



Government's response to Professor Malcolm Harrington's Independent Review of the Work Capability Assessment

Presented to Parliament by the Secretary of State for Work and Pensions
by Command of Her Majesty
November 2010

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This publication can be accessed online at:
<http://www.dwp.gov.uk/wca-review/>

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Copies of this publication can be made in alternative formats if required.

This publication is also available on <http://www.official-documents.gov.uk/>

ISBN: 9780101797726

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID: 2399663 11/10

Printed on paper containing 75% recycled fibre content minimum.

Contents

Introduction by the Secretary of State for Work and Pensions	4
Ministerial Foreword	5
The Government's response	7
Purpose of the WCA	8
Progress to date	9
What we will do now	10
Capable and confident Decision Makers	10
A more compassionate process	10
Improving the Atos assessment	11
Examining the descriptors	11
Future reviews	12
Annex A: The full Government response to the Harrington review	13

Introduction by the Secretary of State for Work and Pensions

Work is good for people's health and well-being and is the best route out of poverty for most people. But all too often previous benefit regimes have consigned people to inactivity and written people off from the labour market despite evidence that many want to work.

The Work Capability Assessment (WCA) seeks to change this. It aims to identify accurately what people can do, rather than write people off due to their impairment. It is right that we should focus on what people can do, not what they cannot, and in doing so shift the culture of enforced State dependency to one of dignity and inclusion. The WCA is the right test for the future and we are determined to ensure it is fair for individuals and fair for the taxpayer.

That is why I am delighted to welcome the first Independent Review of the WCA, led by Professor Malcolm Harrington. Professor Harrington's Review sets out a series of substantial recommendations to improve the WCA, which the Government fully endorses.

Now we need to act on this report, to implement these improvements and make the system fairer and more effective. By doing so, we can improve the WCA and help more people take the first steps towards sustainable employment.



**The Rt Hon
Iain Duncan Smith MP**
Secretary of State for Work and Pensions

Ministerial Foreword

A central part of the Government's plans to reform the Welfare State involves the first action for decades to tackle incapacity benefit dependency in many of our communities. In total more than 2.2 million people in Britain today are on incapacity benefits. Many of them have been abandoned, with little or no contact from the welfare state for as long as a decade or more.

This represents a massive waste of the potential of a huge number of our fellow citizens. Under the last Government more than three million new jobs were created in the UK, but little or no effort was put into ensuring that those with the potential to return to work were given the help they needed to do so.

In the coalition agreement, the Government confirmed its plans to change this, and to try to find a better way forward for those people. From April 2011 we will put 1.6 million people, all of those on incapacity benefits who are not close to retirement, through an independent medical assessment. Those found fit for work or with the potential to return to work will be given specialist support to help them do so, through Jobcentre Plus and through our new Work Programme. Those who are deemed unable to work will continue to receive full support.

However we are clear about the need to make the process of assessment fair and honest about peoples' potential. We do not wish to see people who are genuinely unable to work put in a position where they are expected to do so.

The migration off incapacity benefits will be carried out using the Work Capability Assessment (WCA), which was developed for new claimants by the previous administration. We believe that the principles of the assessment are right, but that the system which we inherited contained some flaws that risked undermining its effectiveness. We have moved swiftly to put those right.

In the Summer we announced a number of changes to the assessment, which will be put in place in March 2011, in particular we will change the rules for people undergoing chemotherapy. We also launched a more in depth study into the assessment process, carried out by one of Britain's leading occupational health specialists, Professor Malcolm Harrington.

As a result of his recommendations, we now intend to move forward with reforms to the WCA which we believe will significantly improve the process and make it fit for purpose for the nationwide migration next year.

We fully endorse Professor Harrington's recommendations, which include:

- Empowering Jobcentre Plus Decision Makers to make the right decision;
- Making the process more compassionate and easier to understand;
- Improving transparency of the Atos assessment by piloting the audio recording of Atos assessments; and
- Accounting for the particular difficulties in assessing mental health conditions by ensuring Atos employ "mental health champions".

