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DWD


IMEs and Denying Claims

GAIL WICKMAN
Dispute Resolution Specialist
DWD Division of Worker's Compensation

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IME and MRR

- Independent Medical Exam (IME) – A non-treating medical provider of the insurance company's choice examines and evaluates the injured worker to report on a number of issues in the claim and to answer specific questions from the insurance company.
- Medical Records Review (MRR) – A non-treating medical provider of the insurance company's choice reviews the injured worker's medical records and reports an opinion.




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Who Is Qualified to Treat an Injured Worker?

According to Section 102.13

- Physicians
- Chiropractors
- Psychologists
- Dentists*
- Physician assistants*
- Advanced nurse prescribers*
- Podiatrists




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Common Misconception

An IME or MRR showing end of healing or maximum medical improvement will automatically **close** the claim.

FALSE



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Definitions

- A **treating** provider must opine end of healing and address Permanent Partial Disability (PPD) to close a claim.
- An IME doctor cannot, by definition, be a treating provider.
- Therefore, the IME doctor cannot close a claim.



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Can an IME Close a Claim?

If may appear so. . .

If the IME doctor opines that no work injury occurred **or** we don't need an FMR (as established by 80.08(9)(e) Wis. Admin. Code)

and

Insurance company (IC) submits a position letter adopting IME's position,

then

DWC can close the claim in our database.



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Common Misunderstanding

EOH/No PPD = Claim Denied

Claim is not denied: it is denied after the date of end of healing.

If three (3) weeks or less of temporary disability was paid, it may be possible to close without a final medical report.



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Common Misunderstanding

• EOH/No PPD = Mistake of Fact

Example: DOI 1/1/21

TTD paid from 1/2/21 to 4/1/21

IME sets EOH for 3/15/21

Only TTD from 3/15/21 to 4/1/21 is mistake of fact.



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Common Misunderstanding

IME addresses **all** body parts injured in the work accident that occurred on the date of injury (DOI).

(Aside – read first report of injury.)



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Common Surprise

IME says No PPD:

You get a worksheet for PPD

Examination evidence:

If the doctor's opinion doesn't meet requirements in the state statutes, we will revise the rating.



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Section 102.13

Legal framework providing insurance companies with the right to send injured workers to independent medical exams.

All expenses for the IME must be paid to the injured worker (IW) **ahead** of time.

- Transportation
- Wage loss (full amount, not the TTD rate)



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What the IME Letter Must Include

- **Proposed** date, time, place of exam and area of specialty of the IME provider.
- Procedure for **changing** the proposed date, time, and place of exam.
- IW's right to have their provider present.
- IW's right to receive the IME report as soon as the insurance carrier receives it.
- IW's right to have a translator present.



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What If the IW Won't Go?

The IC CANNOT simply stop benefits!

Contact DWD and send copies of IME letters and proof of pre-payment of expenses.

- More than 100 miles away?
- Reasonableness?

An ALJ will review and, if appropriate, write a letter to compel the IW to attend.



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Repeat IME

Expectation based on long practice that subsequent exams of the same injury/condition will be by the same IME provider.

If the original provider can't do the second exam, contact our office, and an ALJ will review your request to change providers.



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Position Letters

We will **not assume** you are choosing to follow the IME's opinion.

If there is no position letter, we will average the ratings given by the IME and the treating provider.




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Troubling Cases

- Unsupported denials – If you have an accepted claim with medical support, you must have medical support for the denial.

"No medical support" does not equal "we disagree with the diagnosis."




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Troubling Cases

Directed care – Neither the insurance company nor the employer is allowed to tell the IW where to seek treatment in anything other than an emergency.

Section 102.42 (2) (a) and (3)
Footnote 200 – The intent is to allow complete free choice of practitioner.




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Denials

- Send a letter to the claimant and a copy to us.
- Be clear about what is being denied.
- Be clear about why it is being denied.
- Be clear about the date the denial starts.
- Be sure of the timeframe to which mistake of fact applies.
- In claims with injuries to multiple body parts, make sure all the body parts are accounted for.



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IMEs

File all the IMEs, not just the latest addendum.

Remember your position letter.

The doctor's CV is useful at hearing, but not needed for a non-litigated claim.



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Questions?

Gail Wickman
(608) 261-4895

gails.wickman@dwd.wisconsin.gov



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