

Order 45

Transitional Arrangements Guide for Employers



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Purpose

This document is designed to support NSW coal industry employers* in preparing for the replacement of the Coal Services Health Monitoring Requirements for Coal Mine Workers Order No. 43 (Order 43). It provides guidance to understand the transitional arrangements detailed in Order 45 and can assist with business preparation activities to ensure a smooth transition.

CS Health recommends conducting an impact analysis to understand how the changes introduced by Order 45 may affect your organisation's processes, systems, and compliance obligations. This will help identify potential risks and gaps, enabling the development of effective mitigation strategies and reducing the likelihood of issues arising post-implementation.

Transitional arrangements in Order 45

Order 45 outlines transitional arrangements to ensure that medical assessments conducted under Order 43 continue to be recognised as valid health assessments once Order 45 has been implemented.

These arrangements are designed to:

- > prevent duplication of health assessments
- > provide clarity for employers
- > ensure that coal mine workers remain compliant with Order 45 during the transition.

The transitional arrangements apply only to coal mine workers who remain with their current employer following the implementation of Order 45. Coal mine workers who commence with a new employer will be required to complete a health assessment.

The transitional arrangements are:

- a) *If a coal mine worker has a current periodic medical assessment completed pursuant to the Coal Services Health Monitoring Requirements for Coal Mine Workers Order No. 43 under the Coal Industry Act 2001 (NSW), that periodic medical assessment is a health assessment under this Order subject to the periodic medical assessment being completed within the previous three (3) years.*

Explanation: If a coal mine worker has had a valid Order 43 periodic medical completed in the last 3 years, this will be considered to be a health assessment under Order 45.

- b) *If a coal mine worker has entered the New South Wales coal industry within three (3) years previous to the commencement of this Order and has not completed a periodic medical assessment, then the first pre-placement medical assessment completed pursuant to the Coal Services Health Monitoring Requirements for Coal Mine Workers Order No. 43 under the Coal Industry Act 2001 (NSW) is to be considered a health assessment for that coal mine worker under this Order.*

Explanation: If a coal mine worker entered the NSW coal industry in the last 3 years and has only completed pre-placement medicals under Order 43, the first pre-placement medical completed upon entry will be considered to be a health assessment under the replacement Order. The date of the first pre-placement medical will set the due date of the next health assessment.

*Throughout this document, references to an *employer* should be understood to mean a person conducting a business or undertaking (PCBU), as defined in Order 45.

Order 45 health assessments

Under Order 45, a health assessment replaces the terms *Order 43 medical assessment*, *pre-placement medical* and *periodic medical assessment*. It comprises the health examination(s) of a coal mine worker that is assessed against the position and risk category. Order 45 health assessment is valid for 3 years; the reference to 3 years means by 31 December of that third calendar year.

Note: For clarity, the terms *position* and *role* are considered equivalent. While titles of positions or roles may differ, the inherent requirements (tasks, functions, accountabilities, and responsibilities) must be consistent.

Key considerations for employers

- > Pre-placement medicals conducted under Order 43 within the past 12 months **cannot** be transferred to a new employer under Order 45, meaning a new health assessment will be required.
- > Employers should confirm which coal mine workers hold a valid Order 43 assessment in accordance with the transitional arrangements.
- > Employers may elect to submit their coal mine worker list to Coal Services earlier than the Order 45 requirement of 30 September 2026 to verify who holds an Order 43 assessment in accordance with the transitional arrangements.
- > Employers should update any systems and/or processes to reflect the recognition of Order 43 assessments in accordance with the transitional arrangements.
- > Employers should communicate with coal mine workers the following:
 - changed and/or new requirements of Order 45
 - transitional arrangements and what they mean for them (including that valid Order 43 medical assessments will continue to be recognised under Order 45).
- > Employers should conduct a compliance check to ensure no coal mine workers fall through the gaps during the transition period to prevent non-compliance with Order 45.
- > Mine operators should update their health and safety management systems to reflect the recognition of Order 43 medical assessments in accordance with the transitional arrangements.
- > Mine operators should communicate any updated health and safety management system requirements to the relevant stakeholders, including induction companies, contractors, and labour-hire organisations.
- > When onboarding a new coal mine worker with an expired health assessment review, employers must ensure the health assessment review is completed as part of the onboarding process. Under Order 45, a health assessment review is a conditional clearance for the review period detailed in the health assessment certificate. If the health assessment review is not completed within the timeframe, the health assessment certificate is considered to be expired.