We intend to implement these changes as quickly as possible. Many of them will be put in place in time for the first assessments from the national migration in April 2011. We will continue to review the working of the WCA and to make changes where necessary. We have invited Professor Harrington to continue in his current role as Independent Reviewer for another year and to make further recommendations to us as appropriate.

A handwritten signature in black ink, appearing to read 'Chris Grayling', written in a cursive style.

**The Rt Hon
Chris Grayling MP**
Minister for Employment

The Government's response

1. The first Independent Review of the Work Capability Assessment (WCA) – the Harrington Review – was launched by the Secretary of State for Work and Pensions in June 2010. Professor Malcolm Harrington led the review, and he was given a remit to report on the fairness and effectiveness of the WCA, providing his report to the Secretary of State before the end of 2010. His review was overseen by a Scrutiny Group with representation from the medical and occupational health professions, disability groups and employers.
2. The Harrington Review is a vital contribution to the continuing development of the WCA. By independently considering a range of evidence from a number of sources, the review goes a substantial way to addressing the issues surrounding the WCA. In doing so, it offers an opportunity to enter into a constructive dialogue about the role, positioning and operation of the WCA.
3. Professor Harrington has made a wide range of recommendations to improve the WCA. The Government fully supports these recommendations and over the coming months will look to implement them so that the system can become fairer and more effective.
4. Central to Professor Harrington's recommendations is the role of the Decision Maker. The Government agrees that it is essential that the Decision Maker is at the heart of the process. We want to ensure that decisions are right first time, reducing stress for the individual and reducing costs for the Government. That is why we have already started to improve the decision making process. We will now go further, incorporating the review's recommendations into a wider body of work to improve the decision making process and the confidence of Decision Makers.
5. Professor Harrington makes a strong case that a fairer process often means fairer outcomes for the recipient. We agree with this and believe the system must aim to assist individuals and operate with a sense of empathy. Claiming a benefit as a result of a health condition or disability will be a difficult time for many people, so we want to make certain that the process operates in a more compassionate way. To do this we will ensure there is greater and clearer communication with people so they understand the process and their responsibilities.
6. Professor Harrington also makes a series of recommendations to improve the Atos assessment. We support these recommendations and we will ensure that Atos implements them. In particular, Atos will provide "champions" with additional expertise in mental, cognitive and intellectual conditions to improve the service to individuals and to provide opportunities for staff to further develop their skills. We also endorse the recommendation to pilot the audio recording of Atos assessments. There will be challenges in recording assessments, but it is a measure that has the potential to provide individuals with reassurance about the fairness of the assessment.

Purpose of the WCA

1. The Harrington Review does not take the view that the system is fundamentally broken, but sets out a substantial series of recommendations to improve the process, which the Government fully supports.
2. The WCA is a relatively new assessment, brought in as part of Employment and Support Allowance (ESA) in October 2008. It represents a significant change from previous assessments for ill-health benefits. As a new assessment, the Government is committed to ensuring that the WCA is working as well as it can, based on the evidence available. This review represents a positive first step.
3. The Harrington Review reaffirms the evidence behind the WCA, about the positive relationship between work and health. Work is good for most people, for their physical, mental and financial well being. Being excluded from work too often leads to further and continuing ill-health, as well as social exclusion for individuals and their families; intergenerational effects on a child's educational and employment attainment; and a decreasing likelihood of getting back to work.
4. In the past, too many people were abandoned on incapacity benefits and written off from the labour market. This represented not only a severe drain on the country's resources but a colossal waste of individual talent and a failure to support a group of people who need the most help. This failure was compounded by the fact that previous assessments for ill-health related benefits did not effectively identify those individuals who could work, focusing instead on what people couldn't do rather than what they could.
5. ESA and the WCA are intended to change this. They focus on what an individual can do, rather than what they cannot. They recognise that where there are people who can work, it is crucial that they should not be identified as unable to do so on the basis of their condition. Those who can work are identified at an early stage and provided with support to help them move towards work. However, the assessment also recognises there is a group of severely disabled people for whom a return to work is significantly less likely, and they need to be provided with unconditional support.
6. The Government recognises, as with any new benefits system, problems can occur that could not have been anticipated in the design and planning stages. A large number of individuals claim ESA and around 30,000 people go through the WCA process each month. With such a large number of claims, even if the assessment was successful in 99 out of a hundred cases, there would still be several hundred cases where people are dissatisfied with the system and the outcome. The Government is clear that the assessment must be as transparent as possible to ensure that individuals can understand why they received a particular decision, even if they were unhappy with the outcome of that decision. The Harrington Review will help us to do this, making the system fairer and more effective.

