MEDICAL LEGAL FEE SCHEDULE

Paul J. Marsh, MD, DC, QME August 26, 2019

The current proposal is not adequate!

Among the shortfalls of the current proposal:

- Only $2 per page for records reviewed, starting on page 401
- No reimbursement for video review
- No scheduled payment for no-shows / failed appointments
- No COLA adjustment built-in. (Keeping in mind that the DWC hasn't adjusted the current MLFS for 13 years!)

Joseph Moza, MD August 24, 2019

I am writing to express my extreme displeasure with the proposals for the new medical legal fee schedule for QME and AME evaluations. The proposals do not allow for any meaningful cost of living increase since the last 3 schedule adjustment 13 years ago. In fact the fee schedule actually decreases reimbursement for hard-working evaluators. The proposed schedule is significantly is inadequate, counter-productive and will decrease the incentives for doing business as QME.

Please reconsider.

Barry Gwartz, MD August 23, 2019

The key to my argument is that a flat one-fit-all fee schedule will result in returning the QME system back 30 years when I along with many workers' comp evaluators volunteered to fill out forms to create a QME certifying exam which we did for every case we evaluated and I was in the first group of providers who took the first QME exam.

What that did was to create a panel system that would hopefully do away with the concept of a defense exam requested by the defense attorney and/or claims adjustor and an applicant exam requested by the applicant attorney which did not resolve cases that involved multiple complex issues , with multiple allegations of injury involving multiple body systems.

I can recall one trier of the fact at that time express his frustration over having to decide between 2 reports that said exactly the opposite and no road map towards a resolution, exclaiming that the most reasonable solution was to name one report "heads" and the other report "tails" , throw them both in the air and call it before either report hit the ground.

At that time we were paid for the evaluation by the Official Medical fee Schedule and reimbursement after bill review did not make it financially feasable to spend more than 2 to 3 total hours on the evaluation and report which would involve CPT face-to-face time codes plus CPT modifiers to include record review and report prep with maximum limits set.

What occured then is what will occur now if a flat one-fit-all fee replaces the current medical legal fee schedule:

1. Low quality reports that will in many cases be unratable in complex disputed issues particularly for internal claims which covers 9 chapters in the AMA Guides 5th Edition as opposed to orthopedic claims which covers 3 chapters, psych claims which cover 1 chapter, ENT 1 chapter, Urinary 1 chapter, Skin 1 chapter and the flat one-fit-all fee will pay the SAME for an ortho report for a lumbar spine injury with a SINGLE injury date --- as a case I recently completed that had FIVE injury dates with allegations of multiple derivative compensable injuries involving multiple body systems.

2.Medical Records in my recent case involving 5 injury dates was over 2000 pages dating back to 2008 which I personally reviewed page by page to determine the life cycle of the alleged injuries. I pride myself on the quality of my reports and I have been complemented by both sides for factual clarity that allows both sides to reasonably argue the disputed issues. A flat one-fit-all fee will make that financially unfeasible because per Economics 101 Price cutting lowers the quality of the product and the services and a complex case that requires 15 hours would be difficult to do in 3 - 4 hours with same degree of clarity.

It would be the same as asking the attorneys to accept a flat fee for a case regardless of whether they spend 5 hours 10 hours or 15 to reach a settlement.

There are other ways to deal with QME abuse but not by penalizing the 80% that follow the rules.

I will gladly volunteer my time to create a quality report system that will reject payment on an unratable report.

If there is a system in place that currently disallows payment for a late report, why not the same for an unratable report.

Thank you for taking the time consider my comments

Alex Sparkuhl August 23, 2019

The 8/6/19 request for comments are appreciated regarding reimbursement of medical legal expenses regulation changes. Achieving an objective and fair system is a goal desired by both the

DWC and ExamWorks and the opportunity to provide input is appreciated. Proposed changes are a good starting point and include a flat fee plus fee schedule which can provide more objectivity.

New fee schedule should take into account each of the services completed by a QME position to ensure a fair reimbursement. The schedule should include new exams, re-exams, supplemental requests, depositions, and no-shows complexity also requires review and additional consideration with any the schedule change. The quality of the reports should always be maintained.

Specific areas of concern are:

1. Complicated cases with extensive records, multiple dates of injury with multiple body parts and complex medical legal issues. The proposed schedule does not compensate adequately AME/QME in specific ML 104 extraordinary cases.
2. Additional consideration is given to psychologist and psychiatrist in the new proposal. However, additional time should be provided to develop needs of that specialty which include the substantial evidence test.
3. Internal medicine and subspecialties spend excessive time consulting, reviewing systems, examining, reviewing records and studying literature in order to provide a knowledgeable opinion. There should be a few modifier for them.
4. The current proposal does not appropriately address supplemental requirements due to the contentious medical legal environment.

Scott M. Thompson, CEO
Arrowhead Evaluation Services, Inc.

August 23, 2019

Arrowhead Evaluation Services has been active in the Workers Compensation community since 1987.

Although I work with dozens of QMEs and AMEs, my comments are based upon my own experience as a former WC claims adjuster and decades of experience as a disability evaluation service administrator. My comments are from me, and not necessarily representative of the doctors I work with.

I had the pleasure of attending the MLFS Task Force meetings that were organized by the DWC/IMC in the 1990's. Payers and providers alike were able to sit at the same table and hash out a fee schedule over the course of many hours of give and take. Everyone had a chance to voice their opinion and the process was open. Although the DWC invited some stakeholders to brief meetings recently, as can be seen in the 200+ pages of comments thus far in this forum, doctors do not feel that their voices are being heard.

The DWC is faced with the unenviable task of creating a new MLFS and in this regard, there are many system participants that will be displeased. Change does not come easily. The MLFS in place now is outdated, creates friction, and is subject to abuse by payers and providers.

The plan proposed by industry veteran and former DWC regulator Sue Honor is an excellent cure for what ails the medical-legal fee schedule woes that have plagued the system and her proposal should be given serious consideration by the DWC.

Rather than repeat what many system participants have pointed out what is wrong with this proposal, I will instead focus upon a single issue which is perhaps an oversight by the DWC. The need for an annual inflation adjustment cannot be understated. By not adjusting to inflation, the fee schedule becomes an annual gift to payors and erodes QME participation over time, thus further contributing to frictional costs. The current MLFS has not been adjusted for inflation since 2006. How many state employees are working for the same wage as they were earning in 2006? The recent copy service fee schedule promulgated by the DWC has an adjustment for inflation - - QMEs and AMEs deserve the same.

Scott Hardy, MD, MPH, QME August 23, 2019

There is clearly a need for increasing the fees for QMEs given the minimal changes in the fee schedule since 2007.

I am opposed to "flat fees" for non-psych cases and for reviewing up to 400 pages of records. All cases are different by definition, and the complexity is variable between the specialties. Toxicology is often particularly complex.

I have performed thousands of medical-legal evaluations since the 1990s. As one of only a handful board certified toxicologists (there are less than five board certified medical toxicologists who are QMEs in California), my workload for AMEs, QMEs and IMEs has substantially increased.
In last year's (2018) comments regarding proposed chances in the ML fee schedule, James O'Brien MD, QME indicated, on May 10, 2018: ***"I understand the issue of medical research billing and why that is confounding. In my opinion it should seldom be used. I have done probably 7000 medical-legal AME QME reports and I don't believe I have used it more than ten times total. Those cases usually involved some complex toxicology. If you have to do research on routine cases, you're probably not really an expert. However, it is not fair to punish those of us who bill modestly and fairly because of the excesses of a few. Go after those QMEs but do so fairly and with due process". (emphasis added)***

I completely agree with Dr. O'Brien's comments, as I have observed QME reports by board certified gastroenterologists claiming 6+ hours of research discussing the origins of gastro-esophageal reflux disorder (GERD), which is an extremely common condition, that should not require any research.

Those types of excessive billing should rightfully be challenged and not paid as billed if found to be so.

I have performed many evaluations for cause of death in which there is question as to the contribution of toxic substances. I have reviewed cases that require review of over 15,000 pages of medical records. Many cases do have less in the way of medical records, however. I am opposed to a flat fee or no fee for reviewing "up to 400 pages". The amount of time required to review 400 pages are records will be extremely variable. If there are many background nursing notes or after care instructions contained in those records, they may be reviewed quickly. On the other hand, if one has dense physician reports and laboratory data, not in chronological order with variable legibility, more time will be required. If one reviews at a pace of 6 pages a minute (ten seconds a page), that would still require more than one hour to review. A proposal that suggests this should be done for free, does not do justice to an objective analysis. That proposal will not produce quality legally defensible independent reports that provide the analysis and rationale for the very important decisions QMEs must make. That is not what the system needs.

It is noted that toxicology evaluations can be complex in some cases, involving the objective analysis of claimed or actual insidious exposure to <u>many</u> toxic substances over many years, industrial hygiene testing, and/or performance and analysis of esoteric testing where appropriate.

There are between 25,000 and 80,000 chemicals in commercial use in America today. In many cases there are claims of exposure to unique combinations of these materials with variable routes of exposure (i.e., skin contact and inhalation). By definition, these unusual cases do involve the <u>necessity of medical research</u>, billed fairly and appropriately, as Dr. O'Brien suggested. Occasionally I have been tasked to assess the possibility drugs of abuse being a factor in occupational injuries. These are another area that adds complexity occasionally that may require research, especially with some of the new and evolving substances (i.e., fentanyl derivatives, and many new synthetic cannabinoids)

Since I practice toxicology, the need for medical research arises much more often that in other "non-psych" specialties. I am opposed to a "flat fee" for these as a result—there is a much greater diversity of cases in the field of medical toxicology than many others. I believe that a complex analysis of a reported toxic exposure should be considered a complexity factor itself, as it had previously been. In the past, "addressing an issue of medical monitoring of an employee following a toxic exposure to chemical, mineral or biological substance" was considered a <u>medical legal complexity factor</u>, which was appropriate for the stated reasons.

In addition, a no-show, no-call QME should be guaranteed to be paid for the time allotted—not zero. Setting aside two or more hours of office and staff time, in Southern California is very expensive, and should be paid at a two hour fee.

It was hard for me to read past the part where the missed appointment is not necessarily owed. This may be the end of my participation as a QME.

The obligations and complications imposed on physician participation in the QME system are many. The reimbursement and support are not adequate to keep or attract more evaluators.

The part where the evaluator is then obliged to pick out the duplicate pages on a follow-up that may have been included in the first report… The physician should be paid for what is send, and maybe the attorney or adjustor should verify under penalty of perjury that those are all the available records, and that they have picked out the cover sheets from the faxes and so on.

I do think limiting/paying for pages (which really means time) is important.

The DWC should also move to an electronic document system for the medical records and to file the reports.

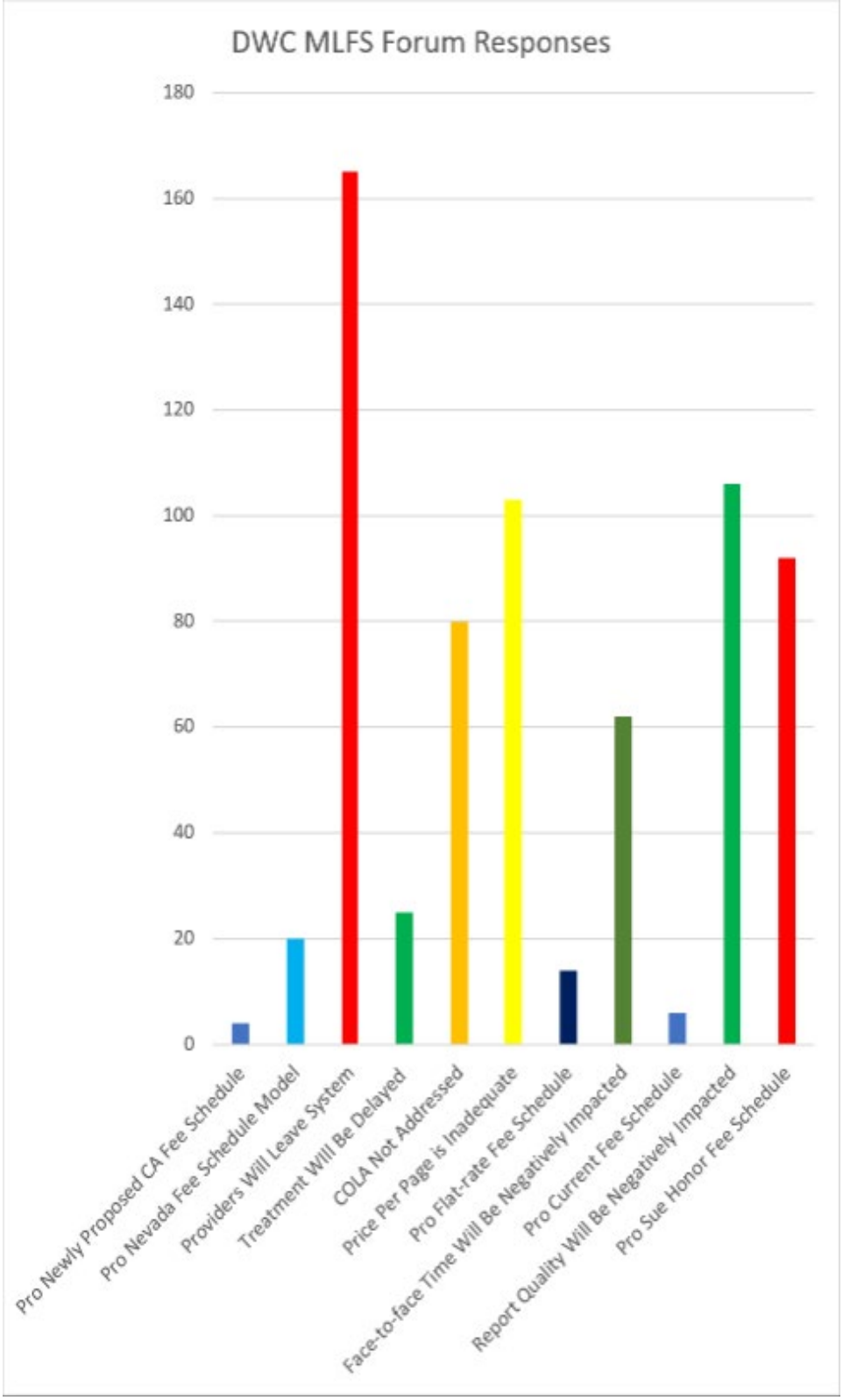
Emmet Cox II, MD August 23, 2019
Orthopaedic Surgery

Thank you for your request allowing our comments regarding the proposed Reimbursement of Medical-Legal Expenses Regulations changes. I do have the following concerns:

1. The more highly complicated cases wherein there are extensive records, multiple dates of injury, multiple body parts/systems involved and complex med-legal issues to address needs more attention.
2. With regard to supplemental requirements. Because of the highly contentious med-legal environment, supplemental requests are common place and often require extensive review of records and significant report preparation time. More attention should be given in this area as the current proposal does not adequately compensate the examiner for most supplemental reports.

Brock Curry, Chief Executive Officer August 23, 2019
Premier Physicians Management Company

This is a charted summery of 272 responses posted to the DWC Forum – Reimbursement of Medical Legal Expenses between August 6, to August 21. The categories were determined by mentioned areas of concern.


DWC MLFS Forum Responses
180
160
140
120
100
80
60
40
20
0
Pro Newly Proposed CA Fee Schedule
Pro Nevada Fee Schedule Model
Providers Will Leave System
Treatment Will Be Delayed
COLA Not Addressed
Price Per Page is Inadequate
Pro Flat-rate Fee Schedule
Face-to-face Time Will Be Negatively Impacted
Pro Current Fee Schedule
Report Quality Will Be Negatively Impacted
Pro Sue Honor Fee Schedule

Edward Green III, MD, QME August 23, 2019

I have been a QME for 16 years in California. I have worked tirelessly to produce quality QME reports during that time.

The proposed changes are unacceptable. If enacted, this schedule will increase the administrative burden on not only my QME practice but, all of QME's throughout the state. The new proposed changes do not represent a fair and balanced compensation for the QME. This proposed change Will no doubt reduce the amount of already scarce QMEs still left in the California workers comp system.

The DWC requested proposals for a new medical-legal fee schedule in December 2018. The former manager of the DWC medical unit, Sue Honor, submitted a fair and balance proposal which was widely endorsed by the QME community. Her proposal received over 1500 signatures. Within her proposal there are modernized reimbursement schedules for the QME but also many critical qualitative changes are represented that word be beneficial for all stakeholders. Sue Honor's proposal would not only serve to keep Quality QMEs within the system but, would also attract new doctors to the ever shrinking QME community.

The consequences of not passing Sue Honor's proposed reasonable fee schedule would be dire. Many of the remaining qualified experienced QME healthcare providers will leave the system. The system will not be able to attract any quality new QMEs. The system will be full of boiler plate bogus QME reports that clog up the system and never get anything resolved. This will cause an implosion of the system.

It is now imperative to adopt Sue Honor's proposal.
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Robert Schacht August 23, 2019
Innova Exams, Inc.

Thank you for your efforts to enact positive changes and allowing feedback from those affected by the proposed changes. On behalf of the QME Doctors we provide Administrative Support Services to, below are constructive comments and feedback regarding the proposed ML fee schedule changes.

In general, there is good and bad with the proposed changes, but the majority of comments are it still lacks clarity and the reimbursement amounts (or modifiers) are too low. Many Doctors

support the proposed fee schedule changes Sue Honor made and therefore suggest your proposed fee schedule changes be revised more in line with her suggested reimbursement rates and clarity, particularly Ms. Honor's proposed flat fee rates with 50 pages of records included in rate, rate per page of records and many of her proposed clarification points.

Comments/Feedback:

- ML-100 (missed appointment) Needs to be a set fee ($450 suggested) with clear time lines, a fee for communication purposes creates ambiguity, contention and further dispute. Set the amount and timelines for late cancelled appointments.

- ML-101 (ML Exam) - Base rate of $1650 is slightly low but more importantly the number pages of records review included is far too high. Sue Honors suggestion of 50 pages included is reasonable with a much higher than $2/pg for additional records, as she suggested.

- ML-102 (Re-Evaluation) - Same suggestions as above.

- ML-103 (Supplemental Report) - Section (2) referencing 'QME addressing an issue that was previously requested' is a SIGNIFICANT concern and area of potential conflict/dispute. This subsection opens the door for many cunning parties to a case to simply ask for 'Clarification' of a previously asked question (with no reimbursement due to the Doctor). Many parties to a case will simply not like the findings of the Doctor and they could therefore ask for clarification. Given the large variability in the average supplemental report requests, the **proposed Supplemental Report flat fee should be increased** to better match the average depth of analysis needed for the average supplemental report and better match the average case which many are complex cases with significant claimant history, multiple dates of injury or employers, complex apportionment, etc. Suggested Supplemental report flat fee $475 with $4/page of records.

- ML-104 (ML Testimony) - The hourly rate proposed is sufficient, but it is Essential to include a late cancel fee AND a mandatory reimbursement for 1 hour of Deposition preparation time. Total amount due for a deposition should be $848 due 2 weeks in advance (which will greatly improve the burdensome late cancelled and high reschedule rate of Depositions). It would also be beneficial to further define 'reasonable travel fees.' This verbiage is the same as currently written and gives no guidance to when or how to apply it, When seeking clarification from DWC you can receive many different answers. An Example of this problematic area: QME has exam in location that is 4+ hr drive from their primary office, party requests a Depo, QME has no other exams on calendar in that location and therefore MUST travel to the QME location (clearing an entire day for travel) for a single Deposition that may be cancelled only minutes before the scheduled Depo start time with NO costs or recourse to the parties, and the QME is out travel costs, full day of work/revenue and the only recourse is to file a Lien or Notice of Non-IBR petition (both of which are cumbersome and unnecessary).

- Modifier 96 (Psychiatric/Psychological) - Psych cases are very complex and fact driven, especially post SB 863 where many claims are stress claims, and require the Doctors spend a

significant amount of time getting a detailed history, review of the records and analysis and findings that will stand up as substantial medical evidence. A flat fee structure can work, but if you break down the proposed flat fee of $2475 to an hourly amount, assume basic average (maybe even low time spent) of; 2 hr face to face, 2 hours of review of up to 400 pages of records and 7 hours of report writing, case formulation and findings = 11 hours total/$2475 is $225/hr which is less then the current $250/hr. This reduction will cause many QME Psych's to reduce the time spent on reports and subsequently (likely) reduce the quality of report, which would cause more litigation and prolong the claims. Suggestion - Psych Modifier should be 2.25 for both Initial Evaluations and Re-Evals, and the multiplier should apply to review of records. Additionally, the modifier should apply to the Supplemental report reimbursement rate and reimbursement per page for Supplemental. The modifier should be applied to Psych records due the Psych cases being Fact driven analysis, which require thorough analysis of the available records to help corroborate or disprove statements made by claimants or co-workers.

- Modifier 97 (Undeserved Areas) - Good idea, but needs further clarification on the actual geographic areas that qualify and how those areas may adjust over time. Suggestion - start with the QME database list for 7/1/19 (as proposed) and make adjustments based on the annual changes as of July 1 for each upcoming year.

No comments or feedback for Modifiers 94 and 94.

Additional modifier should be added for Internal Medicine of at least 1.75. Here is a comment and VERY valid point that a Doctor brought up:

- flat one fit all fee will result in turning the system back 30 years and result in low quality report that in many case will be unratable in complex disputed issue particularly for internal claims which covers 9 chapters in the AMA guides as opposed to ortho which covers 3 , psych 1 chapter, ENT -I, Urinary I ,Skin 1 A recent case include 5 injury date, and 6 body system and the flat fee will pat the same for that as an ortho report for a lumbar spine injury.

Additional suggestion is to incorporate a quality assurance program through DWC training and feedback from the judges. Perhaps a score card of sorts could be developed to help QME's know when they are doing a good job and their reports are meeting the required legal standards.

Overall most Doctors appreciate the efforts to simplify, clarify and streamline the fee schedule, but are concerned that the reimbursements proposed are too low and still lack clarity. An additional general concern for flat fee reimbursement is the anticipated elimination of deeper more thorough analysis and determinations by a QME Doctor. Within the heavily litigated Medical-Legal environment, the lack of deeper analysis by the ML Doctor community could lead to additional litigation, frustration and friction. What would compel a Doctor to take significant additional time to complete an Almarez Guzman Analysis, as an example?

Jeffrey Keith Bridges, PhD August 23, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system. In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her MEDICAL LEGAL FEE SCHEDULE FORUM COMMENTS proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders. Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-scheduleproposal The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Anonymous August 23, 2019

I am a QME in the specialization of Clinical Psychology. There are many important voices providing comments in this section regarding the poorly conceived new proposed fee schedule. these comments assert mostly very reasonable, measured, and appropriate feedback regarding the obvious blindspots in this new version. WorkComp Central, CSIMS and other voices in the community have also provided necessary analysis and made recommendations since the last attempt the DWC initiated. Sue Honor drafted an alternative proposal that, while to my mind somewhat less than ideal for my specialization, was nonetheless certainly more workable and showed a thoughtful and unbiased effort to streamline and standardize billing practices in the interests of all stakeholders. Her proposal was supported by many QMEs but was utterly gutted by the DWC in this new version and, again, with no explanation or constructive dialogue. For example, I never received an email letting me know directly from DWC that they were going to be following up on the fee schedule and to look out for updates. Pretty basic stuff, one would think, but only perhaps if all stakeholders were valued equally?

While I will be repetitive with others' remarks, let me state my specific concerns:

Firstly, I do recognize the RAND Report: The report specifically called out a need for revision regarding overpayment potentials viz. areas that were vulnerable for billing abuses, **but also called out the necessity for acknowledging/compensating complexity.**

Psych evals:

1) Face to face interview time on average can be 5.5 hours for initial and 3.5-4.5 for follow ups (which usually take place 10-12 months later). This time spent does not include the psychological testing (which is billed for separately). Face to face time is crucial and needs to be accounted for in the billing.

2) The drafting of these reports can take many, many hours to complete due to integrating all of the test findings from 6 robust test instruments and several functional assessments as well as the examinee's subjective report, mental status, and medical records in addition to opining on med-legal questions and conducting additional analyses such as Alamarez Guzman, Kite, Benson, Rolda, etc. My reports can be 90-150 pages depending on the amount review of medical records reviewed. I have only had a few supplemental reports issued over the years specifically asking for clarification regarding a question from the letter of engagement, and I have been deposed only three or four times. I was trained in the profession and instructed on an ongoing basis in the letters of engagement, however, to "show my work" and am asked to formulate HOW i've arrived at my conclusions; these are no small or quick tasks in evaluating the human psyche of which each and every one of us is singular. Most psych examinees have complex histories and/or histories of injury. In the absence of ever getting feedback from WCAB on what happens with these reports, I do hold the notion that I have had so little questions about my work (ie. depo or supp report back and forth), and have had my reports described favorably by applicant and defense attorneys because I take the necessary time to generate SME. This initial investment of time (and resources) perhaps and more likely than not controls for later costs such as depositions or never ending back and forth supp reports. I am concerned that if the proposed schedule is merely naive—as opposed to wittingly exploitive or unethical—the efforts to control costs in this way will backfire based upon what appears to be a lack of deliberate analysis involving all of the stakeholders. if it is exploitative or unethical, my concerns about the implications of this decision are even more troubling regarding the future for injured workers.

3) Medical records are already a challenge since they arrive in a disorganized manner and at the last minute or not at all on time. There can be thousands of pages per exam. Four hundred pages is far too many to include in a complex exam without a breakout charge. It is significantly an unfair burden to place the organization of med legal records on the examiner. Since the records originate with the attorneys for the defense, they should take ownership of the state of the records' organization by date and provider (with removal of duplicates) to reduce the time it takes for the physicians' or our staff to take care of these major organizational problems that need to be resolved prior to being able to review them in a coherent manner. Of course, remember, the attorneys will most certainly charge for this work based on time spent for this Herculean task!

4) The supplemental report reimbursement is so terrible to the point it is offensive. The assumption is that the reports will not be exploited by unscrupulous or oblivious individuals loading up the examiner with 2000 pages of records to review in a supp report. In light of all of the times I have had to request additional records from examinees' non-industrial treaters (and because of these reviews most often ended up not finding industrial predominance, I might add), this stipulation alone is enough for me to cease being a QME.

5) To not compensate for research is a problem and a sign of a lack of clear thinking: a) there is a requirement specifically in psych to understand the overlap/mechanism of injury regarding psyche and soma in stress cases and medical conditions (kite analysis is relevant here or Rolda, as examples of direct relevance) should I guess?, b) our expertise is in scientific research that is always ongoing and in development. To discourage research is to eradicate the sturdy foundation upon which conclusions are drawn; to not pay for [necessary] research but to expect SME is either an exploitative practice and/or an attack on facticity.

6) There should be a reasonable and appropriate cancellation charge

7) I do not understand the rationale of using Nevada as a reference and then paying less despite cost of living/working in CA, etc. (See all commentary on this)

In sum, for those QMEs who remain in the system and continue to produce work with professional integrity (and likely this will not be those of us who have exclusively ML 104's), the implication is that the fee schedule would therefore require these ethical QMEs, (in essence "workers") to labor without pay or with pay that is significantly below industry standard. It is impossible to achieve the specs of the "job description" of QME and complete a complex report based upon med-legal standards/requirements otherwise. Would this scenario, then, not be an exploitative or hostile work environment? While I understand that QMEs are not employees, nonetheless, would not this fee schedule then be made in bad faith? It is not without irony that the overarching body who is supposed to be facilitating access of injured workers to care is attempting to engage in what could be construed a bad faith "employment" practice regarding med-legal examiners. This poorly conceived fee schedule both sheds light and reflects poorly upon what is perceived by so many as the overall compromised-- if not broken-- state of affairs at the DWC.

What happens, in turn regarding the plight of insured workers in the state of CA?

It is my recommendation that representatives of all stakeholders come together to discuss all of the issues raised in the feedback, the RAND report to arrive at a thoughtful, viable fee schedule, preferably based upon time spent for ML 104s, and for all examinees having also received medical records in an organized, timely and coherent manner without duplicates. It seems it should be necessary that the fee schedule-- that has such a tremendous impact — be supported via compensation models as well as clearly articulated rationale and reasoning as well as based upon California standards of living/compensation.

Steve Cattolica August 23, 2019
SC Advocates

In discussions with providers and payors, there is a background admission that many problems with the QME system and use/misuse of the current 8CCR Sections 9793, 9794, 9795 are self-inflicted as participants from all sides attempted to navigate the present

schedule. It was relatively clear to the hundreds of doctors I had the privilege of working with in the early, early, stages of this effort, the basic structure of the current schedule was sound and with proper attention to detail could be made to function for years to come.
Politically that was not the decision.

Instead, a faulty, reactionary and illegal attempt to morph the interpretation of the schedule proved to be a costly mistake to the system and the humans affected by that inquisition. Despite our and others' warnings, the result was to make matters worse for injured workers, payors, providers and the Division.

The QME system is unstable. The purge of some necessary specialty designations such as neuropsychologists combined with a general exodus and dearth of those taking (and passing) the QME exam has resulted in a chronic lack of skilled supply and quality forensic reports.

While it might be said the cost of medical dispute resolution is not exorbitant in real terms, there is no argument the money spent to resolve disputes is not being spent effectively. As is always the case, the injured workers of California bear the brunt.

Statements "heard on the street" from both providers and payors suggest many are already figuring out how to use the current proposal's structure to their advantage. Given the proposal as an alternative, it appears the clear message from comments received on the Forum so far is the DWC can take as much time as it likes to implement a new schedule.

My take-away is there needs to be a sense of urgency; time is of the essence.

Most participants simply want to get this project completed as a workable, financially sound program that will solve disputes and provide timely, fair results for injured workers. This can be done well and relatively fast with some concerted effort.

As Coach John Wooden said often, "Be quick but not in a hurry." The DWC will make quicker and more positive progress by convening a meeting (or two or three) between the interested parties to discuss not just the structure and dollars, but how the schedule will work in real life. Carefully read Janice Harris' contribution to the Forum for examples.

The current pace and delays are counter-productive and there is little chance that a workable schedule will result from cloistered decisions. The Division must be encouraged and must act to publicly set a pace and drive the process.

The community is watching. Over the coming few weeks, steps taken to move this project to a clear, unambiguous, and workable endpoint will clearly indicate the Division's priority on resolving the myriad issues that exist and been allowed to be created for more than a decade.

Few issues have gone unmentioned up to this point. There is no need to belabor them. However, I am reminded of an adage apropos. It starts with, "When you pay peanuts,……"

Instead, the Division is encouraged to expand the scope of this rulemaking to include the underpinnings that make any fee schedule and dispute resolution system work better. Not in any particular order.....

1. Education - Become more aggressive and active to encourage participation by the medical community in what is one of the most fascinating corners of medicine . Incentives, assistance and early feed back to new QMEs is vital. With a better infrastructure, the Division will find ample assistance to grow the corps of medical - legal evaluators and raising the quality of work product from those who remain in the system.
   a. Review and revise the entire QME test for relevance and usefulness of the specific question.
   b. Consider a workgroup of former AMEs and attorneys to re-write the questions and pay them. Use the greying of the corps to the advantage of future QMEs. If this is already being done, recent feedback suggests the Division look at how well the current process is working.
   c. Mandate feedback from the DEU to QMEs who submit reports to the unit for rating.
   d. Give QME credits for billing education units.
   e. Increase the number of bi-annual units from 12 to 18 and mandate that some units be earned in specific areas of report writing - including case law and specialty specific areas.

2. Unambiguous instructions. This is one time when space, paper and ink should not be considerations. Take the time to clearly spell out what needs to be done, when and how....and how much. Leave little to the imagination. For example, honestly consider Suzanne Honor-Vangerov's suggestions. Most if not all have great merit and decades of experience behind them. They will help if for nothing more than the details that very few in the community have any experience with.

3. As a matter of accountability, give QMEs the right to refuse or delay an evaluation without penalty if either party fails to meet its obligations during the period from the time an evaluation is scheduled and the day of. The QME or AME can't do a good (read cost effective) job for the parties or his practice without everyone else is compelled to do their part with the same attention to detail and timeliness. Why should the evaluator be left to clean up everyone else's mess? The resulting report will just need to be supplemented at extra cost and more time.
   a. Make the "No-show" fee apply.
   b. Penalize the QME if they abuse the privilege.
   c. See #4

4. The party submits payment for record review with the records.
   a. Consider payment from page 1. Don't "include" any pages in the flat fee.
   b. Pay for duplicates - every page (or facsimile/copy of a page rendered

electronically)

c. Either give more time between the scheduling and evaluation itself or compel under monetary penalty that the records will be there on time (See #3).
d. Clearly define when the records need to arrive before the evaluation and make it stick via a monetary penalty (see #3).

5. Clearly state a test is authorized if ordered in writing by the QME or AME in compliance with 8CCR 9794(a)(1) and "authorized" has the same meaning as found in 8CCR Section 9792.6.1 (a).
   a. Clearly state that such tests are not treatment and therefore not subject to the utilization review statute governing treatment requests.

6. If the system needs experienced evaluators. the fee schedule must not penalize them.

   Several comments appear in the Forum to the effect that flat rate reimbursement rates will average out somehow. The easier cases - presumably yielding higher hourly equivalent reimbursement - will balance out the longer more complicated evaluations.

   This notion is intrinsically wrong and tenuous.

   Notwithstanding the use of medical records as a surrogate for complexity, the best evaluators will always be chosen for the most complicated cases. An exception may be made when an injured worker is unrepresented. However, under most circumstances the very doctors who should be rewarded will run the most risk of being penalized.

   Admittedly, this is not an easy rubric to solve. However, at the very least, if mental health practitioners are due a premium across the board, internal medicine physicians are too.

7. Since this phenomenon is likely to be true regardless of the specialty. it is worthy to consider awarding a multiplier to all evaluators. For example, after 5 or 6 years of service, QMEs and AMEs get a bi-annual bump when re-certifying. The bump might be a set percentage according to consecutive years of service at a certain volume of cases - 10 per year for example. One might think in terms of a grid like those used by the teaching profession to describe pay grade by experience and higher education.

   Over time, this policy might have the collateral benefit of diffusing evaluations to less experienced evaluators as the very experienced become overutilized . This would accelerate the curve for these up and comers.

