements.</li><li>• Potential cost hikes by doctors for added requirements.</li><li>• External Medical Network's unfamiliarity with industry hazards.</li><li>• Variable standards and need for continuous industry knowledge updates.</li></ul>	<ul style="list-style-type: none"><li>• CS-managed approval mechanism and registry.</li><li>• Adequate resources for effective EDN governance.</li><li>• Service Level Agreements with network providers.</li><li>• Clear communication guidelines for external providers.</li><li>• Dedicated EDN support role.</li><li>• Linking governance to a Continuous Professional Development program.</li><li>• Mandatory site visits for EDN members.</li><li>• Ensuring doctors' adherence to governance for approval.</li><li>• Precise drafting of governance requirements.</li></ul>	<ul style="list-style-type: none"><li>• Identifying skills, qualifications, and training for practitioners.</li><li>• Potential adoption of dual B reader practice for CMDLD.</li><li>• Industry impact due to network doctor loss.</li><li>• Cost implications and potential doctor loss impact on customers.</li><li>• Increased requirements' impact on external provider doctors.</li></ul>

# 5. Medical Disclosures

Our stakeholders emphasised the importance of transparency and clear communication when it comes to medical disclosures. They recognised the sensitive nature of personal health information and the potential risks associated with non-disclosure. The industry also acknowledged the need for a balanced approach that respects both worker privacy and safety requirements.

Risks	Dependencies	Considerations
<ul style="list-style-type: none"><li>Workers not disclosing medical conditions, posing safety hazards.</li><li>Health conditions deteriorating if not timely addressed.</li><li>Fear of job loss due to medical disclosures.</li><li>Unauthorized access to workers' medical information by employers.</li><li>Workers oversharing irrelevant information.</li><li>Lack of support for undisclosed conditions.</li><li>Potential discrimination based on medical disclosures.</li></ul>	<ul style="list-style-type: none"><li>Ensuring workers understand the importance of medical disclosures.</li><li>Differentiating personal health from work-related issues.</li><li>Limiting employer access to only Order-specified information.</li><li>Clear communication about information released to employers.</li><li>Stakeholder consultation for a mutual understanding of the process.</li></ul>	<ul style="list-style-type: none"><li>Transparent process for obtaining worker consent.</li><li>Varied employer acceptance of medical disclosures.</li><li>Sharing follow-up actions with new employers during transfers.</li><li>Establishing consistent industry standards.</li><li>Ensuring relevant, risk-based, and flexible disclosures.</li></ul>

## 6. Medical Reviews

Our stakeholders discussed the challenges and implications of conducting medical reviews. They highlighted the importance of clear communication, access to resources, and the need to balance worker wellbeing with industry standards and requirements.

Risks	Dependencies	Considerations
<ul style="list-style-type: none"><li>• Limited database access for external doctors, affecting review accuracy.</li><li>• Ambiguities in the "duty of care" definition.</li><li>• Uncertainties about the enforceability and adherence to stipulated review periods.</li><li>• Health standards evolving outside of the Order's purview, causing discrepancies in reviews.</li><li>• Financial and job impacts from review outcomes.</li><li>• Escalation of health risks if timely reviews aren't conducted.</li><li>• Workers potentially denied site access due to expired medicals.</li><li>• Unclear cost responsibilities for reviews.</li><li>• Risk of reviews identifying conditions that might allow workers to work despite potential incapacity.</li></ul>	<ul style="list-style-type: none"><li>• Access to specialist doctors to ensure comprehensive and accurate medical reviews.</li><li>• Potential impact on industry resources to manage and conduct reviews.</li><li>• A clear and consistent industry medical standard to guide reviews.</li><li>• An agreed process for worker payment, ensuring workers aren't financially disadvantaged due to reviews.</li><li>• Ensuring workers understand and complete necessary follow-ups and reviews within the stipulated timeframe.</li><li>• A well-consulted and appropriate Health Standard.</li><li>• Clear and transparent processes, especially considering psychosocial hazards.</li></ul>	<ul style="list-style-type: none"><li>• Deciding whether medical review appointments should be conducted during work hours or based on employment agreements.</li><li>• Balancing role-focused reviews versus personal follow-ups.</li><li>• Considerations for retrospective reviews when a new order commences.</li><li>• Assessing the potential financial burden on workers and employers due to reviews.</li><li>• Recognizing and addressing the potential stress on workers due to medical reviews.</li><li>• The need for automated reminder processes for timely reviews.</li><li>• Adopting a risk-based approach to ensure timely and relevant reviews.</li><li>• Ensuring effective and clear communication regarding medical reviews.</li></ul>



# 7. Exit Medicals

Our stakeholders highlighted the challenges and implications of ensuring workers undergo exit medicals when leaving the industry. They emphasised the importance of clear communication, stakeholder engagement, and understanding the purpose and implications of these medicals. Concerns were raised about the reluctance of miners to participate and questions about the purpose of these medicals, especially when periodic medicals are already conducted.