Progress to date

1. The Government has already taken steps to implement some of the recommendations outlined in the Harrington Review. In particular, work has focused on improving the decision making process and strengthening the role of Decision Makers. We are also ensuring extra help will be available for individuals who are currently claiming incapacity benefits and will be reassessed by the WCA from April 2011.
2. Since January 2010, and in response to the rising number of individuals appealing their WCA decision, Jobcentre Plus have been trialling new approaches to improve the process. These trials have taken place at the Wrexham and Preston Benefit Delivery Centres. The Harrington Review has recognised the important evidence gathered by these pilots in its report.
3. The first of these pilots phoned individuals who were found fit for work, just before they were sent their decision letter. Around 150 people were contacted and the decision and options available explained to them. The result was a decrease in the number of people appealing their decision and a decrease in the amount of time taken in cases where an individual elected to claim Jobseeker's Allowance.
4. The second pilot phoned individuals who had decided to appeal to discuss their reasons for appealing and to allow for a fuller reconsideration of the decision if required. Around 60 people were contacted and in just over 10 per cent of cases the original decision was changed or the individual withdrew their appeal.
5. As a result of such positive outcomes, the pilots are being rolled out across the country. The approach has also improved the confidence and effectiveness of Decision Makers themselves. By getting Decision Makers to speak to recipients, they can better understand whether the original decision was correct and whether they had access to all the available evidence. In some cases, individuals have been pleased to be told they are fit to return to work, and in other cases, Decision Makers have helped people to better understand the support that is available to them after being found fit for work.
6. To build on this progress, pilots are also underway to improve communication between Decision Makers and Atos healthcare professionals and between Decision Makers and tribunal Judges.

What we will do now

1. The Government fully supports the recommendations of the Harrington Review, and we will take these forward at the earliest opportunity. In particular, we recognise the central role of the Decision Maker, the importance of having a compassionate process and in improving the Atos assessment. We set out below how we will take forward the key recommendations of the Harrington Review, while Annex A details our response to the full list of recommendations.

Capable and confident Decision Makers

2. Good progress has been made in improving the decision making process and increasing the confidence of Decision Makers. But we recognise that more must be done if we are to put the Decision Maker back at the heart of the system, to take on the central role advocated by the Harrington Review.
3. To improve the capability and confidence of Decision Makers, we are reviewing their training to ensure it is appropriate. We have also launched a forum to spread best practice and empower Decision Makers called “Every decision counts”.
4. To improve the reconsideration process, we have rolled out and will continue to monitor the effectiveness of the Wrexham and Preston pilots.
5. We are testing ways of improving communication between Decision Makers and Atos, and Judges. Through surgeries and ad hoc events, we will spread best practice, a better understanding of the decision making role and ensure more decisions are right first time.

A more compassionate process

6. Claiming a benefit as a result of a health condition or disability is a difficult time for many people, so we will ensure the administration of that process is compassionate in its treatment of individuals. We will take forward the recommendations outlined by the Harrington Review to increase the empathy in the system.
7. To do this we will ensure there is greater communication with individuals undergoing reassessment from incapacity benefits so they understand the process and their responsibilities. Every individual going through reassessment will get a call at the beginning of the process, at the end of the process and a further call if they appeal. The purpose of these calls will be to explain: the WCA; an individual’s responsibilities; the support that is available after the WCA; and to allay fears about the process.
8. For those claiming ESA, we have already rolled out calls at the end of the process and for individuals who appeal. We will also use the experience of the incapacity benefits reassessment trial to look at enhancing information at the beginning of the process for this group.