Clearly these additional considerations require time to evaluate. Please bear with one more analogy...simply putting a 16-year-old behind the wheel of a car does not make him/her a driver. They need instructions about how the car works and instructions about the rules of

the road. This is not complicated, but it does take intention and recognition that learning must be complete.

The system's reputation and track-record for "getting around to it later" does not bode well if these and other adjunct rules are not completely addressed simultaneous with the fee schedule itself.

Taking loosely from the State Farm ads with Chris Paul "we can help with that."

L. Neena Madireddi, MD August 23, 2019

I find that the proposal is good in terms of issues with complexity factors. I believe that $1650 is low for an initial QME and $1100 for a re-evaluation, I recommend $1800 and $ 1400 and for supp QME $275 is too low for a complicated report, perhaps $100 for each issue requested in addition to a base of $350. Also can the parties count the pages and only one party send records?

Debby Ortega August 23, 2019

The proposed fee schedule as it currently stands is a reduction in fees for the majority of the QME's and will result in many refusing to continue in this system.

The proposed additional administrative tasks suggested along with the burden to track medical records is unacceptable.

Fee's proposed for Psychologic, Internal Medicine and the majority of the complex cases seen in our office, are far below the current rates.

Fee's should be ordered paid by the Insurance for each appointment that is cancelled or not kept at a fairer rate ($550-$650) to compensate for actual costs as the QME has no way to fill late cancellations or fill that time for which they are often committed to pay rent, have traveled hours to the location, prepared in advance for and have incurred overhead office expenses.

The proposed fee schedule does not compensate for complex cases or multiple body parts or claims, complex apportionment issues or ratings.

This proposal will create an onslaught of poor reports that do not address all the issues needed to resolve cases. QME office staff spends extensive time trying to obtain the medical records. There should be some regulations holding the insurance companies responsible for supplying records in

advance, paying the QME for the review of all meds sent, regardless if sent previously and a penalty if not supplied in advance.

After 13 years without an increase and with the vast number of QME's that have left the system, a new fee schedule should be proposed, much like what Sue Honor proposed last year that will entice new Physicians to become a QME not cause many, many more to exit it for lucrative options.

Raymond K. Zarins, MD August 23, 2019

As a long-time QME/AME, ever hopeful for an appropriate fee increase, even such as a COLA adjustment, I am disheartened by the proposed changes to the MLFS.

Lack of reimbursement for time spent on video review, no payment schedule for "no-shows" or failed appointments and only $2 payment per page for record review are only a few of the altogether unacceptable, if not unconscionable, proposals.

Callum D. Eastwood, PsyD, QME August 23, 2019
Licensed Clinical Psychologist

The proposed fee schedule changes will likely significantly negatively impact the med-legal evaluations conducted on behalf of the DWC. The proposed revisions appear to hold many benefits to the insurance industry and employers in regards to cost savings, while simultaneously hampering the ability of QME's to conduct fair and unbiased, quality evaluations and be reasonably compensated for the time necessary to do so.

In particular, the flat rate compensations chosen does not seem to account for the need to support and sustain a robust QME pool. A QME can make more per hour seeing patients according to the OMFS, and even Medicare fee schedules, than they will make per hour conducting medical-legal exams. There is no incentive in this fee schedule proposal to attract new QME's to replace those dropping their certifications or retiring. This is particularly true for psychiatric QMEs.

The high page limit before records review fees are implemented and the lack of requirement that the documents be provided in an organized fashion places an undue burden on the QME, incentivizing "best I could do in the time available" approaches that will likely lead to poorer quality reports, requiring greater numbers of follow-up requests, re-evaluations, and depositions. While this may incentivize defense attorneys, it hampers the ability for quality reports to be issued from the beginning of the process. As other states require, records should be provided in an

organized fashion, and the page limit for compensation should be set at 50 rather than 400.

Finally, the emphasis in the fee schedule change seems to meet the interests of the insurers and employers. While the QME's will hurt financially if they choose to continue to do the work, the injured workers are the ultimate losers in that claim resolution will be delayed and findings will be confused. While the insurers and lawyers will make more money in this proposed fee schedule due to its detrimental impact, no one else will benefit.

Bradley Bower, MD August 23, 2019
Board Certified, Internal Medicine

In contrast to many of the posts that have and will be placed, the following observations do not address the specifics of the proposed ML Fee Schedule; an itemized analysis of these specifics is a waste of time and energy as the material is not worthy of comment. Rather, I would prefer to address the events that have evolved over the past two years in an attempt to gain an understanding of the undercurrents that are driving this aberrant "process" that we are led to believe is intended to improve the med-legal payment processes and dispute resolution.

The History of Recent Efforts to Revise the ML Fee Schedule

In the spring of 2018, the DWC proposed changes to the Med-Legal Fee Structure, promoting a set of draconian revisions that met with a near universal rejection on the part of QME's that chose to provide an opinion. The DWC acknowledged this near universal rejection and pledged to make effort to structure a ML reimbursement system that would be more viable. Fifteen months later, the DWC returns to invite stakeholders to review proposed changes that are simply insulting to any qualified medical evaluator that is committed to formulating substantive reports. If I were texting, most can predict what three capital letters would apply here ….. _ _ _.

Parallel Activities

(a) The Petition: the lesser of inadequacy, but still inadequate

A petition was initiated by Susan Honor-Vangerov, owner of Honor System Consulting, seeking the signatures of stakeholders to endorse a flat fee schedule for ML reimbursement. The current form of that petition, again in circulation, and purportedly "widely supported by the QME community", proposes paying a minimum flat fee of $2200 for non-psych reports and $3850 for psych reports. While the petition includes some favorable elements, these are greatly outweighed in my opinion by the promotion of a flat fee that pays nearly 55% more for psych reports above any and all other specialty reports. In my opinion, the core component of this proposed

reimbursement structure (i.e. flat fee structure) is fundamentally flawed and not supportable. If the choices for reimbursement include this petition-based proposal or that which has been submitted by the DWC, *I pick neither*.

(b) AB 1832 – July 11, 2019 – a rather generous and urgent statute

In sharp contrast to the proposals described above, Assembly Member Salas introduced an act last month (July 2019) to amend LC 5307.6 on an urgent basis to increase the conversion factor utilized in ML evaluations from $12.50 to "at least $18.75" for each 15 minutes of billable time, effectively raising the ML fee schedule by 40%.

The bill also required the administrative director to enact the following:

- Increase the conversion factor quarterly, as necessary, to reflect any increase in the Bureau of Labor Statistics Consumer Price Index for medical care, as specified.

- Assign a reasonable relative value, greater than zero, for a missed or failed appointment for a comprehensive or follow-up medical-legal evaluation and for a review of medical records associated with a missed or failed appointment, on or before January 15, 2020.

This bill would also declare that these actions would take effect immediately as an urgency statute.

Clearly, the content of this bill is in a functional sense, diametrically opposed to the DWC and petition- based ML fee schedule proposals.

<u>A Review of Prior Concerns</u>

In the context of the spring 2018 DWC posting forum, I expressed the following general concern:

> If the intent of the DWC is to completely disrupt the med-legal process and to promote further pervasive mediocrity if not chaos within the CA WC system, then the DWC should proceed with submitting these reckless proposed revisions for legislative review and ultimate approval.

Toward mid-year of 2018 and facing near universal rejection, the DWC fortunately withdrew their proposed changes to the ML fee schedule. Unfortunately, in what appears to be a complete disregard for the concerns that were expressed, they took the past 15 months to draft proposed changes that are significantly worse.

As many QME's have expressed, it is generally not possible to adequately address the questions presented in a QME of moderate to high complexity in the context of the proposed fee schedule unless you are willing to donate your time to the CA WC system. Toward the synthesis of a

report that will meet the standard of substantial evidence, most QME's will more likely than not be working for under $75/hour, with some approaching less than $50/hour when all is said and done. The proposed fee schedule is, "with a reasonable degree of medical probability", unreasonable.

But What About the Data ????

There is very little discussion, if any, as to what is actually being spent on the med-legal evaluations over time. In reality, the costs of med-legal evaluations have remained stagnant for years (or in the context of inflation, actually decreased).

Metrics regarding cost distribution in the CA WC system are available through the WCIRB (Worker's Compensation Insurance Rating Bureau of CA). This independent private organization publishes an excellent annual report that is available for review at https://www.wcirb.com. Anyone interested in understanding WC costs in CA is encouraged to review this information. Referencing the WCIRB 2019 annual report, analysis of some basic metrics pertinent to med-legal costs is revealing.

1. Med-legal costs have risen little or potentially dropped in comparison to other costs in the WC system, particularly when adjusting for inflation:

Entity	2013	2019
Total Paid Medical Benefits	4.9 billion	4.4 billion
% of total paid medical benefits attributed to med-legal evaluations	6%	6%
Amount spent on med-legal evaluations ($)	294 million	264 million
Inflation Adjustment	321 million (in 2019 $$)	241 million (in 2013 $$)

Comparing apples to apples, with inflation adjustment, costs spent on ML evaluations have dropped approximately 18% since 2013.

Observation: Med-Legal Evaluations are not the cost driver.

2. Of the 3.5 billion paid in claim frictional costs in 2018, med-legal evaluations remain the least costly of the six categories (8%), while the combined costs for insurer claims staff (26%) + attorney fees (24% + 11%) = nearly 2/3 of all frictional costs (61%). Allocated loss adjustment expenses (ALAE) i.e. the cost of defending WC claims when there are disputes (defense attorney fees and other ALAE: 24% + 18%) plus medical cost containment programs (such as UR: 12%) comprise over 50% of the frictional costs paid out. Med-legal evaluations are not the cost driver.

3. Medical Costs per Indemnity Claim: While CA had previously been among the top 5 states

for average medical costs per claim, recent medical cost reductions in CA have reduced the average cost of medical per claim to $27,217 – just 6% above the median state. Combined, total medical costs paid per claim have decreased by 23% since 2012.

Question: Will the complete disruption of the QME system improve this figure?

4. Ratio of Allocated Loss Adjustment Expenses (ALAE) to Losses

The ALAE includes the cost of attorney and other legal expenses in defending claims, the cost of medical cost containment programs (UR, etc.) and other legal expenses in defending claims. The CA ratio of 22.9% is significantly greater than any other state (the countrywide median is 10.6%). The high figure is driven by a high proportion of PD claims and CT claims, high rates of representation and litigation, and longer duration of claims.

Question: Will the complete disruption of the QME system improve this figure?

What's Driving This Lunacy?

Given the large number of frictional cost drivers in the CA WC system, it's surprising that the monies spent on med-legal evaluations have not tripled; rather, the cost of med-legal evaluations when adjusted for inflation has decreased nearly 18% since 2013. While the med-legal evaluation process and associated billing practices are not without flaw, a review of CA WC cost metrics demonstrate that the issues are relatively minor in comparison to the many frictional cost drivers that plague the CA WC system. *Med-Legal evaluations are not the cost-drivers.*

Nearly 15 months after introducing a set of proposed revisions to the ML fee schedule and meeting with near universal objection, the DWC has returned with a proposal that is a non-data driven toxic mess. *The proposed ML fee schedule not only fails to manage the true frictional cost drivers, but also undermines one of the primary tools that assist with the containment of these costs.* The enactment of this fee schedule will lead to a predictable efflux of experienced QME's from the system (at least those that have any respect for themselves), creating risk for a predictable implosion throughout the WC system

– an implosion that will harm not only many well intended stakeholders, but also the large number of injured workers and employers that will be stripped of one of the primary tools available to promote dispute resolution. Seemingly, none of the concerns that were expressed in mass have been taken into consideration by the DWC. What would motivate a government agency to behave so recklessly?

Not being privy to the inner circles, one is left to speculate:

1. Do the insurance agencies have a "special interest" in formulating such a proposal and pushing it through by means of "legislative assistance?" Clearly, insurers must perceive

benefit from such a proposal?

2. Are there private entities that are poised in "underground" alliance with the DWC to fill the predictable void with "corporate QME's" at supposedly lower cost, creating profits for administrative entities that aren't actually performing the QME's? NOTE: After all, this wouldn't be the DWC's first attempt at the promotion of underground activity …..

3. Is the presentation of an ML fee schedule proposal that is so ridiculous and "low-balling" that QME's will simply agree to the next "better" option that comes along, such as a petition driven flat fee schedule?

4. Is there a plan to simply reduce the number of QME's that are available to create a deterrent to contesting claim issues, ultimately decreasing perceived incentives to litigate? NOTE: The pool of QME's that are available to formulate opinions that may defend employers will be reduced as well.

Closing Thoughts

As I posted in the May 2018 WC forum on this matter:

> Any agency that is truly intent on the resolution of problems of this complexity would enlist stakeholders throughout the CA WC system (a group which includes individuals that actually have experience in the *performance* of med-legal evaluations) in a meaningful set of forums to *transparently* address the multiple issues that are driving the need to revise the med-legal process. The system is broken, but will be further damaged if these reckless revisions, previously kept "underground", make their way to the surface.

Clearly, transparency and integrity are lacking – and the governmental processes and forums that are passed off as democratic are clearly not. This process, more likely than not, is driven by inappropriate alliances and aberrant "underground" decision making akin to the veritable backroom deals of old (and new).

"Somethin just ain't right." _ _ _

Randall Hagar, Director of Government Relations August 23, 2019
California Psychiatric Association

On behalf of our more than 3,500 psychiatric physician members, the California Psychiatric Association (CPA) would like to thank you for the opportunity to provide comments on the Reimbursement of Medical-Legal Expenses Regulations. We appreciate DWC's efforts to hear from stakeholders and craft a proposal that sets up a more transparent and equitable fee structure.

While we support the intent of these rules, many of which will help accomplish the goals noted above, we also write to articulate concerns particular to psychiatrists as Qualified Medical Evaluators which make it more difficult for them to continue to serve patients in the workers' compensation system.

CPA appreciates and supports the added value placed on psychiatric evaluations the rate for which is currently proposed as a multiplier of 1.5. Currently psychiatrists compensation for reports is directly related to the number of records reviewed which equates to uncompensated time for psychiatrists to complete a competent basic report.

This is a factor in psychiatrists choosing not to participate in this system.

However, the CPA would urge that a minimum evaluation for psychiatric report should be at the proposed flat rate multiplied by 2.0 which we believe more accurately reflects the time involved in creating psychiatric reports.

We believe this is appropriate because of the level of complexity inherent in psychiatric evaluations. Psychiatrists typically have fewer records to review in order to achieve competent psychiatric evaluations, and the records they do review require a more extensive and time-consuming analysis. Our analysis indicates that this is consistent relative to reports *created by conditions evaluated by other medical specialties.*

To illustrate the factual basis for this statement we would invite you to consider the following.

Psychiatric records tend to be dense and general medical records usually have fewer words per page. Psychiatric records have a lot of meaning in the individual paragraphs that need to be considered. General medical records, for example, labs, or an operation report, contain information whose import can be scanned and understood virtually instantly, contain less interpretation and contain condensed information such as "Knee arthroscopy and meniscectomy." Psychiatric records by contrast take a careful reading because they contain descriptions and history that need to be understood and evaluated in the context of a patient's full psychiatric history, and/or events in that history.

CPA would also note that with fewer records to review, there is less reimbursement even though the time commitment to conduct the review may be greater relative to other medical specialties reviewing a greater number of pages. For example, a person has a back injury requiring surgery and an extensive medical history of going to the doctor for back pain over the course of long periods of time, which leads to relevant medical record of 1000 pages or as high as 5000 pages. Many of these particular types of pages contain little information and the pages are virtually blank. But the proposed fee schedule rate for review is 2.00 per page for pages 401 to 1000. By contrast a psychiatric evaluation record review will typically encompass less than 400 pages but because the material is very dense in those pages could take longer to review than a 1000 page plus surgery file. This needs to be taken into account and the time factor compensated for.

Medical legal evaluations require that the physician explain their reasoning when reaching conclusions. Explaining in a report why a person has a certain psychiatric diagnosis and explaining the factors of causation as to whether or not the injury is industrial causation or non-industrial causation requires that the psychiatrist obtain sensitive information and then explain it in a report. In examining a patient to elicit sensitive information a patient may be reluctant to divulge that information until a bond of trust is established, another difference in conducting psychiatric evaluations which require more time relative to other medical conditions.

Further, setting out psychological factors is more complex and time consuming than explaining why the person's knee is “out” because the evaluation conducted for psychiatry elicits detailed information about how the person feels, behaves, and thinks as well as obtains general medical information. The psychiatrist needs to assess psychological factors, thinking or cognitive factors and also general medical factors. Other specialties do not typically go these further steps. And these factors need to be explained more thoroughly to layman in the form of attorney’s which typically takes more time.

The CPA would suggest that there be a further modifier for psychological testing conducted for QME psychiatric evaluations. The CPA also recommends a modifier for evaluating the results of and clinical application of psychological testing. The modifier should extend to three standardized psychological tests with a modifier of an additional 1.5 or 50 % more on top of the multiplication factor for psychiatric evaluations. An additional 1.5 multiplication factor should be available for psychological testing review. For more than three standardized tests performed by or ordered by the QME psychiatrist CPA would suggest an additional modifier of 1.1 would be available for up to a maximum of 6 psychological tests.

CPA provides these comments in the spirit of wanting to ensure that psychiatric and mental health concerns of injured workers are appropriately addressed. We also want to work with the Division to eliminate disincentives limiting evaluations and reporting on the mental health issues of injured workers at a time of heightened concern about mental health issues in the workplace. We also hope that our comments will serve to increase clarity in the billing process and provide a reasonable minimum base rate to each case thereby ensuring better access to these services for injured workers

---

Andrea R. Bates, MD, EdS, MBA August 23, 2019

I am a QME physician psychiatrist who first became a QME around the year 2000. I very much enjoy the work evaluating injured workers. I perform these evaluations in my solo private practice. I have done all of my own billing and administration. I have followed up with any payment issues rather than a third-party biller type person/entity, so I feel that I have good insight into QME work. I am a well-established psychiatrist, faculty with UC Davis Dept of Psychiatry since the late 1990s, and I have been seeing patients in private practice all of my career.

I have studied the newly proposed Official Fee Schedule. In brief, my thoughts are these:

1. A complete complex psychiatric evaluation is expected to have psychological testing. I spend a lot of research time evaluating the psychological testing results and making application of those results in my careful assessment of injured workers, writing it in my QME reports. This testing is typically expected by attorneys for all well-conducted QME psychiatric evaluations. I am not able to bill separately for the time spent. Sometimes I can get reimbursed for the onsite testing conducted with the injured worker but not always. The time spent for evaluating psychological testing results and making application of those results into the final report I have been billing under "research" because I need to cite and utilize citations of the tests. However, the new flat-rate would not allow psychological testing to be performed to get reimbursed for it. Reimbursement is necessary because I need to buy each test at about 50.00 each (for MMPI and MCMI, two most common tests) because they are owned by who has proprietary rights to them.

2. I spend a long time preparing reports because I need to explain the reasoning for my findings. Explaining psychological or psychiatric reasoning to lay people is complex and takes a lot of time. I teach UC Davis residents and my daughter is in general medicine interested in QME evaluations, and I read the QME evaluations of others. It is not very complicated to explain the reasoning for a knee injury, for example. But for psychiatry, when I have to explain why the preponderance of their injury is or is not industrial – it is highly detailed. For example, explaining why a certain percentage of causation –say 35% - of their depression is due to childhood trauma and being kidnapped at age 13 (to give a hypothetical example) the attorneys on all sides, everyone, wants to know on what basis I drew that conclusion. I need to tie in the why into why that past history matters. I cannot simply say the person had a prior knee surgery. I need to explain why the psychiatric history would make a difference in the development of a psychiatric illness. The facts are especially important because of the preponderance of causes combined rule in psychiatry. This work involves a lot of preparatory time writing out and describing and linking the details back into etiology. I need to spend a lot of time in the clinical interview to create rapport and obtain very sensitive information over the course of usually 2-3 hours. I am concerned that the flat rate for the new Official Fee Schedule does not allow enough time to obtain from the examinee or explain these details in the report. I know that the psychiatry evaluations have a modifier of 1.5 and that is GREATLY APPRECIATED, but I am concerned that I may need to see about cutting back hours for my office staff for loss of income if the new rates go into effect as is. This is because the average price of my ML 104.95 billing is probably around 5000.00 or so. I am an honest and straightforward biller who carefully counts the time spent on a report, from the time I sit at the desk to work on it until I get up. Most of my billing time is for the preparation, but I have significant time needed for both the interview and research (for psychological testing research and analysis). I may or may not have records to review, usually not too many. I usually have a couple of hours of research

because of the psychological testing that I explained in #1 above. So, when I see the new fee schedule, it looks like a cut is in store. But as it is, I get reimbursed for the complex case at 250.00 an hour and I need to pay my office space, office staff, insurances, payroll taxes and all the rest. I am not trying to make a lot of money. I just need to cover my expenses as a doctor doing good medicine.

3. As a doctor doing good medicine who has been working for herself for nearly 30 years, the other big problems that I have are no shows – the insurance adjusters sometimes schedule a QME evaluation when the examinee said that they are not going to come, and then not pay for a no-show. Well, this is a major expense and hassle and it is a waste of resources. Please kindly consider mandating payment for no-shows canceled within a short period of time, such as a week or 3 days.

4. I also have a problem with attorneys scheduling depositions with me and then canceling that morning or the day before. This represents a huge expense and a waste of resources. I think that the doctor becomes like the football in their game of working on a settlement. My staff and I spend too much time scheduling and preparing for one deposition after another for them to usually be canceled. Please kindly allow for payment of 2 hours of deposition if canceled within 7 days or some reasonable period of time.

5. With respect to supplemental reports, for psychiatrists, answering a question is not simple. I have to pull up the original report, review psychological testing and records, and reconsider the entirety of the case to answer a question that may be asked of me. Then I need to type it up, make a record of it, create a proof of service, mail it to all parties, create billing for it, record the billing invoice, and track that. 275.00 does not cover this cost because one supplemental report takes at least a couple of hours to start and it goes up from there. However, a basic supplemental report does not usually take more than 3-4 hours. So, for a psychiatry supplemental report (see the reasoning in #1 and #2 above why psychiatry reports take so long) I think a standard supplemental psychiatry report at about 750.00 would not be a pay cut.

6. I very much appreciate you hearing these comments that were thought out and written by me, myself and I, a solo psychiatrist doing QMEs for many years who does her own billing, and has her own staff working with her, their small healthcare business owner. Have a nice weekend! All the best and good luck!

Daniel. E. Bruzzone, PsyD, QME August 23, 2019
Psychologist

I should preface this statement by mentioning that prior to becoming a psychologist/QME I spent 30 years in the Property and Casualty business, including Worker's Compensation. My background in insurance informs my understanding of how insurance companies work, while my expertise as a psychology QME informs the way the system treats applicants. That said, I believe that the proposed changes are ill-advised and will result in the degradation of the quality of the assessments that will follow due to the migration out of the QME cadre of good, conscientious evaluators. It seems that these changes are intent on lowering costs to insurers by reducing necessary and impartial services rather than by improving the system. I suggest that, if insurance companies want to save money, they should take a hard look at the way they manage, or mismanage, cases and how that increases overall costs. I've seen numerous cases that eventually resolved in the applicant's favor, yet dragged on for years due to the insurer's penchant for denying responsibility or their seeming habit of denying needed medical care early in the treatment process thus missing the opportunity to repair injuries before they become worse and more expensive. Many of these applicants have been forced into reliance on pain medicine to the point of addiction only because of the insurer's stalling tactics. I suggest that instead of reducing QME fees, that QME's be given sorely needed and overdue cost of living increases in order to attract and retain the best evaluators. Further, I suggest that savings to insurers focus on costs of administering, prosecuting, and adjusting cases rather than putting limits on medical care or medical assessment. In short, I suggest that insurance carriers perform a reality check early in the case's history and opt for aggressive medical management rather than trying (often unsuccessfully) to save money by denying or stalling on needed services.

Vincent Gumbs August 23, 2019

The proposed payment schedule is inadequate. It hardly meets the compensation necessary to cope with the overhead malpractice, hours of medical record review, staff, secretarial work, driving long distances office rent etc.

The DWC should add another $300.00 to each ML category. That would be reasonable.

Naren Gurbani, MD August 23, 2019

I recently joined Workers Compensation System as a QME in the specialty of Orthopedics with one noble cause in mind. I wanted to provide much needed service of independent evaluation and honest opinion regarding complex issues without favoring neither defendant nor the applicant.

I discovered very quickly that majority of cases are complex with extensive examination of multiple body parts and voluminous documents to review including those with little clinical relevance. Instead of spending my time on clinical issues to form logical conclusions, I found myself going through a mountain of disorganized mess "dumped" into my lap. Not only it was tedious and time consuming, I was disappointed to see the final reimbursement check I received.

I was enthusiastically looking forward to changes in the system and again was totally disheartened to see the recent proposals by DWC for the following specific reasons.

1) Medical records NOT required to be sent in an organized manner to the doctor.
2) Cover letter NOT required to specify number of pages sent to the doctor.
3) No mandatory reimbursement for missed appointments.
4) No compensation for evaluation of body parts more than two.
5) No compensation for impairment ratings and apportionment for more than two body parts.
6) Compensation for submission of late documents to the doctor.

In order to recruit or even retain the doctors in California's WKC system, these issues must be addressed. We already have blue prints in the form of Nevada Fee Schedule and Sue Honor's proposal.

I urge DWC to amend the proposed fee schedule to achieve meaningful reforms in the system.

I appreciate the opportunity to voice my opinions.

Steven C. Hickey, DC, DABCO, DACRB, IME, QME August 23, 2019

Having taken ample opportunity to review the proposed changes to the current medical-legal fee schedule and weighing these against the plethora of comments previously posted, I simply cannot reconcile why these punitive and poorly conceived changes would be viewed as those which will have a positive effect on the QME/AME process. To the contrary, they will not!

I have often explained to those who have asked, as many have properly noted, that it seems all too obvious that there is a fundamental lack of understanding of the time required to produce effective, ratable reports. Add to that the fact that the only ‘stakeholders’ negatively affected by these proposals are the very individuals necessary to move these (often) complicated cases toward settlement, and “we” have long-since known that we do so even though we are compensated poorly for so doing.

Having performed all types of med-legal actions, and speaking only now of AME/QME assessments, and where I have been doing so since the inception of this program, I am struck by

the fact that only evaluators are held responsible, to a standard that other stakeholders are not. Records are infrequently produced timely, yet this is inconsistent with the legislative intent, clearly subserves the injured worker and complicates the requisite to produce timely, effective, reports to the standard of substantial medical evidence. Why then is this permitted?

As to the review of records, there is no established method to do so. Some, advocate for producing an event-by-event recordation process, while others simply say they reviewed such and then offer a time frame for so-doing.

Clearly 'some' records are much more difficult to review and comprehend. Duplication is so frequently encountered that "it" adds considerable time to the process. Assigning an arbitrary remuneration for record review punishes those who argue that the intricacies found within the records, by either omission of pertinent facts or outright inaccuracies, can and often does establish the need for reconsideration of opinion(s) and/or requests for additional documentation, and most certainly when unseasonable receipt of such is evident. **This almost never occurs in civil litigation, yet in my substantial experience is becoming common place in the workers' compensation arena. Thus the records are critical and can be substantial. We have all seen cases where the "number" of said records being few does not equivocate to the complexity of the case nor the total time required to produce a report. Thus assigning a numerical standard would likely create a scenario where the insurers would control the process simply by not producing "any and all" primary source documents, as frightfully AA's rarely stay abreast of which records are submitted for review, and only a few such firms take measures to assure that ALL records are provided.

Clearly some cases are straightforward, while others are quite complex, hence why there is notable distinction in the procedural coding as it currently exists. Yet, compared to other systems, as noted in the RAND study, California is near to the bottom of reimbursement for work-related medical-legal evaluation, which is in sharp contrast to the standard-of-living considerations for those inhabiting this State.

Various proposals are evident by reviewing the responses accessible through the DWC site. No system is seemingly "perfect." However, the proposed changes are inconsistent with a fair and equitable solution, likely to result in a decrease in the number of individuals performing these services, which will directly and negatively impact the process.

Here's a simple solution: Keep the existing process ! Increase remuneration consistent with those states' identified within the RAND study, and give serious consideration to discontinue reliance on the false notion that insurance rates will skyrocket if the fees for QME/AME interactions are not amended, as this frail concept has been used by the DIR/DWC on providers and evaluators only to create further beaurauctic and manipulative oversight which has done very little to improve this process, and this is all-too apparent.

We, as AME/QME providers, deserve to be fairly compensated. Sure, some changes are necessary, but I suggest that the greatest burden placed on the payors, comes from their willful neglect to

properly administer to their claims, allowing for egregious and unnecessary diagnostics and treatments, only to become evident once the medical-legal evaluator comes in to the process.

It is readily evident that if the current proposals are adopted, as written, the pool will shrink, the new-comers to the process will follow suit, and if this is ultimately what you're attempting to implement, then this will implode.

Jason Schmelzer August 23, 2019
California Coalition on Workers' Compensation

The California Coalition on Workers' Compensation (CCWC) is an association of California's public and privatesector employers that advocates for a balanced workers' compensation system that provides injured workers with fair benefits, while keeping costs low for employers. Our members include not only businesses of every size, but also cities, counties, schools and other public entities.

The proposed medical-legal regulations address several key issues surrounding fees. While our comments in general support an increase in medical-legal fees, CCWC offers the below recommendations to further improve the quality and efficiency of the medical-legal procedures.

As noted in the Workers' Compensation Insurance Rating Bureau's *2019 State of the System r*eport, "total loss adjustment expenses increased by $0.6 billion since 2013 and comprise almost one quarter of all costs in 2018." California's loss adjustment expenses are the highest in the nation and more than double the national median. We need to be mindful of adding costs to the system. If increases are necessary, any increase in fees needs to consider how they may improve the quality of care to injured workers in an efficient manner.

Additional areas to propose medical-legal regulations

1. We noticed the proposed regulations are missing a form of <u>quality assurance and control</u> that is essential to the adequacy of the medical-legal evaluations. This has been sorely missing from our existing procedures and it is imperative that the DWC include the quality of the reports in forthcoming proposed regulations.

2. There have been considerable unnecessary delays in scheduling medical-legal evaluations, and this can be easily rectified by requiring QMEs provide the DWC with their availability in real time where an issuance of panels is only made to QMEs available in the statutory timeline.

3.

§ 9794 Reimbursement of Medical-Legal Expenses

ML 101 - $1250 Comprehensive Medical-Legal Evaluation. Inclusive of all initial comprehensive medical- **legal evaluations. The flat fee applies to simple, complex and extraordinary evaluations.**

The $1250 fee is based upon twice the current rate of $625 that reflects a more reasonable increase.

Medical records are typically lengthy and pertinent data encounters are a small portion of any given record. Rather than try to apply a manual fee to limited records, we propose any review fee is waived when part of the original claim. In other words, the $1250 fee is INCLUSIVE OF ALL TREATMENT reports from date of injury through the date of the evaluation. Any records outside of the claim record, such as historical records, will be at 30 cents per page. This is based upon a survey of copy service companies and averaging the cost of a review.

ML 102 - $825 Follow-up Medical-Legal Evaluation.

This fee is more reasonable and considerably greater than the current rate. As stated with ML 101, the fee is inclusive of ALL TREATMENT REPORTS for the related date of injury claim.

ML 103 - $275 Fees for Supplemental Medical-Legal Evaluations.

We support this fee rate for review of diagnostic tests that the physician has ordered.

§ 9795 Reasonable Level of Fees for Medical-Legal Expenses, Follow-up, Supplemental and Comprehensive Medical-Legal Evaluation and Medical-Legal Testimony.

(d)

- 96 We support the Psychiatrist and Psychologist modifier of 1.50

-97 Evaluation in an Underserved Area.

In principle, we support the idea of attracting more QMEs in underserved areas. We question how this proposed regulatory language will solve the problem or even whether the problem has been sufficiently identified in order to produce an efficient, workable solution. We believe the addition of a geographic modifier is premature, especially in light of the considerable increase in fees being proposed at this time.

CCWC would like to note that the current practice of employers and payers paying the injured worker for any related transportation expense is already adequate and fair. CCWC does not believe an increase is warranted.

Edward Spencer, MD August 23, 2019

It is clear to those of us in the QME system that the proposed fee schedule changes will have the effect of reducing reimbursement for the examinations. If the proposed fee schedule goes into effect, the system can anticipate fewer QMEs performing more examinations, with the result being an increase in the number of templated reports of marginal utility, with the minimum time spent answering the specific legal questions contemplated by the system. I will not participate in such a system and I will certainly exit the system immediately upon the implementation of the proposed changes. The proposal made by Sue Honor is more reasonable and likely to support QME examiners remaining in the system. The reality is that the DIR, like innumerable other public and private organizations, is in need of physicians, and it is in no position to offer unpalatable and one-sided reductions in reimbursements, particularly after engaging in bad faith acting towards those physicians through the aggressive use of underground regulations. It is regrettable that the DIR has adopted such an uncooperative and adversarial posture towards the experts whose input it needs. Hopefully future administrators will be more accepting of this reality and will take the necessary steps to rebuild the QME system.

Manuel Castaneda, Injured Worker August 23, 2019

I was injured on the job on January 18, 2001. I was a structural welder and fell from a ladder, and ruptured 2 discs in my back at L4,L5, S1. At the time, I was earning $80,000 to $90,000 annually. Before my injury, I was able to provide a good living for me and my family.

My life after the injury was never the same. I entered a system that was seemingly designed to make sure that my treatment needs were secondary to insurance company profits. I finally was allowed to have surgery in August of 2002, and had a three level fusion with instrumentation.

Throughout the whole process, there were fights with UR and treatment denials. From the very beginning, I just wanted to go back to work. I ended up going through three spinal cord stimulators, the last one being in 2013, which is also the year I discontinued any pain medication.

I feel the permanent residuals from my work comp injury ever day; I have a drop foot.

In 2019, I finally settled my workers comp case, despite my need for additional medical care. The VA picked up the obligation for my treatment and my wife and I pay out-of-pocket for anything the VA doesn't cover.

I went through vocational rehab and have a new job that pays up to $60,000 in a good year – a far cry from what I was earning 18 years ago.

My attorney had tried to get the insurance carrier, Travelers, to agree to an AME in orthopedic surgery but they refused, so we chose Dr. Akmakjian as a QME. Dr. Akmakjian did a good job and he spent quite a bit of time with me to explain my options.