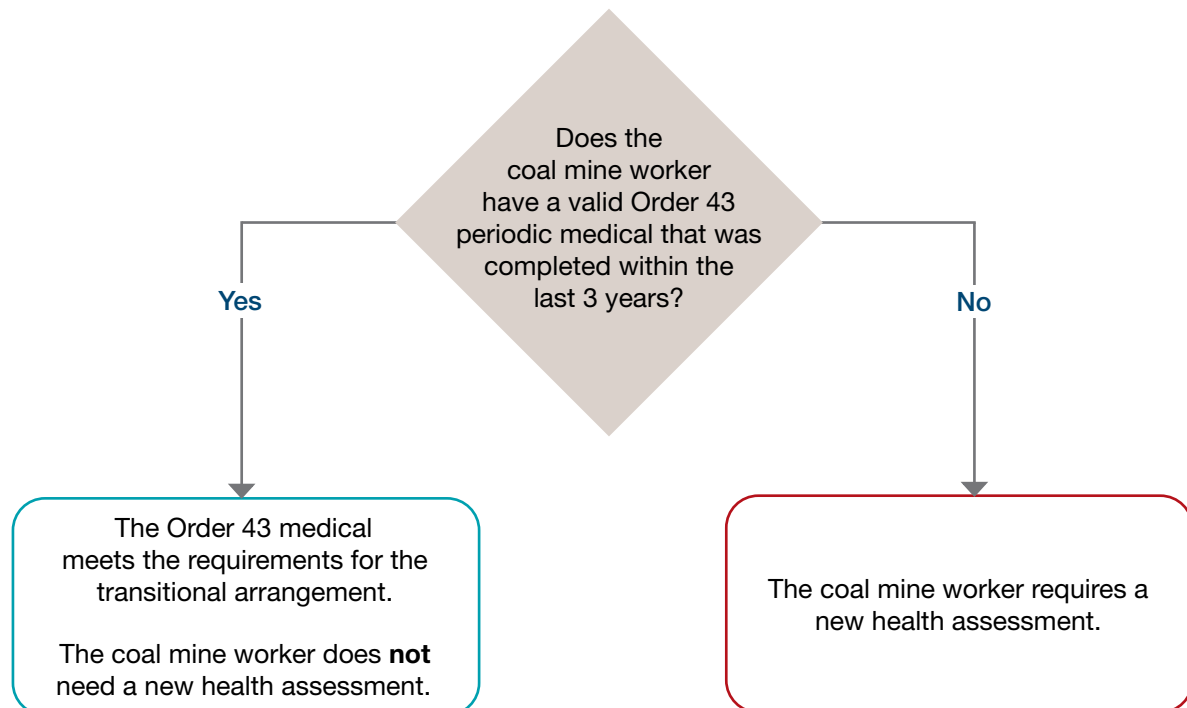
Risk of non-compliance with Order 45

Failure to recognise and apply the transitional arrangements correctly may result in being non-compliant with Order 45.

The [Coal Services website](#) has further information regarding Order 45, including Order 45: Change Readiness Guide for Employers. This document is designed to help guide employers in preparing for Order 45.

Transitional arrangements flowcharts

Flowchart 1: Recognition of an Order 43 periodic medical under Order 45



Explanatory notes to flowchart 1

The transitional arrangements apply only to coal mine workers who remain with their current employer following the implementation of Order 45. Coal mine workers who commence with a new employer will be required to complete a new health assessment (see flowchart 3 on page 7).

Does the coal mine worker have a valid Order 43 periodic medical that was completed within the last 3 years?

- > **If yes**, then the Order 43 medical is recognised as a valid health assessment under the Order 45 transitional arrangements. The coal mine worker does **not** need to complete a new health assessment.

