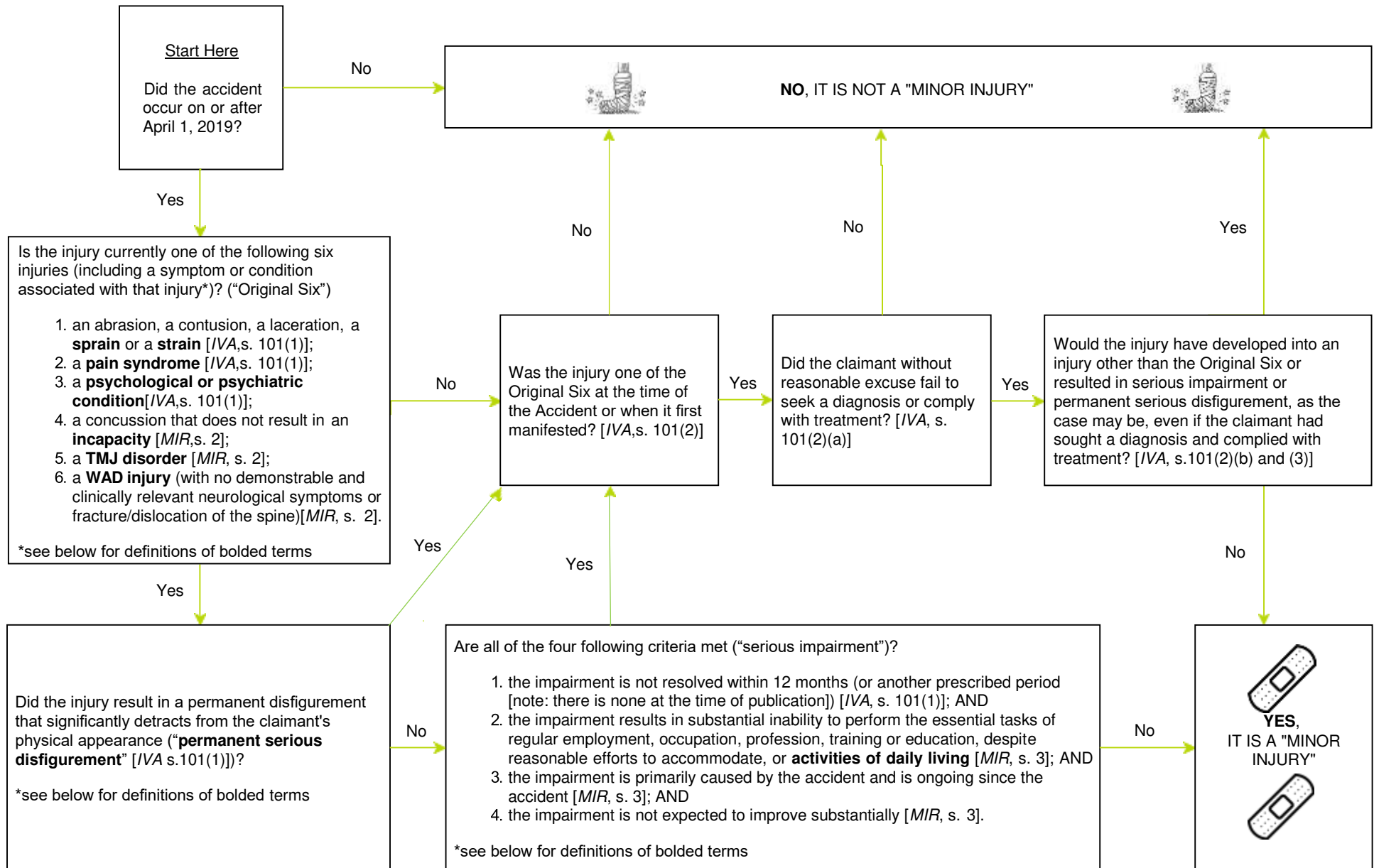


## IS IT A "MINOR INJURY?"



\*NOTE: s. 101(4) of the IVA reads "For the purposes of this Part, a minor injury includes a symptom or a condition associated with the injury whether or not the symptom or condition resolves within 12 months, or another prescribed period, if any, after the date of an accident." It remains to be seen how it will be determined whether a "symptom or condition" is its own, separate injury or whether it is associated with a minor injury.