There are fewer QMEs now, which means more delays for injured workers like me. Often times, injured workers have to go through the QME process over and over again because QMEs are quitting or are chased away by the DWC. And now, insurance companies are making record profits.

Is it too much to ask the regulators at the DWC to stop favoring the insurance companies? Is it too much to ask the DWC regulators to make sure QMEs get paid as much as doctors in Nevada? We need better care and evaluations for injured people like me, not more record profits for the insurance companies.

Paul, Medical Legal Support Specialist August 23, 2019

The proposed fee schedule is either lacking thought or has been designed for the insurance companies to game the system to avoid reimbursing QMEs adequately for their time and effort.

The proposed fee schedule pays a QME a flat rate of $1650.00 for the first 400 pages of medical records. 400 pages appears to be very convenient for insurance companies. So, whether the medical records are 10 pages or 399 pages , which is quite a difference, the QME gets paid the same. This is unfair. If this proposal is passed, QMEs will see some very convenient medical record submittals of roughly 350 to 399 pages ..Why? insurance companies will be looking to maximize the most out of the flat fee rate. This would effectively leave the doctor and staff working for free. After all, if you were paying $1650.00 for a report you'd might as well have the doctor review up to 400 pages rather than 50 pages.

This proposed fee schedule hearkens back to the DWC's underground regulations days, when DWC staff and their friends in the insurance industry thought it would be a really smart idea (through illegal code interpretations) to nullify the QMEs ability to bill for their time effectively reimbursing them at low flat rate payment.

If passed, A proposal like this would accelerate the doctor exodus out of the QME system.. maybe thats what some folks want.

Top it off, to only pay doctors $2.00 a page after the first 400 pages is a complete joke and shows how little the people proposing this new fee schedule know so little about the preparation of a QME report.

The proposed reimbursement for supplemental reports also show a complete lack of understanding of the QME system. Supplemental reports can be at times more difficult than the actual QME report due to the sometimes complex questions that are asked. Supplemental reports also clog up an already complex work flow, especially when multiple parties are requesting multiple supp reports with the same question. Its also quite obvious that multiple parties use "frivolous" supplemental requests as a profit center to ask multiple inane questions that have been previously answered in the original QME report. the proposed reimbursement rate for supps is so low that it will only encourage the demand for unnecessary supp requests, further clogging up the QME and their staff's time. Doctors and their staffs need to be reimbursed adequately for their time and the supplemental proposal does nothing to improve the situation, in fact it makes things worse.

Were supposed to provide feedback and proposals on how to make the system better. Well, there is one and its been applauded by all in the QME community and has received over 1500 signatures. Please review Sue Honor Vangerov's proposed Medical Legal Fee Schedule.

https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Anonymous August 23, 2019

I have reviewed the proposed Med-Legal Expenses regulations and have applied them retroactively to a random sample of QME reports from 2017, 2018 and 2019. Overall, the result is reduced reimbursement. The impact of the new regs on supplemental reports will be a HUGE reduction, while the impact on the initial evaluation will be more modest, tho still significant, reduction. Any decline in reimbursement will have many consequences. Predictably, the will be fewer QMEs as a result of “retirement”. Less obvious, tho just as foreseeable, there will be fewer supplemental reports, due to the miserable reimbursement, so low, in many cases it won’t cover expenses. Evaluators will be aware of the financial disincentive to request additional treatment or diagnostic efforts, because such opinions will necessarily require underpaid supplemental evaluations and reports. The injured worker will suffer. These proposed regulation will ultimately harm the injured worker. Reimbursement must be increased, not decreased. Per-page payment for review of records must be substantially higher. Evaluators must work in an environment so their decisions will be based solely on the interest of the injured worker.

Bernyce Peplowski, DO, MS, FACOEM August 23, 2019
on behalf of the WOEMA Board of Directors

The Western Occupational and Environmental Medicine Association (WOEMA) appreciates the opportunity to provide input regarding the Proposed Amendments to the Medical-Legal Fee

Schedule. As members of WOEMA and the American College of Occupational and Environmental Medicine (ACOEM), we believe that high-quality, evidence-based care best serves the injured worker, the employer, and the system as a whole.

The purpose of the QME system is to provide independent review of workers' compensation (WC) cases by physicians who have been qualified by the DWC as having the necessary expertise in their field of practice as well as in the California WC system, in order to verify diagnoses, maximally align treatment with applicable guidelines and other scientific criteria, determine activity restrictions, apportion causation to permanent disability, and submit permanent disability ratings according to regulated procedures, among other functions. As such, the QME system is critical in both resolving disputes and offering an unbiased opinion on these matters for the benefit of all parties.

I. Quality is paramount

Within the Workers' Compensation system, WOEMA members serve as QMEs and AMEs, Primary Treating Physicians and specialists, UR physicians, and as medical directors for employers and carriers. We are agreed that quality of today's QME evaluations and reports is of great concern.

The quality of evaluations and reports is paramount to the functioning of the WC system. Accordingly, the stated goal of the proposed changes is problematic, in that it is intended to "reduce frictional costs by establishing reimbursement that is based on objective and quantifiable criteria," without mention of quality.

The goal of QME services is to provide quality:

- To assure patients get needed care
- To assure patients get correct permanent disability compensation as prescribed by regulation
- To apply mandated and/or recommended guidelines and other Evidence-Based Medicine (EBM) for appropriate care and to minimize or eliminate care that is ineffective or harmful and/ or wasteful
- To help guide appropriate work restrictions and/or Vocational Rehabilitation
- To serve as a useful case summary for future caregivers and administrative uses

Quality in any endeavor may be improved by incentives, both positive and negative. Thus, and aside from the potentially profound impact on a patient dependent on QME report quality, the financial impact to the system of a poorly done report, or, contrastingly, of one well done, can be very large, far outweighing the direct cost of the QME fee schedule. Ignoring quality in favor of reducing frictional cost is penny wise and pound foolish, and ignores addressing cost

effectiveness by creating opportunities to improve patient outcomes through correct diagnosis and treatment plans.

As it is, the DWC medical director currently has a responsibility to conduct continuous Quality Assurance/ Quality Control (QA/QC) on QME reports. LC 139.2(i) states:

"The medical director appointed pursuant to Section 122 shall continuously review the quality of comprehensive medical evaluations and reports prepared by agreed and qualified medical evaluators and the timeliness with which evaluation reports are prepared and submitted. The review shall include, but not be limited to, a review of a random sample of reports submitted to the division, and a review of all reports alleged to be inaccurate or incomplete by a party to a case for which the evaluation was prepared. The medical director shall submit to the administrative director an annual report summarizing the results of the continuous review of medical evaluations and reports prepared by agreed and qualified medical evaluators and make recommendations for the improvement of the system of medical evaluations and determinations."
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=LAB&sectionNum=139.2

To our knowledge, this mandatory function has been neglected for years. WOEMA respectfully asks that this essential activity be carried out as required. Without such QA/QC it is no surprise that there are widespread concerns about the value of QME evaluations and reports. We believe this absence of oversight enforcement is in part responsible for both current inefficiencies and outright abuse in the QME system. WOEMA strongly supports DWC to seek additional resources for this specific purpose if they are needed to fulfill its mandate.

II. QME cases are very diverse

QME evaluations differ widely – by specialty, case complexity and severity, commonness or rarity of medical issues, quality and quantity of records to be reviewed, the examinee's ability as a historian, language barriers, etc.
The simplest QME evals may take only an hour; the most complex can take scores of hours and require extraordinary education, training and experience as well as diligence, clinical skills, patience, precision, deep understanding of medical-legal issues, and excellent writing skills.

III. Complexity in the fee schedule can be reduced

There may be value in reducing complexity in the QME fee schedule when it comes to evaluations of low or medium complexity in order to streamline the handling of such cases. WOEMA asserts that the proposed fee schedule changes make sense for the low- and medium- complexity cases that account for perhaps 80 to 90 percent of all QME evaluations. Specifically, the base fees proposed for the initial evaluation and report, as well as those for the first re- evaluation/ report, seem fair and acceptable.

IV. For very complex cases, using complexity factors should be considered.

Some WOEMA members propose that adjustments to complexity factors with adequate QA is a better solution than using a flat fee for all cases.

The underlying premise that fluctuations in complexity will "balance out" over many evaluations/ reports ignores the reality of human response to rewards: unfortunately, in a significant minority of cases there will be a severe underpayment for long hours of difficult work by the QME, and this carries a high risk of both underperformance by the QME on those cases and of high-quality QMEs becoming disgruntled and discontinuing participation. For that reason, many WOEMA members support the use of adjusted complexity factors for this minority of complex cases.

Obviously, the challenge here is to adjust the system to wisely and fairly assign value to these high-complexity, high-value reports and to prevent attempts at inaccurate upcoding for other cases. There is already a mechanism for this in the IBR process: if the QME medical-legal fees are part of the fee schedule then they are subject to the same challenge and dispute resolution procedures as other services. Establishing verifiable criteria for allowing consideration of complexity factors will be a challenging undertaking, but many WOEMA members assert that this is exactly what should be done by the DWC while overhauling the QME compensation system.

We recommend that the DWC rethink this part of the proposal, and develop a workable system that acknowledges fair value for high complexity cases while allowing independent review of disagreements on fees.

There are many cases where a great deal of additional information must be evaluated and incorporated on third and even subsequent evaluations/ reports; as for highly complex initial evaluations, a flat fee for additional evaluations/ reports may produce a mismatch between QME output and compensation.

V. Possible factors to consider in high-complexity cases

In cases of high or extreme complexity, quality is supremely important to the patient and the payor, and effort should be made to secure it.

a. Many WOEMA members feel that a second tier should be used for the most complex cases; the first question would be whether a given case qualifies as being beyond the boundaries of the flat fee. Sensible and verifiable methods of evaluating the level of service by the QME would need to be employed for this purpose. Once an extraordinary level of complexity is established, similar measures would determine appropriate fees.

    - Factors that could be considered in ascertaining level of service would include: the medical specialty, case complexity and severity, commonness or rarity of medical issues, quality and quantity of records to be reviewed, the examinee's ability as a historian, and language barriers.
    - As noted above, if the QME medical-legal fees are part of the fee schedule then they can be subject to the same IBR challenge and dispute resolution procedures as other services. Such a system would work best if it contained incentives for all parties to work toward fairness and to discourage inappropriately excessive charges by any

QME (including inappropriate designation as a high complexity case). There should also be provisions to discourage inappropriate downcoding or a refusal to pay by payors, using a combination of fees to initiate an independent review and a partial allocation of additional payments to the prevailing party (or costs to the nonprevailing party) in the billing dispute. Those of us who support the high-complexity billing tier believe that after an initial break-in period the system will mostly self-regulate, with a minimum of manageable number of disputes.

b. Another possible method was expressed by a WOEMA member QME stating that "an exemption from a flat fee is recommended which would allow the QME/AME the ability to negotiate the fee for very complex cases and/or have the ability to deny cases they credibly express cannot be done within the timeframe for the fee allotted. It is not fair or feasible to "force" a physician to do work that he or she does not want to do or one that is not adequately compensated." This member continued, "The DWC, payors, applicants and the QME/AME community need to find an amicable way for those unusual cases that are very time consuming (especially in cases where there are limited medical records but require difficult and time-consuming research, medical-legal analysis or face-to-face time). An alternative would be to have the applicant and defense agree about complexity factors on a check off list and have some methodology to increase payment based on addressing those issues." He continued, "if the injured worker was not deemed permanent and stationary on the first visit, the follow-up visit, even without extensive records, can result in a very complex and time-consuming report if the individual is now permanent and stationary."
c. Another WOEMA member QME offered a different method: If there are over three complexity factors, an increase in flat rate would occur, and the rate is no longer married to the total time calculus that is currently present. This would be a one-time value for the report. Three factors are used because currently there are about 6 factors, depending on how you count. So three or less is expected and covered by the proposed fee; over three, a higher flat rate is given). It was also strongly suggested that there should be some other legal remedy "so that QME's are not just slammed with requests to evaluate multiple body parts or to address additional dates of injury. Perhaps that should be litigated in some way first, rather than just being left to the attorney to ask the QME" regardless of the additional load on the QME.

d. Independent review of report quality should be in place for the QME system as a whole. This review could be triggered by several methods, including random selection, in response to grievances from any party, or as part investigations. Quality measures for QME reports could include a checklist to assure that the following points are covered:

- Job description
- Description of how an acute injury happened, or how continuous work trauma (CT) produced disease in the case.
- Discussion of nonindustrial medical factors, if any; or a statement that there are none of relevance
- Physical examination, including all appropriate elements in the AMA Guides for the

affected body part
- Review of any other materials including imaging, video surveillance, etc.
- Causation, including a clear explicit statement as to whether “the injury caused the illness” AND if "the injury/illness arose out of employment”; for a CT, include an explicit statement that the physician concludes (to a reasonable medical probability) that the CT did or did not produce (or exacerbate or light up or contribute to at a specific percentage) the illness or injury. If research is needed, then the physician’s discussion must be well reasoned, without speculation.
- Explicit statement as to whether the case is at MMI / P&S.
- Permanent Disability rating statements must be ratable and done correctly using the AMA Guide.
- Future Medical - a clear statement about the kinds of treatment that are reasonably likely to be required
- Apportionment, done correctly
- Disclosures, according to the templates, including an accurate statement of face-to-face time and record review time.

e. Continued Quality Improvement: QMEs should be given feedback from any independent reviews of their activities.
f. Page count: Any method to compensate number of pages reviewed should use a threshold of 200 pages (rather than 400), after which additional charges apply. All pages submitted must be counted including duplicate pages, correspondence from attorneys and insurers and patients, and previous reports by the same QME (since that report itself will need to be carefully reviewed to prepare subsequent reports).

- Using readily available technology, referral sources have the ability to provide electronic medical records either transmitted over the Internet, by way of flash drive or in a CD. Such technology includes the ability to remove duplicates and to provide a spreadsheet with the actual pages of records sent in chronological order. In this scenario, the provider would only be given one set of electronic records (the applicant and defense would have to agree on a single trove).
- All records received, including letters from applicant and defense attorneys as well as claims examiners, should be counted - each page should be counted as one page.
- There should be acknowledgment that double-sided pages count as 2 pages and type smaller than 12-point font would have a special dispensation. Depositions are charged by the real page not per “condensed 4 to a page”.
- If the referral source chooses to send duplicates, unrelated pages (such as cover pages from subpoenaed records etc.) they should be included in the count.
- The referral source should be responsible for listing the number of pages submitted in the cover letter or accept that the number of electronic pages is exactly what it is.
- The DWC proposal does not address payment for review of medical records previously reviewed. The problem is that often the physician needs to reconsider those records and not just go by prior summary. Furthermore, if the carrier sends both old and new

records, the physician is still obligated to sort through and evaluate all of them. All medical records provided should be included in the page count.
- There needs to be a mechanism to deal with disagreements regarding the number of pages.

g. Face-to-Face & Supplemental Reports:

- Absent the fee being raised for an initial evaluation, we strongly urge that the number of pages included without additional fees be reduced to 200, rather than the 400 in the proposal.
- After the first evaluation/report, include the page count from all previous reports combined. In other words, if the QME or AME has already written 100 pages of reports, the QME must review them again and that should be counted in the page count.
- QME review of any Sub Rosa films should be paid based on time spent reviewing and analyzing the video at $440/hour (which is the hourly rate for a deposition).
- Radiographs/imaging studies/diagnostic studies reviewed directly (i.e., not just the report) should be billed by time spent, or perhaps $50/each if a flat fee is preferable.
- Payment for ML103 Supplemental Medical Legal Evaluations at $275: This is simply inadequate remuneration for many supplemental reports, which can take as little as less than a quarter hour and as much as 5-10 hours depending on the issues. It may be necessary to have supplemental reports billed by the time spent. Putting aside charges for records submitted for a supplemental report, another approach would be a category for simple reports at $275, medium level reports at $440 (about one hour) and in the case of prolonged or more complex report, an agreement by the concerned parties that the QME or AME can bill by the quarter hour.

h. Recommendation regarding ML100 Missed Appointments:

- Recommendation: A flat no-show of $440, late show (>15 minutes) $440, or late cancellation (5 working days) $440 fee. For records reviewed and completed ahead of time prior to the appointment that was missed, $2 per page is appropriate (this would not be charged a second time if the appointment is successfully rescheduled).

VI. Specialty and subspecialty differential

It is well recognized that there is a shortage of certain subspecialty QMEs (e.g., ENT, ophthalmology). An increased compensation rate for these under-represented specialties would be one way to increase participation and would help workers by reducing delays in case resolution.

VII. Electronic delivery

Incentives should be given for electronic data transfers, including both documents sent by the carrier and/or patient attorney, as well as report from the QME, with extra payment or reduced costs for electronic delivery, perhaps based on the number of pages and/or timeliness.

VIII. PR-4s

Although the proposal addresses only the QME compensation, a related issue that should be addressed is compensation for PR-4s. Many PTPs do not want to issue a permanent and stationary report without being paid on a medical-legal fee basis. The reimbursement for a PR-4 using the treatment schedule is, in most cases, very inadequate. We strongly recommend that when there is no AME, that the PTP be allowed to provide a report and be paid on a medical- legal basis.

XI. Better education

Finally, the system needs a mechanism to improve education and ongoing QA/ QC of QMEs that deals with reporting quality. This is somewhat of a separate topic but part of the reason the current system is not working owes to the dissatisfaction of both payers and applicants that they are not getting reports of sufficient quality to settle cases. Another issue is inappropriate billing practices on the part of some physicians. Providing quality QME or AME reports is arduous and requires considerable time, training and education. Physicians need to be compensated adequately for this work but at the same time, whatever schedule is ultimately chosen, there needs to be a mechanism to avoid excessive/ inappropriate billing just as much as there needs to be assurance that good evaluations and reports are appropriately compensated.

We would like to emphasize that these comments represent some of the ideas that members have raised rather than formal WOEMA positions. We fully recognize the challenge involved in

developing a schedule that equally meets the needs of payers, QME physicians, and above all, injured workers, while at the same time balancing some of those interests.

Stacy Jones, Senior Research Associate
Ellen Sims Langille, General Counsel

August 23, 2019

These comments on proposed amendments to the Medical-Legal Fee Schedule are presented on behalf of members of the California Workers' Compensation Institute (the Institute). Institute members include insurers writing 81% of California's workers' compensation premium, and self-insured employers with $72.1B of annual payroll (31.7% of the state's total annual self-insured payroll).

Insurer members of the Institute include AIG, Alaska National Insurance Company, Allianz Global Corporate and Specialty, AmTrust North America, Berkshire Hathaway, CHUBB, CNA, CompWest Insurance Company, Crum & Forster, EMPLOYERS, Everest National Insurance Company, The Hartford, ICW Group, Liberty Mutual Insurance, Pacific Compensation Insurance Company, Preferred Employers Insurance, Republic Indemnity Company of America, Sentry Insurance, State Compensation Insurance Fund, Travelers, XL America, Zenith Insurance Company, and Zurich North America.

Self-insured employer members include Adventist Health, Albertsons/Safeway, BETA Healthcare Group, 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, Contra Costa County Risk Management, Costco Wholesale, County of Los Angeles, County of San Bernardino Risk Management, County of Santa Clara Risk Management, Dignity Health, Foster Farms, East Bay Municipal Utility District, Grimmway Farms, Kaiser Permanente, Marriott International, Inc., North Bay Schools Insurance Authority, Pacific Gas & Electric Company, Schools Insurance Authority, Sempra Energy, Shasta County Risk Management, Shasta-Trinity Schools Insurance Group, Southern California Edison, Special District Risk Management Authority, Sutter Health, The Walt Disney Company, United Airlines, and University of California.

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

§ 9793. Definitions.

(c)(2) performed by a panel-selected Qualified Medical Evaluator, by an Agreed Medical Evaluator, or by the primary treating physician upon agreement of the parties, for the purpose of

proving or disproving a contested claim, and which meets the requirements of paragraphs (1) through (5), inclusive, of subdivision (h).

Discussion:
A longstanding concern has been the utilization of the medical-legal fee structure by treating physicians. A regulatory limitation is needed to curtail this practice in order to avoid disputes as to whether a treating physician's report is medical-legal in nature. Accordingly, the Institute suggests new language that provides clarity to treating physicians wishing to bill for their services under the Medical-Legal Fee Schedule.

§ 9795 Reasonable Level of Fees for Medical-Legal Expenses, Follow-up, Supplemental and Comprehensive Medical-Legal Evaluations and Medical-Legal Testimony services rendered prior to [EFFECTIVE DATE].

§ 9795.1 Reasonable Level of Fees for Medical-Legal Expenses, Follow-up, Supplemental and Comprehensive Medical-Legal Evaluations and Medical-Legal Testimony services rendered on or after [EFFECTIVE DATE].

Discussion:
The proposed amendments to § 9795 do not distinguish between services that are subject to the current Medical-Legal Fee Schedule fee calculations and rules, and services that will be subject to the calculations and rules under the adopted changes. The proposed code descriptions and fees vary substantially from those currently in effect under § 9795 and warrant a separate subsection for clarity. The Institute recommends a clear demarcation in the regulatory structure based on service date.

(b) The fee for each evaluation is calculated by multiplying the relative value by $13.75, and adding any amount applicable because of the modifiers permitted under subdivision (d). The fee for each medical-legal evaluation procedure includes reimbursement for the history and physical examination, review of records, preparation of a medical-legal report, including typing and transcription services, and overhead expenses. ~~The complexity of the evaluation is the dominant factor determining the appropriate level of service under this section; the times to perform procedures is expected to vary due to clinical circumstances, and is therefore not the controlling factor in determining the appropriate level of service.~~

Discussion:
Considering the flat fee payment structure, language describing payment based on complexity and time must be deleted from subdivision (b).

(c) Medical-legal evaluation reports and medical-legal testimony shall be reimbursed as follows:

ML100 **[$325.00]** *Missed Appointment for a Comprehensive or Follow-Up Medical-Legal Evaluation*. ~~This code is designed for communication purposes only. It does not imply that compensation is necessarily owed. However, in no event shall the missed appointment fee exceed the sum of $550.~~ This code applies to failed appointments and cancellation notifications made within three business days of scheduled examination appointment. Fees for failed appointments and for late cancellations that are incurred through the fault or neglect of the injured worker or his/her representative shall be credited against the injured worker's award.

Discussion:

Identification of an arbitrary maximum fee for missed appointments does not address the underlying basis of the disputes that arise related to the applicability of a fee. The Institute's proposed language establishes differential treatment of the fee when incurred through the fault or neglect of the injured worker or their representative. Further, as a practical matter, the establishment of a maximum fee will be interpreted as the amount to be paid any time a missed appointment is reimbursed and will result in continued disputes. As an alternative, the Institute proposes a flat fee of $325. This figure is based on (a) the hourly rate of $250 adjusted for inflation from 2007 dollars ($312.33), and (b) the average paid by claims administrators for all types of missed appointments ($332).[1]

ML~~101~~ 102 *Comprehensive Medical-Legal Evaluation*. Includes all initial comprehensive medical-legal evaluations, comprising all issues of complexity and time values. The fee includes review of 400 pages of ~~medical~~ records. Review of ~~medical~~ records in excess of 400 pages shall be reimbursed at the rate of ~~$2.00~~ $1.00 per page. When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of ~~medical~~ records reviewed by the physician as part of the medical-legal evaluation and preparation of the report.

Discussion:

Use of the same Medical-Legal codes for different services depending on the date of service is confusing and may result in misapplication of fees and payments. The Institute recommends that, to the extent feasible, the Division mirror the original Procedure Codes in the amendments. For example, ML-101 should continue to reference Follow-Up Medical-Legal Evaluations and ML-102 should continue to reference a "Comprehensive Medical-Legal Evaluation" (with the necessary deletion of "Basic" inasmuch as complexity factors have been eliminated). In the description for ML-102, the Institute recommends the addition of language underscoring the Division's intent to discontinue fee determinations based on complexity and time factors. For records review, we recommend that both medical and non-medical records be treated in the same manner. An additional fee of $1.00 per page for records in excess of 400 pages is reasonable.

[1] See Jones, S., "Changes in the QME Population and Medical-Legal Trends in California Workers' Compensation" CWCI Research Update, February 2018.

ML~~102~~ 101 *Follow-up Medical-Legal Evaluation*. Includes all comprehensive medical-legal evaluations performed by the same evaluating physician after the initial comprehensive medical-legal evaluation. The fee includes review of 400 pages of ~~medical~~ records that were not reviewed as part of the initial comprehensive medical-legal evaluation or as part of any intervening supplemental medical-legal evaluations. Review of ~~medical~~ records that were not reviewed as part of the initial comprehensive medical-legal evaluation or supplemental medical-legal evaluation that are in excess of 400 pages shall be reimbursed at the rate of ~~$2.00~~ $1.00 per page. When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of ~~medical~~ records reviewed by the physician as part of the follow-up medical-legal evaluation and preparation of the report.

Discussion:
For ML-101, all Follow-up Evaluations should be conducted by the same evaluating physician. Also, since a Follow-up Medical-Legal Evaluation may occur after one or more Supplemental Medical-Legal Evaluation reports are submitted, medical records reviewed as part of a Supplemental Medical-Legal Evaluation should not again be eligible for inclusion in the page count for the Follow-up Medical-Legal Evaluation.

~~**ML103** *Fees for Supplemental Medical-Legal Evaluations*. The fee includes services for writing a report after receiving a request for a supplemental report from a party to the action or receiving medical records that were not available at the time of the initial or follow-up comprehensive medical-legal evaluation. Fees will not be allowed under this section for supplemental reports following the physician's review of: (1) information which was available in the physician's office for review or was included in the medical record provided to the physician prior to preparing the initial or follow-up comprehensive medical-legal report; or (2) addressing an issue that was requested by a party to the action to be addressed in either an initial or any follow-up comprehensive medical-legal examination. Failure to issue a supplemental report upon request because of an inability to bill for the report under this code would constitute grounds for discipline by the Administrative Director or his or her designee. Review of medical records that were not reviewed as part of the initial or follow-up comprehensive medical-legal evaluation shall be reimbursed at the rate of $2.00 per page. When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical records reviewed by the physician as part of the supplemental medical-legal evaluation and preparation of the report.~~

ML-106 *Fees for Supplemental Medical-Legal Evaluations*. The fee includes services for writing a report after (1) receiving a request for a supplemental report from a party to the action or (2)

receiving records that were not reviewed at the time of the initial or follow-up comprehensive medical-legal evaluation. Fees will not be allowed under this section for (A) the physician's review of records which were submitted to the physician's office for review at least 10 days in advance of the initial or follow-up comprehensive medical-legal evaluation, or (B) the physician's review of records which were previously included in the initial report, or (C) addressing an issue that was requested by a party to the action to be addressed in either an initial or any follow-up comprehensive medical-legal evaluation. Review of records submitted by a party to the physician less than 10 days in advance of the initial or follow-up comprehensive medical-legal evaluation and were not reviewed as part of that evaluation shall be reimbursed by the submitting party at the rate of $1.00 per page. When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of records reviewed by the physician as part of the supplemental medical-legal evaluation and

preparation of the report. Failure to issue a supplemental report upon request because of an inability to bill for the report under this code would constitute grounds for discipline by the Administrative Director or his or her designee.

Discussion:
For ML-106 (Supplemental Medical-Legal Evaluations), the Institute suggests revised language on issues that are often contested. For example, we have added language clarifying the timely submission of records to the evaluating physician as well as the necessity that the evaluating physician fully address the questions presented to him or her at the time of the initial or follow-up evaluation. Finally, the Institute's proposed language requires payment for records review to be made by the party who failed to submit the records in a timely manner for the initial or follow-up evaluation, which will incentivize early submission of records to the evaluating physician.

ML~~104~~ 105 *Fees for Medical-Legal Testimony.* The physician shall be reimbursed at the rate of RV ~~8~~7, or his or her usual and customary fee, whichever is less, for each quarter hour or portion thereof, rounded to the nearest quarter hour, spent by the physician. The physician shall be entitled to fees for all itemized reasonable and necessary time spent related to the testimony, including reasonable preparation and travel time. Where the deposition is not cancelled 48 hours in advance, t~~T~~he physician shall be paid a minimum of one hour for a scheduled deposition.

Discussion:
The nature of Medical-Legal Testimony (ML-105) has not changed since the last Fee Schedule, and there is no apparent basis for increasing not only the rate (from $12.50 to $13.75) but also the Relative Value (from 5 to 8) for each quarter hour spent. The combined increases in both factors results in a 76% increase in the effective hourly rate for testimony (note that the effective hourly rate as proposed is actually $440, not $424 as stated). The Institute recommends that the new Relative Value for Medical-Legal Testimony be reduced from 8 to 7. This results in an effective hourly rate of $375, which represents an effective increase of more than 50% and which fully addresses the need for increased compensation for this service.

ML 107 *Records Review.* Records reviewed in excess of 400 pages under ML-101, ML-102, and ML-106 shall be reimbursed at $1.00 per page.

Discussion:
In order to allow providers to clearly identify any charges for records review, a separate Procedure Code is required. A new Procedure Code will also allow payers to program a static payment amount (i.e., $1,650 for ML-102) while separately paying for any records review over 400 pages.

(d) The evaluation services described by Procedure Codes ML101 ~~through ML-103~~, ML102, and ML106 may be modified under the circumstances described in this subdivision.

(1) The modifiers shall not be applicable to per page charges for record review (ML107)~~in any of the Procedure Codes ML-101 through ML-103~~.

(2) The modifying circumstances shall be identified by the addition of the appropriate modifier code, which is reported by a two-digit number placed after the usual procedure number separated by a hyphen.

(3) The modifiers available are the following:

-93 Interpreter needed at time of examination, or other circumstances which impair communication between the physician and the injured worker and significantly increase the time needed to conduct the examination. Requires a description of the circumstance and the increased time required for the examination as a result. Where this modifier is applicable, the value for the procedure is modified by multiplying the normal value by 1.1. This modifier shall only be applicable to ML-101 and ML-102.

-94 Evaluation performed by an Agreed Medical Evaluator. Where this modifier is applicable, the value of the procedure is modified by multiplying the normal value by 1.25. ~~If modifier -93 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.35.~~

-95 Evaluation performed by a panel selected Qualified Medical Evaluator. This modifier is added solely for identification purposes, and does not change the normal value of any procedure.

-96 Evaluation performed by a Psychiatrist or Psychologist when a psychiatric or psychological evaluation is the primary focus of the medical-legal evaluation. Where this modifier is applicable, the value of the procedure is modified by multiplying the normal value by 1.50. ~~If modifier -93 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.60. If modifier -94 is also applicable for an ML-101 or ML-102,~~

~~then the value of the procedure is modified by multiplying the normal value by 1.75. If modifier -93 and -94 are also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.85.~~

-97 Evaluation performed in an Underserved Area. This modifier will be applicable when an evaluation is performed in a geographic area where there were fewer than three physicians in a chosen specialty with a QME-certified office location in that geographic area as of July 1, 2019. Where this modifier is applicable, the value of the procedure is modified by multiplying the normal value by 1.25. ~~If modifier -93 is also applicable for an ML-101 or the ML-102, then the value of the procedure is modified by multiplying the normal value by 1.35. If modifier -94 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.50. If modifier 96 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.75. If modifier -93 and 94 are also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.60. If modifier -93, -94, and -96 are also applicable for in ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 2.10.~~

(4) The modifiers may be used additively, when applicable. For example, if modifier -93, -94, and -96 are also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 2.10.

Discussion:

The numbering of the rules related to modifiers under (d) is recommended for clarity.

A "geographic area" has not been defined for application of new modifier -97. The proposed suggestion of using a static date of "July 1, 2019" does not adequately consider the changing nature of QME availability and is without any reference to a database that could be used for verification; the proposal does not consider how AMEs (who do not have to be QMEs) would fairly be eligible for the substantial increase in payment rate under this modifier. The QME database from which panels are selected is dynamic in nature; as such, the qualification that there must be at least three physicians in a chosen specialty within the undefined geographic area will vary over time. In order to avoid disputes, applicability of modifier -97 would have to be clearly identified at the time an appointment is scheduled and the file or database from which the status is determined would have to retain historical information.

Without detailed definitions for "geographic area" and "underserved area," as well as details for identifying impacted physicians, it is not possible for stakeholders to assess potential positive or negative results of the proposed additional fee based on geographic area. The Institute believes that the best indicator of an "underserved area" will necessarily be based on the location of the injured worker and not the location that the physician chooses to perform evaluations. However, a method to appropriately identify whether an area is lacking in available QMEs in a particular

specialty at a particular time is not immediately evident, and underscores the serious difficulty of implementing this modifier in an appropriate manner.

The Institute recommends simplifying the explanation for the use of modifiers, when used additively. Proposed subdivision § 9795.1(4) stipulates that any applicable modifiers may be used additively.

~~(f) This section shall apply to medical-legal evaluation reports where the examination occurs on or after the effective date of this section. The 2006 amendments to this section shall apply to: (1) medical-legal evaluation reports where the medical examination to which the report refers occurs on or after the effective date of the 2006 amendments; (2) medical-legal testimony provided on or after the effective date of the 2006 amendments; and (3) supplemental medical-legal reports that are requested on or after the effective date of the 2006 amendments regardless of the date of the original examination.~~

Discussion:
Subdivision (f) is applicable to the 2006 amendments, and would create confusion if included in the newly-proposed amendments.

Conclusion:
The Institute welcomes this opportunity to provide comment during the pre-rulemaking process. While we applaud the efforts of the Division to open the process to all stakeholders through open hearings and focus group meetings, the Institute is disappointed that one primary focus has been ultimately disregarded.

It has been an oft-stated necessity that the new Medical-Legal Fee Schedule address not only the reimbursement rate but also the quality of the submitted reports. During the focus group meetings, discussions centered around a "bonus" payable for a medical-legal report that serves as the basis for a settlement without the need for a supplemental report or a re-evaluation. It was proposed that the WCJ approving the settlement could simply note in the approval orders that a bonus payment was in order. The common approach was to disincentive the use of supplemental and/or re-evaluation reports, while simultaneously offering an incentive for complete reports that adequately and appropriately provide the parties with a useful basis upon which to resolve the case. The Institute is hopeful that the opening round of formal rulemaking will reintroduce the concept of ensuring quality reports to the discussion.

