



Workers' Compensation Board

August 7, 2019

IME Committee

Process Discussion

IME Advisory Committee

Schedule

- IME Provider Access – *Thursday, March 14*
- Scheduling & Timing – *Tuesday, April 9*
- Injured Worker Experience – *Wednesday, May 8*
- Cost of IMEs and IME Entity Panel – *Thursday, June 13*
- Quality of Reports and Technical Issues – *Tuesday, July 9*
- Process and IME Member Questionnaire – *Wednesday, August 7*
- Fraud & Abuse / Review Questionnaire Responses / Initial Draft Report ← *Tuesday, September 10*
- Discuss Revised Draft Report – *Thursday, October 10*
- Draft Report – *Wednesday, November 13*
- Final Report – *Thursday, December 12*

Agenda & Topics for Process

Agenda Topic	Time Allocation
IME Process	60 minutes
Records Review vs In-Person Exam	
Regulation & Monitoring	
<ul style="list-style-type: none">• IME provider	
<ul style="list-style-type: none">• IME entities	
“Same Day/Same Manner”	
IME Provider Assignment: State physicians vs IME panels, statewide networks or other arrangements	
Appropriate use of claimant questionnaires	
Review proposed regulation change	
Break	15 minutes
Review Advisory Committee Questionnaire	45 minutes
Wrap-up and Overview of September meeting	15 minutes
Executive Session	45 minutes

Process Summary

Study Findings

- Approximately 94% of IMEs are in-person
- Providers apply for authorization to treat injured workers and/or perform IMEs either through the appropriate county medical society or directly to the Board's Medical Director's Office
- If authorized IME provider not available (less than 1% of the time), IME may be performed by a nonauthorized medical provider (e.g., out-of-state provider)
- IME entities are required to re-register every 3 years (IME-7)
- An IME provider can sometimes be booked for the same time slot on the same day

Regulation & Monitoring

■ IME Guidance

- 12 NYCRR 300.2 (IME Regulation)
 - Including the right to request information or documentation necessary from any IME entity for the purpose of administering and ensuring compliance
- Subject No. 046-666 (Amendment of IME Regulations (12 NYCRR §300.2))
- Subject No. 046-324 (Update on Communications With Independent Medical Examiners Under Workers' Compensation Law Sections 13-a [6] and 13-n [3])

IME Provider Application

- Today:
 - Health Care Provider's Application for Authorization (IME-1)
 - To conduct independent medical examinations (IME's) of persons suffering work-related injury or illness under the WCL, VFBL and VAWBL.
- Future:
 - The Board is currently developing an online electronic application process

IME Entities

- Application for Registration:
 - Statement of Registration (Sec. 13n -WCL) – IME-7
- There are 73 registered IME entities
 - 17 of which are registered, but have advised the Board that they do not perform IMEs for Workers' Compensation Claims

Prescribed IME Forms

Form Number	Form Title	Purpose
IME-3	Independent Examiner's Report of Request for Information/Response to Request Regarding Independent Medical Examination	Convey evaluation request to the IME provider and/or to document any other substantive communication that takes place outside of the examination. Must be submitted by IME provider.
IME-4	Independent Examiner's Report of Independent Medical Examination	Document the IME provider's findings on issues such as causal relationship, degree of disability and permanency. (Note: report shall be filed with the Board and provided to all parties on the same day in the same manner.)
IME-4.3A	Attachment for Report of Independent Medical Examination Scheduled Loss of Use	Detail the degree of permanent disability. This form is filed as an attachment to the IME-4, for Schedule Loss of Use.
IME-4.3B	Attachment for Report of Independent Medical Examination Non-Scheduled Permanent Partial Disability	Detail the level of disability. This form is filed as an attachment to the IME-4, for Non-Schedule Loss of Use.
IME-5	Claimant's Notice of Independent Medical Examination	Notify the claimant of the date, time, location of the examination and the IME provider's name. (Note: claimant must receive notice by mail at least seven business days prior to the scheduled examination.)