## Injury Definitions

*A guide to specific injury definitions within the new “minor injury” regime*

**“Activities of Daily Living”** means the following activities:

- (a) preparing own meals;
- (b) managing personal finances;
- (c) shopping for personal needs;
- (d) using public or personal transportation;
- (e) performing housework to maintain a place of residence in acceptable sanitary condition;
- (f) performing personal hygiene and self-care;
- (g) managing personal medication.

**Concussion** is undefined, but is considered a minor injury if it does NOT cause **incapacity**.

**“Incapacity”** in relation to a claimant, means a mental or physical incapacity that

- (a) is not resolved within 16 weeks after the date the incapacity arises, and
- (b) is the primary cause of a substantial inability of the claimant to perform
  - (i) essential tasks of the claimant's regular employment, occupation or profession, despite reasonable efforts to accommodate the claimant's incapacity and the claimant's reasonable efforts to use the accommodation to allow the claimant to continue the claimant's employment, occupation or profession,
  - (ii) the essential tasks of the claimant's training or education in a program or course that the claimant was enrolled in or had been accepted for enrolment in at the time of the accident, despite reasonable efforts to accommodate the claimant's incapacity and the claimant's reasonable efforts to use the accommodation to allow the claimant to continue the claimant's training or education, or
  - (iii) the claimant's activities of daily living.

**"Minor Injury"** means a physical or mental injury, whether or not chronic, that

(a) subject to subsection (2), does not result in a **serious impairment** or a **permanent serious disfigurement** of the claimant, and

(b) is one of the following:

(i) an abrasion, a contusion, a laceration, a **sprain** or a **strain**;

(ii) a **pain syndrome**;

(iii) a **psychological or psychiatric condition**;

(iv) a concussion that does not result in an **incapacity**;

(v) a **TMJ disorder**; or

(vi) a **WAD injury** (with no demonstrable and clinically relevant neurological symptoms or fracture/dislocation of the spine).

**"Pain Syndrome"** means a syndrome, disorder or other clinical condition associated with pain, including pain that is not resolved within 3 months.

**"Permanent Serious Disfigurement"** in relation to a claimant, means a permanent disfigurement that, having regard to any prescribed criteria [note: there are none at the time of publication], significantly detracts from the claimant's physical appearance.

**"Psychological or Psychiatric Condition"** means a clinical condition that

(a) is of a psychological or psychiatric nature, and

(b) does not result in an **incapacity**.

**"Serious Impairment"** in relation to a claimant, means a physical or mental impairment that

(a) is not resolved within 12 months, or another prescribed period [note: there is none at the time of publication], if any, after the date of an accident, and

(b) the impairment results in a substantial inability of the claimant to perform

(i) the essential tasks of the claimant's regular employment, occupation or profession, despite reasonable efforts to accommodate the claimant's impairment and the claimant's reasonable efforts to use the accommodation to allow the claimant to continue the claimant's employment, occupation or profession,

(ii) the essential tasks of the claimant's training or education in a program or course that the claimant was enrolled in or had been accepted for enrolment in at the time of the accident, despite reasonable efforts to accommodate the claimant's impairment and the claimant's reasonable efforts to use the accommodation to allow the claimant to continue the claimant's training or education, or

(iii) the claimant's activities of daily living;

(c) the impairment is primarily caused by the accident and is ongoing since the accident; and

(d) the impairment is not expected to improve substantially

**“Sprain”** means an injury to one or more ligaments unless all the fibres of at least one of the injured ligaments are torn.

**“Strain”** means an injury to one or more muscles unless all the fibres of at least one of the injured muscles are torn.

**“TMJ Disorder”** means an injury that involves or surrounds the temporomandibular joint

**“WAD injury”** means a whiplash associated disorder other than one that exhibits one or both of the following:

- (a) decreased or absent deep tendon reflexes, deep tendon weakness or sensory deficits, or other demonstrable and clinically relevant neurological symptoms;
- (b) a fracture to or dislocation of the spine.

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