Richard Horevitz, PhD, ABPP, QME
Board Certified in Clinical Psychology

August 23, 2019

The proposed changes Suggested for Reimbursement of Medical-Legal expense regulations are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, especially psych QMEs. If enacted this fee schedule will not compensate us fairly, and undoubtedly reduce the already record low number of QMEs still left in the system.

The proposed reimbursement for psychological and psychiatric mental health evaluations is particularly egregious. In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https//www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-schedule-proposal.

Sue honor's proposal featured many elements that would have compensated mental health providers more fairly. These elements include: a much higher flat fee for psych initial evaluations, and hourly rate for extended face-to-face time, and a much higher flat fee for psych supplemental reports.

Additionally, I noticed that DWC has intentionally NOT applied the psych multiplier to record review. This makes no sense. Reviewing medical records from a mental health perspective is inherently more time-consuming and complex than reviewing medical records for a non-psych specialist. I urge DWC to apply the psych multiplier to record review, not just the flat fee.

Further, the fact that you have disregarded essentially all of Sue honor's qualitative suggestion is very disheartening. The reimbursement you are proposing is far below Sue honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost of living state in California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.
This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

Danny L. Keiller, MD, MBA, QME August 23, 2019
Urology

The proposed QME reimbursement changes are a step back in time, unfair and unrealistic.. If enacted, this fee schedule will increase the administrative burden on QMEs and not compensate them fairly.

Sue Honor, the former manager of the DWC Medical Unit, submitted a much more realistic proposal. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation

This proposal will make it impossible to continue for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Gregory S. Webber, CEO August 23, 2019
Med-Legal

Med-Legal, LLC (ML) is a leading provider of evidence in the California Workers' Compensation System (WC). ML highlight

ts the importance of the Medical-Legal Process in providing complete and timely care for injured workers in California and therein the importance of assuring the availability of ALL the evidence necessary to properly inform the practice of evidence-based medicine.

In background, it is noted that the Medical-Legal Process is codified in WC as an efficient path to objectively define contested parameters of injury and treatment – while avoiding the pitfalls of doing this through litigation. ML urges the administration, in revising the Medical Legal Fee Schedule (MLFS), to carefully address all the requirements of the Medical-Legal Process; but especially the requirements for the timely, complete, and organized availability of all of the evidence necessary. In fact, ML believes that the professional evaluators (and evaluations) defined

within the MLFS will only be effective if they timely receive complete and organized medical evidence – thereby enabling medical precision in their determinations and reports thereon. The facts are; the California Workers' Compensation is an evidence-based system that favors the production of evidence in the form of written information and reports to; 1) increase precision, 2) adhere and measure performance to standards, while at the same time 3) reducing overall costs (together, 'Evidence Based Medicine' as documented in CCR 10606 and elsewhere). The MLFS should clearly support that.

Specifically, ML notes that the proposed revisions (specifically, as defined within Billing Code(s) ML101, ML102, and ML103) require the physician (evaluator) to specifically track such evidence (applicable medical records) by pages reviewed; but also requires accurate historical record keeping as to date and time reviewed. In fact, the physician is required to make an actual legal certification (under penalty of perjury) as to the number of pages reviewed. This is likely best accomplished with some sort of 'electronic repository' for such evidence; and ML therefore recommends that the MLFS favor the electronic availability of evidence (medical records) to facilitate such recordkeeping.

It is further noted, that there is an implied 'chaining' of evidentiary review by the physician within Billing Code(s) ML102 and ML103, such that records/pages previously reviewed may not be subsequently considered as newly reviewed evidence (records, by page) therein. Given the gap in calendar between such events; this may seriously under-inform the Follow-Up (or Supplemental) Evaluation unless there is an easy method for the physician to; 1) track the historical progression of such evidence, 2) understand the calendar gaps therein, and (most importantly) 3) have some means to regain necessary insights into the previously reviewed evidence.

To this point, ML urges the administration to consider the impact of such a 'calendar gap'; and provide some means for the physician to recover insight lost over time. This may include allowing for all / or any; 1) a supplemental 'upcharge' (per page) for summarizing, reviewing, excerpting, or abstracting medical records when read/reviewed at any evaluation – thereby providing for easy 'catch-up' at future periods, and/or 2) allowing the proposed per page charge ($2.00) to apply for previously reviewed records given a sufficiently long calendar gap, as defined, and/or 3) providing for a reduced per page charge for an 'updated' review of previously reviewed records. Regardless, ML once again recommends the MLFS favor the electronic availability of evidence (medical records) to facilitate all such activities.

Denise D. Williamson, MD August 23, 2019
Orthopedics

The proposed fee schedule is simply inadequate. It is not enough compensation for time spent thinking about and preparing reports, particularly complex ones, ones with multiple body parts and/or dates of injury.

The number of records to be reviewed is simply too high to be included in the flat fee. That number should be far less.

Lastly, a flat fee for all supplemental reports is also inadequate. Some supplemental Los are straightforward and others are quite complex, requiring re-review of all the records and lots of time thinking about and preparing the report.

If your long term goal is to have enough orthopedists, as well as other doctors performing QME evaluations, the fee schedule must reflect that there is respect for and compensation for our time and expertise.

Michael D. Zeger, MD, DC, QME August 23, 2019
Michael D. Zeger Chiropractic, Inc.

I am an individual proprietor of a chiropractic office. While I do not have the resources to stream line the QME report writing process like some other doctors, I am also not beholden to any one. This allows me to remain neutral in my decisions and offer reports deemed as substantial evidence. However, the current requirements of a substantial report are copious and the reimbursement for a substantial medical report at the ML102 and ML103 levels is not adequate. $625 is not enough for a report that takes up to 10 hours of my time, not to mention the cost of printing, shipping, and office space. The med-legal fee schedule needs to account for the amount of time the QME doctor has to spend on forming the ever increasing requirements of a substantial report. ML104's should be bumped up by 150%. ML102's should be billed at $1500 and ML103's should be billed at 2500. Also, QME's should be reimbursed for missed appointments, at least $250 if the applicant doesn't show and $1000 if the translator doesn't show.

Diane J. Weiss, MD, MPH August 23, 2019
Diplomate, American Board of Psychiatry and Neruology

I have worked within the field of Workers' Compensation in the State of California since 1988, having done so as a treating psychiatrist; as an evaluator for the applicant; as an evaluator for the defendant; and as a QME, IME, PQME and AME. As such, it would be impossible to over-emphasize my concerns regarding proposed changes to the fee schedule. **I would no longer be able to perform QME examinations as a psychiatrist, or produce reports with such a fee schedule in place.**

This psychiatrist has over 30 years of experience related to Workers' Compensation in the State of California. Given the latter, it is my well- informed opinion that, should the changes to the Medical-

Legal Fee Schedule be enacted as proposed, psychiatrists would find it impossible to continue to serve as Qualified Medical Examiners (QMEs). I would no longer be able to perform QME examinations or produce reports with such a fee schedule in place.

If psychiatrists are not fairly compensated for each hour worked, and, instead, are only able to bill arbitrary flat rates for things requiring tremendous amounts of time, energy and expertise, **I can see no realistic way for quality QMEs to perform either thorough evaluations or produce usable reports for Workers' Compensation in the State of California.** Instead, whatever reports are produced would be subpar and certainly not of sufficient thoroughness, quality, or usability.

At different points, there has been talk of doctors receiving a raise in rate, where there has been no such increase, per my understanding, for 13 years. I greatly appreciate the work being done by the California Society of Industrial and Surgery (CSIMS) in the latter regard.

Demands upon doctors' time have steadily increased in several ways, with examples including the performance of time-consuming Rolda analyses and consideration of other intricate medical-legal cases and concepts, and having to review hours of video surveillance footage.

This psychiatrist would concur with the comments submitted to the DWC Forum by CSIMS on August 19, 2019. Particularly related to the DWC's proposal in terms reimbursement for record review, I heartily agree with CSIMS' assertion that the administrative burden of organizing records and counting pages should be placed upon the parties.

Thousands of pages of medical records can be sent for review, where they are not provided in any sort of chronological order and containing multiple duplications, blank pages, missing pages, personnel reports, and payment receipts. All of this information must be carefully looked at and organized into a usable fashion prior to the physician reviewing the individual documents. This alone can take hours.

Given the incredible complexity of Workers' Compensation cases today, the up- to-date expertise required to perform a comprehensive examination, and the level of experience and attention to detail necessary to produce such compliant, usable and accurate reports, I would reiterate that **reimbursement rates should be <u>increased</u>, not decreased.**

While I can appreciate the desire for cost savings, increased efficiency, and the simplification of the Labor Code, the proposed fee schedule would be entirely inadequate and unrealistic, **ensuring it would be inadvisable, and virtually impossible, for psychiatrists' continued participation in the Workers' Compensation in the State of California.**

I am able to offer knowledgeable opinions about the proposals due to my specific experience in Workers' Compensation in the State of California, and, also, given that I am a Life Fellow of the American Psychiatric Association, being Board Certified in Psychiatry. I very much appreciate this opportunity to share my perspective and my concerns. If I can offer further assistance, please do not

hesitate to contact me at my office.

Richard Rogachefsky August 23, 2019

After review of the proposed fee schedule I am recommending higher re-imbursement for supplemental reports. I am recommending higher reimbursement for record review per page with the minimal number of records for reimbursement lower than 400 pages. Also, QME,s should be allowed to take insurance companies to court and have a judge ruling for non payment of fees or late fees. Thank you for your attention to these important matters.

G. Charles Roland, MD August 23, 2019

I am a board certified orthopedic surgeon who has been in practice in California for over 30 years and a QME physician for the past four years. As a university trained, board certified and voluntary professor of orthopedic surgery at our local medical school, I am an expert in my field who has never had a malpractice claim. My office is run by a staff of employees working towards their own medical careers by pursing clinical research projects under my direction.

It has been an honor to work in a system evaluating injured workers diagnostically, legally and morally. These cases have taught me plenty and showed me how many aspects of workmen's compensation could use improvement. Treatment cases are forced to wait months in pain to simply obtain adequate diagnostic studies and care. The current QME system at least allows the injured worker to obtain appropriate diagnostic testing often denied by insurance carriers. If the system is to move forward with the proposed changes, injured workers will be at a significant disadvantage, as they will receive inadequate evaluation and reports due to time and financial constraints. The additional time to either validate or invalidate work claims in the current system are based on rigorous scientific testing and a high quality unbiased expert physical exam devoid of external factors, such as time.

Since each case is unique, it is impossible to predict how long a given report will take to provide an accurate and fair review. Both initial and supplemental reports can take several hours to produce due to the complex nature of the QME process. A fixed fee schedule without flexibility will doom the current system as myself and numerous colleagues will be forced to quit being a QME as the proposed DWC structure undervalues the amount of time doctors put into their patient exams and reports as required by law.

Simply put, the DWC is effectively asking doctors to perform exorbitantly more work for significantly less monetary compensation. The impact of this decision will be profound, pushing many board certified physicians to opt out of this type of work. You will have your QME specialists overworked, underpaid and significantly lacking the time needed to create a clear and honest evaluation. The injured worker will suffer the most throughout this process as the hastily prepared reports will only skim the surface as QME specialists will lack the time to provide competent medical record review and provide scientific research to provide accurate reports in complex cases. These changes in reimbursement will gut the system and is an obvious attempt to devalue the injured worker and drastically reduce the number of qualified physicians able and willing to do the work. If the QME specialist's number continues to decline, then where will injured workers go for a fair and honest appraisal of their work related injury(s)?

Also, why was I not notified by the DWC of these new reimbursement proposals? I only heard about it through a friend and it took me a while to find the information on line. Total transparency is required in this process and it did not occur in this case.

Corey Hahn, PsyD August 23, 2019

I strongly object to the proposed fee schedule as it fails to adequately compensate QME's for their time and expertise. If enacted, these proposed changes will likely result in many QMEs resigning and a backlog of evaluations. The few QMEs left will then likely provide reports of such low quality that they insufficiently address the medico-legal issues at hand, resulting in increased demand for supplemental reports and depositions to resolve poorly supported, ipsa dixit opinions. Ultimately this will further clog, sabotage, and potentially even destroy the system in place for injured workers.

Peter J. Sofia, MD August 23, 2019

The new payment proposal is only a partial step in the right direction. Record payment should start sooner than 400 pages. There should a fixed fee for no shows. There should be an automatic COLA. There should be a separate payment for video reviews. There should be higher fees for psych, and also for IM, neurology and other specialties. Thank you for your attention in this matter.

G. Aaron Cohen, MD August 23, 2019

I strongly recommend that the proposed changes to the QME fee schedule not be implemented. A multitude of expert QME's have already expressed their reasons for not supporting the changes. I will not repeat these here.

Ultimately, the changes in fees proposed would make it financially impossible for me to continue to conduct qualified medical evaluations. To do so, the potential profits would be far less then I would earn in other widely available treatment or forensic settings. The overhead for a medical legal evaluating practice is substantial, and the proposed fee changes simply do not take this into consideration. Of course, an appropriate increase due to inflation and other factors is long overdue. I have always enjoyed QME work, but it would be irrational and financially detrimental to do so under the proposed changes. I will stop all QME work should the proposed changes take place. I urge the DWC to act in good faith and to consider the irreparable harm they will do to the system by forcing the most qualified and experienced evaluating doctors to leave.

Richard J. Palmer, PhD, QME August 23, 2019

I am a Psychologist, have been doing QMEs for 4 or 5 years, and have completed approximately 70. Many are in fairly distant cities (I live in Placerville) often in Redding - 3 hours each way - and Visalia - 4 hours each way. The average interview for me is 2.5 hours, with 3 hours frequent and the longest being 3.5 hours. So to service these cities I am driving 400 miles total for Redding and spending 9 to 10 hours total. With Visalia the total is 500 miles and 11 to 12 hours. And at the moment all my scheduled evaluations in the future are in these two cities. My report writing takes from 5 to 8 hours. I pay half of my income for a company to provide office spaces, billing, collection, secretarial, and scheduling services. Records review average a few hundred pages up to the largest I have received being 4,000 pages so times reach from approximately 2 to 12 hours. .

Hence half of $1650 (subtracting my business costs) for a 12 hour day with 500 miles of auto costs, 5 to 8 hours of report writing, and 2 to 12 hours of record review makes it impractical to continue with these evaluations. This equals $825 minus approximately $200 of car expenses leaving approximately $600 for 9 to 23 hours of professional time plus 5 to 8 hours of driving.

I believe I do an excellent evaluation and have received a great deal of appreciation from applicants, attorneys, and case managers.. I certainly wish to continue evaluations but unless there is a substantial increase in the base amount and/or a significant for Psychologists and remote locations, it will no longer be feasible to do these evaluations.

I believe without these changes you will lose many experienced evaluators, there will be fewer new evaluations, and the result will be less thorough evaluations with extremely long waits for applicants to be scheduled for a QME. In addition there will be substantially increased incentives to shorten and do less thorough interviews for all the current evaluators.

A. Levy, MD, FACC , QME August 23, 2019

I support the concepts, ideas, and proposals forwarded by Susan Honor.

Additionally, I have the following concerns with DWC proposed medical-legal fee schedule.

1. California proposed schedule is patterned after Nevada medical-legal fee schedule. Nevada pays $4/page; $1/page collation. Proposed DWC medical-legal fee schedule per page (-400 pages) is $2/page. Nevada cost of living 20% less than urban San Francisco, California. Since there has been no fee adjustment in California since 2005, it appears the DWC in real terms is reducing rather than increasing medical-legal compensation. If DWC's goal is to be cost neutral or reduce costs, they should be approaching TTD time, copying costs, incoordination of Supplemental Reports to truly reduce costs.

2. Regarding page count mechanisms to compensate for complexity, following issues arise:
    a. Duplicate reviews
    b. Condensed depositions – 4 pages of deposition testimony on one page. How counted?
    c. Administrative forms
    d. Treating physician's charts
    e. Double-sided pages
    f. Small type extensive 75-100 page psych reports with appended testing
    g. Small type job descriptions
    h. Question - how offices using paper to obtain page counts? Compensate for collation?

3. How to bill for extended time needed with translator codes?

4. No show fees for evaluations. Late cancellations. Missed appointments for necessary testing. DWC needs to promulgate clear and concise regulations.

5. While research is certainly overused in the workers' compensation system (such as research for sprain/strain, repetitive stress injury, etc.), legitimate research to answer causation questions is not discussed; such as complex cancer, infectious disease, and cardiac claims. QMEs are precluded from speculating when rendering medical-legal opinions, and QMEs be unable to answer causation/apportionment questions without authorization for research. For instance, a Federal Express driver (on the job less than three years), files a cancer claim, alleging exposure to diesel caused/aggravated cancer.

6. Cardiology professional fees for interpretation of outside cardiac tests necessary for impairment.

7. Relevance or application of above for internal medicine/cardiac Subsequent Injuries Benefits Trust Fund (SIF) cases.

8. DWC should promulgated clear and concise procedures for pre-payment of depositions, late cancellation of depositions.

9. Multiple dates of injuries: Cases from State Compensation Insurance Fund are notorious for having to address multiple workers' compensation claims from State of California employees. How are multiple dates of injuries, to be addressed, based on the new fee schedule?

10. Multiple body parts: Historically, the advocacy letter (if any), from the defendents identify one body part. Advocacy letter from the applicant attorney generally identifieis multiple body parts. Adovacy letter from the defense attorney may identify other body parts. How are multiple dates of injuries, to be addressed, based on the new fee schedule?

11. Oftentimes, advocacy letters from the parties allege "body systems" or "internal medicine systems." The proposed medical-legal fee schedule does not address how an internal medicine QME should proceed.

12. The DWC has recognized an increased modifier for evaluations performed by a psychiatrist or psychologist. I believe that the DWC should also recognize an increased modifier for evaluations performed by a Board-Certified internist, particularly the internal medical subspecialists, such as Cardiovascular Disease, Gastroenterology, Hematology. Rheumatology, Infectious Diseases, Nephrology, Pulmonary, Oncology, Endocrinology, Diabetes and Metabolism. [**Moreover, there are no QME oncologists, nephrologists, infectious disease specialists, hematologists, or endocrinologist, in Northern California**.]

In sum, the current DWC proposal is akin to the uncomfortable issues California faces with cannabis legalization.

While potentially a good idea, the DWC proposal is markedly short on needed details. "***The Devil is in the Details***."

A trial period of a new fee structure without addressing the above is only sure to ensure additional administrative time, delays in reporting, delays in finalization of medical-legal cases, and inevitable, cost ineffective legal challenges.

For a typical lumbar spine sprain/strain, carpal tunnel syndrome, etc., the proposed medical-legal fee schedule seems appropriate (if not a little generous).

However, for workers' compensation claims involving multiple dates of injury, multiple body parts, multiple depositions, multiple employers, body system claims, internal medicine claims, the proposed medical-legal fee schedule will only detract middle-of-the-road physicians from rendering probative and thorough medical-legal opinions. QMEs are compelled to render opinions to a reasonable degree of medical probability. QME cannot engage in guessing, speculation, or surmise in the process of formulating their analysis and medical-legal conclusions.

I worry that Qualified Medical Evaluations will be primarily conducted by itinerant doctors who travel around California doing Qualified Medical Examinations that are of no probative value and cannot be considered credible medical-legal reports. These itinerant medical-legal evaluators who provide pristine QME appointment listings, devoid of any direct patient care, literally have a "monopoly" on most all Qualified Medical Evaluations performed in Northern California.

Abdo Faddoul, MD, QME August 23, 2019

Your current proposed changes are certainly a good starting point towards a successful and needed system .All services provided by a QME should be taken into account in any new fee schedule .In your proposal there is no mention of the management of the necessary medical records for each case . Unless we identify sound and efficient solutions to the medical records delivery and management , frictions within the system will remain, and your efforts will be counter productive. Your current language regarding medical records as it relates to various services requires significant additional attention.

Andrea Guzman August 23, 2019
Claims Regulatory Director
State Compensation Insurance Fund

State Compensation Insurance Fund appreciates the opportunity to provide input regarding the Division of Workers' Compensation's (DWC) proposed amendments to Medical-Legal Fee Schedule. State Fund respectfully submits the following comments for your consideration.

Recommended text changes are indicated by <u>underscore</u> for additional language and ~~strikeout~~ for deleted language.

<u>§9795 Reasonable Level of Fees for Medical-Legal Expenses, Follow-up, Supplemental and Comprehensive Medical-Legal Evaluation and Medical-Legal Testimony:</u>

Recommendation

(b) The fee for each evaluation is calculated by multiplying the relative value by $~~12.50~~13.75, and adding any amount applicable because of the modifiers permitted under subdivision (d). The fee for each medical-legal evaluation procedure includes reimbursement for the history and physical examination, review of records, preparation of a medical-legal report, including typing and transcription services, and overhead expenses. The complexity of the evaluation is the dominant factor determining the appropriate level of service under this section; the times to perform procedures is expected to vary due to clinical circumstances, and is therefore not the controlling factor in determining the appropriate level of service.

Discussion:
State Fund seeks clarification on whether there are any specifics on the value of how much per inch will be charged on the records for a review? If a physician reviews a case and does not accept it, will the rate be lower for the records review in this case?

(c) Medical-legal evaluation reports and medical-legal testimony shall be reimbursed as follows:

Text Change/Request for Clarification
Code ML101 Procedure Description:
Comprehensive Medical-Legal Evaluation. Includes all initial comprehensive medical-legal evaluations. The fee includes review of ~~400~~ 800 pages of medical records. Review of medical records in excess of ~~400~~ 800 pages shall be reimbursed at the rate of $2.00 per page. When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical records reviewed by the physician as part of the medical-legal evaluation and preparation of the report.

Discussion:
State Fund recommends that 800 pages should be included in the flat fee, because the estimated average of pages reviewed is 800 pages. Moreover, the additional charge per of $2 per page should be not apply to hospital records. The $2 per page charge should only apply to narrative treatment reports and relevant treatment notes. This would prevent the industry of paying for irrelevant pages which do not require a close review by the med/legal provider.

State Fund request clarification on what exactly the physician needs to include on the verification of the records reviewed.

Request for Clarification
Code ML102 Follow-up Medical-Legal Evaluation:
When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical records reviewed by the physician as part of the follow-up medical-legal evaluation and preparation of the report.

Discussion:
State Fund request clarification on whether the physicians will be requested to list records reviewed as carriers will need to verify that the same records were not reviewed on the initial medical-legal evaluation.

Request for Clarification
Code ML103 Fees for Supplemental Medical-Legal Evaluation:
When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical records reviewed by the physician as part of the supplemental medical-legal evaluation and preparation of the report.

Discussion:
State Fund request clarification on whether physicians will be responsible for documenting the records not available on previous medical-legal report, so carriers can verify.

Text Change
Code ML104 Procedure Description:
Comprehensive Medical-legal Evaluation Involving Extraordinary Circumstances. The physician shall be reimbursed at the rate of RV 5, or his or her usual and customary hourly fee, whichever is less, for each quarter hour or portion thereof, rounded to the nearest quarter hour, spent by the physician for any of the following:

(1) An evaluation which requires four or more of the complexity factors listed under ML 103; In a separate section at the beginning of the report, the physician shall clearly and concisely specify which four or more of the complexity factors were required for the evaluation, and the circumstances which made these complexity factors applicable to the evaluation. An evaluator who specifies complexity factor (3) must also provide a list of citations to the sources reviewed, and excerpt or include copies of medical evidence relied upon.
(2) An evaluation involving prior multiple injuries to the same body part or parts being evaluated, and which requires three or more of the complexity factors listed under ML 103, including three or more hours of record review by the physician;
(3) A comprehensive medical-legal evaluation for which the physician and the parties agree, prior to the evaluation, that the evaluation involves extraordinary circumstances. When billing under this code for extraordinary circumstances, the physician shall include in his or her report (i) a clear, concise explanation of the extraordinary circumstances related to the medical condition being evaluated which justifies the use of this procedure code, and (ii) verification under penalty of perjury of the total time spent by the physician in each of these activities: reviewing the records, face-to-face time with the injured worker, preparing the report and, if applicable, any other activities.

Discussion:
State Fund request clarification on what verification is needed for the physician's "Usual and customary" fee and how would travel time and preparation reasonable be deemed.

State Fund recommends not deleting the language in ML104 for Comprehensive Medical-Legal Evaluation involving Extraordinary Circumstances and recommends that the proposed increase in fees apply to extraordinary circumstances. And the current standard fee, without complexity factors, applies to ordinary cases. While the exact amounts for the standard fee and the extraordinary fee are negotiable, the key point is for the fee schedule to determine both the standard fee and the extraordinary fee. This will keep the dispute within the jurisdiction of Independent Bill Review.
The removal of this language eliminates the complexity factors, which is believed is a positive development.

Disputes over whether a Qualified Medical Examiner report warrants a complexity factor is a significant cause of billing disputes. This could have unintended consequences since eliminating the method for addressing extraordinary circumstances in the proposed regulations does not eliminate the med/legal providers right to additional compensation for extraordinary circumstances under the Labor Code. LC 5307.6(b) provides in relevant part.

Request for Clarification
(d)(modifier 97) Evaluation performed in an Underserved Area. This modifier will be applicable when an evaluation is performed in a geographic area where there were fewer than three physicians in a chosen specialty with a QME-certified office location in that geographic area as of July 1, 2019. Where this modifier is applicable, the value of the procedure is modified by multiplying the normal value by 1.25.

Discussion:
State Fund request clarification of the definition of geographic area. State Fund recommends creating a definition of reasonable geographic area similar to the definition for Medical Provider Networks found in 8 CCR 9767.5 which requires providers to be located within 30 minutes or 15 miles of each covered employee's residence or workplace.

State Fund request clarification on how a carrier can verify if a modifier is really applicable.

Text Change
~~(f) This section shall apply to medical-legal evaluation reports where the examination occurs on or after the effective date of this section. The 2006 amendments to this section shall apply to: (1) medical-legal evaluation reports where the medical examination to which the report refers occurs on or after the effective date of the 2006 amendments; (2) medical-legal testimony provided on or after the effective date of the 2006 amendments; and (3) supplemental medical legal reports that are requested on or after the effective date of the 2006 amendments regardless of the date of the original examination.~~

Discussion:
Subdivision (f) is applicable to the 2006 amendments, and would create confusion if included in the newly proposed amendments.

We thank the DWC for the opportunity to participate in the rulemaking process and we offer our ongoing support of DWC's revisions to Medical Provider Network, Physician Reporting, Utilization Review and Independent Medical Review regulations.

Micah Scheindlin
Center for Health Poilcy
California Medical Association

August 23, 2019

On behalf of our more than 44,000 physician and medical student members, the California Medical Association (CMA) would like to thank you for the opportunity to provide comments on the Reimbursement of Medical-Legal Expenses Regulations. We appreciate DWC's efforts to hear from stakeholders and craft a proposal that sets up a more transparent and equitable fee structure.

While we support the direction of these rules, many of which will help accomplish the goals noted above, we also write to articulate our concerns with provisions that we believe will create additional burdens on physicians who work as Qualified Medical Evaluators and make it more difficult for them to continue to serve patients in the workers' compensation system.

§9793. Definitions

CMA is concerned with the deletion of the clause that specified that follow-up medical legal evaluations must be performed within nine months following the evaluator's examination of an employee in a comprehensive medical legal evaluation. We feel that the nine month timeline creates predictability for Qualified Medical Evaluators (QMEs), allowing them to manage their workload and ensuring a timely resolution for the worker whose injury is being evaluated.

§9794. Reimbursement of Medical-Legal Expenses

CMA has no objections to the proposed changes to this section. We would however like to note that §9794(b), the requirement that medical-legal expenses be paid within 60 days of receipt unless the liability for payment is contested, would be improved with clarifying regulations explaining the remedy if the payment is neither made nor contested in the allotted time period.

§9795. Reasonable Level of Fees

CMA has reviewed these extensive proposed changes with two goals in mind – one, that the

reimbursement of QMEs should be adequate to encourage more physicians to participate in the QME system and current QMEs to expand their workers' compensation caseloads, and two, that the reimbursement system be designed in a way that limits billing disputes with claims administrators and avoids undue administrative burden on QMEs and their practices. The comments that follow here assess the likelihood of the proposed regulations to achieve these goals.

In §9795(b), this proposal retains a statement that "the complexity of the evaluation is the dominant factor determining the proposed level of service under this section". Since the proposal removes complexity factors and puts a greater focus on time spent by QMEs reviewing medical records, we recommend this statement be removed.

Following this theme, CMA is encouraged by the structure of the proposed billing codes, but has a strong concern about the rates and thresholds in this proposal associated with review of medical records. ML101, which would be billed at a flat rate of $1,650, includes review of 400 pages of medical records. We speculate that DWC anticipates that an evaluation billed under ML101 with no excess review of medical records would reflect no more than 8 hours of work done by the physician, ensuring reimbursement does not go below the $200/hour standard of several current billing codes. However, this would be extremely difficult to achieve in practice – reviewing 400 pages of often complex medical records alone could take up nearly 8 hours, to say nothing of examining the injured worker and preparing a report. We therefore suggest that DWC lower the number of pages included in the standard rate to no more than 200, and also increase the per-page reimbursement beyond that threshold. We believe that these measures would move towards the intent of the proposal to ensure adequate reimbursement of QMEs, which it does not fully achieve in its current form.

We offer similar feedback for the proposed ML102 – the 400 page threshold should ideally be reduced to 200 or less, and per-page compensation increased. We also suggest that DWC establish a presumption that any medical records newly sent to a QME when a Follow-up Medical-Legal Evaluation is requested are new and subject to the page allocation in the billing code. QMEs should not be required to compare multiple sets of records to find new pages – time which would be uncompensated.

Across these billing codes, CMA believes it would be helpful to have a clear definition of how pages should be counted. We are hopeful that a standard could be crafted that reduces the billing disputes that are likely to result when a QME bills based on a number of pages reviewed, while the claims administrator argues they sent a lower number of pages.

CMA also believes that the description of ML100 could be strengthened by clarifying that the use of ML100 'does not imply that compensation is *or is not* necessarily owed' (emphasis ours). Equitable billing for repeat missed appointments is an issue that is best resolved with balance between the interests of the physician and the claims administrator, and this language would help create that balance.

CMA is supportive of the inclusion of modifiers -96 and -97, both of which are good steps toward helping injured workers gain appropriate access to QMEs. We do ask for additional clarification on modifier -97, as QMEs are unlikely to know whether they are eligible to bill under this modifier in any individual case. Ideally DWC would take on the responsibility of notifying the QME of their eligibility, and confirming it with the claims administrator as needed.

Thank you again for the opportunity to provide input on these proposed rules, which have the potential to have a significant impact on the ability of injured workers to access quality medical care. We look to working together with DWC and other stakeholders to ensure that the implemented rules best serve the medical needs of injured workers.

Raye L. Bellinger, MD, MBA, FACC, FSGC August 23, 2019
Sacramento Heart & Vascular Medical Associates

After reviewing some of the comments about the proposed QME fee schedule change, the DWC is starting a process that will make it difficult if not impossible to recruit new physicians in the marketplace, retain well-qualified physicians and improve the overall quality of report writing. Applicant and defense attorneys have bitterly complained about the lack of "why" in many reports. Fashioning reimbursement to reward "shorter" less extensive reports will only lead to more litigation, the need for more depositions and less agreed settlements.

The QME fee schedule should reward, well written, timely, and appropriate reports which facilitate settlement among both parties. I do not believe the proposed fee schedule gets even close.

I can only ask that the DWC choose wisely, anticipate unintended consequences, and recognize there is no easy way to satisfy everybody. From a distance, the insurers appear to have their foot on the scale and are forcing decreased QME cost. By offering poor reimbursement, we make it very difficult to find appropriate, well-qualified physicians to do the bulk of the work necessary to provide the balance necessary between the injured and the insurer.

William G. Moseley, MD, DABU, QME August 23, 2019

As a practicing Urologist and one of the few Urology QMEs in Southern California, I will no longer be able to afford to see WC patients with any urology problems, if you implement your current proposal. The fee schedule is not appropriate for the time required to provide the reports. Your fee schedule is much lower than what is being proposed for the WC doctors in

Nevada. I don't understand how you feel that this is appropriate unless you just want to do away with QMEs.

Sheryl Monaughan, MD August 23, 2019

To Whom It May Concern:
The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

The proposed reimbursement for psychological and psychiatric mental health evaluations is particularly egregious. In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

Sue Honor's proposal featured many elements that would have compensated mental health providers more fairly. These elements include: a much higher flat fee for psych initial evaluations, an hourly rate for extended face-to-face time, and a much higher flat fee for psych supplemental reports.

Additionally, I notice that DWC has intentionally NOT applied the psych multiplier to record review. This makes no sense. Reviewing medical records from a mental health perspective is inherently more time-consuming and complex than reviewing medical records for a non-psych specialist. I urge DWC to apply the psych multiplier to record review, not just the flat fee.
Further, the fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Suzanne Honor, Esq.
Honor System Consulting

August 23, 2019

Thank you for providing the opportunity for comment on the proposed regulations.
After careful review, I offer the following comments:

9793:

1. Additional definitions need to be added to this set of regulations. Clarification is needed by the regulated public regarding when it is proper for a Primary Treating Physician to perform a medical-legal evaluation. The proposed regulations still indicate that a PTP may perform a comprehensive medical-legal evaluation, but this appears to contradict other provisions of the Labor Code. The regulations need to reconcile the provisions under Labor Codes 4060, 4061 and 4062 regarding the requirement to follow the panel QME process or to select an AME under LC 4062.1 or 4062.2 in order to obtain a comprehensive medical legal evaluation.
2. A definition for when a missed appointment is payable would be helpful.
3. The medical-legal provider community has requested a standardized cover letter be provided by the parties to ensure that both the payor and the provider are on the same page as to what is being requested. The following elements are recommended:

   A dated cover sheet listing:
   A. Claimant's name and address
   B. Medical-legal physician's name
   C. Medical-legal physician's designation (QME or AME)
   D. Date, location and time of the appointment
   E. Panel number, if applicable
   F. Date(s) of injury
   G. Claim number(s)
   H. ADJ number(s), if any
   I. Claims administrator's name and address
   J. Claims administrator's attorney name and address, if any
   K. Applicant's attorney name and address, if any
   L. List of non-contested body parts

M. List of contested body parts
N. Issues to be addressed in the medical-legal report but not limited to:
- Causation of injury AOE/COE under Labor Code 4060
- Permanent disability
- Need for future medical care
- Apportionment
- MMI status
- Temporary disability
- Compensable body parts or systems

O. Statement of facts
P. Number of pages in the Document Packet
- Included in the page count will be all documents submitted to the eval-uating physician including the Cover Letter, medical and non-medical records.
- If a document is double-sided, it will count as two pages.
- Condensed docu-ments, such as deposition transcripts, will count as one page per each full page of the original non-condensed document.