Improving the Atos assessment

9. Professor Harrington also makes a series of recommendations to improve the Atos assessment. We support these recommendations and we will ensure that Atos implement them.
10. We will ensure Atos has in place “champions” with additional expertise in mental, cognitive and intellectual conditions to improve the service to individuals and to provide opportunities for staff to further develop their skills. This will be in place by Spring 2011.
11. We will ensure that Atos pilot the audio recording of assessments to understand the benefits and practical challenges this could bring.
12. We will also ensure that Atos create and publicise a Customer Charter, so that people are clear what can be expected from their Atos assessment and what their responsibilities are.

Examining the descriptors

13. Professor Harrington has already launched a group to look in detail at the mental, intellectual and cognitive descriptors. This group, comprised of Mind, Mencap and the National Autistic Society will make recommendations to Professor Harrington about any refinements to the descriptors. He will then assess these and make recommendations to Ministers.

Future reviews

14. The Government intends to reappoint Professor Harrington as independent reviewer of the WCA for a further year. This is in recognition of the excellent report that he has produced and the strong and productive relationships he has built with government, healthcare bodies, disability organisations and representative groups.
15. The Government will also give Professor Harrington a wider remit than he has had for the first review. This will enable him to consider any specific issues or concerns with the WCA that arise during this period on which Government may seek his independent view.
16. Professor Harrington will start work immediately, taking forward a programme of work he has outlined in his first review. This includes looking in detail at the descriptors and whether they could be refined to better account for mental, cognitive and intellectual conditions as well as other fluctuating conditions.
17. Professor Harrington will also monitor the Government's implementation of his year one recommendations and highlight any recommendations where the Government falls short so that this can be corrected.
18. This is the first of five Independent Reviews into the WCA. It has taken the Government's thinking forward significantly and set out a substantial series of recommendations that we will adopt in full. In implementing these recommendations we want to improve the WCA to ensure that it is fairer and more effective.

Annex A: The full Government response to the Harrington review

The Government endorses the recommendations made by the Harrington Review. The response to each individual recommendation is detailed below.

Customer experience	Government response
<p>1 The review recommends that Jobcentre Plus manages and supports the claimant during the course of their benefit claim and identifies their chosen healthcare adviser.</p>	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> The Department recognises the importance of providing support for people throughout their claim process. The IB reassessment journey will specifically address this with additional contacts at the start of the process and at the point of decision. Calls to ESA recipients to explain decisions and as part of enhanced reconsideration measures are also being introduced.</p> <p><u>Timing:</u> Support for individuals going through IB Reassessment has commenced in the trial areas and will also be included for national reassessment from early 2011. ESA measures will be adopted across the country by the end of 2010. Further support for ESA recipients at the start of the process will be considered in the light of IB reassessment experience.</p> <p><u>Other relevant information:</u> In terms of identifying an individual's "chosen healthcare adviser", this is about signposting people to areas for help and support, e.g., with completion of the ESA50 questionnaire and emphasising the need to supply additional evidence. Again, Government fully endorses this.</p>
<p>2 The review recommends that the initial questionnaire (the ESA50) includes a more personalised justification so the claimant can express the issues that they face in a short paragraph.</p>	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> The ESA50 is an important tool in capturing information about how the functional effects of an individual's condition affects them, and we are keen to ensure that it gives them ample opportunity to explain this. Therefore we will add a section for a personal justification to the form.</p> <p><u>Timing:</u> The revised ESA50 will be in place by Spring 2011 in time for the National rollout of IB reassessment.</p> <p><u>Other relevant information:</u> We are currently revising the ESA50 form to make it more user-friendly and to ensure individuals can explain in their own words how their capability for work is limited.</p>

