

Section WCL 137(7)

The claimant shall receive notice by mail of the scheduled independent medical examination at least seven business days prior to such examination. Such notice shall advise the claimant if the practitioner intends to record or video tape the examination, and shall advise the claimant of their right to video tape or otherwise record the examination. Claimants shall be advised of their right to be accompanied during the exam by an individual or individuals of their choosing.

NYCRR Section 300.2(d)(1)

(1) Notice. The claimant shall receive notice [posted by United States mail] of the scheduled independent medical examination at least [7] seven business days prior to the date of such examination. The notice shall be printed on [Workers' Compensation Board form IME-5 or such other] the form prescribed by the [c]Chair for such purpose, [and] which shall include all information required thereon, as set forth under Workers' Compensation Law [s]Section 137. A copy of such notice shall be sent to the Board on the same day it is sent to the claimant. Where the claimant asserts that notice of the examination was not received at least [7] seven business days prior to the date of the examination and upon request by the [b]Board, the party scheduling such examination shall provide proof in the form of an affidavit, or a business record that meets requirements for admissibility under Civil Practice Law and Rules Rule 4518 [of the Civil Practice Law and Rules] that the notice was posted by United States mail at least [12] twelve business days prior to the date of the examination or deposited into the custody of an overnight delivery service for overnight delivery, prior to the latest time designated by the overnight delivery service for overnight delivery at least [8] eight business days prior to the date of the examination. In the event that an independent medical examination is required for the purpose of determining authorization for special services for specialist consultations, [surgical operations] surgery, [physiotherapeutic or occupational therapy procedures]physical or occupational therapy, [x-ray examinations or special diagnostic laboratory tests]imaging studies or special diagnostic or laboratory tests in accordance with Workers' Compensation Law [s]Section 13-a (5)[of the Workers' Compensation Law], and a delay in authorization for such special services would result in a worsening of the claimant's condition or irreparable harm, and the examination can be scheduled less than [12] twelve business days from the date of the request for the examination, the claimant may, by written consent waive the requirement of [7] seven business days' notice of the examination. However, in case of such a waiver by the claimant of [7] seven business days' notice of the examination, for purposes of scheduling an examination for authorization of such special services, a notice of the examination must be sent to the claimant as soon as possible after the scheduling of the examination in the same manner as otherwise required for notices of

Handout #1: Request Date to IME Schedule Date WCL Citation

examinations under Workers' Compensation Law [s]Section 137 [of the Workers' Compensation Law] and this Part. In no event may the right to such notice be waived pursuant to an employment agreement or a collective bargaining agreement. If a claimant requests that an examination be rescheduled, and the examination is rescheduled less than [7] seven business days after the request, the notice required under [s]Section 137 need not be received [7] seven business days prior to the examination, but must be sent to the claimant as soon as possible in the same manner as required for the original notice under said section and this section. A copy of such notice shall be sent to the Board on the same day it is sent to the claimant. Upon request by the Board,