In-Person IME vs Record Reviews

Process	In-Person IME Exam	IME Record Review	Comparison
Requestor	Carrier or Injured Worker	Carrier or Injured Worker	SAME
Provider Selection	IME entity	IME entity	SAME
Medical Exam/Records Review	IME provider	IME provider	SAME
Scheduling/Ordering of exam or review	IME entity	IME entity	SAME
Translation and/or Transportation services	IME entity	N/A	DIFFERENT
Notification to all parties (IME-5)	IME entity	N/A	DIFFERENT
Notification to all parties deadline (IME-5)	7 business days before IME Exam	N/A	DIFFERENT
Request for Information (IME-3)	IME entity	IME entity	SAME
Submits evaluation report to all Parties of Interest (IME-4)	IME provider	IME provider	SAME
Report deadline (IME-4)	“Same day, Same Manner”	“Same day, Same Manner”	SAME

For Discussion

- Records Review vs In-Person Exams
- Regulation & Monitoring
 - IME providers
 - IME entities
 - Accreditation & Reporting
 - Penalties
- “Same Day/Same Manner”
- Provider Selection
 - State physician vs IME panels
 - Statewide networks
 - Other arrangements

Records Review vs In-Person Exam

- Evidentiary value
- Circumstances
 - When are they used?
 - When should they be used?
- Regulatory framework

Regulation & Monitoring – IME Providers

- Maximum number of IMEs allowed per day
- Required to also treat?
- Monitoring compliance

Regulation & Monitoring – IME entities

- Accreditation
 - Utilization Review Accreditation Commission (URAC)
- Annual reporting of IME entity activity to the Board
- Potential usage of penalties

“Same Day/Same Manner”

- Consensus?

- Proposal

- Hard copy to injured worker
- Portal upload to WCB
- Electronic to other parties
- Other Provider Notice
 - How far back do we go?
 - Only parties of interest?

IME Provider Assignment

“The report shall consider, among other items, the feasibility of new methods of assigning independent medical examinations, such as through rotating providers or panels, statewide networks, or other arrangements.”

IME Provider Assignment

■ Prior to 2000

- No specific rules for IMEs
- Carriers permitted to obtain an IME
- Until 1996, Board employed physicians who examined injured workers when directed by WCLJ
- Process was amended in 2000 via the enactment of WCL §137

IME Provider Assignment

- Issues with Board employed physicians (until 1996)
 - Specialty of Board physicians were limited
 - Specialties did not always align with exam needs
 - Exam locations were not conducive to appropriate IME exams
 - Time allowance for IME exams was limited
 - State doctors were often retired and no longer treating
 - Compensation less than that of a practicing physician
- Discussion

IME Provider Assignment

- Rotating Panels vs Rotating Providers
 - WCB administered
 - Network administered
- What are other WC jurisdictions doing?
 - State-by-State Comparison (Handout)

IME Provider Assignment

- Other arrangements?

Discussion

- Other topics
 - Appropriate use of Claimant Questionnaires
 - Review proposed regulation change
 - Waive timing requirements

Consensus on topic?

15-minute break

Review Recommendations Questionnaire

■ 2019 Report

- Today - review draft questionnaire
- August session - gather feedback about the questionnaire and edit
- After August session - send out a finalized questionnaire to complete and return to the Board by September 3rd
- September session - review and discuss responses; review initial draft of the report
- October session – review revised draft report, including responses
- November – finalize report
- December – submit report

Topics for Fraud & Abuse

- Role of the Fraud Inspector General
 - Potential crimes
 - Altering IME reports
 - Falsifying applications for registration
 - Willfully disclosing claimant information

Next Meeting

- Tuesday, September, 10th
- 12pm-3pm
- Send questions/comments to IMEAdvisory@wcb.ny.gov if you will not be present for this meeting