"Document Packet:" Includes all records being sent to the medical-legal provider for review.
- The records shall be in chronological order, beginning with the earliest record, and tabbed by year.
- The packet shall not contain duplicate records.
- The packet also shall include a chronological index of the records, be-ginning with the earliest record. The index shall list the date and the provider corresponding to each record.

9794:

1. The medical-legal provider community has requested that the DWC allow the medical-legal provider to submit their bills and reports electronically, just like treating providers do. The carriers are already required to accept treatment bills electronically, so there should be no additional expense to accept the medical-legal bills that way as well. Most carriers already accept these bills electronically, but there are a few major ones that will not unless there is a regulation which requires that they do.

9795:

1. After no increase in payment for over 13 years, 10% appears to be inadequate. The table below shows the Consumer Price Indices for California from 2006 through 2018. The CPI is the primary indicator of inflation. The cumulative effect of the from 2006 was 30.1%. It is recommended that the new fee schedule reflect an increase more in line with the inflation rate.

Year	Index	California % change

2006	210.5	3.9
2007	217.424	3.3
2008	224.807	3.4
2009	224.110	-0.3
2010	226.919	1.3
2011	232.930	2.6
2012	238.155	2.2
2013	241.623	1.5
2014	246.055	1.8
2015	249.666	1.5
2016	255.303	2.3
2017	262.802	2.9
2018	272.510	3.7

2. There needs to be an actual payment for missed appointments and not just a maximum payment. Provision needs to be made for review of records sent prior to the appointment

date. Setting a maximum price to be paid without guaranteeing at an actual payment is meaningless. If a maximum payment is to be implemented, it should allow for additional payment for excessive record review just like the evaluations do.

3. The 400 pages of medical record review included in the Comprehensive Medical-Legal Evaluation and Follow-up Medical-Legal Evaluation is too high for the reimbursement allowed. The reimbursement amount appears to represent 6 hours of work by the physician. A common rule of thumb for record review indicates one hour of work for approximately 100 pages reviewed. That would make the record review portion of the payment potentially 2/3rds of the reimbursement. This doesn't leave adequate time for the face-to-face evaluation, preparation of the report, impairment ratings and medical research for a significant number of cases. For cases that would qualify as an ML 104 under the current schedule, it would not adequately reimburse the physician for the actual time spent.
4. The $2.00 per page rate for additional page review is also too low. Even using the $13.75 conversion factor proposed in the regulations, it should be at minimum $2.75 per page. The rate should be commensurate with an appropriate conversion factor and allowing for 100 pages reviewed per hour.
5. The exclusion payment for records previously reviewed is unreasonable. The need to re-review records is reasonable depending on how much time has passed since the records had been reviewed previously. Both the follow-up evaluation and the supplemental evaluation should be revised to provide for re-review if sufficient time has passed.
6. There is no provision for extraordinarily complex cases other than to pay for extra record review. There needs to be provisions for extraordinarily long face-to-face time, complex apportionment and complex impairment ratings.
7. The medical-legal community requested some reimbursement for records that come in no particular order which require additional resources from the provider's office to prepare them for review. I recommend a provision for such a reimbursement.
8. The medical-legal community also requested some form of disincentive for sending the records late. It is very difficult for a physician to get large quantities of records reviewed within the regulatory timeframes when the records arrive late.
9. There is no provision for regular COLA updates of the payment rates. LC 5307.6 already requires the DWC to update the Medical-Legal Fee Schedule at the same time it updates the fee schedule mandated under LC 5307.1. The most simple and efficient way to accomplish this would be to have an annual COLA update based on the CPI for medical services each January. A provision adopting such an automatic update should be included in the regulations.

Thank you again for the opportunity to comment.

Karen L. Wrubel, DPM, FACFAS August 23, 2019

The currently proposed changes to the fee schedule are unacceptable. If enacted, this fee schedule will not compensate QMEs fairly, and undoubtedly will reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures, including mine. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

In addition, the minimal reimbursement proposed for review of reams of documents is frankly insulting. I often receive 500-1000 pages of records out of order, duplicates, with some upside down. Fair charges for records are an incentive to the parties to send a reasonably orderly file. My reports provide a careful review of records and analysis thereof, allowing them to serve as substantial medical evidence. I believe these changes will cause reports to be of lower quality, actually causing increased costs to the system.

As I will not provide a low quality product, if these changes are adopted I will stop serving as a QME. I know many others who feel the same.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Bijan Zardouz, MD, QME, Neurology August 23, 2019

The proposed changes make it difficult to continue with this line of work. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

Oftentimes I see complex cases and I receive voluminous medical records, which are arranged in a haphazard fashion. These take hours to review and to incorporate these facts into my ultimate conclusions. Your proposal needs to allow compensability of the time it takes to do a thorough chronological assessment of medical issues.

I have satellite offices that I need to travel to and at times to stay in hotel to make myself available for next day evaluation of the injured workers.

The proposed changes make it difficult to do detailed work and I am certain that a percentage of QME doctors will stop providing this kind of service since they can get compensated easier just by seeing patient with private insurance.

Needless to say, that the financial changes for the QME doctors will not benefit the injured workers since the will not be able to see the doctors as easily as they can to at present time because the number of QMEs doctors become less.

David Pingitore, PhD, ABPP August 23, 2019
Board Certified Clinical Psychologist
American Board of Professional Psychology

First, I applaud your efforts to revise the fee structure for examination conducted to me the needs of our workers compensation system.

I am a practicing psychologist with over 25 years of service. I have reviewed the proposed changes to the fee structure regarding psychiatric examinations. I believe that the proposed fee changes may not adequately reimburse mental health professionals who must conduct a far lengthier examinations and administer, score and interpret psychological and neuropsychological tests that require time and expertise.
In particular, cases that involve presumed head injuries, disease or conditions to the brain results in neurocognitive deficits that require more time and reimbursement than presently proposed.

Please note that surveys conducted nationally among neuropsychologists document the number of tests administered in a standard battery. This consensus opinion among providers highlights the need to consider a different reimbursement structure.

Rodney Reid, MD, PhD August 23, 2019

The proposed changes the QME fee schedule are unacceptable and I will no longer continue to perform QME evaluations if this proposal is enacted. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community.

The reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Many quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This fee schedule proposal is a disaster. It transparently serves the interests of insurance companies at the expense of the evaluators and, eventually, the patients. Please be reasonable and consider the interests of all parties involved the worker's compensation system.

Paul J. Fry, MD August 23, 2019

Please remember we in the medical community do like helping those in do enjoy helping workers and industry get cases resolved. If at some point the incentive is not worth it then we all fail.

Stephane Johnson, MD August 23, 2019

At this point you have no doubt to become familiar with their recurring problems my colleagues of every specialty have brought up about the proposed new billing schedule. This includes a flat fee that is too low to account for the complexity of most QME reports; record billing schedule that does not take into account the actual logistics of record reception and review; late records, limitation on face to face time; the unrealistic low rate of supplemental reports; failure to consider payment for sub Rosa data; etc...

I am aware that there is an additional payment for psychiatric evaluations. However with this new billing fee and even with the psychiatric add-on, I am afraid the payment per report still amounts to something that is far below the psychiatric market. When compared to clinical practice, QME reports are highly complex forensic report that require more thoroughness, data interpretation, and familiarity with an ever changing med legal issues. The scrutinizing burden placed on the accuracy and substantiality of the QME report does not exist in clinical setting.

The California psychiatric market has paid psychiatrists 250-$300 per hour for several years now, outpacing the hourly rate of QME's. My colleagues in private clinical practice are able to generate

to even higher hourly numbers. With the new billing schedule, my recent report would have been billed at almost half and at times a third of the California psychiatric market.

While I respect the need to curb abuse and over-billing, I feel like the new billing schedule amounts to labor for a reimbursement fee that is unrealistic and out of touch with psychiatric practice. This will inevitably lead to shorter and lower quality reports while skilled QME's will drop out to pursue opportunities that pay market rates. Complex issues will become deferred to supplementals or depositions. The quality of a QME report is the most important factor affecting how well a claim moves along.

In regard to underpayment, have heard it said many times that "things will even out". and I urge the DWC to consider every report to be an independent med legal transaction that would not require waiting for another transaction with another carrier to even out being underpaid for a prior report. Just like I would not over bill a report and underbill my next one to keep things even. Every report represents an independent labor and transaction that should be fully and fairly paid.

I'm speaking mostly from a psychiatric perspective, but I urge to DWC to reconsider making its reimbursement competitive enough to attract and maintain the quality QME's within the system.

Psychiatric evaluations take a long time to become "substantial"; medical record have to be reviewed with a different eye and scrutiny than orthopedist or internists require. Rolda and benson analysis take a tremendous amount of time; and require more face to face time to collect the data. Failure to be thorough usually leads to serial supplementals and lengthy depositions.

This billing schedule will probably remain static for the next decade or two, while the psychiatric market rates will continue to increase because of the states demographic and generational changes, mental health treatment shortage, and national attention to Mental Health's.

I urge the DWC to create a billing schedule that reflects and mirrors the reality of physician specialty practice.

Out of all the proposals submitted, CSIMS and Vangarov ones most closely match the reality of the clinical market. But I feel that they are more designed for orthopedist and internists than psychiatrists.

Quality Psychiatric QME report inherently require more face to face time, more record scrutiny, more analysis, more preparation more supplementals and depositions than is reflected in the current proposal, in spite of the add-on.

Keri Jones, PhD, QME August 23, 2019

With so many differing ideas as to how to change the fee schedule, why not just keep it simple and accept the proposal from Sue Honor. She has a vast understanding of the medical-legal process which speaks loudly for her proposal.

Steve Hwang, MD August 23, 2019

The proposed change are unacceptable, if enacted, the fee schedule will increase administrative burden on QME, not compensate them fairly and undoubtedly will reduce the number of QMEs still left in system. Many of my colleagues have quit serving as a QME, most quality physicians would have avoided to become a QME.

Steven W. Meier, MD August 23, 2019
Orthopedic Surgeon

I appreciate the opportunity to comment on the proposed fee schedule changes. While the overall idea of moving to a simpler system is well founded, there are a number of details in this specific proposal that need optimizing for it to work effectively.

If enacted in its current form, this fee schedule will not compensate evaluators reasonably and will make continuing this resource-intensive work unsustainable for the majority of them. The already dwindling numbers of QMEs will fall further to the detriment of the injury workers who depend on the medical legal process.

As you are undoubtedly aware, Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal for a new Medical-Legal Fee Schedule that was endorsed widely by the QME community, receiving over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also included many essential changes that would improve the process for all involved parties.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

I have done the calculations and can say that if Sue Honor's proposal is adopted, I do believe that I could continue my work as an AME and QME. If the currently proposed changes are implemented, however, continuing this work will no longer be an option for me as it would simply

not cover the cost of doing this business. I have discussed this with a number of colleagues and they have uniformly come to the same conclusion about their own practices.
It just doesn't make sense to me why a system would be proposed that is strikingly similar to the one used in Nevada but with lower reimbursement rates when the cost of doing business the cost of living is so much higher in California.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Lori A. Harral, MD August 23, 2019

My name is Dr. Lori Harral, clinical psychologist and qualified medical evaluator. I've been working with claimants for the past eight years and I love my job.

I believe that changes are required at this point in time for the QME fee schedule. I am aware that some have mismanaged their practices with regard to QME's and I would like this to come to an end. I generally work with 1 to 2 claimants per month and very much enjoy this opportunity.

I have reviewed many thoughts on the proposed changes. After careful consideration I support Ms. Honor-Vangerov's updated medical-legal fee schedule suggestions.

- Hybrid Flat Fee-Variable Fee System for Evaluations and Supplemental Reports

  - Minimum Flat Fee of $2,200 for non-psych initial evaluations and re-evaluations (includes review of first 50 pages of records)
  - Minimum Flat Fee of $3,850 for psych initial evaluations and re-evaluations (includes review of first 50 pages of records)
  - Minimum Flat Fee of $1,000 for non-psych supplemental reports (includes review of first 50 pages of records)
  - Minimum Flat Fee of $1,750 for psych supplemental reports (includes review of first 50 pages of records)
  - $5.50/page for every page of records in excess of the first 50 pages
  - $95/100 pages of records which are not received in chronological order or with an index
  - $100/quarter hour for every 15 minutes of face-to-face time in excess of the first two hours

- $500/impairment rating in excess of the first body system/region or limb
- $400 for complex apportionment analyses
- Increase of 10% for evaluations requiring an interpreter
- Increase of 25% for evaluations by an Agreed Medical Evaluator

- Missed/failed appointment fee of $1,000 for evaluations which are not completed due to the failure of the applicant or an interpreter to attend the examination in part or in whole, or if cancelled or rescheduled by either party fewer than six (6) business days before the scheduled appointment, or if it rescheduled fewer than six (6) business

- Plus $5.50/page for every page of records in excess of the first 50 pages

- 5% premium for reports served ten or fewer business days after the date of the evaluation

- $600/hr for deposition testimony

- Cost of living adjustment annually of the greater of 4% or annual Consumer Price Index

---

David W. Baum, MD August 23, 2019

Thoughts from an internal medicine perspective:

As an internist:

I spend hours researching unique and unusual cases, i.e., pesticides and liver disease or cancer; HAZMATs or chemical exposures and cancer; rare infectious diseases (i.e., parasitic, fungal, viral infections including HIV, atypical mycobacterial diseases) as well as more common pathogens.

I am usually asked to evaluation multiple medical conditions, between 2 and 8 is the usual.

I am asked to evaluated claims which bear no relationship to an actual problem. My role is then to explain the problem which was never mentioned on a claim form.

I routinely spend an hour or more with each patient, sometimes 2-3 hours if required and my schedule permits.

I only see a few patients a day.

The medical decision making for complex cases may take hours.

I receive inches to boxes or records for most cases. Whereas an ortho can focus on the orthopedic problems, my cases tend to be derivative claims, meaning I need to understand the orthopedic conditions as well as all the other concerns.

Some of my bills might seem extraordinary; in which case I purposefully under-bill to avoid a rejection.

I am required to address and explain claims which neither the applicant nor defense parties understand.

Some naive people at the WCAB, they have no idea how complex and intricate internal medicine claims can be.

The current proposal is just untenable for an internist.

Jason A. Scorza, DDS August 23, 2019
Stanford Ranch Family Dentistry

I have been a QME for only 2 years. I have been the treating dentist for many WC patients through the years, and it quickly became evident to me how important the role of the QME is to the entire WC process. The compensation scale for QME's, as it presently stands, is severally inadequate for the time and resources it requires to exam the injured worker and to write the quality report that is needed and expected of us. I, personally, will not be continuing my QME practice if the compensation scales being asked for are not met. In talking with many of my colleagues, I am not alone in preparing to leave the QME industry if this is not addressed fairly and quickly.

Peter Newsom, MD, QME August 23, 2019

After reviewing the proposed QME fee schedule, I would make the following comment. This being the first year I have been writing reports, I was surprised how low the pay was, given all the effort the reports require. I seriously thought of quitting but have kept on not for the pay but because I find the work very interesting and I feel each report teaches a good deal. Each time I meet the applicant I learn a good deal, and sometimes it seems in the applicant's favor, sometimes the exact opposite. I have learned over many years of being a careful doc how important it is to always keep your eye on the path of separating the wheat from the weeds and so at least I strive to make the report an objective report, and one that is free of my own opinionizing, and rather rests

on the actual content of the past records and what the applicant has actually conveyed to me. And it is inspiring under those circumstances how much the applicant can be helped by our excellent Workmans Comp system, and it feels good to have done my best to be a part of that.

However, I regret to state that the proposed rates calculate to a significant reduction in pay, especially for psychiatric evaluators, and will plainly not result in any increase in pay. Psychiatric exams are quite complex, require extensive interviews, and there are multiple factors that must be considered and discussed with regard to both causation and apportionment in the final report. The record review rate also appears quite low and would not compensate a doctor who is sent duplicate records and still has to look through these to determine that factor. As for the supplemental report rate, this would similarly not sufficiently compensate a doctor who is asked several complex questions and has to review indicated case law such as new rulings as well as looking at the original report findings in order to provide a germane report. The proposed fees will not compensate a psychiatrist adequately resulting in the resignation of many psych QMEs like myself. I hope that this is not the case as I believe in serving the workers' compensation community and take pride in providing comprehensive reports that include the medical legal evidence to help expedite these cases. I am sure that many QMEs will be leaving the system if this is put into effect, or the result will be rushed and shoddy reports by any remaining QMEs, that will only create further costs and delays to the system in the long run. I strongly urge that the proposed fee structure be reconsidered.

Michael Carlish, PhD August 23, 2019

I am a psychologist and have been a QME since 2016. I'm very concerned by the proposed changes to the fee schedule. If this proposal passes into law in its current form, it would represent a significant loss of income for me.

These evaluations are very time-consuming. The record reviews are often exhaustive and i'm always aware that every sentence I write will be scrutinized by attorneys on all sides. If I were not being compensated fairly for the time and effort I put into these reports, I'm not sure I could continue to work as a QME.

The proposed fee schedule by Sue Honor does seem more fair to me, however. If the DWC adopted this proposal I would happily continue in my role as a QME.

Carol Chambers, PsyD August 23, 2019
Clinical Psychologist, Qualified Medical Evaluator

I work hard at doing QME evaluations in the field of psychology. The upcoming proposed fee schedule would make it difficult for me to continue to deliver quality product, and I believe it would adversely affect injured workers. Please consider instead improving payments for providers and saving costs in other ways.

Vicent Bernabe, DO, QME August 23, 2019

The proposed QME fee schedule by DWC is unfair and simply out of touch in the current cost of practicing medicine in the State of California.

It boggles the mind why DWC cannot even match the fee schedule of our neighbor to the east Nevada, where the cost of living, cost of practicing medicine, and cost of malpractice insurance is so much lower than California. Sue Honor's proposal is fair and workable and should be adopted by DWC instead of the current proposal which will only undermine the Worker Compensation system by decreasing the availability of available qualified physicians and at the same time, the demand will continue to increase.

Please re-consider your decision and adopt Sue Honor's proposed changes instead.

John V. Flores, PhD, MBBS, DC, QME, AME, IDE August 23, 2019
Secretary Medical Director

Colleagues,
Please understand if the intent of the current DWC proposal is to incentivize the carrier to withhold records, decrease reimbursement to the evaluators of medlegal fact, and ultimately decrease the employment pool by not appropriately addressing the medical issues; therefore the IW does not have the ability to return to work and seek gainful employment, then by all means, do nothing and say nothing.

As with all employment positions, QME's need to be properly reimbursed to be able to perform an adequate review/job. As it stands, most QME's already significantly decrease the billing time so as to not cause a cascade of billing objections that consume our already limited time. To continue on the path to decrease reimbursement will only result in a more than significant number of QME's dropping out of the program altogether, and for those that remain, will formulate improper evaluations and conclusions based on limited information. This will only consume even more backlog time at the WCAB and financially burden the system.

I have read Sue Honor's proposal to address the issues, please see https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-scheduleproposal, and agree with her recommendations as a viable step in the right direction.

Lastly, if of course the underlying intent is to seek further penalties from the employer via IC 1874 et seq., by the State of California as it was brought up to Senator Pat Bates, 36th district California, how are employers going to continue doing business in California? Clearly, if the evaluations are performed improperly due to significant time restrictions and improper reimbursement, there is no other outcome other than the collapse of the QME program in the Workmen's Compensation system in California which will severely impact employers in the State.

Gabor Vari, MD
Chief Executive Officer, California Medical Evaluators
Board Member, California Society of Industrial Medicine & Surgery

August 23, 2019

California Medical Evaluators ("CME") is a leading QME practice management company headquartered in Los Angeles. Our network of QME physicians performs thousands of QME, AME and IME evaluations annually. As a DWC-accredited QME continuing education provider, CME has a special focus on QME training and mentorship in order to improve the overall quality of QME reports. We welcome this opportunity to contribute to the dialogue on proposed changes to the medical-legal fee schedule regulations.

Before going into detail, we would like to make a few general comments:

1. The QME system is dangerously understaffed, especially in key specialties like orthopedics. The exodus of QMEs has been accelerating in recent years. Injured workers are having difficulty obtaining QME evaluations in a timely manner as evidenced by the growing numbers of replacement panels on the basis of QME unavailability.
2. QME demand is at a historic high and has been growing at the same time that the QME population has been shrinking. The **mismatch between QME physician supply and demand has never been greater**.
3. Inadequate reimbursement is one of the main drivers of QME physicians leaving the system. **QME fees have not been increased since 2006 despite DWC's statutory mandate under LC 5307.6(a) to do so regularly.**
4. QME report quality is consistently raised as a problem throughout the system.

5. **The proposed change to the fee schedule would slash QME reimbursement on complex evaluations, further reduce report quality, and drive more providers out of the QME system**. This couldn't come at a worse time. With the system already understaffed, these changes would further jeopardize the stability of the QME program.

Timing

Before addressing the specific proposed changes, we would like to comment on the timing of this proposal as well as last year's fee schedule proposal. The proposed 2018 changes occurred in the immediate aftermath of *Howard v. Baker.* That lawsuit challenged the DWC's enforcement of underground regulations to deny reappointment to countless QMEs and settled in mid-April 2018. In that settlement, the DWC agreed to stop enforcing its "interpretation" of the medical legal fee schedule which Superior Court Judge Chalfant felt were "probably underground regulations." The current DWC administration soured its relationship with much of the QME community after denying reappointment to hundreds of QMEs on the basis of these underground regulations. Many within the community felt that the settlement was a sign of hope and signaled that the DWC was prepared to act in good faith with QMEs going forward. Instead, the DWC elected to scramble and quickly change the fee schedule in order to slash QME reimbursement. **The 2018 proposed changes sought to codify several of the underground regulations which the DWC had just agreed to stop enforcing.**

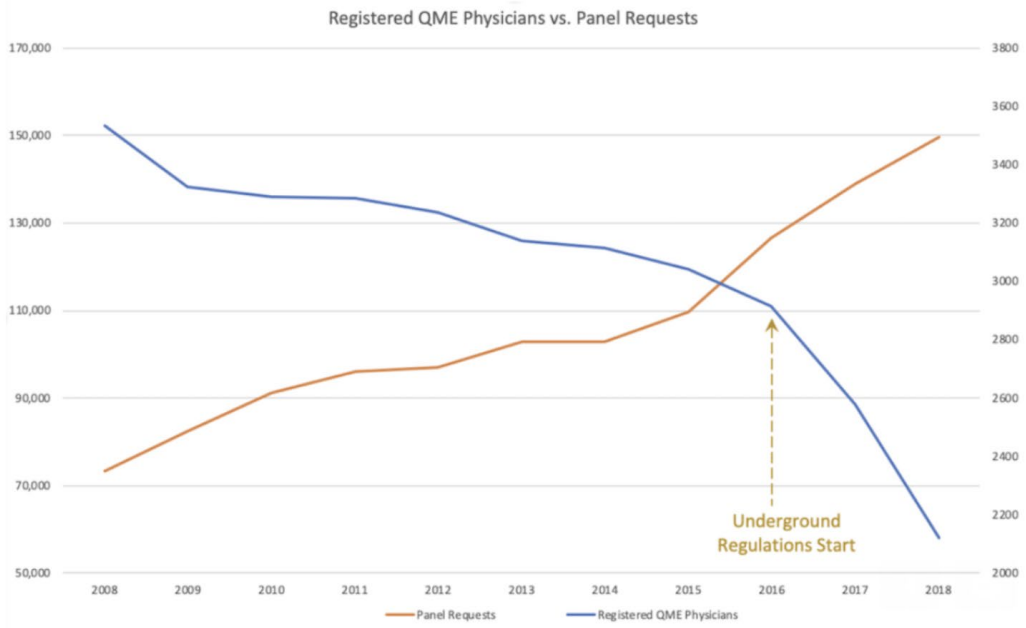
Flash forward to today. Currently the DWC is being formally investigated by the California State auditor related to its management of the QME program. The auditor is investigating DWC's reliance on underground regulations and whether DWC has properly managed the QME fee schedule which hasn't been updated since 2006. The audit scope and objectives can be found here: https://www.auditor.ca.gov/reports/scope/2019-102

Additionally, the Legislature has introduced AB1832, a bill aimed at increasing QME reimbursement which DWC has failed to do in the past 13 years. The current proposal from DWC would result in substantially reduced reimbursement for QMEs than the increase contemplated by AB1832.

The timing of this latest proposal is interesting in light of these facts. In the past, policy changes such as this have only been made once stakeholders were extensively involved. Rather than taking a more measured and collaborative approach, the **DWC appears to be making another end run around the Legislature, the California State Auditor and several stakeholder groups in order to reduce QME reimbursement.**

Background

Below is a graph which summarizes the current **QME crisis,** specifically the widening gap between QME supply and demand which has been accelerated by DWC's underground regulations and ongoing "enforcement" efforts against QMEs.



After DWC shelved its misguided 2018 fee schedule proposal, it announced later in the year that it would take another run at revising the Medical-Legal Fee Schedule ("MLFS") under which QMEs are reimbursed. Since then, **DWC's process for revising the MLFS has lacked transparency and collaboration between the various stakeholders.**

In October of 2018, DWC hosted a public forum at their headquarters inviting stakeholders to provide their input on issues with the MLFS. Speakers were limited to 2 minutes. Dozens of providers and provider representatives shared their grievances regarding the outdated fee schedule and DWC's reliance on underground regulations to suppress QME reimbursement and wrongfully throw QME physicians out of the system. Meanwhile, less than a handful of payors or payor representatives spoke.

After this forum, an unknown number of stakeholders, including CME, were invited to submit proposals for a new MLFS. According to DWC, approximately 38 proposals were submitted. The proposals were not made public by DWC.

Amongst the stakeholders submitting proposals was Sue Honor, the former manager of the Medical Unit who was instrumental in the construction of the current MLFS. **Sue Honor's fee schedule proposal became the consensus proposal amongst QMEs and their representatives, including CME.** Over 2,000 members of the QME community signed a petition in support of Sue Honor's proposal which can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The petition and the overwhelming number of signatures were shared with DWC.

DWC then scheduled two stakeholder meetings: one with QMEs (and their representatives) and another with payors (and their representatives). At DWC's invitation, CME attended a 2-hour long meeting with other QMEs (and their representatives) at DWC headquarters on May 21st. The session involved DWC representatives asking for specific input on a fee schedule and a "whiteboard" session which involved crafting a new fee schedule. Generally speaking, the consensus amongst the 20+ people in the room was that Sue Honor's proposed fee schedule with its thoughtful qualitative suggestions and reimbursement made the most sense. The meeting participants repeatedly requested two things from DWC before, during and after the meeting. #1) An explanation of the process DWC is following to create a new fee schedule and #2) Further involvement by providers in the process as it moves forward. Unfortunately, both of these requests were ignored and denied. **Several stakeholders suggested to DWC, repetitively, that DWC convene payors and QMEs at one table in order to collaboratively work towards a fee schedule we could all live with. To our knowledge, this request was denied and no such meeting ever occurred.**

Subsequent to the 5/21 meeting with QMEs, DWC held a meeting with payors. Providers were not given any information about the meeting that DWC had with payors. It is unclear what information DWC provided to payors regarding the prior meeting DWC held with QMEs and their representatives.

With the foregoing as a background, we now have a new proposal in front of us which was created through a process shrouded in secrecy and opacity. This has once again resulted in a fee schedule that has met a substantial public outcry from QMEs. Unfortunately, this is a consequence of DWC's insufficient collaboration and discussion with the most important stakeholders, namely QMEs and injured worker representatives.

Proposed Changes

DWC's proposed fee schedule borrows heavily from the structure of the Nevada IME fee schedule which can be found here (on page 6):
http://dir.nv.gov/uploadedFiles/dirnvgov/content/WCS/MedicalDocs/2019%20MFS.pdf

Unfortunately, **DWC's proposal is best summed up as a Nevada fee schedule without Nevada dollars**. This is particularly concerning in light of the fact that Nevada is a much lower cost-of-living state (with no income tax) than California and that medical-legal evaluations in Nevada's WC system are much simpler than those in California. See below:

	Nevada Fee Schedule	**California DWC Proposal**
Minimum Flat Fee	$1,735.53	$1,650
Pages Included in Flat Fee	50	400
Reimbursement per page	$4.34 (starting on page 51)	$2 (starting on page 401)
Organization of medical records in chronological order per page	$0.95	$0
Failed appointment fee	$650.82	$0
Evaluation of each body part in excess of the first 2	$325.41/body part	$0
Medical records required to be sent in an organized manner to doctor?	Yes	No
Cover letter required to specify number of pages sent to doctor?	Yes	No
Definition of "Missed appointment?"	Yes	No

Additionally, DWC ignored many of the important elements of Sue Honor's proposed fee schedule, the consensus fee schedule which was supported by over 2,000 members of the QME community. See below:

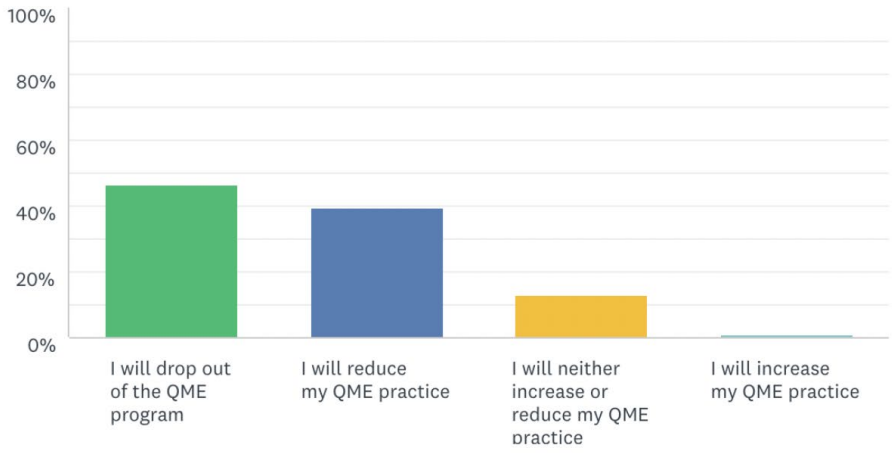
	Sue Honor's Proposal	**California DWC Proposal**
Minimum Flat Fee – non-psych	$2,200	$1,650
Minimum Flat Fee – psych	$3,850	$2,475
Pages Included in Flat Fee	50	400
Reimbursement per page	$5.50 (starting on page 51)	$2 (starting on page 401)
Supplemental report minimum fee – non-psych	$1,000	$275
Supplemental report minimum fee – psych	$1,750	$275
Organization of medical records if not received in an organized manner	$0.95/page	$0
Missed appointment fee	$1,000	$0
Reimbursement for time spent reviewing records for a missed appointment	$5.50 per page (starting on page 51)	$0
Impairment rating (after first body part)	$500/body part	$0
Complex Apportionment Analysis	$400	$0
Face to face time in excess of first two hours	$400/hour	$0

Fee for cover letter/medical records sent late to QME	$500	$0
Medical records required to be sent in an organized manner to doctor?	Yes	No
Cover letter required to specify number of pages sent to doctor?	Yes	No
Missed appointments must be reimbursed?	Yes	No
"Page" defined to prevent gamesmanship (e.g. double-sided print-outs, condensed pages, etc.)	Yes	No
Premium for reports served on an expedited basis	5%	0%
Minimum COLA increase to fee schedule annually	4%	COLA Ignored
Allowance for electronic service of medical-legal reports and ANFs by QMEs	Yes	No
Requirement that parties notify QME of appointment cancellation	Yes	No
Requirement that parties copy QME on objections to QME's reporting	Yes	No

The response to this public forum has been loud and clear. QMEs do not like this proposal. Many will quit if this proposal moves forward. We polled QMEs and obtained the following results:

If the new QME fee schedule proposed by DWC in August of 2019 is adopted, how will this impact your QME practice?

Answered: 178 Skipped: 0



ANSWER CHOICES	RESPONSES	
I will drop out of the QME program	46.63%	83
I will reduce my QME practice	39.33%	70
I will neither increase or reduce my QME practice	12.92%	23
I will increase my QME practice	1.12%	2
TOTAL		178

Based on the public forum comments to date as well as the results of this survey, DWC's proposal has further alienated and disengaged the skeleton crew of remaining QMEs.

As one of the foremost QME management groups in California, CME is supportive of the comments that CSIMS has submitted which are broadly consistent with Sue Honor's proposal. Specifically, we endorse the following:

	California DWC Proposal	**CSIMS Recommendation**	**CSIMS Comments**

Comprehensive Medical-Legal Evaluation			
Minimum Flat Fee – non-psych	$1,650	**$2,000**	This figure was agreed upon at the stakeholder meeting on 5/21. No reason QMEs should be below Nevada's flat fee of $1,735.
Minimum Flat Fee – psych	$2,475	**$4,000**	This needs to be substantially higher to properly recognize incremental complexity of psych.
Follow-up Medical-Legal Evaluation			
Minimum Flat Fee – non-psych	$1,100	**$1,500**	This code should only apply for evaluations which occur within 9 months of the most recent evaluation. Later re-evals should be billed the same as initial evals.
Minimum Flat Fee – psych	$1,650	**$3,000**	This code should only apply for evaluations which occur within 9 months of the most recent evaluation. Later re-evals should be billed the same as initial evals.
Other			

Pages Included in Flat Fee	400	**50**	**Nevada is at 50 and California should be as well.**
Reimbursement per page	$2 (starting on page 401)	**$5.50**	As discussed on 5/21, we suggest $5.50. Nevada is at $4.34/organized page and $5.29/disorganized page.
Supplemental report minimum fee – non-psych	$275	**$1,000**	DWC's proposal is grossly inadequate.
Supplemental report minimum fee – psych	$275	**$1,750**	DWC's proposal is grossly inadequate.
Organization of medical records if not received in an organized manner	$0	**$0.95 per page**	This oversight by DWC is inappropriate. It should not be the QME's job to organize the medical records. Further, carriers should be incentivized to provide the records in an organized manner. We recommend at least the $0.95/page premium found in the Nevada fee schedule.
Missed appointment fee	$0	**$1,000**	This is a critical oversight. Missed appointments and, more broadly, failed appointments must be guaranteed reimbursement.

