



California Workers' Compensation Institute
1333 Broadway - Suite 510, Oakland, CA 94612 • T: (510) 251-9470 • www.cwci.org

November 15, 2022

VIA E-MAIL – dwcrules@dir.ca.gov

Maureen Gray, Regulations Coordinator
Division of Workers' Compensation
1515 Clay Street, 18th Floor
Oakland, CA 94612

**Re: Proposed Amendments to the Qualified Medical Evaluator Regulations
– 45 Day Public Hearing**

Dear Ms. Gray:

These comments on proposed modifications to the text of rules related to the Qualified Medical Evaluator process are presented on behalf of members of the California Workers' Compensation Institute (the Institute). Institute members include insurers writing 78% of California's workers' compensation premium, and self-insured employers with \$90B of annual payroll (31.7% of the state's total annual self-insured payroll).

Insurer members of the Institute include AF Group/CompWest, AIG, Allianz Global Corporate and Specialty, AmTrust North America, Berkshire Hathaway, CHUBB, CNA, CopperPoint Insurance Companies, Crum & Forster, EMPLOYERS, Everest National Insurance, GUARD Insurance Companies, The Hanover Insurance Company, The Hartford, ICW Group, Liberty Mutual Insurance, North American Casualty Company, Preferred Employers Insurance, Republic Indemnity Company of America, Sentry Insurance, State Compensation Insurance Fund, Travelers, WCF National Insurance, Zenith Insurance, and Zürich North America.

Self-insured employer members include Albertsons/Safeway, BETA Healthcare Group, California Fair Services Authority, California Joint Powers Insurance Authority, California State University Risk Management Authority, Chevron Corporation, City and County of San Francisco, City of Los Angeles, City of Pasadena, City of Torrance, Costco Wholesale, County of Los Angeles, County of San Bernardino Risk Management, County of Santa Clara Risk Management, Dignity Health, Disneyland Resort, East Bay Municipal Utility District, Grimmway Farms, Kaiser Permanente, North Bay Schools Insurance Authority, Pacific Gas & Electric Company, Schools Insurance Authority, San Diego Gas and Electric, Shasta County Risk Management, Shasta-Trinity Schools Insurance Group, Southern California Edison, Southern California Gas, Special District Risk Management Authority, Sutter Health, United Airlines, and the University of California.

Recommended revisions to the proposed regulations are indicated by underscore and ~~strikeout~~. Comments and discussion by the Institute are identified by italicized text.

The Institute offers the following comments:

Section 31.3:

The Institute supports the extension of time to schedule an appointment from sixty (60) days to ninety (90) days and ninety (90) days to one hundred twenty (120) days. The proposed time periods better reflect the scheduling reality for many QMEs and will reduce the number of replacements issued. We also support the addition of “subsequent” evaluations to this section.

Section 34(b):

(b) The QME shall schedule an appointment for the first comprehensive medical-legal examination which shall be conducted at a medical office listed on the panel selection form or any office listed with the Medical Director provided there is written agreement by the parties to use a different office listed with the Medical Director that is within a reasonable geographic distance from the injured worker’s residence. Any subsequent evaluation appointments may be performed at another medical office of the selected QME if it is listed with the Medical Director and is within a reasonable geographic distance from the injured worker’s residence.

Discussion:

We recommend adding “that is within a reasonable geographic distance from the injured worker’s residence” to the first sentence to make clear that the first comprehensive medical-legal evaluation should also be performed at a geographically reasonable location.

Section 46.3(a):

(a) A remote health evaluation by a QME, AME, or other medical-legal evaluation may be performed through the use of electronic means of creating a virtual meeting between the physician and the injured worker where both parties can visually see and hear each other and may not be in the same physical space or site.

Discussion:

The Institute recommends the deletion of “visually” to avoid redundancy.

Section 46.3(a)(2):

We support changing “telehealth” to “remote health” for consistency.

Thank you for the opportunity to comment. Please contact us if additional information would be helpful.

Sincerely,

Sara Widener-Brightwell

Sara Widener-Brightwell, General Counsel
California Workers' Compensation Institute

SWB/pm

cc: Katrina Hagen, DIR Executive Director
George Parisotto, DWC Administrative Director
CWCI Claims Committee
CWCI Medical Care Committee
CWCI Legal Committee
CWCI Regular Members
CWCI Associate Members