

WISCONSIN



DWD

IMEs and Denying Claims

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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 possible 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.



Who Is Qualified to Treat an Injured Worker?

According to Section 102.13

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



Common Misconception

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

FALSE



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.



Can an IME Close a Claim?

It 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.



Common Misunderstanding

EOH/No PPD **in IME** = Claim Denied

Entire claim is not denied: it is **only** 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 from the treating doctor.



Common Misunderstanding

- EOH/No PPD in IME = 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.



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.)



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.



Section 102.13

Legal framework providing the injured worker's employer or the worker's compensation insurer 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)



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 receive the IME report as soon as the insurance carrier receives it.



What the IME Letter Must Include

- IW's right to have their provider present.
- IW's right to have a translator present.
- IW's right to have an observer of their choice present.
 - The observer may not interfere with the exam or ask questions.
 - The IW does not have to notify anyone ahead of time if an observer is coming to the exam.



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.



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.



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.



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.



Troubling Cases

- You must send a formal, mailed letter.
 - Denials should never be made by phone, email or text message.
- 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.”



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)

– The intent is to allow complete free choice of practitioner.



Employer Education

- On-site clinics – Wonderful for vaccinations, colds and cold sores, things that need a simple bandage.
 - Should act as triage for Worker's Compensation injuries. Treatment beyond first aid should be reported to the insurance carrier, and the injured worker should be encouraged to follow up with the provider of their choice for subsequent treatment.
 - Contracts with clinics – Perfect for drug tests and pre-hire exams.
 - The employer should not direct injured workers to these clinics for treatment of Worker's Compensation injuries.



Side Effects of Directed Care

- Possibility of bad faith claims.
- IW ends up treating outside of their health insurance network. If you deny the claim, the IW is on the hook for the out-of-network costs. People in collections tend to file hearing applications.



IMEs

File all the IMEs, not just the latest addendum.

Remember your position letter.

Call us if you have questions or problems.





Questions?

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