Reimbursement for time spent reviewing records for a missed appointment	$0	**$5.50/organized page and $6.45/disorganized page after the first 50 pages**	This is a critical oversight. Record review associated with failed appointments must be guaranteed reimbursement.
Specialty-based multiplier	1.50 for psych with increases for AME status and/or interpreter needed	**1.50 for neurology and internal medicine** **2.0 for psychiatry and psychology**	The multiplier should be tiered to recognize incremental complexity between the various medical specialties.
Specialty-based multiplier applies to:	Flat Fee Only	**Flat Fee and Per Page Fee**	The multiplier must be applicable to both the flat fee and per page fee. Record review is incrementally more complex for various specialties and this should be recognized by the application of the multiplier against the per page fee.
Impairment rating (after first body part)	$0	**$500/body part in excess of the first body part.**	The flat fee is meant to account for only the simplest evaluations. Therefore, there should be a premium payable for each body part rating in excess of the first body part.
Complex Apportionment Analysis	$0	**$400**	The flat fee is meant to account for only the simplest evaluations.

			Therefore, there should be a premium payable for complex apportionment analyses.
Face to face time in excess of first two hours	$0	**$400/hour**	The flat fee is meant to account for only the simplest evaluations. Therefore, there should be an hourly rate payable for extended face to face time.
Medical Research reimbursement	$0	**$400/hour**	The flat fee is meant to account for only the simplest evaluations. Therefore, there should be an hourly rate payable for medical research.
Fee for cover letter/medical records sent late to QME	$0	**$500**	The parties should be incentivized to provide the QME with a cover letter and medical records on a timely basis. The QME should be paid a premium for reviewing cover letter/documents which are received untimely. They should arrive at least 14 days prior to the evaluation.
Medical records required to be sent in an organized manner to doctor?	No	**Yes**	The administrative burden of sorting, organizing, de-duping the medical records

			should not be placed on the provider. If the parties do provide the records in a disorganized manner then the QME should be compensated additionally for the administrative work the parties elected not to perform.
Cover letter required to specify number of pages sent to doctor?	No	**Yes**	The parties should have the burden of specifying the number of pages provided to the evaluator, not vice versa.
Missed appointments must be reimbursed?	No	**Yes**	QMEs should not be subjected to a double standard wherein they are expected to allocate time exclusively for QME appointments but not be compensated for a missed appointment.
"Page" defined to prevent gamesmanship (e.g. double-sided print-outs, condensed pages, etc.)	No	**Yes**	Definition of page must be standardized. (1)
Premium for reports served on an expedited basis	0%	**5% if served 10 or fewer days after evaluation**	QMEs should be rewarded for helping the parties move the case forward.

Minimum COLA increase to fee schedule annually	COLA Ignored	**Greater of 4% or annual increase in CPI for Medical Care**	The copy service fee schedule that DWC just proposed has a COLA increase. The lack of a COLA increase over the past 13 years for the MLFS is a huge current issue. This is an egregious omission.
Allowance for electronic service of medical-legal reports and ANFs by QMEs	No	**Yes**	Because of financial and environmental reasons, QMEs should be allowed to be serve reports electronically. Accordingly, QME Form 122 and the ANF declaration of service should be updated to allow an option for electronic service.
Requirement that parties notify QME of appointment cancellation	No	**Yes**	Currently, QMEs are often left in the dark about an appointment being cancelled by the parties until the day of or before an appointment. The parties should be required to timely give notice to the doctor about a cancellation.
Requirement that parties copy QME on objections to QME's reporting	No	**Yes**	Currently, QMEs are not required to be notified of objections to their reporting which can impact the

			collectability of their bill. DWC should require that QMEs be notified by the objecting party for any and all objections to their reports and/or bills.
Underserved Area Premium	1.25 with escalations	**Keep but clarify**	The definition of geographic area needs to be defined. The current language is inscrutable.
Underserved Specialty Premium	0	**1.50 with escalations**	As a matter of policy, DWC should incentivize providers of underrepresented specialties to join the QME program. This is a more pressing need than expanding geographical coverage.

(1) The term "page" must be defined and standardized. We suggest

o 12-point or larger Times New Roman, Calibri, or Arial font (cover letters)

o Original font with no shrinking/condensation of multiple pages onto one

o Actual number of deposition pages (i.e. in a condensed deposition that has 4-pages shrunk to fit on each page, each actual page of the deposition is counted – i.e. a 40-page

deposition transcript equates to a 10-page condensed deposition transcript → 40 pages would be included in the record count)

o Single-sided"

Conclusion

We oppose the DWC's proposed changes to the medical legal fee schedule. These proposed changes will add more friction and litigation to today's broken QME system in addition to reducing reimbursement for complex evaluations. As countless QMEs have already pointed out in this forum, moving forward with this proposal would have disastrous implications for an already understaffed and unstable QME system. The QME system cannot afford to lose the masses of QMEs who will quit if this proposal moves forward.

As a leading management company and advocate for QMEs, California Medical Evaluators once again implores DWC to stop guessing at what may work and bring all stakeholders to ONE table rather than keeping them siloed. We believe that a workable fee schedule can only result from a process that is transparent with clear, known steps. **We respectfully request that DWC adopt a workable fee schedule such as those proposed by CSIMS and Sue Honor. If DWC continues to refuse to adopt such a workable fee schedule, for whatever reason, then at a minimum their latest proposal should be withdrawn and DWC should collaborate with the various stakeholders in good faith in order to generate a workable fee schedule.**

Bruce D. Webster, PhD, QME August 23, 2019

I am against the proposed changes to the QME fee schedule as unfair and unreasonable. They do not reflect the amount of time and effort that goes into preparing a quality medical legal report. Record reviews, particularly in my field of psychology are voluminous and detailed. Clinical interviews can run over three hours because stressful work place events often stretch out over long periods of continuous trauma. A flat reimbursement rate does not take into account extraordinary circumstances and case complexity.

I have been a QME for over 26 years. If the proposed fee schedule goes into effect, I will not be able to maintain my high reporting standards at such low reimbursement rates. Rather than shortchange injured workers in need of ratable reports, I will be forced to resign.

In closing, please consider the alternative proposal offered by my professional association.

Paul R. Pirruccello, DC, DABCO, QME August 23, 2019

It seems that the proposed changes to the QME fee schedule are not taking into account the real time that is required to do a complete and thorough QME or AME evaluation and report. The doctors who have chosen to become QMEs and AMEs are dedicated to doing excellent work that is essential to the workers compensation system. Let's not lose these quality physicians by lowering a fee schedule that does not pay commensurate with the work involved. Your consideration is greatly appreciated.

Kent Karras August 23, 2019

I read over the proposed QME fee schedule. I note a number of unfair issues with the proposed fee schedule.

1) I performed a QME the other day and the insurance carrier had not sent any of the patient's records. I must now write a supplemental report once the records are received. These records will be substantial in size. I should be paid a base rate plus for each page reviewed as this will take a substantial amount of time. A capped payment will only invite abuse of the insurance companies to not provide records for the Evaluation and allow them to push off the record review and have a cheaper supplemental.

2) having the first 401 pages reviewed for free is completely unfair. Nevada only requires 51 pages. Even this is unfair!! Requiring people to perform work for free is Uu American, we do not force people to do free work in this country. Make no mistake QME's are required to perform exams and do record review or we will be sanctioned. Allowing the insurance companies to abuse this power is ethically wrong.

3) the compensation for records reviewed is also unfair $2? Per page. It should be $5.50 per page is more realistic

4) base pay for reports needs to increase. QME's are having to deal with increasingly complex issues, that take more time, effort and judgment to prepare these reports. The fact is QMEs are dropping out of the system. With less QME's in the system there are more and more delays in scheduling patients this causes more patients to give up on their claims in frustration. Once again this plays into the hands of insurance carriers.

4) The WCAB needs to help providers push back against large insurance companies who have substantial resources to game the work comp system. Already providers can be profiled and removed from MPN panels without cause. QMEs need help. For the WCAB to continue to make rules to help facilitate insurance carriers take over of the WCAB is unconscionable.

Michael Post, MD
RehabOne Medical Group, Inc.

August 23, 2019

General presumptions and insights

- Reduced numbers of QMEs/AMEs as well as delayed appointment availability is related to:
    - Diminished numbers of specialty physicians treating injured workers and exposed to or involved in the workers' compensation system secondary to the:
        - Effects of burdensome documentation requirements
        - Extent of UR and IMR (delays and denials)
        - Bill Review (auto-downcoding)
        - MPN exclusion for new and established physicians despite non-compliant MPNs
        - Increase in the number of specialty physicians joining health care systems that have no interest in industrial medicine
    - Complexity of cases due to legislative changes involving PDRS (AMA Guides), apportionment, contribution between employers, "Almaraz-Guzman" analysis, etc.
    - Inadequate reimbursement compared with other options such as treatment (in and outside of workers' compensation), personal injury claims/civil cases, utilization review, IMR, etc.
    - Annual renewal process requirements/fees (including delays in processing)
    - Increase in erroneous QME disciplinary actions and non-recertification
    - Administrative burden and cost to:
        - Sort and review voluminous medical records (including duplicate, double-sided)

    - Transcription services
    - Report processing (snail mail or fax with proof of service)
- The DWC seems determined to adopt a (more) predictable flat rate model. However,
    - It is unclear why the flat-rate for the evaluation includes any record review as that can be addressed as a separate and distinct reimbursement
    - Several variables exist that have not been considered that can influence time spent on a case such as the number of cases, number of body parts, number of employers, video surveillance, medical record content, prior injuries, comorbid medical conditions
    - The proposed reimbursement model will push the system toward volume production, mediocre reporting, increased legal disputes, reduction in seasoned QME/AMEs that address complex reports.
- We are providing a valuable service to the parties and they should be responsible for organizing the materials to be reviewed
- The revised MLFS should be as simple and equitable as possible

Simplified MLFS Proposal:

- **Step 1:** Agree on appropriate **base hourly reimbursement rate** for medical legal work (prorated in 15-minute increments – i.e. 4 units)
- **Step 2:** Agree on **average times** for face-to-face evaluation and report preparation (may vary based on specialty)
- **Step 3:** Agree on **average number of pages of standardized medical records** that can be reviewed per hour

ML 100: Failed evaluation - No show, late arrival, late cancellation, no-interpreter

- **Flat rate** to compensate for the time that was allocated for the evaluation
- **Defined late cancellation timeframe** that allows for the reasonable ability to fill the time slot
- **Defined grace period for late arrival time** that if exceeded allows for the ability to bill if Applicant is not evaluated
- **Medical record review:** Flat-rate based on X number of standardized pages including cover letters if reviewed and summarized in preparation of the evaluation
- **Surveillance review:** Flat-rate based on pro-rated total surveillance time if reviewed and summarized in preparation of the evaluation
- **Radiographic review:** Flat-rate based on average time to review an actual study multiplied by the number of studies

ML 101: Evaluation

- **Flat rate** based on estimated <u>average time face-to-face and report preparation</u>
  - – 92 modifier for PTP
  - - 93 modifier for interpreter (10% increase)
  - – 94 modifier for AME (25% increase)
  - – 95 modifier for QME
  - Consider a modifier for psychiatric evaluations
  - Consider a modifier for <u>≥</u> X alleged cases or <u>≥</u> Y claimed body parts to be addressed
  - Consider a modifier for addressing impairment determination/rating and apportionment (i.e. "final" report) as these take additional time
  - Re-evaluations (any date after the first evaluation) should be at same rate for simplification and because they can be equally as time-consuming
- **Medical record review:** Flat rate based on X number of <u>standardized</u> pages including cover letters
- **Surveillance review:** Flat rate based on pro-rated total surveillance time
- **Radiographic review:** Flat-rate based on average time to review an actual study multiplied by the number of studies

ML 102: Supplemental reports

- **Flat rate** based on estimated average time for report preparation
  - – 92 modifier for PTP
  - - 93 modifier for interpreter (10% increase)
  - – 94 modifier for AME (25% increase)
  - – 95 modifier for QME
  - Consider a modifier for addressing impairment determination/rating and apportionment (i.e. "final" report) as these take additional time
- **Medical record review:** Flat-rate based on X number of <u>standardized</u> pages including cover letters
- **Surveillance review:** Flat-rate based on pro-rated total surveillance time
- **Radiographic review:** Flat-rate based on average time to review an actual study multiplied by the number of studies

ML 103: Medical legal testimony

- **Flat rate** based on 1 hour prep and 1 hour deposition (two hour minimum) with prorated hourly charge based on additional units
  - – 92 modifier for PTP
  - - 93 modifier for interpreter (10% increase)
  - – 94 modifier for AME (25% increase)
  - – 95 modifier for QME

For all ML reports:

- Prorated hourly rate – continue 4 units per hour
- Prorated hourly rate adjusted annually for cost of living assessment (COLA)
- Clarify circumstances that allow for primary treating physicians to appropriately bill ML codes
- Ability to pre-negotiate and contract with parties for extremely complex cases
- Research is included in the average flat-rate report preparation

STANDARDIZED RECORD REVIEW PROVISIONS AND PAYMENT for MLFS

- Page count is based on:
    - 12-point or larger Times New Roman, Calibri, or Arial font (cover letters)
    - Original font (medical records)
    - Actual number of deposition pages (i.e. in a condensed deposition that has 4-pages shrunk to fit on each page, each actual page of the deposition is counted – i.e. a 40-page deposition transcript equates to a 10-page condensed deposition transcript → 40 pages would be included in the record count) or require non-condensed deposition transcripts
    - Single-sided
- Duplicates/redundant medical records/UR/IMR/prescriptions, etc. are counted with equal weight including prior reports from the same medical legal evaluator that are sent with requests for re-evaluation or supplemental report(s)
- Parties sending medical records must each declare under penalty of perjury the total page count they sent with proof of service
- Evaluators must declare under penalty of perjury the grand total page count in the report (of all medical records received/reviewed)
- Review of summary reports NOT generated by the evaluator will be counted
- Review of summary reports generated by the evaluator will be excluded as they were not sent by the parties
- If medical records are sent on CD, then all non-subpoenaed records must be combined in one PDF file (not separate), and each subpoenaed medical record must be in separate PDF files. The subtotal page count for any CD will be based on the number of pages in the PDF files (i.e. if subpoenaed records say 100 pages, but the PDF file is 105 pages, then 105 pages will be counted)
- The evaluator must add all of the records sent from the various parties to achieve a grand total
- Page count to be prorated based on 4-unit system
    - For example, if total page count is based on 100 pages of records per hour, then:
        - 1 to 25 = 1 unit

  - 26-49 = 2 units
  - 51-75 = 3 units
  - 76 to 100 = 4 units
  - 100 to 125 = 5 units
  - 126 to 150 = 6 units
  - Etc.
- If there are disputes related to any portion comprising the total records reviewed, then there needs to be a streamlined adjudication process (either established or new) to address these disputes, but hopefully with proof of service and declaration under penalty of perjury, these will be minimal

---

Tulsidas Gwalani, MD August 23, 2019
PM& R (Board Certified)
Pain Management Specialist

FOR FLAT FEE QME:
It needs to be reconsidered for panel QME reimbursement. Just giving flat fee $1650/- with review of 400 pages does not make any sense. Review of 400 pages even though "in format form" takes minimum 5-6 hours to draw complete conclusion. Paying fixed amount of $1650/- with review of 400 pages is absolutely inappropriate. It may jeopardize not only quality of report, but also conclusion. Even in Nevada with flat fee schedule, there are only 50 pages to review. After 50 pages, they reimburse per page additionally. We live in highly expensive San Francisco Bay Area. This is most expensive area in United States. Cutting down reimbursement will definitely decrease number QMEs as well as also may compromise quality of reports. If proper evaluation is not done, patient will not get appropriate disability.

MISSED APPOINTMENTS:
Many patients miss appointment or they no show. Every physician book QME for at least 2 hours for first time and staff does lot of paperwork to schedule. If patient miss appointment or does not show, it is waste of 2 hours' time for physician and staff's overhead expense. Even attorneys cancel appointment and it increase overhead expenses. If missed appointments are not reimbursed, QMEs would like to do more work in hospital instead of doing DWC work.

FOR DEPOSITION:
For deposition reimbursement should be also appropriate. Just paying $250/- per hour is not appropriate. Many attorneys pay only for one hour review or records and one hour deposition. Physicians have many patients and cannot remember in detail for each QME done almost 6-8months ago.

Even J. McCullough, PhD August 23, 2019
Clinical Health Psychology

The DWC's proposed fee schedule is alarming and incongruent to the needs of the system, especially in the area of psychology. As a QME, I am routinely asked to opine on sophisticated medical-legal issues which are far beyond my initial training as a psychologist. I have spent years learning the laws and regulations to be a quality QME in the field.

To think that my fee may be reduced significantly while requiring the same level of expertise is just wrong and horrifying. Today's psych QME's are more complex than ever. The time spent is significant. It may take five to six hours of face to face time to adequately collect a history, reviewing complex medical records is timely, and integration of the information is time consuming. In many evaluations there are inconsistencies between the records and the injured worker's self-report and this needs to be rectified.

The proposed DWC flat fee, with lower reimbursement's than Nevada, would completely undermine my capacity to render quality QME reports to the legal parties and the disputes.

The costs of maintaining a practice to treat injures workers and performing QME's has risen over the years and to think a reduction in fees is a solution is unfathomable. Should such as fee schedule be enacted, I would have to reconsider participation.

Lastly, in each reappointment letter the DWC states how important doctor's are to the system and the DWC values the doctor's participation and work product. The proposed fee schedule is antithetical to the spirit of that message and suggests instead a de-valuation of doctors and their role. I have no doubt that if the fees changes be enacted, the costs of litigation over time would increase due to insubstantial QME reports.

Allan Lee, MD August 23, 2019
Diplomate, American Board of Psychiatry and Neurology
Clinical Assistant Professor, Voluntary
University of California, San Diego

The proposed changes are a major problem and I believe will likely result an even more rapid decrease in the number of QMEs than there has been already and also will likely result in even fewer experienced and high quality QMEs being left in the system. The proposed fee schedule in particular will under-compensate QMEs and will be particularly be a problem for cases where the case is complex, involving multiple body parts, and fact heavy cases such as psychiatric and

psychological cases. Psychiatric and psychological cases in addition require detailed history given their fact heavy nature, and opinions regarding whether a predominant threshold is met, often times a Rolda analysis, a detailed enough history to provide information on impact of violent acts, and now whether an injury is catastrophic, etc. QMEs have also gotten more complicated regardless of specialty over the years as well for a host of reasons. The proposed fee schedule will likely lead to more reports failing to meet substantial medical evidence resulting in more costs from supplementals, depositions, and increased frustration for insurers, claimants, attorneys and doctors.

There are a lot of issues with the fee schedule. A few examples: The 400 page amount as being included in the flat fee should be 50 pages like the Nevada fee schedule. It can take a lot of work to review and understand 400 pages well enough to testify as an expert witness and this is even more true when it involves review of depositions, handwritten records, and personnel files. The psychiatry modifier needs to be higher and needs to be applied to the record review as well, not just the flat fee. Reviewing medical records from a mental health perspective is more time-consuming and complex than reviewing medical records for a non-psych specialist and this is in part due to the fact heavy nature of psychiatric claims.

The proposed fee schedule says a qme has to do supplementals without compensation when they address an issue that was requested to be addressed in either an initial or follow-up comprehensive medical-legal examination and if they don't do the supplemental without compensation, they could get disciplined. This could be a significant issue given that a qme could be asked to do a supplemental to reconsider their opinion on an issue that was already opined on and requested to be addressed in the initial report and in that case, the supplemental would not be reimbursed. Also, if additional records need to be sent and reviewed in order to given an opinion on an issue that was requested to be addressed in a cover letter for a prior exam, it is unclear whether the supplemental to review those additional records to give that opinion would be reimbursed.

In December 2018, the DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Payment based on time has been the standard for medical-legal experts, attorneys, and in the civil realm and would make the most sense. However, if the DWC insists on going to a flat fee system, the one proposed by Sue Honor would make more sense. The proposed fee schedule pays grossly less than the one proposed by Sue Honor and even less than the Nevada fee schedule (and Nevada is a much lower cost of living state) which makes no sense.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

Many QMEs have stopped doing QME work already. The average age of QMEs is high and the system is already having trouble attracting and retaining QMEs. The proposed fee schedule will

likely worsen this problem further and will likely cause a lot of experienced QMEs doing high quality reports to exit the system.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported.

A.M. West, PhD August 22, 2019

Thank you for providing a forum for our responses to the recently proposed changes to the Medical-Legal Expenses and Comprehensive Medical-Legal Evaluations. I am writing to express my grave concern. I consider myself a relatively new QME in the specialty of psychology. I have been producing QME evaluations since March of 2018. To date, I have enjoyed being a QME. I feel that learning the complex rules and requirements of workers' compensation-related medical-legal evaluations has challenged me to expand my professional knowledge and competencies. Having said that, I was truly disheartened when I recently reviewed the proposed changes to Article 5.6. I will note some of my greatest concerns below: Regarding Missed Appointment for A Comprehensive or Follow-Up Medical-Legal Evaluation: I am concerned about wording stating that the missed appointment fee shall not exceed the sum of $550. When I schedule a QME evaluation, I necessarily clear my schedule for the day, and more often than not, I also travel 200 miles or more to reach the evaluation site. Additionally, I typically spend a number of hours reviewing medical records prior to the day of the evaluation. By clearing my calendar of other work for the day, and spending hours preparing, I literally invest more than $550 in each QME evaluation prior to the evaluation taking place. My current cancelation fee is $750, which I believe is conservative. Given that clearing my calendar for the day causes me to miss other opportunities to earn income for that day, I believe that the cancelation fees should be mandatory and $750 minimum. Secondly, I am very concerned about the proposed combination of 400 pages of record review included for each evaluation, with additional reviewed pages reimbursed at only $2.00 per page, even in consideration of the proposed reimbursement adjustments for the overall evaluations. This reduction in reimbursement for record review, without sufficiently matched increases elsewhere, will result in a reduction in overall compensation for almost every single psychological or psychiatric evaluation. While some pages in the record review may be viewed quite briefly, it is common for a record review to include numerous complex medical documents that can require several minutes per page to review. If our typical pay is reduced by way of reducing reimbursement for necessary record review, I will have less incentive and motivation to clear my calendar of other opportunities to earn income for a day, and I may have to limit my offices to locations closer to home so I am not required to travel. This will almost certainly result in me reducing my number of offices and my overall commitment to providing QME services. Thirdly, I am extremely concerned about the proposed changes to ML 103. It appears that with the proposed changes to the fees for Supplemental Medical-Legal Evaluations we as QMEs will not be allowed to bill for record review of pages that are sent to us by the parties a second time. In my

short time as a QME, I have written several Supplemental Evaluations. It is very common for the parties to send a combination of previously reviewed pages, and brand new pages for the supplemental evaluations. The parties do not mark for us which pages are definitely new, and which pages are duplicates of pages we have seen before. This requires a careful and time-consuming review of all of the records for a Supplemental Evaluation in order to determine which pages provide new information. It would be incomprehensible to expect us, as professionals, to volunteer this time without reasonable compensation. In sum, I am genuinely disappointed with these proposed changes, and if they are adopted I will almost certainly reduce my commitment to providing QME services. Please re-consider the alternative proposed changes to the fee schedule previously submitted by Sue Honor. Ms. Honor's proposal has been endorsed by a large number of QMEs and is likely to foster renewed dedication on the part of your psychology and psychiatry specialists.

Anonymous August 22, 2019

The proposed fee schedule proposal for QME's are unacceptable and will make it impossible to continue doing this work. There will be no way to survive with the high cost of living in Los Angeles. I have been a QME in psychology since 2008 and have put my heart and soul into writing quality reports. There will be no way to put the same time and effort into these reports with the proposed fee schedule. Please do not make these proposed changes. I have highly enjoyed doing this work and want to continue to perform QME work, but I will be forced to stop performing QME evaluations because I will not be able to afford to continue doing them. Please do not make this nightmare a reality.

Michael Kasman, MD August 22, 2019

Many more articulate individuals than myself have provided excellent reviews, rebuttals and suggestions to the proposed MLFS. The DWC should be commended for attempting to revise the schedule; however well intentioned, the result has been, as so many have robustly indicated, unfair, misdirected and almost insulting to the physicians who have dedicated their careers to providing comprehensive and compassionate evaluations of the injured worker.

As a neurologist, all of my cases throughout my almost forty year career performing forensic evaluations, are extraordinarily complex. The DWC, in their efforts to simplify and streamline the fee schedule, has homogenized the complex circumstances that confront the medical-legal evaluator into a "one size fits all" paradigm. Not only the psychiatrists/psychologists, but neurologists and internists evaluate injured workers with multiple body areas involved, complex cognitive/mental status issues, often interdigitating with non-industrial disease, spanning

decades. To relegate this to a flat fee totally ignores this complexity and would lead to less accurate and in-depth reporting, to the detriment of the worker, the carrier, and the attorneys involved.

The schedule is a virtual "gold-mine" to the QME who performs many evaluations a day, whether simple or complex. For this individual, who would have received $500/evaluation, the QME now is recompensed triple the prior amount; whereas, the complex evaluations by the specialists noted above, would take an astronomical financial "hit." In addition, as so many have said, 400 pages for the flat fee is unrealistic; while on rare occasions so many pages are filled with insignificant information/fax sheets/etc., the vast majority are not. If the records contain multiple AME/QME reports, psychiatric records, or depositions, the time to review these is huge. And then, there is the preparation of a complex report. I agree with others that the base of 50 pages and increases after that is reasonable and appropriate.

I had assumed, and those learned individuals who have commented already have confirmed my thoughts, that this schedule will not only result in inferior/inadequate/lack of thoroughness products, but will probably yield a mass exodus from the system. We have seen, over the years, a reduction in compensation from the days before the QME process began in the early nineties. This proposal, for those who perform thoughtful, complex, and in depth evaluations, will be the death knell of many a QME practitioner.

Thank you very much for considering my comments.

Stuart M. Pickel, MD August 22, 2019

Should the proposed changes to the Official Medical-Legal fee schedule be implanted, they will have a serious deleterious effect on the quality and usefulness of the medical-legal reports to the parties in each case. There will be a significant increase of depositions. These fees will not allow physicians reasonable compensation for their services. The reports will be superficial with conclusory opinions.

There will be a significant decrease in the number of physicians willing to conduct medical-legal evaluations.

As a psychiatrist, I am aware of no psychiatrist or virtually no psychiatrists willing to treat a workers' compensation patient in San Francisco.
I anticipate very few qualified psychiatrists will do evaluations under the proposed fee schedule.
"Mills" of physicians will produce reports of poor quality.

Often I am asked to do an interpretive evaluation. This doubles the time it takes to conduct an examination. I doubt very few quality reports of an interpretative examination will be the result of the proposed system.

Keith Robertson, MD August 22, 2019
QME, Orthopaedic Surgeon

The proposed reduction in reimbursement for Qualified Medical Evaluators is unacceptable and unreasonable.

Considering the complexity factors to generate a comprehensive QME report addressing all the issues requested by the parties, particularly involving multiple injuries and multiple body parts, to arrive at accurate impairment, and commentary on apportionment, which involves reviewing medical records, at times voluminous records, significant overhead costs are required, which are not appropriately addressed by the proposed reduction in QME reimbursement.

Of note, the proposed reduction in QME reimbursement is likely to result in a significantly decreased number of QMEs, due to lack of reasonable and appropriate reimbursement, resulting in injured workers, including unrepresented workers, being unable to access their right to a Qualified Medical Evaluator within a reasonable distance of their location.

I am requesting that the current proposal to reduce reimbursement of Qualified Medical Evaluators by the DWC / Administrative Director be replaced with the proposal by Suzanne Honor-Vangerov, which is more reasonable.

Stephen G. Heckman, PhD August 22, 2019

First of all, the idea of being paid a flat fee for any report, whether an evaluation report or a Supplemental Report is completely absurd. We are not dealing with "one-size-fits-all." Evaluations vary tremendously in complexity, as do the number of pages sent for record reviews. I have done evaluations where as few as 75-100 pages of records were sent to me, as well as at least ½ a dozen cases in which 4,000-5,000 pages of medical records were sent for me to review (in case the claims adjuster doesn't believe it, I often take photos of these records next to a ruler or yardstick and include this at the back of my report; in a number of cases the records these photos document records that totaled 19 inches tall when stacked upon each other). Additionally, the complexity and amount of records will depend on many factors, including the number of injuries

or injured body parts, as well as how old the case is—it is far more complex to do an evaluation as well as a record review of a case that is 20 years old— vs. a case that is 1-2 years old, or less. For this reason, it is my strong opinion that these reports need to be reimbursed based on the number of hours that have to go into preparing them—not a ridiculous flat fee.

Additionally, just because something is called a Supplemental Report, does not necessarily make it a "simple" report, nor necessarily a short report. I have on numerous occasions received requests for Supplemental Reports in which I have been forwarded an additional 2,500-3,000 pages of new records that were discovered, and which I was asked to review. Doing such a Supplemental Report, which can take many hours to prepare, is not the same as authoring a Supplemental Report in which a QME is asked to simply clarify a sentence or 2 from their prior evaluation report, which can take less than 15 minutes.

Furthermore, there is a big problem in creating a differential pay scale with regard to the first 400 pages of records reviewed. In a stack of 2,000 or 4,000 pages of records, who gets to determine which are the "first" 400 pages? In many of these stacks of records, there are hospital records, with hundreds of pages of nursing notes of patient's vitals, lab chemistry results, etc. etc. which no QME actually summarizes. Reviewing 400 pages of these notes might take as little as ½ hour just to leaf through them and see that they are not the kind of records that warrant comment; conversely, reviewing 400 pages of highly-detailed depositions, psychological and psychiatric evaluation reports, etc. can take hours and hours. Because of this, there is no way that a payment system based on "the first" X number of pages reviewed can make any sense.

I can suggest some *other* things that could be done to save money in the Workers' Compensation system that make a lot more sense than once again attempting to squeeze the QME. I cannot tell you how many times I have been asked to do a psychological reevaluation on a patient whom I previously evaluated and made a treatment recommendation consisting of psychotherapy for a certain number of sessions. On numerous occasions I have been subsequently contacted to do a reevaluation 6 months later, only to learn during the course of interviewing the claimant that they are barely 1/3 or ½ of the way through the recommended treatment; I almost invariably wind up giving the same opinion, namely that the patient is still not permanent and stationary or at maximal medical improvement (surprise!) because they barely have had a chance at treatment. I then wind up reevaluating them again 6 months later, when they have completed the treatment. It seems to me that if the claims adjuster would take the necessary 5-10 minutes to verify whether in fact the claimant has completed the recommended treatment—this could save thousands and thousands of dollars in unnecessary medical-legal costs, as there is pretty much no point in reevaluating the patient until they have completed whatever treatment has been recommended.

The other thing that workers' compensation insurance carriers and attorneys could do to reduce costs is to vet the records more carefully, and not bombard QMEs with an avalanche of hundreds and hundreds of pages of irrelevant records, which are tedious and time-consuming to review, and often add very little in terms of clarifying the medical or psychiatric history.

Leslie G. Levy, DPM, FACFAS, QME August 22, 2019

I have been a QME and an AME and still currently an IME doing foot and ankle exam and treatment in the workers compensation system for over 30 plus years and I also do multi-state QME/AME exams.

My view on the proposed OMLF is that it is worse than the current schedule, punitive and likely to cause the collapse of the system. If, that is the goal, it is likely going to succeed as it will reduce reimbursements for quality complicated med-legal reporting below the cost to produce such a report.

Specifically, the new fee schedule results in a decrease in reimbursements to the QMEs, especially for multiple body parts, and multiple injuries, and for all other complex evaluations. From my perspective, the proposed fee schedule is totally inadequate and is .very poor work by your department.

In response to this new schedule, physicians already dealing with a reimbursement rate unchanged from the early 1990s will be faced with the dilemma of choosing between less detailed reviews of the records, and less detailed reports, or just stopping completely. Those who hang in will be forced to cut corners to survive.

Other states – including but not limited to Nevada, Hawaii and Virginia – reimburse at a rate that is substantially higher than the new Proposed Med-Legal Fee Schedule for California.

The new fee schedule appears to favor the insurance companies. Following are a few of the reasons for this apparent favoritism:

- There is a ceiling of $500 for any cancelled appointment, and the insurance company alone gets to decide if they pay any amount at all.

- Payment for medical records review has been cut significantly, and the insurance company has no requirement to send medical records over in order or by relevance. It was noted that the insurance company could send over less than 40 pages initially, and then send the rest requesting a supplemental and thus paying only $275 extra for the review of potentially thousands of pages.

- It was noted that not every page is the same – some take longer to read due to handwriting, size of the print, upside-down pages on e-files, and complexity of content.

- No compensation appears to be given for review of video files as part of the record review.(sub-Rosa tapes)
- No compensation is given for research which may also lead to lowered report quality.

There is a great concern that the medical reports may more frequently fail to be determined as substantial evidence creating unnecessary judicial burden and thus driving costs back up as judges send reports back for development of the record, and litigation is prolonged.

The insurance companies, and all parties concerned, must be held responsible for the documents sent to the QME to be reviewed. Charging for each page would be the best way to ensure that duplicates and irrelevant information is not sent for the physician to have to sort and review. And, the insurance companies will ultimately save money by sorting for duplicates and relevance prior to sending to the QME, rather than paying the QME to do the sorting.

I anticipate that the DWC's Proposed Fee Schedule will result in the loss of experienced AME and QME physicians, a commodity in very short supply already. And that ultimately may lead to the collapse of the entire QME system. This could ultimately result in an increase in lengthy litigation and prevent both the applicant and defense consuls from doing their jobs properly.
The new fee schedule results in a decrease in remuneration to the diligent QMEs, especially for multiple body part exams, Psychiatric and other very complex evaluations.

In response to this new schedule, physicians will be faced with the ethical dilemma of choosing between less detailed reviews of the records, and less detailed reports, or just plain leaving the workers compensation system totally.