3	In the longer term, the review recommends that the Government reviews the ESA50 to ensure it is the most effective tool for capturing relevant information about the claimant.	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> We believe that it is essential to give people the opportunity to provide their own written evidence about how their condition affects them and their ability to work. We will continue to keep the ESA50 questionnaire under review to ensure that it captures the most relevant information to support Decision Makers in making accurate decisions.</p> <p><u>Timing:</u> Ongoing</p> <p><u>Other relevant information:</u> See response to Recommendation 2 about other changes to the ESA50.</p>
4	The review recommends that written communications to the claimant are comprehensively reviewed so that they are clearer, less threatening, contain less jargon and fully explain the process.	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> We are committed to improving our written communications. Many improvements have already been made to letters and notifications for ESA and IB recipients. In looking to transform written communications we have sought advice from the Simplification Unit at Reading University who are recognised experts in this field. We have also engaged with a number of Customer Representative Groups on a number of letters and forms.</p> <p><u>Timing:</u> Revised notifications for IB recipients are being tested in the reassessment trials that commenced on October, prior to introduction nationally from early 2011. Improved decision notification letters for ESA recipients will be available from May 2011.</p>
Atos assessment		
5	The review recommends that every Atos assessment contains a personalised summary of the assessment in plain English.	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> We agree that it is crucial that all ESA reports clearly convey the basis of the healthcare professional's opinion on capability for work. All Atos healthcare professionals will receive updated training to provide a robust justification in ESA reports in the year 2010 - 2011. We will also explore the feasibility of providing a personalised summary as part of the ESA report before the end of 2011.</p> <p><u>Timing:</u> Updated training in 2010 – 2011.</p>

6	The review recommends that every claimant is sent a copy of the Atos personalised summary and is able to discuss any inaccuracies with a Decision Maker.	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> It is essential that the basis of decisions is available and properly explained.</p> <p><u>Timing:</u> To coincide with the inclusion of the personalised statement in the Atos assessment above (see recommendation 5).</p>
7	The review recommends that Atos provide mental, intellectual and cognitive champions in each medical assessment centre. These champions should spread best practice amongst healthcare practitioners in mental, intellectual and cognitive disabilities.	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> We recognise that assessing individuals with mental, intellectual and cognitive impairment can be challenging. Therefore DWP and Atos will establish healthcare professionals with enhanced skills as champions who will serve as a resource for all healthcare professionals.</p> <p><u>Timing:</u> By the end of the first quarter of 2011.</p> <p><u>Other relevant information:</u> As part of its continuing professional development programme in the year 2010 – 2011, Atos Healthcare has produced an additional training module on mental health conditions.</p>
8	The review recommends that Atos pilot the audio recording of assessments to determine whether such an approach is helpful for claimants and improves the quality of assessments.	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> Atos Healthcare has provision for the recording of medical assessments and we will shortly launch a pilot initiative to establish the feasibility and cost effectiveness of recording of all face-to-face assessments.</p> <p><u>Timing:</u> The pilot will commence during the first quarter of 2011.</p>
9	The review recommends that Atos should develop and publish a clear charter of claimant rights and responsibilities, and should consider publishing the HCP guidance online for claimants and advisers.	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> The Department is committed to improving the WCA; part of that commitment includes clearer communication to individuals. We will therefore ensure that more information is made available; this will include the development and implementation of a comprehensive Customer Charter from Atos Healthcare.</p> <p><u>Timing:</u> During the first quarter of 2011.</p>

The decision making process		
10	The review recommends that Jobcentre Plus Decision Makers are put back at the heart of the system and empowered to make an independent and considered decision.	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> The Department is committed to empowering and supporting Decision Makers to enable them to make the best possible considered decisions.</p> <p><u>Timing :</u> A new communication forum "Every Decision Counts" is already in place providing Decision Makers with an opportunity to share issues and good practice. A Quality Assessment Framework will be developed to improve the consistency of decisions and Learning and Development will also be reviewed. These additional support tools will be introduced in 2011.</p>
11	The review recommends a better use of the reconsideration process.	<p><u>Response :</u> Accept</p> <p><u>Rationale:</u> An effective reconsideration stage is an important element of the decision making process. Considerable progress has been made in strengthening the process with the piloting of new measures at Wrexham and we will expand this experience nationwide.</p> <p><u>Timing:</u> Changes for ESA recipients have already been rolled out across the country. These will be extended to IB recipients as part of the reassessment process from early 2011.</p>
12	Decision Makers are able to seek appropriate chosen healthcare professional advice to provide a view on the accuracy of report if required	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> Decision Makers should seek appropriate advice and/or additional evidence in coming to their determination if they require. Different approaches, e.g., with Atos healthcare professionals providing advice and support in interpreting evidence on site through case consultations or "surgeries" and or workshops/training events, are currently being trialled.</p> <p><u>Timing:</u> Agreed measures will be adopted nationally during 2011.</p>
13	Better communication between Decision Makers and Atos healthcare professionals to deal with borderline cases	<p><u>Response:</u> Accept</p> <p><u>Rationale:</u> Decision Makers already contact Atos healthcare professionals to discuss individual case issues in some instances. As with recommendation 12 above we will ensure this happens more often.</p> <p><u>Timing:</u> Agreed measures will be adopted nationally during 2011.</p>
14	Decision Makers receive training so that they can give appropriate weight to additional evidence	<p><u>Response:</u> Accept</p> <p>See recommendation 10 above.</p>

