

Qualified Medical Evaluations

Presented by

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L.C. §4060

❖ **Issue :**

➢ The notice makes mention that the need for the QME is to determine causation.

❖ **10 day filing time:**

➢ The notice explains to the injured worker that s/he has 10 days to request the panel, after which the insurer gains the right to request the panel.

➢ Do not use our notice that says *Attention! There Are Changes to Your Rights.*

➢ If you are being generous with time and the notice indicates more than 10 days to submit the request, you must honor what the notice said and not send in a request before the time has past

L.C. §4060

❖ **Decision Date:**

➢ If a request is received by us the day before, the day of or the day after the decision date then no panel will be issued. If the claim is denied, only the injured worker has the right to request the panel.

❖ **Claim Form:**

➢ Under L.C. §4060 there is no entitlement to a med/legal exam until a Claim Form is filed. We reject these requests due to lack of knowledge of whether the claim form has been filed. To avoid further delay either change the letter, provide a copy of the claim form or specify that you received the claim form and when you received it.

❖ **Denial/Conditional Denial:**

➢ Even though the 90 days to determine compensability has not passed, if you have issued a denial notice or a conditional denial, you would not be eligible to request the panel.

A good notice under L.C. §4060

- ❖ A notice that would qualify to obtain a panel would be one that says that the claim is on delay pending a medical evaluation to determine causation.
- ❖ That the injured worker has 10 days to submit the panel request form to the DWC-Medical Unit failing which the insurer gains the rights to request the panel.
- ❖ It is not past the decision date and
- ❖ The Claim Form has been filed.

L.C. §4061

- ❖ **Issue:**
 - The parties do not agree to a PD rating.
- ❖ **Dispute:**
 - There must be a dispute to trigger the QME process. Note the disputing party may be either the injured worker or the insurer. The notice should make mention if claims adjuster is disputing.
- ❖ **10 day filing time:**
 - The notice explains to the injured worker that s/he has 10 days to request the panel, after which the insurer gains the right to request the panel.

A good notice under §4061

- ❖ A notice that would qualify to obtain a panel would be one that says that the parties do not agree to a PD rating.
- ❖ It should mention whether or not the claims adjuster is raising the dispute.
- ❖ That the injured worker has 10 days to submit the panel request form to the DWC-Medical Unit after which the insurer gains the right to request the panel.

L.C. §4062

❖ **Issue:**

- includes permanent and stationary condition; UR; treatment; new and further disability and anything else not covered under §4060 or §4061.

❖ **Dispute:**

- There must be a dispute to trigger the QME process. Note the disputing party may be either the injured worker or the insurer. The notice should indicate if the claims adjuster is disputing.

L.C. §4062

❖ **UR:**

- The only times the insurer would be eligible to request a panel where there is a UR denial are:
 - when the insurer can prove that the injured worker raised an objection within 20 days of the UR denial notice and the injured worker failed to request the panel.
 - When the claims administrator did not do a timely UR.

❖ **10 day filing time:**

- The notice explains to the injured worker that s/he has 10 days to request the panel, failing which the insurer gains the right to request the panel.

A good notice under §4062

- ❖ A notice that would qualify to obtain a panel would be one that says that the parties do not agree to P&S status, new and further disability, medical treatment, etc.
- ❖ It should mention whether or not the claims adjuster is raising the dispute.
- ❖ That the injured worker has 10 days to submit the panel request form to the DWC-Medical Unit failing which the insurer gains the right to request the panel.

Represented Cases

- ❖ A good request should have all of the following:
 - Copy of letter showing attempt was made to seek agreement with the other party to obtain a AME. This helps us to ensure that more than 10 days have passed and that the parties have been unsuccessful in agreeing to an AME.
 - List the medical specialty of the PTP.
 - List the medical specialty of the non filing party if known.
 - For now use IMC Form 106 with a revision date 4/14/2000.

Represented Cases

- As the requestor, sign in the space for signature. Identify who you are.
Example – Signature of Defense Attorney.
- Write Represented Case on the top of the panel request form. This is an eye catcher to distinguish that the request is being made under the represented track.
- A panel under L.C. §4062.2 will only be issued for injury dates on or after 1/1/05.
- **15-day timeframe doesn't apply.**

Inappropriate Requests

- ❖ You don't get a QME:
 - When PTP doesn't send a report at all.
 - When PTP fails to address an issue.
 - Apportionment
 - AMA Impairment Ratings.
 - Treatment under ACOEM
- ❖ Remedies:
 - The PTP can get a consultant to address the issues under Labor Code §4061.5.
 - You are entitled to request a change of PTP under Title 8 CCR §9786.
 - Ask PTP again.

One Panel QME per Claim

- ❖ The same QME addresses all contested issues for the date of injury unless:
 - QME is no longer a QME.
 - QME has taken over treatment.
 - QME is no longer available.
- ❖ QME can get a consultation from another physician to address issues outside specialty from
 - The PTP.
 - A specialist who doesn't have to be a QME.

L.C. §4062.3, §4062.5

- ❖ L.C. § 4062.3
 - QME addresses all contested medical issues from all injuries reported on one or more claim forms prior to date of initial evaluation.
 - Same QME addresses new medical issues.
- ❖ L.C. §4062.5
 - New QME if selected QME issues a late report
 - Initial report with 30 days of evaluation
 - Supplemental report within 60 days of request.

Reasons to get a Replacement QME

- ❖ Failure of QME to send appointment notification.
- ❖ §5703.5
 - a. The WCAB can direct unrepresented employee to be examined by a QME. Not a panel QME.
 - b. The I&A officer can direct the unrepresented employee to be examined by a QME selected by the medical director. Not a panel QME.

L.C. §5701

- ❖ WCAB may direct the injured worker to be examined by a regular physician. Under the rules of McDuffie et. al.

Additional QME Panels

- ❖ If you need an additional QME panel, one may be had if the parties go to a WC judge and get an order for an additional panel
 - Ex parte communication.
 - To further develop the record.
 - If the original QME/AME's report was not found to be substantial evidence.
 - If the QME/AME refuses to get a consultation for issues outside his or her area of medical expertise.

QME Responsibilities

- ❖ Address Permanent Disability using correct methodology
 - > For dates of injury on or after 1/1/2005 must use AMA Guides.
 - > For dates of injury prior to 1/1/2005
 - If no indication of PD prior to 1/1/2005 use AMA Guides.
 - If P&S report or clear indication of PD prior to 1/1/2005 use old PD schedule.
 - When there is doubt, use both.
- ❖ Address Apportionment under current law.
- ❖ Address Future Treatment using ACOEM.
- ❖ Send appointment notification.
- ❖ Send timely reports.

Responsibilities of Parties

- ❖ Send all medical records in a timely manner to both the QME and the opposing party.
- ❖ Send a clear letter outlining the issues the QME should address.
- ❖ Resolve disputes involving non-medical records prior to exam.
- ❖ Request QME give adequate time to allow for exchange of information.

For More Information

- ❖ Contact the Medical Unit at (510) 286-3700 or mail DWC Medical Unit, P.O. Box 420603, San Francisco, CA 94142.
- ❖ E-mail shonor@dir.ca.gov