I really have to stress this point we (all the QMEs) have spent many years, weekends, hours not just attending seminars, but learning and perfecting the art, science and all the legal aspects of the workers compensation system, it does take an enormous commitment on our lives personally and professionally and our expertise is earned as our reputations. The reason I am stressing this is to replace us is going to be unbelievably expensive if even possible and to DEVALUE our contribution and commitment to the workers compensation system is not only foolhardy but will not only collapse the system but will ultimately destroy it, and I don not wish that to occur. So please reconsider your proposals carefully as everything you tweak and or change has many unintended consequences that may be unseen.

I highly recommend that you consider Sue Honor-Vangerov's Medical Legal Fee Schedule Proposal be enacted and integrated instead.

I greatly appreciate the opportunity to have my opinions and comments be considered by you and hopefully acknowledged as if not for all of us, but for the injured workers, whom may not be able to return to their employers and/or be hirable on California's open job market, thereby remaining a productive workforce for California.

Diane Worley, Director of Policy Implementation
California Applicants' Attorneys Association

August 22, 2019

The California Applicants' Attorneys Association ("CAAA") offers the following comments regarding the proposed revisions to the Medical Legal Fee Schedule which are currently posted on the DWC Forum.

Doctors must be adequately paid for the level of expertise and time involved to properly prepare reports on complex claims.

The consensus in the community is that doctors aren't going to want to evaluate a complex case due to the lower fees in this proposed fee schedule, which will greatly harm injured workers with the most serious injuries.

CAAA also has the following concerns on this proposal.

Doctors won't get paid enough for supplemental reports.

Depos are going to be more common with the higher med legal testimony rate, and lower fees elsewhere, increasing frictional costs.

While it might make sense to reduce payments for follow-up evaluations that are performed shortly after the initial visit, a return exam two or three years later requires a comparable amount of record review and preparation similar to what is needed for an initial evaluation.
The rules allowing fees for supplemental evaluations are difficult to analyze.

One sentence says the supplemental evaluation fee covers services for writing a report after receiving records that were not available at the time of the initial or follow-up exam, but another sentence in the same regulatory section proposes to prohibit payment for reviewing any "information" that was available in the doctor's office for review, or that was included in the medical records sent to the provider before preparing the med-legal report.

Unfortunately, it's common for providers to receive records after they already performed an evaluation and shortly before the final med-legal report is due and there needs to be some clarity regarding payment in this situation.

Records sent to QMEs for subsequent evaluations often contain duplicates of what was sent for a first visit. It takes time for a doctor to review the records to determine which are duplicates.
Another element missing from the proposed rules is any kind of cost-of-living adjustment.

CAAA joins in many of the forum comments already posted highlighting these additional concerns:

•separate reimbursement for medical record review begins only after 400 pages are reviewed (one doctor has estimated it takes an hour to review 100 pages of records, only if organized first)
•no payment is specified for missed appointments or the time to organize disorganized medical records
•the schedule does not adequately compensate for evaluations where there are multiple body parts or where there is a legitimate need to do medical research
•there is lack of a mechanism to incentivize the payor to send records to the QME in a timely and organized fashion

The QME system is currently not working well as the limited number of QMEs is causing many practical problems for all stakeholders.

There have been numerous calls for a direct dialogue between the payor community, representatives of the doctors who do the evaluations, and the attorneys who represent workers but the DWC chose to separate the payors from the physician and attorney groups in the most recent stakeholder meetings.

CAAA believes such a meeting is imperative before formal DWC rulemaking begins on the medical legal fee schedule so that these concerns can be addressed.
All parties will be negatively impacted by an inadequate fee schedule, although injured workers the most.

This fee proposal as written will undoubtedly result in continuing attrition in the QME community (there has been a 20% reduction in the QME population in the last five years), along with an increase in low quality reports on complex cases due to inadequate fees.

Sharon L. Hulbert, Vice President & General Counsel
Zenith Insurance Company

August 22, 2019

Rupali Das, MD, MPH, FACOEM
Medical Director
Senior Vice President, Medical Management
Zenith Insurance Company

We commend and fully support the Division of Workers' Compensation's ("DWC") efforts to develop an objective medical-legal fee schedule that can be timely updated for use in the Workers' Compensation system. Our comments address the following:

1. Quality of Medical Reports
2. Specific changes for clarification of certain definitions
3. QME management companies
4. Specific fee schedule modifications

Quality of Medical Reports:

Core to the entire success of the QME process is the quality of reports. Therefore, we encourage the DWC to develop processes to better monitor the quality of medical reports as required under Labor Code 139.2(i) which provides:

> i) The medical director appointed pursuant to Section 122 shall continuously review the quality of comprehensive medical evaluations and reports prepared by agreed and qualified medical evaluators and the timeliness with which evaluation reports are prepared and submitted. The review shall include, but not be limited to, a review of a random sample of reports submitted to the division, and a review of all reports alleged to be inaccurate or incomplete by a party to a case for which the evaluation was prepared. The medical director shall submit to the administrative director an annual report summarizing the results of the continuous review of medical evaluations and reports prepared by agreed and qualified medical evaluators and make recommendations for the improvement of the system of medical evaluations and determinations.

Zenith strongly believes that quality of the medical reports issue should remain a key focus for all parties. Without quality reports, the system will continue to struggle. Therefore, we consider report quality the primary objective and goal of the regulations. We continue to support action in the following areas to increase report quality:

a. Require and establish training and education programs to include specific topics such as elements of a report, proper documentation of an occupational history, use and inclusion of guidelines/medical evidence, use and inclusion of research, and appropriate documentation of a physical exam.

b. Evaluate/monitor QME report quality and provide feedback and remediation suggestions to individual QMEs using objective criteria. Use corrective actions to address ongoing issues.

c. Require that all decisions be evidence-based, including evidence-based causation, apportionment, and prediction of future medical care. Require that medical recommendations provided in a QME report be subject to evidence-based guidelines or other published literature.

Comments on Specific Regulation Sections

Section 9793 Definitions

1. 9783(g) includes a definition for Follow-Up medical-legal evaluation. Zenith has seen several situations in which medical providers are initiating medical-legal evaluation reports without a request from either the carrier or applicant attorney. This requirement that reports are not reimbursable unless requested by the carrier or applicant attorney is captured in the definition of "Comprehensive medical-legal evaluation" and "medical-legal expense" but is missing from the definition of "Follow-up medical-legal evaluations" and "supplemental medical-legal evaluation". Therefore, Zenith recommends the following changes for consistency and clarity and to verify that all report types must comply with the requirements of 9783(h) before being reimbursable:

   (g) "Follow-up medical-legal evaluation" means an evaluation which includes an examination of an employee which (A) results in the preparation of a narrative medical report prepared and attested to in accordance with Section 4628 of the Labor Code, any applicable procedures promulgated under Section 139.2 of the Labor Code, and the requirements of Section 10606, (B) is performed by a qualified medical evaluator, agreed medical evaluator, or primary treating physician ~~within nine months~~ following the evaluator's examination of the employee in a comprehensive medical-legal evaluation, ~~and~~ (C) involves an evaluation of the same injury or injuries evaluated in the comprehensive medical- legal evaluation, and (D) meets the requirements of paragraphs (1) through (5), inclusive, of subdivision (h).

   (m) "Supplemental medical-legal evaluation" means an evaluation which (A) does not involve an examination of the patient, (B) is based on the physician's review of records, test results or other medically relevant information which was not available to the physician at the time of the initial examination, or a request for factual correction pursuant to Labor Code section 4061(d), (C) results in the preparation of a narrative medical report prepared and attested to in accordance with Section 4628 of the Labor Code, any applicable procedures promulgated under Section 139.2 of the Labor Code, and the requirements of Section 10606, ~~and~~ (D) is performed by a qualified medical evaluator, agreed medical evaluator, or primary treating physician following the evaluator's completion of a comprehensive medical-legal evaluation, and (E) meets the requirements of paragraphs (1) through (5), inclusive, of subdivision (h).

2. 9793(j) defines "medical research". However, the section that previously referenced "medical research" has been deleted as a single fee encompassing all services related to researching and preparing a report has replaced the separately billed items such as "medical research". Therefore, Zenith recommends removing this definition in its entirety.

If the definition is retained, we suggest modifying to clarify what is and is not included in "medical research". The definition states that it includes "investigating and reading medical and scientific journals and texts." This utilizes the term "investigating" when further clarifying "investigation". The current definition also refers to ACOEM when it should refer to MTUS. Finally, the MTUS hierarchy established under 8 CCR 9792.25.1 should be followed and no medical research should be required if there are MTUS sections that cover the medical treatment or issue under review. The following reflects these proposed changes if the definition is retained:

> (j) "Medical research" is the investigation of medical issues that are not addressed under the Medical Treatment Utilization Schedule (MTUS) or other evidence-based medical treatment guidelines that are recognized by the national medical community and are scientifically based, when applicable. It includes ~~investigating~~ identifying and reading pertinent medical and scientific journals and texts using the MTUS methodology for evaluating medical evidence established by 8 CCR §9792.25.1. "Medical research" does not include reading or reading about the *Guides for the Evaluation of Permanent Impairment* (any edition), treatment guidelines (including the MTUS, ~~guidelines of the American College of Occupational and Environmental Medicine~~ or other evidence-based medical treatment guidelines, such as the American College of Occupational and Environmental Medicine guidelines, that are recognized generally by the national medical community), the Labor Code, regulations or publications of the Division of Workers' Compensation (including the *Physicians' Guide*), or other legal materials.

3. QME management companies have become a standard within the industry. While not directly named, services they provide are addressed in the regulations by sections noting that services not performed by the QME must be separately listed. Zenith recommends adding a definition for QME Management Companies and corresponding requirements related to the services they perform on behalf of the QME. This will help with transparency and help minimize disputes throughout the process. To this end, we recommend the following:

> Add New Definitions to Section 9793: "Medical-Legal Management Services" means services performed by an individual or entity on behalf of a QME related to medical-legal reports and services including but not limited to summary of medical records, clerical work, and billing services. It does not include services provided by employees of the physician or the physician's medical practice.
>
> "Medical-Legal Management Entity" means a person or company that performs Medical-Legal Management Services on behalf of a QME.

Section 9794

1. 9794(d) -- There appears to be a dual path carriers must take when a dispute over a medical-legal bill arises. Under Section 9794(d), payment disputes are required to proceed through the Second Bill Review (SBR) and Independent Bill Review process. However, under recent developments, medical providers are submitting both an SBR and written objection to concurrently pursue both the IBR and non-IBR dispute processes.

   When a medical-legal evaluator disagrees with the amount of payment for their services, they should be required to pursue either the IBR or non-IBR process but not both concurrently. The carrier should only be required to respond the first document received (SBR or written objection). When the applicable dispute process is completed for the first document received, the medical provider can then pursue the other dispute process if appropriate.

   If both an SBR and written objection are received together, the carrier should be expected to respond to only the SBR. The EOR should state that the written objection is invalid because an SBR was also submitted. After issuance of the second EOR, the carrier should not be required to respond to any subsequent written objections by the provider until an IBR has been requested and completed.

   To help address this issue, Zenith recommends the following modifications to 9794(d):

   > (d) If the provider disputes the amount of payment made by the claims administrator on a bill for medical-legal expenses following the receipt of an explanation of review issued under subdivision (c), the provider must request the claims administrator to conduct a second review of the bill. The second bill review request must be made according to the provisions of California Code of Regulations, title 8, section 9792.5.5. A provider may not simultaneously pursue both a second bill review and written objection to payment. If the dispute is over the amount paid, then the second bill review process will control. If the dispute is over matters other than the amount paid, the provider may submit a written objection. After the non-IBR dispute has been resolved, the time frame in which to submit a second bill review request will run from the date an order on the written objection is issued. If a provider simultaneously submits both a second bill review request and an objection, the second bill review process will control.

2. For transparency and to help minimize issues during the billing process, Zenith recommends the following new section be added as 9794(l) as follows:

(l) If a Panel QME utilizes a Medical-Legal Management Entity, the QME must follow the following processes:

a. disclose the following to the carrier and applicant attorney:
   i. The name of the Medical-Legal Management Entity that the QME has contracted with to provide Medical-Legal Management Services, including name of owner, Tax Identification Number, and address of the Medical-Legal Management Entity;

   ii. The Medical-Legal Management Services to be performed by the Medical-Legal Management Entity on behalf of the QME including the name, and credentials of any individuals performing the following services;
      a. Preparation of document summaries;
      b. Preparation of draft and final reports and services performed related to preparation of the final reports or any supplemental reports;
      c. Performance of any medical examination services such as taking vital signs, history, measurements and any other part of the examination or examination preparation.

   iii. ANY and ALL entities with which the Medical-Legal Management Entity has a financial arrangement with including but not limited to diagnostic, report writing, examination, imaging or any entity providing any service related to the QME and/or the injured worker.

b. Have a contract with the Medical-Legal Management Entity that requires the Medical-Legal Management Entity to comply with all requirements of the Labor Code and regulations related to QME processes and procedures and to comply with all applicable privacy and security laws that apply to the QME provider with respect to the transmission, storage and handling of protected health information.

9795(c) sets forth the reimbursement levels for medical-legal reports and testimony. The following addresses comments for this section:

ML100 – Missed appointments should be limited to a set fee rather than a maximum to avoid disputes. The fact that an injured worker does not appear for an appointment is almost never the fault of either the provider or the claims administrator. In such a circumstance, the fee charged should be fair and balanced for both parties. Additionally, we believe ML100 should be used for more than simply communication purposes and suggest removing that statement. Therefore, Zenith recommends that the missed appointment fee be modified as follows:

ML100		*Missed Appointment for a Comprehensive or Follow-Up Medical-Legal Evaluation*. ~~This code is designed for communication purposes only. It does not imply that compensation is necessarily owed.~~ Missed appointment fees apply only when an appointment is cancelled less than six business days before the appointment date. ~~However, In no event shall the~~ The missed appointment fee ~~exceed the~~ shall be ~~sum of~~ ~~$550~~ $275.

ML101

ML101 sets a flat fee for performance of a Comprehensive Medical-Legal Evaluation. However, there are two distinct paths that can occur and the fees for the evaluation should be adjusted accordingly. If the QME finds the injured worker to be at Maximum Medical Improvement (MMI), then the QME needs to address permanent impairment or apportionment, if applicable. If the QME finds the injured worker is not at MMI, then the QME does not need to address permanent impairment or apportionment. Based on these circumstances, Zenith proposes modifying the schedule to allow a higher amount when MMI has been reached and a lower amount when it has not been reached based on the variance in work the QME will be required to perform.

Additionally, for ML101, 102 and 103, Zenith believes that the volume of records a QME must review can be adjusted based on relevancy. Many times providers are given medical records that are not relevant to the issues being addressed through the QME process. To minimize costs and make reviews more efficient Zenith proposes a process where the QME be required to summarize only the medical records that formed the basis of the QME's decision in the QME report. All other records can be recorded in a list, similar to what occurs in the utilization review process. This will minimize the work the QME must perform for summary of records in the report and clarify the reports by drawing specific attention to the records that formed the basis of the report.

This approach is supported by 8 CCR 41(c)(2) which states in pertinent part:

> (c) All QMEs, regardless of whether the injured worker is represented by an attorney, shall with respect to his or her comprehensive medical-legal evaluation:
>
> > (2) Review all available **relevant** medical and non-medical records and/or facts necessary for an accurate and objective assessment of the contested medical issues in an injured worker's case before generating a written report. **The report must list and summarize all medical and non-medical records reviewed as part of the evaluation.** [Emphasis added.]

However, this section should also be clarified that the summary of medical and non-medical records is limited to relevant records and that a listing of all records reviewed is otherwise sufficient to show all records reviewed as part of the review. This would align with how other reviews are conducted, such as utilization review, in the workers' compensation system and given credence to the requirement that "relevant" records be taken into account.

Finally, Zenith believes the $2.00 per page rate for review of records in excess of 400 pages is too high as it equates approximately $200 / hour for record review based on the average number of pages a provider can review in an hour. We therefore recommend a rate of $1.50 per page. Based on these comments, Zenith proposes the following modifications:

ML101	120~~5~~ MMI - ($1,650) Non-MMI ($1,100)	*Comprehensive Medical-Legal Evaluation*. Includes all initial comprehensive medical-legal evaluations. The fee includes review of 400 pages of medical records. Review of medical records in excess of 400 pages shall be reimbursed at the rate of ~~$2.00~~ 1.50 per page. When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical records reviewed by the physician as part of the medical-legal evaluation and preparation of the report. The Panel QME shall provide a listing of records received and reviewed as part of the QME evaluation. The QME report must include a written summary of the medical records that formed the basis of the QME assessment, evaluation and findings. Summaries of medical records are encompassed in the fee for medical record review and are not separately reimbursable. Comprehensive Medical-Legal Evaluations must comply with the requirements of paragraphs (1) through (5), inclusive, of subdivision (h) in order to be reimbursable.
ML102	8050 ($1,100)	*Follow-up Medical-Legal Evaluation. Includes all comprehensive medical-legal evaluations performed after the initial comprehensive medical-legal evaluation. The fee includes review of 400 pages of medical records that were not reviewed as part of the initial comprehensive medical-legal evaluation. Review of medical records that were not reviewed as part of the initial comprehensive medical legal evaluation that are in excess of 400 pages shall be reimbursed at the rate of ~~$2.00~~ 1.50 per page. When*

		billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical records reviewed by the physician as part of the follow-up medical-legal evaluation and preparation of the report. The Panel QME shall provide a listing of records received and reviewed as part of the QME evaluation. The QME report must include a written summary of the medical records that formed the basis of the QME assessment, evaluation and findings. Summaries of medical records are encompassed in the fee for medical record review and are not separately reimbursable. Follow-up Medical-Legal Evaluations must comply with the requirements of paragraphs (1) through (5), inclusive, of subdivision (h) in order to be reimbursable.
CODE	RV	*PROCEDURE DESCRIPTION*
ML103	2075 ($275)	*Fees for Supplemental Medical-Legal Evaluations*. The fee includes services for writing a report after receiving a request for a supplemental report from a party to the action or receiving medical records that were not available at the time of the initial or follow-up comprehensive medical-legal evaluation. Fees will not be allowed under this section for supplemental reports following the physician's review of: (1) information which was available in the physician's office for review or was included in the medical record provided to the physician prior to preparing the initial or follow-up comprehensive medical-legal report; or (2) addressing an issue that was requested by a party to the action to be addressed in either an initial or any follow-up comprehensive medical-legal examination. Failure to issue a supplemental report upon request because of an inability to bill for the report under this code would constitute grounds for discipline by the Administrative Director or his or her designee. Review of medical records that were not reviewed as part of the initial or follow-up comprehensive medical-legal evaluation shall be reimbursed at the rate of ~~$2.00~~ $1.50 per page. When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical records reviewed by the physician as part of the

		supplemental medical-legal evaluation and preparation of the report. The Panel QME shall provide a listing of records received and reviewed as part of the QME evaluation. The QME report must include a written summary of the medical records that formed the basis of the QME assessment, evaluation and findings. Summaries of medical records are encompassed in the fee for medical record review and are not separately reimbursable. Supplemental Medical-Legal Evaluations must comply with the requirements of paragraphs (1) through (5), inclusive, of subdivision (h) in order to be reimbursable.

9795(d) Modifier – 96 Zenith agrees with compensating Psychiatrists and Psychologists at a higher rate given the complexity of the reviews completed, but believe a lower multiplier is more appropriate. Zenith's recommendations are set forth below:

-96 Evaluation performed by a Psychiatrist or Psychologist when a psychiatric or psychological evaluation is the primary focus of the medical-legal evaluation. Where this modifier is applicable, the value of the procedure is modified by multiplying the normal value by ~~1.50~~ 1.25. If modifier -93 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by ~~1.60~~ 1.35. If modifier -94 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by ~~1.75~~ 1.50. If modifier -93 and -94 are also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by ~~1.85~~ 1.60.

9795(d) Modifier -97 Underserved Areas: Zenith agrees with the concept of providing a modifier for underserved areas for specialties such as ENT and ophthalmology. However, there must be some mechanism to identify for carriers, providers and other parties which demographic areas and specialties have been deemed by the DWC to be in an Underserved Area. The publication of a definitive list on the DWC website of Underserved Areas by zip code and specialty will be a critical component to the implementation of this modifier. Without such a list to support implementation, the modifier could lead to confusion, disputes and potential abuse.

Implementing and maintaining such "area" rule listings can become complicated. A QME could provide services in both an Underserved Area and in locations that are not Underserved Areas.

Therefore, the Underserved Area list must be driven by zip code and chosen specialties for the applicable zip code. The DWC will also need to identify QMEs that fall within the "chosen specialties" for clarity of application. Carriers will need time to create bill review rules to implement the Underserved Area and specialties to ensure proper bill processing.

For these reasons, we suggest the Underserved Area Modifier be added to the fee schedule, but implementation until be delayed so that these issues can be fully addressed by the DWC and industry.

Modifier Levels: Zenith also is proposing changes to two modifiers based on the following calculations:

- If modifier -93 is also applicable for an ML-101 or the ML-102, then the value of the procedure is modified by multiplying the normal value by 1.35.
    - 97 (1.25) and 93 (1.10) = 1.35
- If modifier -94 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.50.
    - 97 (1.25) and 94 (1.25) = 1.50
- If modifier 96 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by ~~1.75~~ 1.50.
    - 97 (1.25) and 96 (1.25) = 1.50
- If modifier -93 and 94 are also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.60.
    - 97 (1.25) and 93 (1.10) and 94 (1.25) = 1.60
- If modifier -93, -94, and -96 are also applicable for in ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by ~~2.10~~ 1.85.
    - 97 (1.25) and 96 (1.25) and 93 (1.10) and 94 (1.25) = 1.85

The following sets forth the proposed changes discussed above:

> -97 Evaluation performed in an Underserved Area. This modifier will be applicable when an evaluation is performed in a geographic area where there were fewer than three physicians in a chosen specialty with a QME-certified office location in that geographic area as of July 1, ~~2019~~ 2020. Where this modifier is applicable, the value of the procedure is modified by multiplying the normal value by 1.25. If modifier -93 is also applicable for an ML-101 or the ML-102, then the value of the procedure is modified by multiplying the normal value by 1.35. If modifier -94 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.50. If modifier 96 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by ~~1.75~~ 1.50. If modifier -93 and 94 are also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.60. If modifier -93, -94, and -96 are also applicable for in ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by ~~2.10~~ 1.85. The DWC shall post a listing of Underserved Areas, specialites and qualifying QMEs to the DWC website on or before January 1, 2020 for implementation on July 1, 2020. The DWC shall review and update the Underserved Area list for publication on the DWC website on or before July 1 of each year subsequent year.

Sheldon Bloch, MD, QME August 22, 2019

I have found my work as a QME extremely interesting and certainly satisfying. My income from my work has been adequate but not what I would hope given the amount of time and effort required to perform comprehensive psychiatric interviews including thoughtful reviews of current and past psychiatric issues and do a thorough review of past records. This is not as simple as a general medical evaluation since it takes time to build rapport and a relationship with applicants and understand their emotional experiences in more than a superficial manner. Even a review of medical records in psychiatry and psychology requires thoughtful study in an attempt to understand the applicant. For example, last week I had to spend many hours going over past records and understanding the evolution of the applicant's multiple psychiatric symptoms. My interview alone was four hours and it required many more hours to understand how the information from the interview related to 4000 pages of medical records. Even more time was spent attempting to understand issues of causation and apportionment in this case.

This is typical of the psychiatric and psychological evaluations we are asked to do. When I am asked to do re-evaluations, I have to spend extensive time going over and, once again,

remembering issues which surfaced in the initial evaluation. The DWC is proposing a major reduction for re-evaluations when they are at least as complex as the initial evaluation.

Your proposed fee reduction makes it impossible for me to perform QME psychiatric evaluations. The fee reduction for Supplemental evaluations and the extensive review necessary to provide quality reports is unacceptable. No medical professional could afford to spend the extensive time absolutely necessary to prepare for depositions given your fee schedule reduction.

I cannot exist financially on the proposed significant fee reductions being proposed and, in spite of the time and effort I put into my QME work, I would have to seriously consider not being involved in the system. In fact, please seriously consider the proposed fee schedule that Sue Honor proposed and which many QMEs support. Your proposal is a serious fee reduction and makes it impossible to continue working in the QME system.

Richard C. Rosenberg, MD, Orthopedic Surgeon August 22, 2019

The proposed reduction in reimbursement for Qualified Medical Evaluators is unacceptable, and in view of no increase in reimbursement since 2007 irrespective of cost of living increases, appears to be unreasonable.

Firstly, the California Legislature created the Qualified Medical Examiner (QME) designation, intending its continued existence as statutorily mandated. Reduction in reimbursement of Qualified Medical Evaluators has the effect of decreasing the number of QMEs, which may be substantial.

The California Labor Code, Section 139.2(h)(1) states, in part: If a panel is not assigned within 20 working days, the employee shall have the right to obtain a medical evaluation from any qualified medical evaluator of his or her choice within a reasonable geographic area.

The proposed reduction in Qualified Medical Evaluator reimbursement appears to result in a larger number of QMEs no longer willing to participate in the QME process. The effect of fewer QMEs in the QME process would tend to reduce QME access to injured workers to the point where the rights of the employee to have a Qualified Medical Evaluator of choice within a reasonable geographic area are no longer respected and enforced.

The California Constitution, Article XIV Labor Relations, Section 4, states, in part: "The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and **enforce a complete system of workers' compensation, by appropriate legislation**..."

An incomplete system of workers' compensation, caused by substantial reduction of available QMEs within a reasonable geographic area might be unconstitutional, for which comment is deferred to the appropriate constitutional law specialist.

The effect of the proposed reduction in QME reimbursement has not had an administrative action impact report to assess potential removal of rights from injured workers, including those outside a reasonable geographic area. This effect may be better addressed by the California Legislature, to ensure enforcement of a complete system of workers' compensation by appropriate legislation, including reasonable reimbursement of Qualified Medical Evaluators to maintain the constitutionally mandated complete system of workers' compensation, should the updated medical-legal fee schedule proposed by Suzanne Honor-Vangerov, former manager of the DWC Medical Unit not be established.

Should the proposed reduction in QME reimbursement be allowed to go into effect, the effects of staff layoffs would also be a potential possibility.

Qualified Medical Evaluators cannot sustain a practice in which complexity factors are not considered and cannot sustain high overhead costs to provide a comprehensive QME report, including providing ratings and comment on apportionment in complicated cases, without proper reimbursement. For QMEs to provide accurate opinions, record reviews, at times extensive record reviews, need to be performed.

No practice can survive in an environment where the Qualified Medical Evaluator's expertise and time are not valued and appropriately reimbursed. Further cuts by the Administrative Director would suggest that highly qualified and experienced Qualified Medical Evaluators spend their time organizing and reviewing medical records and providing valuable reports without appropriate compensation. The proposed cuts in QME reimbursement proposed by the Administrative Director would also result in eliminating research to support an opinion, in some cases resulting in failing to attain substantiated opinions as required by law.

Duplicate records received by a Qualified Medical Evaluator, following reduction in staff as a contemplated effect of QME reimbursement, would result in reviewing the duplicate records, and then be advised by the payor that the time going into the review of records will not be paid. This is a clerical duty, not the Qualified Medical Evaluator's, for which appropriate reimbursement needs to be addressed.

For complicated cases involving multiple body parts and multiple dates of injury, a "flat fee" would not cover the Qualified Medical Evaluator's time expended to result in medically reasonable, substantiated opinions as required by law.

To maintain the detailed reasoning required of Qualified Medical Evaluators' substantiated opinions, appropriate and reasonable reimbursement is necessary. The California Legislature regularly provides Cost Of Living Adjustments, including for education providers, minimum wage

workers, etc., and yet the California Governor by proxy the Administrative Director, discriminates against Qualified Medical Evaluators by denying Cost Of Living Adjustments and instead proposes reduced reimbursement. Why?

A number of reputable physicians have stopped serving as Qualified Medical Evaluators. A number of other reputable physicians have avoided becoming a Qualified Medical Evaluator because of poor reimbursement. To date, I have continued to serve a Qualified Medical Evaluator, however, the trending toward unreasonable decrease in reimbursement for services provided as a Qualified Medical Evaluator is concerning and at some point will lead to decreased numbers of reputable physicians serving as Qualified Medical Evaluators.

I am requesting that you strongly consider the adverse effects of the proposal to reduce reimbursement of Qualified Medical Evaluators on the reputable physicians, and the California Workers' Compensation system, and to replace that proposal with the proposal by Suzanne Honor-Vangerov, which is more reasonable.

Alexis Link, MD, Co-Founder & CEO August 22, 2019
Patrick Link, MD, Co-Founder & CFO

Our company provides training, administrative support, medical billing, and furnished office space to psychiatrists performing medical-legal evaluations in the California workers' compensation system. We support eight psychiatrists who collectively perform over 250 medical-legal services within the system per year.

We have reviewed the most recently proposed changes to 8 CCR §§ 9793 – 9795 and have concluded that, if implemented, they would likely result in the end of our company. We state this without hyperbole, as evidenced by the following.

We applied the proposed Medical-Legal Fee Schedule (MLFS) changes to all the medical-legal bills we have submitted for reimbursement thus far during 2019, and we compared the amounts we would have billed under the proposed system to the amounts we billed under the current system. The proposed system would have resulted in 36% less reimbursement for our services.

We investigated what a 36% reduction in reimbursement would do to our net profit after accounting for expenses. If the proposed changes had been in place during 2018, our net profit would have been 9% of the profit we obtained under the current system.

The proposed system would cut our gross income by 36% and our net profit by 91%.

This is unacceptable. The reduction in net profit would make the financial benefit of participating in this system not worth the risks involved. All our net profit would have to be reinvested in the

business to ensure an adequate supply of emergency funds to cover lean months. This would leave us with little to no actual take-home pay despite operating a complex medical-legal business. We would likely close our business.

Without a management company to support them, our psychiatrists would likely end their participation in the workers' compensation system. In order to stay in the system, they would have to rent their own office space and master the tasks of obtaining and organizing records, communicating with parties to workers' compensation cases, submitting and billing for reports appropriately, and obtaining reimbursement for their services, all while taking in 33% less gross income.

Sue Honor has proposed changes to the MLFS that we fully support:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

We believe her proposal is best suited to ensure the ongoing viability and quality of the QME system. In addition to providing better reimbursement to medical-legal evaluators in the system, it would implement changes that would improve the organization and quality of medical records used in medical-legal determinations, reduce the rate at which applicants fail to show up for evaluations, and help move the system towards a greener future less reliant on printed paper.

While we support her proposal, we offer the following to ensure the ongoing existence of our company and our livelihoods. If the Division of Workers' Compensation is intent on implementing changes like those currently proposed on the DWC forum, the following would be required to ensure our gross income and net profit do not drop, according to our calculations based on our 2019 billings:

- Fee for initial psychiatric evaluations: $3,887
- Fee for psychiatric reevaluations: $1,211
- Fee for psychiatric supplemental reports: $569
- Record review reimbursed starting at the 51st record at $3.94 per page.
- Multiplier for services requiring an interpreter: 1.1

Unless the goal of the DWC is to make the system less palatable to psychiatrists, the above numbers represent the floor values at which discussions about possible changes should begin, per our calculations, which are attached.

We enjoy participating in the medical-legal system and take pride in our unique role in the system as fair arbiter psychiatric evaluators. Our goal has never been to increase the number of psychiatrists with whom we work simply to pursue net profits. We work with select psychiatrists whom we train to produce clearly written, efficiently worded, clinically accurate, and legally honest reports. This is the satisfaction of our work, but it requires adequate reimbursement to cover our expenses and to balance the risks of participating in the system. To that end, the currently proposed changes must not be implemented.

Click here to view the data analysis submitted by commenters.

James E. O'Brien, MD August 22, 2019

Needless to say, this past decade has been brutal for injured workers and QMEs. And any California who isn't a well-connected billionaire.

SB863 was a corrupt transfer of money from injured workers and QMEs to well-connected billionaire plutocrats working on California High Speed Rail, the biggest white elephant failure in California history.

I'd call it third world corruption, but that's an insult to underdeveloped countries. Morocco successfully completed a high speed rail project for a fraction of the costs of the failed Modesto to Fresno line.

The implementation of the so-called underground regulations was a lawless fiasco that resulted in a mass exodus of QMEs and successful lawsuits that finally shut that capricious and sadistic process down.

This latest proposal continues the cycle of negligence, bias and flat-out abuse that is a fitting bookend for a disastrous decade.

If you think the term abuse is overkill, think for a moment about the provision that gives the insurance companies discretion over whether or not to pay failed appointments. That is a statement that our time is worth nothing.

It's also removes any disincentive to cancel appointments at the last minute, leaving QMEs with nothing to cover the overhead and missed opportunities.

It's also abusive to not at least offer a COLA increase equivalent to what California employees and retirees have been granted since 2005.

But hey, taxes, expenses are higher and traffic is twice as bad so there's that. Not to mention crime, homelessness, unnecessary forest fire deaths and rebirth of medieval plagues. So I guess this is all in keeping with California standards of government competence.

It's beyond asking why would anyone want to be a QME, the real question is why any professional at all in the private sector would remain in the state at all.

Rambod Poursalimi, DC
Qualified Medical Examiner
State of California Approved Industrial Disability Evaluator

August 22, 2019

The proposed changes are unacceptable and poorly conceived. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening and obtuse. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Michael Amster, MD August 22, 2019

The proposed fee schedule inadequately compensates a QME for their time, effort, cost of running a business, and subject matter knowledge. A mass exodus of QMEs will inevitably occur, myself included. Your proposal particularly punishes the most experienced QMEs who are requested to evaluate the most complex cases involving multiple body parts and complex issues of causation and apportionment from multiple past injuries. You are making it impossible to provide quality reports that will serve as substantial medical evidence.

Let me give you a few common scenarios that I experience as a QME and why this proposed fee schedule won't work and the effect that it will have on the already burdened and struggling system.

1. New evaluations with no records. I routinely receive no records for a new evaluation because the parties don't provide them in time. I often receive in excess 5,000 pages of records a month or two late. I will not be reviewing all these records and spending 10-20-30-40+ hours of my time for a proposed set rate of $275 for the entire supplemental report. What will happen is the insurance companies will take advantage of this and intentionally send records late. The QME will demand a re-evaluation to review all these records, delaying and further burdening the system. Or the QME will quit the system, requiring the applicant to find a whole new panel and start from scratch.