The appeals process		
15	The review recommends that tribunal decisions are better monitored, including monitoring of the relative or comparative performance of tribunals.	<u>Response:</u> We will consider this recommendation, which is the remit of the First-tier Tribunal.
16	The review recommends that training offered by the Chamber President to Tribunal Judges and medical Members should include modules on the evidence of the beneficial effects of work to an individual's well-being.	<u>Response:</u> We will consider this recommendation, which is the remit of the First-tier Tribunal.
17	The review recommends that feedback from the First-tier Tribunal should be routinely shared with Jobcentre Plus staff and Atos healthcare professionals. As part of their professional development, Jobcentre Plus Decision Makers should be encouraged to attend tribunals.	<p><u>Response:</u> We will consider this recommendation, which is largely the remit of the First-tier Tribunal</p> <p><u>Rationale:</u> Improving the feedback between Jobcentre Plus, the First-tier Tribunal and Atos has already commenced. Consistency of decision making will be further improved through joint Regional Liaison Forums which are being established. Learning from a recent exercise whereby a joint team of Atos healthcare professionals, Decision Makers and Tribunals Service personnel reviewed cases awaiting Tribunal Hearing will also be cascaded and embedded nationally.</p>

Descriptors and programme of work for year two

18	The review has asked Mind, Mencap and the National Autistic Society to provide recommendations on refining the mental, intellectual and cognitive descriptors. The review looks forward to receiving these recommendations in late November and will make any recommendations it sees fit to Ministers.	<u>Response:</u> We await a further report from Professor Harrington during late December or early January.
19	In year two the review should examine the descriptors, in particular how they account for other fluctuating conditions and, possibly, generalised pain and provide any recommendations necessary.	<u>Response:</u> We accept this recommendation <u>Timing:</u> Work will start immediately as part of the second independent review.
20	In year two the review should examine what happens to people who are found Fit for Work, people who are placed in the Work Related Activity Group, in the Support Group and people who do not complete their WCA.	<u>Response:</u> We accept this recommendation <u>Timing:</u> Work will start immediately as part of the second independent review.
21	In year two the review should examine what happens to individuals who are found Fit for Work but are unable to claim Jobseeker's Allowance.	<u>Response:</u> We accept this recommendation <u>Timing:</u> Work will start immediately as part of the second independent review.

22	In year two the review recommends that research is undertaken to understand whether the assessment could and should incorporate more “real world” or work-focused elements.	<p><u>Response:</u> We accept this recommendation</p> <p><u>Timing:</u> Work will start immediately as part of the second independent review.</p>
23	In year two the review should examine the Atos computer system (LiMA) and how it can drive the right behaviours	<p><u>Response:</u> We accept this recommendation</p> <p><u>Timing:</u> Work will start immediately as part of the second independent review.</p>
24	In year two, the review should explore the use of other healthcare professionals in the Atos assessments and to check consistency of assessments by different professions.	<p><u>Response:</u> We accept this recommendation</p> <p><u>Timing:</u> Work will start immediately as part of the second independent review.</p>
25	In year two the review should also monitor the implementation of those recommendations in the year one report which have been adopted by Ministers.	<p><u>Response:</u> We accept this recommendation</p> <p><u>Timing:</u> Work will start immediately as part of the second independent review.</p>



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ISBN 978-0-10-179772-6



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