Risks	Dependencies	Considerations
<ul style="list-style-type: none"><li>Miners' reluctance to undergo voluntary exit medicals due to future claim concerns.</li><li>Minimal participation in exit medicals by the EDN.</li><li>Overloading the medical system with frequent exit medicals for contractors changing companies.</li><li>Uncertainty about the purpose of exit medicals and PCBU's obligations if issues are identified.</li><li>Risk of not maintaining the current offer of exit medicals to workers.</li></ul>	<ul style="list-style-type: none"><li>Availability of medical professionals to conduct exit medicals.</li><li>Effective stakeholder engagement for communication and implementation.</li><li>Clear guidelines for employers on when and how exit medicals apply.</li><li>Clear communication strategies around exit medicals.</li></ul>	<ul style="list-style-type: none"><li>Deciding the medical personnel for exit medicals: doctor, nurse, or both.</li><li>Understanding CS and employers' obligations when chronic conditions are identified.</li><li>Determining a specific time frame for opting for an exit medical post-industry exit.</li><li>Offering medicals to former NSW coal mine workers upon request.</li><li>Ensuring exit medical components align with periodic medicals.</li><li>Addressing potential worker impact from unawareness of exit medical options.</li></ul>

## 8. Respirator Fit Testing

Stakeholders discussed the challenges and implications of ensuring proper fit testing for respirators. They emphasised the importance of consistent practices, potential risks of shifting responsibilities, and the need for clear communication and training. Concerns were raised about PCBU's willingness to implement or sustain fit testing and the potential for inconsistent practices across the industry.

Risks	Dependencies	Considerations
<ul style="list-style-type: none"><li>• Uncertainty about PCBU's implementing or sustaining respirator fit testing.</li><li>• Potential dissatisfaction among EDN doctors due to equipment investments.</li><li>• Concerns about shifting the responsibility of fit testing to the industry and potential inconsistencies in practices.</li><li>• Risk of increased respiratory illnesses due to ill-fitting RPE and increased worker exposures if fit testing isn't properly conducted.</li><li>• Losing focus on the importance of fit testing.</li><li>• Fit testing discrepancies: not meeting standards, differences in customer requests, and calendar impact from booked appointments.</li><li>• Concerns about CS Health's capacity to offer onsite campaigns.</li></ul>	<ul style="list-style-type: none"><li>• Ensuring site personnel have the skills for on-site fit testing.</li><li>• Employers engaging in programs to educate workers on fit.</li><li>• Clear communication and training regarding fit testing requirements.</li><li>• Potential need for external audits for fit testing compliance.</li></ul>	<ul style="list-style-type: none"><li>• Process for workers who fail the fit test.</li><li>• Ensuring fit tests for all types of respirators.</li><li>• Addressing the impact on workers not wearing the correct RPE.</li><li>• Concerns about respirator selection if testing is done on-site.</li></ul>

# 9. Medical Assessment Delays

Our stakeholders expressed concerns about the potential implications of deferring components of medical assessments. They emphasised the importance of timely diagnoses and the potential risks associated with inconsistent practices. The discussions also highlighted the need for clear communication, effective systems, and processes to ensure that deferred components are addressed promptly and appropriately.

Risks	Dependencies	Considerations
<ul style="list-style-type: none"><li>• Delays in diagnosing serious conditions due to deferred assessment components.</li><li>• Employers potentially not following up on deferred components, leading to gaps in health surveillance.</li><li>• Discretion in deferring components might result in inconsistent practices across the industry.</li><li>• Privacy risks associated with sharing workers' personal medical conditions without consent.</li><li>• Continuous delays in assessments, necessitating further medical bookings and potentially delaying the detection of health issues.</li></ul>	<ul style="list-style-type: none"><li>• A reliable database with notifications to track and address deferred components.</li><li>• Effective communication systems between EDN and CSH to record and communicate requirements.</li><li>• A robust recall process for workers with deferred assessment items.</li><li>• A risk-based approach to determine essential components for inclusion in assessments.</li><li>• Ensuring worker consent when deferring or sharing medical information.</li></ul>	<ul style="list-style-type: none"><li>• Addressing the root causes for deferral, such as equipment or professional availability.</li><li>• Assessing potential risks for mine operators due to deferred assessment components.</li><li>• Involving PCBU's in decision-making processes related to medical assessment delays, recognizing the risks they bear.</li><li>• Addressing potential further delays in assessments and ensuring a streamlined process.</li><li>• The feasibility of scheduling ongoing appointments at the time of deferral to improve appointment availability.</li></ul>

# 10. Coal Mine Worker Lists



Our stakeholders discussed the challenges and implications of maintaining accurate and secure lists of coal mine workers. They highlighted the importance of data security, the potential risks associated with database design and management, and the need for clear communication and processes to ensure the accuracy and completeness of the lists.

Risks	Dependencies	Considerations
<ul style="list-style-type: none"><li>• PCBU's potentially failing to include all coal mine workers on the list, leading to incomplete lists.</li><li>• Concerns about data breaches, compromising the privacy and security of coal mine worker information.</li><li>• Challenges posed by a poorly designed database, making it difficult to extract and manage coal mine worker information.</li><li>• Variability and dynamism of SEGs and roles, which can frequently change, complicating list management.</li></ul>	<ul style="list-style-type: none"><li>• An appropriately designed database to effectively manage and maintain the coal mine workers lists.</li><li>• A thorough review of the data set items and confirmation of the ongoing need for such a list.</li><li>• Clear and effective communication with the industry regarding deadlines and requirements for the list.</li><li>• Potential assistance from CS Health to provide guidance on current lists and requirements.</li></ul>	<ul style="list-style-type: none"><li>• Allocating additional resources to manage and maintain the system effectively.</li><li>• Ensuring coal mine workers can access their personal data within the system.</li><li>• Deciding on editing rights for the list, especially when errors are identified.</li><li>• Assessing the potential impact on PCBU's, especially if they are unaware of changes or lack the necessary systems to manage the lists.</li></ul>