Example: A coal mine worker completed an Order 43 periodic medical on **20 September 2023**. As the 2023 Order 43 periodic medical is within the 3-year window, it is considered valid under Order 45 and the employer can recognise this as a health assessment. The coal mine worker's next health assessment will be due to be completed before 31 December 2026 (being 3 years from the 2023 medical year, with health assessments able to be completed up until the end of that calendar year).

- > **If no**, then the coal mine worker **requires** a new health assessment.

Health assessment timeframes

Example 1: A coal mine worker completed an Order 43 periodic medical on **10 July 2023**.

- > Under Order 45, the health assessment remains valid until **31 December 2026**.
- > The coal mine worker's next health assessment must be completed by **31 December 2026** (being 3 years from 2023, with health assessments able to be completed up until the end of that calendar year). However, if the coal mine worker changes employers, they will require a new health assessment.

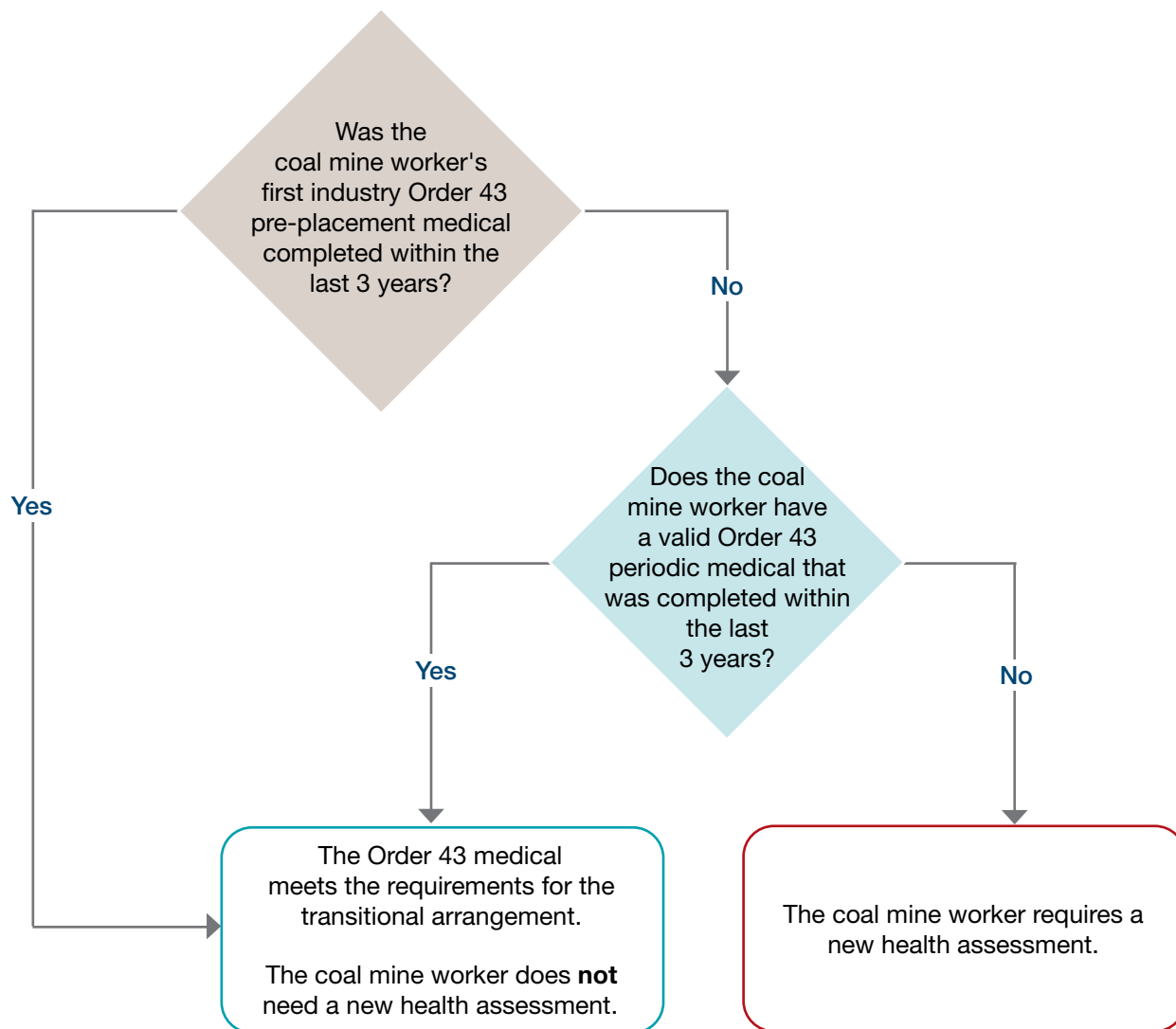
Example 2: A coal mine worker completed an Order 43 periodic medical on **5 March 2024**.

- > Under Order 45, the health assessment remains valid until **31 December 2027**.
- > The coal mine worker's next health assessment must be completed by **31 December 2027** (being 3 years from 2024, with health assessments able to be completed up until the end of that calendar year). However, if the coal mine worker changes employers, they will require a new health assessment.

Example 3: A coal mine worker completed an Order 43 periodic medical on **11 November 2025**.

- > Under Order 45, the health assessment remains valid until **31 December 2028**.
- > The coal mine worker's next health assessment must be completed by **31 December 2028** (being 3 years from 2025, with health assessments able to be completed up until the end of that calendar year). However, if the coal mine worker changes employers, they will require a new health assessment.

Flowchart 2: Recognition of the first Order 43 pre-placement medical under Order 45



Explanatory notes to flowchart 2

The transitional arrangements apply only to coal mine workers who remain with their current employer following the implementation of Order 45. Coal mine workers who commence with a new employer will be required to complete a new health assessment (see flowchart 3 on page 7).

Was the coal mine worker's first industry Order 43 pre-placement medical completed within the last 3 years?

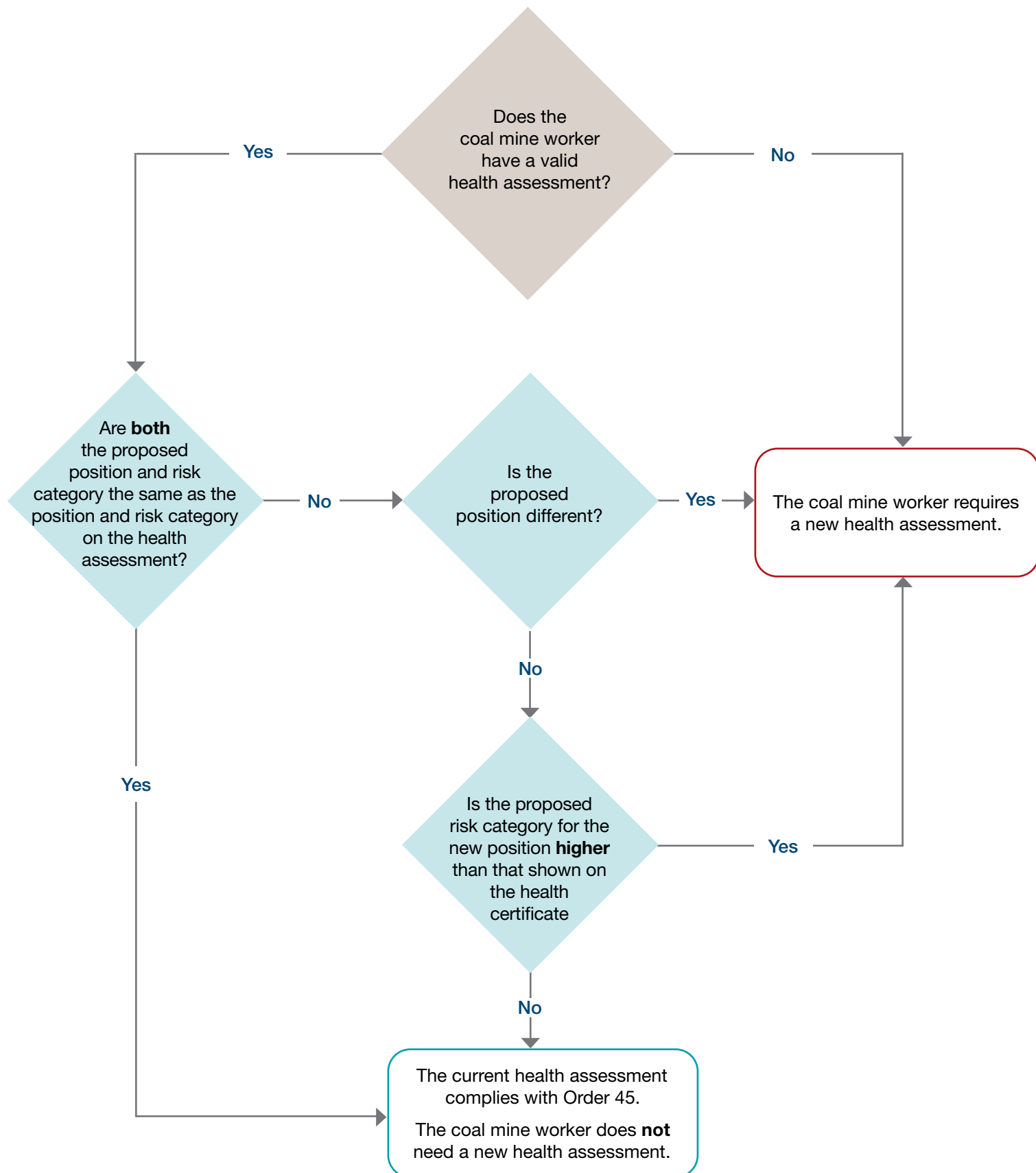
- > **If yes**, the coal mine worker's first pre-placement medical under Order 43 was within 3 years of the replacement Order's implementation, then it is recognised as a health assessment under Order 45. The date of the first Order 43 pre-placement medical will set the due date for the next health assessment.

- > **If no**, the coal mine worker does not have a valid pre-placement medical, does the coal mine worker have a valid Order 43 periodic medical that was completed within the last 3 years?
 - **If yes**, the coal mine worker **does have** a valid Order 43 periodic medical, then it is recognised as a valid health assessment under the Order 45 transitional arrangements. The coal mine worker does not need to complete a new health assessment.
 - **If no**, the coal mine worker **does not** have a valid Order 43 periodic medical, then the coal mine worker requires a new health assessment.

Example 1: A coal mine worker had their first industry pre-placement medical on **17 April 2023**.

- > Under Order 45, this pre-placement medical is recognised as a health assessment and will remain valid until **31 December 2026**.
- > The coal mine worker's next health assessment must be completed by **31 December 2026** (being 3 years from 2023, with health assessments able to be completed up until the end of that calendar year). However, if the coal mine worker changes employers after Order 45 is implemented, they will require a new health assessment.

Flowchart 3: Coal mine workers changing employers – Order 45 requirements (post-implementation)



Note: For clarity, the terms *position* and *role* are considered equivalent. While titles of positions or roles may differ, the inherent requirements (tasks, functions, accountabilities, and responsibilities) must be consistent.

Explanatory notes to flowchart 3

The transitional arrangements apply only to coal mine workers who remain with their current employer following the implementation of Order 45. Coal mine workers who commence with a new employer after the implementation of Order 45 will be required to complete a new health assessment.

Does the coal mine worker have a valid health assessment?

- > **If no**, the coal mine worker **does not** have a valid health assessment, then they will require a new health assessment.
- > **If yes**, the coal mine worker **does have** a valid health assessment, are **both** the proposed position and risk category the same as the position and risk category shown on the health assessment certificate?
 - **If yes**, the current health assessment is compliant with Order 45. The health assessment is portable should the coal mine worker change employers before their next health assessment due date (provided the proposed position and risk category remain the same for their new position).
 - **If no**, the coal mine worker does not have a valid health assessment, is the coal mine worker's proposed position different?
 - **If yes**, the proposed position is different, then the coal mine worker requires a new health assessment.
 - **If no**, the proposed position is not different, is the proposed risk category for the new position higher than that shown on the health assessment certificate?
 - If the proposed risk category is **higher** than that shown on the current health assessment certificate, the health assessment is not compliant with Order 45. The coal mine worker requires a new health assessment.
 - If the proposed risk category is **the same as or lower** than that shown on the current health assessment certificate, the health assessment is compliant with Order 45. The health assessment is portable should the coal mine worker change employers before their next health assessment due date.

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