2. Supplemental Reports: Since I am an experienced QME, I often receive very complex cases that have 5+ prior injuries. These cases often end up with supplemental report requests where I am asked to review hundreds or thousands of pages of records, and answer sometimes 10 or 20 questions regarding these records of very minute details of causation or apportionment. It is impossible to complete this level of report complexity in 1 hour. What will happen is the QME will demand a re-evaluation to review all these records and answer the questions, further burdening the system. Or the QME will quit the system, requiring the applicant to find a whole new panel and start from scratch.

3. No-Shows $500 cap, and the insurance company alone gets to decide if they pay any amount at all. I schedule 2 hours for my evaluations. As a busy primary treater trying to get California injured workers back to employment, I can only find time 3-5 days a month to do evaluations. I have a 10-20% no show rate. If someone no shows I have lost 2 hours of my time and the preparation time I have already spent in advance reviewing the records. My staff also has spent an hour on scheduling, the cost of mailing correspondences, confirming appointments, etc. How can you expect QMEs to not be reimbursed at all for missed appointments when hours of physician time and staff time is wasted? What will happen is the insurance companies will take advantage of this and pay nothing because they aren't required to. Scheduling QMEs will be a losing proposition and doctors will avoid certain attorneys or type of patients who are a high cancellation risk. Or the QME will quit the system, requiring the applicant to wait even longer to find a new panel.

4. Disastrous Records: I often receive many thousands of pages of records in complete disarray. The parties are often very sloppy in sending records, sometimes complete duplicate sets are received many times or the records come completely out of order in a jumbled up mess. How can you pay us less than the Nevada rates to sort and review records when the cost of doing business, cost of living, taxation and cost of staff employment is so much more in California? Sue Honor's recommendation is fair and equitable and will encourage the parties to take responsibility in providing records that are not duplicated, organized and cleaned up.

5. Sub Rosa and other non medical records. No compensation appears to be given for review of video files, deposition reviews, and other non medical records as part of the record review. The DWC proposed regulations are poorly thought out. How will this be paid? I have had to review 40 hours of sub rosa video for one case. QMEs will refuse to review any subrosa or non medical records under this new proposal, resulting in poorer quality reports.
6. No compensation for research may also lead to lowered report quality.

In summary, the DWC should adopt Sue Honor's recommendation. She is the most experienced and knowledgeable expert in California in this subject matter having been in the trenches and composed the current fee schedule for the DWC over a decade ago. She knows more than probably anyone in this area and has clearly thought this out in her proposal. If you refuse to adopt Attorney Honors recommendations, then please go back to the drawing board and draft a regulation that is fair and equitable to both sides. At least start with the fee schedule of Nevada, and build it up from there. The costs of doing business in California is way more expensive in every aspect from employing staff, office rent, taxation, cost of living etc. California QMEs should be paid 25-50% more than Nevada, not less. An alternate option would be to let physician leadership sit down with the insurance companies to create a joint proposal? Why don't you give the two parties the chance to meet together and come up with a solution? Maybe together we can solve this rather than your pathetic attempt to favor the insurance companies and once and for all nail the coffin shut for the QME program in California. Adopting your current proposal will be the final straw for myself and a majority of QME providers!

I would also like to call out to all my QME colleagues who are reading this to get involved in your professional organizations and societies like WOEMA and CSIMS. Contact your friends, colleagues, and legislators and let them know what the DWC is doing to destroy the QME system and harm injured workers in California. Not by coincidence, the DWC released this poorly written and ill-conceived fee schedule when AB 1832 came out. Everyone can see that the new proposed fee schedule is pro-insurance company. Since clearly the DWC cannot provide a fair and equitable fee schedule, ask your legislators to support AB1832.

Mark McDonald, MD August 22, 2019
Adult, Child and Adolescent Psychiatry

I am a QME in psychiatry. I've reviewed the proposed new QME fee schedule and find it extremely disappointing. In essence, these changes reduce rather than increase pay for psychiatric QMEs. The new flat fee system proposes an amount far below the current typical payment. The record review rate fails to take into consideration the common practice of being sent duplicate records, often out of order, that must be sifted before they can be excluded from the record review. The supplemental report rate would only cover the most basic interrogatories from the attorney and does not adequately cover the time required to review often lengthy and complex prior reports. In addition, currently, a large amount of income is lost due to late cancellations and no-shows—often motivated by legal strategizing on the part of the attorneys—with no financial incentive for the attorneys to reduce or eliminate this practice. The proposed changes do not adequately address this, or the opportunity cost to the QME who has no option but to forgo his income when this happens.

In summary, given the current high cost of administering a QME practice, without an increase in income, the incentive to remain a QME will diminish. Why were the fee schedule changes proposed by Sue Honor, endorsed by many QMEs, not considered? Her proposal addressed all of the above issues, and more, with a fair structure that protected QMEs and the attorneys. If these proposed fee changes go into effect, there will be no further incentive to stay. I and many other QMEs will simply leave.

Graciela Barzaga, MD August 22, 2019

Please do not change the fee schedule it will lead to the loss of several experienced QME especially with the decrease in pay for multiple body parts.

No pay for research and other drastic changes.

Payment for medical records review has been cut.

Joel Berger, MS, DC, DABCN, QME August 22, 2019

After reviewing the proposed QME fee schedule, the proposed rates calculate a significant reduction in pay especially for psychological evaluations. Doctors cannot be expected to stay in the QME system without adequate pay for their time and services. With interview time, review of records and the bare minimum to write a report with basic substantiated findings, the proposed rate with the psych modifier would be a substantial decrease from the current $250 an hour rate. Further, the language regarding payment for record review and non-payment for duplicate records assumes that doctors will spend their own time, without payment, sifting through mountains of

records as often insurance companies and attorneys often do not take the time to insure duplicate records are not sent. In addition, the complexity of the record review required for a psychiatric evaluation is not nearly adequately compensated under the flat fee schedule.

The new proposal still does not make the missed appointment fee mandatory. However, in specialties such as psychology/psychiatry, we are required to review the records prior to the evaluation. Not to mention that due to the lengthy time involved in a psychiatric evaluation, doctors, such as myself typically set aside most if the not the entire day for the evaluation, we must be compensated for this time should the applicant fail to appear for an appointment or cancel within 6 days.

This proposed fee schedule appears to be more beneficial to the insurance companies than any other party. I strongly urge that the proposed fee structure be reconsidered. Otherwise, I foresee many doctors either leaving the QME system causing delays in services or rushing through reports, which will inevitably lead to more expenses down the road for the system. If the proposed fee structure is passed the results will be disastrous, leading to many QMEs including myself to leave the system.

Kimberly Kaufman, PhD, QME August 22, 2019

After reviewing the proposed QME fee schedule, the proposed rates calculate a significant reduction in pay especially for psychological evaluations. Doctors cannot be expected to stay in the QME system without adequate pay for their time and services. With interview time, review of records and the bare minimum to write a report with basic substantiated findings, the proposed rate with the psych modifier would be a substantial decrease from the current $250 an hour rate. Further, the language regarding payment for record review and non-payment for duplicate records assumes that doctors will spend their own time, without payment, sifting through mountains of records as often insurance companies and attorneys often do not take the time to insure duplicate records are not sent. In addition, the complexity of the record review required for a psychiatric evaluation is not nearly adequately compensated under the flat fee schedule.

The new proposal still does not make the missed appointment fee mandatory. However, in specialties such as psychology/psychiatry, we are required to review the records prior to the evaluation. Not to mention that due to the lengthy time involved in a psychiatric evaluation, doctors, such as myself typically set aside most if the not the entire day for the evaluation, we must be compensated for this time should the applicant fail to appear for an appointment or cancel within 6 days.

This proposed fee schedule appears to be more beneficial to the insurance companies than any other party. I strongly urge that the proposed fee structure be reconsidered. Otherwise, I foresee

many doctors either leaving the QME system causing delays in services or rushing through reports, which will inevitably lead to more expenses down the road for the system. If the proposed fee structure is passed the results will be disastrous, leading to many QMEs including myself to leave the system.

Michael R. Mandel, MD August 22, 2019

I have been a QME/AME for over 30 years. I very frequently need to spend three full days (20-26 hours) preparing comprehensive psychiatric reports on the applicants referred to me, including the review of voluminous records. If the proposed fee changes are instituted, I estimate that my hourly rate will be reduced to 50% of the current modest fee schedule. In that case I will be unable to continue to serve the patients who are referred to me and the workers' compensation community.

Eduardo Lin, MD August 22, 2019

There need to be a specific time frame for responses from claim adjusters for authorization of testing during QME examination. As we do not want delaying issuing reports nor asking patients to return to do testing during QME examination. As many of testing are recommended by AMA guide for impairment rating 5th edition as part of objective finding as well providing impairment rating assessment. Testing many times also help to further assess patients as part of objective findings as well making accurate diagnosis as part of QME examination often missed or in dispute.

The authorization process should start prior to QME assessment day. During initial phase of exchange and communications between parties. So QME can be done properly on timely matter not to wait until QME day or after. As this will only delay QME process and sometimes incomplete and inaccurate diagnosis.

Kenneth H. Geiger, MD August 22, 2019
Board Certified Neurologist

The proposed fee schedule appears to primarily be addressing the physician charges for the review of medical records. It should be noted that close to 100% of the medical records that I receive as a QME neurologist are NOT in chronological order. This means the medical records MUST be put in chronological order before they can be reviewed. As the attorneys and carriers are increasingly trying to cut costs, my office quiet frequently has to print the medical records from a CD-ROM disk or from an emailed pdf. This requires the QME office staff to take the time to do the printing

and my office to provide copy paper and toner cartridges, with no provision in the code for reimbursement.

There are "medical records" and "medical records". I may review another physician's 100-page QME or AME report in which 80 pages are a review of medical records that i have already reviewed. In essence I'm reviewing 20-pages. On the other hand, i may review 100 pages of hand written progress notes with notes regarding 2 or 3 follow-up visits per page. You cannot provide a one fee per page formula as a reasonable way to charge for a record review. The only reasonable way is an hourly fee. And that fee needs to be increased as it's been $250/hr. for over a decade. In order for my medical record review to be profitable is by doing the record review late at night and on weekends when I'm not paying employee salaries.

If I'm correct, when SB899 was passed, the medical legal fees by specialist were studied for 1 year and then an acceptable fee was calculated for each specialty. Sounded great, BUT reports became shabby as there was not a reason to complete a more thorough report as shabby reports received the same automatic payment as high quality reports. Because of the guaranteed payment system, First Western Medical Group opened 27 clinics throughout the state!! If a payment per page becomes the new system, this examiner envisions that an increasing number of QMEs will only provide a list of records reviewed with the total number of pages, possible by means of a photocopy of the list of medical records provided by the attorney or carrier rather than providing a though summary of the information on each page. I'm 76 years old and have been through all the failed systems.

There's a tremendous amount of overhead/staff required for a Workers' Compensation medical practices. If a new fee schedule does not increase compensation for the hard work necessary for QME/AME evaluations, I'm sure many of us will drop out of the system. Many have already dropped out. Many attorneys in private practice are billing $700-$800/hour, with billing for paralegals in the range of $350/hour. After 4 years of medical school and 5 years of internship and residency training, we're not billing the hourly rate of a paralegal.

Joel Berger, DC, QME August 22, 2019

I appreciate the opportunity here to discuss the proposed QME Fee Schedule. There’s much to address here. To be succinct, your proposal reads like an unadulterated attempt to reduce QME charges, plain and simple. There are many rules set forth by DWC without discussing in any descriptive language how you came about it. You also set up various ways that you can even manipulate the QME so that his/her services get reduced. Take for instance the review of medical records. The insurance company may send out, for example, 30 pages of medical records, then when a supplemental report is required, the QME may then receive literally hundreds of pages more but since it’s a supplemental report, the charges are capped. This is clearly a deliberate method in avoiding QME charges. Then there is the issue that research will not be compensated.

There are times research is required to address complex issues and provide substantial evidence, an ingredient germane in determining assessment. What I find most disturbing is that the DWC acted on its own, without, so far, any negotiation. At least even the injured worker can choose to obtain a lawyer to provide legal footing, we as QMEs also need to have such protection as well. Ms. Sue Honor-Vangerov, an experienced workers' compensation attorney, has also proposed a Med-Legal Fee Schedule and I feel strongly that she should be at the table when any proposals are made to the fee schedule. In this way we have representation that can iron out some of these flagrantly flawed recommendations and that the element of fairness can be achieved for all sides.

Thank you for you time and consideration.

Alan Roth, MD, JD August 21, 2019

1: the system has issues. Treating physicians struggle to get tests and treatments which are both necessary and reasonable to move patients to a permanent and stationery state. There are well organized denial specialists that will turn down treatment that even the claims examiners and medical directors of insurance say are reasonable. The only option is to speak to a QME to see if an independent opinion agrees with the treating physician. It will be a major problem if the QME recommendations are put through the peer review process. Either you want he qualified experts opinion regarding the need for EMG and MRI tests or not.

Although there may be a few abusers of the QME process, QME exams are difficult and are relied on to move the process forward and these examinations should be compensated for in a more reasonable fashion with less difficulty for the examiners.

The alternative will be mediocre examinations cranked out and this won't help anyone.

Jacob Rosenberg August 21, 2019
CSIMS

The California Society of Industrial Medicine and Surgery (CSIMS) submits the following comments on the DWC Forum concerning Reimbursement of Medical-Legal Expenses Regulations:

<u>Introduction</u>

The DWC *Newsline* No.: 2019-65 dated August 6, 2019, indicates that the proposed revisions to the Medical-Legal Fee Schedule (MLFS) attempt to establish the following goals:

The implementation of a predominantly fixed fee for all procedure billing codes is anticipated to reduce frictional costs by establishing reimbursement that is based on objective and quantifiable criteria. The increase in the multiplier for setting fees will increase the reimbursement for the vast majority of evaluations performed by physicians.

A careful review and analysis of the proposed revisions leads CSIMS to the conclusion that the stated goals will not be satisfied. Rather than "reducing frictional costs," the proposed revisions are likely to lead to more confusion, friction, litigation, delayed resolution of complex medical-legal issues, and will reduce the quality and usefulness of medical legal reports. It is also questionable as to whether the proposed revisions will result in an "increase [in] reimbursement for the vast majority of evaluations." Further, these revisions, if adopted as written may reduce the supply of physicians willing to provide this vital service.

DWC last adjusted the medical-legal fee schedule in 2006. Since that time, the workers' compensation system in California has become much more complex. This additional complexity, which has come by way of new case law and a substantial increase in the number of medical records reviewed per case, has directly impacted QMEs and AMEs. The average case requires significantly more time and expert analysis than 10 years ago. As such, we believe that a substantial increase in compensation to medical-legal providers is warranted in order to a) adjust reimbursement for the past 13 years of inflation and b) reflect today's more complex medical-legal environment as compared to 2006.

We recognize that the proposed regulations are a "take two" for DWC. Last year's proposal was released by DWC in May of 2018 in response to the defeat of the Division's underground regulations through the *Howard v. Baker* case. That proposal, which sought to dramatically slash QME reimbursement resulted in a collective uproar from QMEs. DWC wisely shelved that proposal.

We also recognize that the current proposal is a response by the Division to the introduction of AB1832 which seeks to require DWC to increase QME fees which it has not done since 2006. Unfortunately, the current proposal by DWC would result in substantially lower compensation for complex reports than the increase in compensation contemplated by AB1832. The importance of producing high-quality medical-legal reports that constitute substantial medical evidence, especially in complex cases cannot be understated. Any revisions to the MLFS should aim to enhance, not reduce, the quality of these reports.

<u>Comments on Specific Changes to the MLFS</u>

1. <u>Addition of §9794(a)(3).</u> The proposed subdivision (3), in effect, provides that other than permitted by subdivision (1), "no other charges shall be billed under the Official Medical Fee

Schedule in connection with a medical-legal evaluation or report." Although DWC staff indicates that they intend to limit billing under the OMFS to medical-legal diagnostic tests, the overly-restrictive proposed language could prevent appropriate billing for medical-legal consultations. Current regulations (§§31.7 and 32(b)) concerning medical-legal consultations are ambiguous and incomplete. If a medical-legal consultation, because of its content, is not eligible for reimbursement under the MLFS, it should be reimbursable under the OMFS. The proposed language of subdivision (3) is defective because a medical-legal consultation is an expense incurred "in connection with a medical-legal evaluation or report" and it is also in conflict with the second paragraph of §9795(a).

2. ML100/Missed Appointment Fee. The current fee schedule does not provide for any reimbursement for missed appointments which are to be billed under the code ML100. to the current fee schedule,

“This code is designed for communication purposes only. It does not imply that compensation is necessarily owed.”

This is a significant concern for QMEs as carriers routinely point to this language as justification for denying reimbursement completely or in part for missed appointments. Additionally, this is currently a substantial area of friction as QMEs must resort to litigation in order to pursue reimbursement for missed appointments in many cases.

Further, there appears to be a double standard in play. On the one hand, QMEs are limited in the number of evaluations that they may schedule in a day or within a certain period of time as they are required to see an injured worker within one hour of their appointment time under 8 CCR 41(f). Indeed, the Division makes it clear on its website that QMEs are subject to discipline if an injured worker waits beyond one hour prior to the evaluation. In order to comply with this regulation, many QMEs book appointment slots exclusively for QME evaluations and do not double or triple book patients as is common in clinical practice.

It is our position that it is unreasonable for DWC to require QMEs to set aside time exclusively for QME evaluations but on the other hand, not to require that carriers reimburse providers for a missed appointment.

We believe that DWC has an opportunity to reduce this friction by updating this language in a meaningful way in order to require reimbursement to providers for these missed appointments.

Unfortunately, the proposed revision does not accomplish any of these goals. Rather, the proposed language keeps the existing language and adds the sentence:

“However, in no event shall the missed appointment fee exceed the sum of $550.”

Such a revision would cap the fees that a provider may charge for a missed appointment but continues not to require that carriers reimburse providers for missed appointments.

Given that 10% of all scheduled evaluations result in missed appointments this is inappropriate.

We suggest that DWC require reimbursement of an appropriate fee for missed appointments varying by specialty. In our experience mental health providers typically set aside the most time for QME evaluations, followed by internal medicine/neurology, followed by musculoskeletal providers.

We also suggest renaming "missed appointments" to the term "failed appointment/late cancellation" which would cover both appointments rescheduled or cancelled late by a party and a broader set of circumstances contributing to the failure of an evaluation.

Under 8 CCR 34(d), QMEs are precluded from cancelling appointments within six business days except for good cause. Currently, there is no such requirement for the parties to a case. We suggest that evaluations which are cancelled or re-scheduled within this six-business day period also be eligible for reimbursement under ML100.

Further, the definition of "missed appointment" should be expanded beyond just an appointment for which an injured worker does not appear. There are many other circumstances, beyond the control of the medical-legal evaluator, which may contribute to the failure of an appointment to be completed. These include, but are not limited to, the injured worker leaving prior to the conclusion of the evaluation, an interpreter not showing up or leaving prematurely, or a hostile or intoxicated injured worker which results in the evaluator not moving forward with the evaluation under 8 CCR 41(i). We suggest allowing for reimbursement for these circumstances under ML 100 and renaming "missed appointment" to "failed appointment."

When there is a failed appointment there should be a per page charge for the record review performed for the evaluation. A quality evaluation requires reviewing the records before the evaluation actually takes place.

3. Threshold of 400 Pages of Medical Records Included in Flat Fee. DWC proposes a flat fee for Comprehensive and Follow-Up Medical-Legal Evaluations which would be inclusive of the first 400 pages of medical records.

First, the term "medical records" is narrow and does not adequately encompass the breadth of records submitted to a medical-legal evaluator for review. QMEs are frequently sent documents, other than medical-legal records, which they are asked to review in connection with a medical-legal evaluation. These records include cover letters, depositions, investigative reports, personnel files, accident reports, police reports, subpoenas, legal documents from the instant case and prior cases, if applicable, billing documents, etc. The proposal should be modified to be sufficiently broad to cover ALL documents sent to the medical-legal evaluator. We suggest replacing "medical records" with "Documents."

Second, the term "page" is not defined nor standardized. This will invite gamesmanship and disputes resulting in more litigation and friction. This term must be defined and standardized. To reiterate from our December fee schedule submission to DWC,

"Page count is based on:

o 12-point or larger Times New Roman, Calibri, or Arial font (cover letters)

o Original font with no shrinking/condensation of multiple pages onto one

o Actual number of deposition pages (i.e. in a condensed deposition that has 4-pages shrunk to fit on each page, each actual page of the deposition is counted – i.e. a 40-page deposition transcript equates to a 10-page condensed deposition transcript → 40 pages would be included in the record count)

o Single-sided"

Third, it is unclear why DWC's proposal seeks to include the first 400 pages to be included in the flat fee rate. Such a high threshold appears to be arbitrary and excessive. DWC has not provided any data or explanation supportive of such a high page count. Further, CSIMS is unaware of any empirical data supportive of such a high threshold. When searching other states' fee structures, we have learned that our neighbors to the east in the State of Nevada, have a fee schedule with a similar structure to the one that DWC has proposed. Nevada's fee schedule only includes 50 pages in its flat fee. We suggest that the Division modify the instant proposal to include only 50 pages in the flat fee as well.

4. $2 per page DWC proposes reimbursement of $2 per page in excess of the first 400 pages for Comprehensive and Follow-Up medical-legal evaluations.

First, it is unclear how or why DWC has arrived at the compensation rate of $2. Such a low dollar figure appears to be arbitrary and insufficient. DWC has not provided any data or explanation supportive of such a low level of reimbursement. Further, CSIMS is unaware of any empirical data supportive of such a number. It is our understanding that medical-legal evaluators typically review between 100 to 200 pages per hour, although we have not seen any data on this issue. Turning again to Nevada, the Silver State reimburses its IME providers $4.34 per page. Nevada has a much lower cost of living and no state income tax. California's reimbursement should be substantially higher than $4.34 per page to reflect the economic reality between the states.

Second, DWC's proposal does not specify who has the burden for determining the number of pages of "medical records" reviewed by the medical-legal evaluator. The proposal states,

"When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical records reviewed by the physician as part of the medical-legal evaluation and preparation of the report."

We are led to believe that the burden for page count verification is therefore placed on the medical-legal evaluator. This will certainly lead to friction and litigation due to disputes over page count. Further, placing the burden of such a ministerial task on the medical-legal evaluator is inappropriate. The Parties are tasked with obtaining, collating, preparing and sending the Documents to the medical-legal evaluator for review. As such they are in a much better position to ascertain the correct page count than the medical-legal evaluator who has the Documents dropped in his or her lap.

We propose that the burden of page count verification be placed on the party sending Documents to the medical-legal evaluator for review. Each party should be required, under penalty of perjury, to specify the page count for all Documents sent each time they submit Documents to the medical-legal evaluator for review with a penalty if they substantially misrepresent the number of pages sent for review. Essentially all the documents sent require a review.

Third, DWC's proposal states that the $2 per page fee for follow-up evaluations and supplemental evaluations will only be counted towards review of medical records that were not reviewed as part of a prior evaluation. As the proposal has no requirement on either Party to determine which records were previously provided to the evaluator, one can only assume that DWC, again, seeks to place this ministerial burden on the medical-legal evaluator.

The Workers' Compensation system is rife with examples in which the burden for a ministerial duty is placed on the employer. For instance, an employer has 90 days to accept or deny a claim. If the employer does not respond within the 90 days, then the claim is deemed accepted. Similar rules exist for utilization review; if the employer does not complete utilization review within a timely manner then the requested treatment is deemed authorized.

Accordingly, we propose that the administrative burden of reducing or minimizing previously reviewed documents sent to the medical-legal evaluator be placed on the parties. Such a ministerial duty should not be placed on the evaluator. Further, the DWC's proposal would render the QME into an uncompensated file clerk, mind-numbingly sorting thousands of medical records without any compensation whatsoever. We would point out that the defense clearly has more significant resources at their disposal then any physician. If the insurance company finds it too burdensome to sort the records how can the DWC reasonably require the physician to provide this service on a regular basis.

Fourth, if the burden of sorting and collating records is to fall on the QME, then the physician should be compensated for this activity. Turning again to Nevada, the IME fee schedule in the Silver State mandates that all medical records be provided to the IME "in chronological order based on date of service." If the insurer fails to do so then the IME is compensated an

additional $0.95 per page. Such a structure wisely incentivizes the payor, with its vastly greater administrative resources, to furnish the evaluator with a properly organized set of medical records. We suggest that DWC adopt a similar requirement for payors and compensation for evaluators. This would promote greater efficiency and reduce waste in the QME system.

Fifth, we are concerned that the proposed fee scheduled bypasses the current method for determining QME compensation. Under the current fee schedule, the method involves the multiplication of relative value units by the conversion factor (the "RV Times CF Method"). The values of both of these metrics are established in the fee schedule. These metrics, in turn, determine the compensation for all medical-legal codes. Such a scheme appears to be mandatory upon a reading of LC5307.6

The DWC's current proposal establishes the per page fee at $2 and it is not assigned a relative value code unlike all other billable codes in the fee schedule. The per page fee is defined in the "Procedure Description" section. In the current fee schedule all billable codes are assigned a relative value. The fact that the current proposal seeks to circumvent the statutorily mandated RV Times CF Method is concerning. The Legislature recently introduced AB1832 which seeks to increase QME reimbursement by mandating an increase to the conversion factor. Such a circumvention of the conversion factor, as proposed in DWC's new fee schedule would nullify the effect of AB 1832 on the per page fee. We query the legality of such a proposal in light of DWC's statutory obligations vis-à-vis the mandated structure of the Medical Legal Fee Schedule.

5. Flat Fee of $1,650 for Initial Evaluations and $1,150 for Re-evaluations

The flat fees proposed by DWC are unreasonably low and do not adequately compensate medical-legal evaluators for their time. A lower complexity and lower cost-of-living state such as Nevada has a flat fee of $1,735 for all evaluations which only includes the first 50 pages of medical records. We are concerned that establishing such a low flat fee may encourage medical-legal evaluators to cut corners and sacrifice report complexity. This will mean that more reports will be challenged as lacking substantial medical evidence, resulting in more litigation, friction and costs. Such increased friction would be to the detriment of both employers and injured workers.

Of particular concern is that the lower flat fees for re-evaluations appears to be apply to all re-evaluations regardless of how soon or far after the re-evaluation occurs relative to the initial evaluation. The current structure of the fee schedule wisely recognizes the difference of complexity between re-evaluations occurring prior to or later than 9 months of the prior evaluation. Under the current fee schedule structure, re-evaluations which occur within 9 months of the most recent evaluation are afforded the ML101 code.

We encourage DWC to simplify the proposal by ascribing identical reimbursement for re-evaluations and initial evaluations. Re-evaluations often times present substantial complexity and may be more complicated than initial evaluations. Such complexity may involve interval treatment (or denial of same), injuries which may ultimately constitute apportionable events, and permanent

and stationary determinations necessitating apportionment analyses via *Escobedo* and *Benson*, *Almaraz-Guzman* analyses and *Kite* analyses. For this reason, we suggest elevating the level of reimbursement of re-evaluations to that of initial evaluations.

6. Modifiers For Increased Compensation Not Applicable to Record Review or Deposition Testimony

The Division's proposal indicates that all modifiers, whether for AMEs or the 50% increase in reimbursement for mental health specialists, does not apply to per page review fees or deposition testimony. We encourage the Division to modify this to allow for the application of psych (and other specialty modifiers, as described more fully below) and AME modifiers to record review and the AME modifier to deposition testimony.

We hope that the Division has closely reviewed the already submitted comments from many QMEs. Of particular concern is the outcry from psychiatrists and psychologists who would be woefully undercompensated under the instant proposal. DWC would help ameliorate this concern by allowing for the application of the psych modifier to the per page review fee.

While we agree with the Division's recognition of the additional complexity of mental health evaluations by way of the creation of modifier -96, we disagree with DWC's proposal to bar the use of this complexity factor for per page review fees. Simply stated, record reviews associated with mental health evaluations are more complex than record reviews associated with non-mental health evaluations. Depositions must be scoured in detail as must any and all mental health records for any past or concurrent stressors which may play a role in the applicant's alleged psychiatric injury. Such close scrutiny of the records is particularly important in light of the predominance of injury threshold required under LC3208.3. Because mental health evaluators review records in excruciating detail, interview the injured worker with these records in mind, and then exhaustively reconcile any discrepancies between the history and the medical records, we urge the Division to allow for the application of modifier -96 to per page record review fees.

The Division has stricken the phrase "and medical-legal testimony" from the text of modifier -94, the AME modifier. We disagree with this change. AME's have been, and should continue to receive, a premium for all of their services including for deposition testimony.

7. Psych Modifier of 50% and No Modifier for Other Specialties

DWC's proposal offers a 50% increase in the flat fee rate for psychiatric and psychological evaluations. No other specialties are eligible for modifier increases under DWC's proposal.

As was discussed at the provider stakeholder meeting with DWC on May 21, 2019, our position is that other specialties, in particular neurology and internal medicine (and internal medicine subspecialties) are significantly more complex than musculoskeletal examinations and therefore merit increases in reimbursement.

We suggest a 100% modifier for psychiatric and psychological evaluations and a 50% modifier for internal medicine and neurology. Again, we believe that specialty-specific modifiers should apply towards the per page record review fee as well the flat fee and not the flat fee alone as DWC has proposed.

8. Missing Reimbursement for Areas of Additional Complexity

A significant omission in DWC's proposal is allowance for reimbursement for variable complexity. As all medical-legal evaluators can attest, no two reports are created alike and there is more complexity to an evaluation than just record review pages.

Under LC 5307.6, the DWC is required to create a fee schedule which compensates medical-legal evaluators for face-to-face time as well as other factors which inform evaluation complexity. The fact that DWC's proposal does not provide for any compensation specifically related to face-to-face time appears to be noncompliant with LC 5307.6.

We suggest that DWC ascribe a reasonable hourly rate to face-to-face time, which is verifiable, in excess of the first two hours. The current fee schedule recognizes same as a complexity factor. We recommend an hourly rate of $400 per hour (pro-rated in quarter hour increments) for each hour in excess of the first hour of face-to-face time for musculoskeletal reports and in excess of two hours for other reports.

Another common area of complexity which is neglected by DWC's current proposal is the need for multiple impairment ratings. An evaluator performing one impairment rating should not be compensated the same as one who performs twenty. We express our concern that omitting compensation for such a variable task would disincentivize evaluators from performing impairment ratings. This raises a concern that the current DWC proposal is biased against injured workers with multiple claimed body parts. We suggest that DWC ascribe a reasonable value for each impairment rating provided beyond the first body part. We believe that $400 per additional body part is a reasonable value, Nevada currently reimbursed $325 for each body part above the state's threshold.

Further, body part should be defined more narrowly than the current definition of a "body system or region as defined by the Table of Contents of the AMA Guides 5th edition." Under this current definition, a rating of each of the 10 fingers, both hands, both wrists, both elbows, and both shoulders" would be considered "one body part" consisting of "the upper extremities." The definition of body part should be expanded to include each digit, joint, hand and foot. Bilateral impairment ratings of each body part should be counted as two body parts.

Yet another area requiring attention is complex apportionment analysis. We suggest grandfathering in current complexity factor #7 related to apportionment as a separately reimbursable complexity item. Specifically:

"A discussion of apportionment of disability when determination of this issue involves the physician evaluating (1) the injured worker's employment by three or more employers, (2) more than two injuries to the same body system or body region or (3) more than one injury involving two or more body systems or body regions."

9. The charge for a supplemental report of $275 implies that the average time spent on a supplemental report is less then 45 minutes. That is clearly not correct. Time spent varies widely but the average time is clearly an hour or more exclusive of record review. A reasonable minimum charge for a supplemental report would seem to be $400 plus a per page charge for record review. It is unreasonable to expect the physician to determine which records have been previously reviewed. When records are sent they must all be reviewed.

10. Finally, DWC has not designated any reimbursement for the performance of medical research. Such research is frequently necessary in various instances including cancer cases alleged to be the result of industrial exposure and other areas with complex causation theories. We suggest that the medical-legal evaluator be reimbursed $400 per hour for the performance of medical research that is requested by a party or authorized by the defense.

11. COLA Omitted

Of significant concern is the fact that DWC has inexplicably omitted any form of COLA increases to the fee schedule in future years. The substantial omission of such a COLA increase is particularly alarming in light of the fact that: 1) DWC is being audited by the California State Auditor in part for failing to provide such a COLA increase to medical-legal evaluators since 2006, 2) AB1832 specifically seeks to require DWC to include a COLA increase in the medical-legal fee schedule and 3) DWC very recently proposed a COLA allowance in the recent fee schedule proposal for copy service providers.

It is dumbfounding that DWC would omit a COLA adjustment for medical-legal evaluators, thereby guaranteeing that the recent controversy plaguing the QME community for the past several years would continue on indefinitely, due to DWC's inaction.

12. Premium for Expedited Reports

Currently QMEs have up to 30 days to provide their reports for initial evaluations and re-evaluations. These reports are critical in allowing the parties to resolve medical disputes and move cases closer to resolution. We suggest that DWC provide a financial incentive to medical-legal evaluators who provide their reports in an expedited fashion. Such a policy would recognize and

reward medical-legal evaluators for the critically important and time-sensitive role they play in the outcome of workers' compensation claims.

We suggest a 10% increase in the overall compensation for reports which are served 10 or fewer days from the date of the evaluation.

13. Premium for late cover letters/medical records

Previously we described how DWC's proposal fails to remedy the significant issue of the parties sending records to medical-legal evaluators in a disorganized and haphazard fashion. DWC's proposal also fails to address another significant issue regarding the medical records: the lateness of the provision of cover letters and medical records to the medical-legal evaluator.

Currently, there is nothing in the QME regulations obligating the parties to send medical records or a cover letter to the medical-legal evaluator with the exception of regulation 34(g) which allows for a mental health medical-legal evaluator to cancel an evaluation due to non-provision of the medical records prior to the evaluation. We strongly encourage DWC to update the QME regulations with language that would hold the parties accountable to providing a cover letter and medical records to the evaluator in a timely manner.

Specifically, we recommend that the parties be obligated to provide a cover letter and medical records no less than ten business days prior to the evaluation. In the event that these are not provided within the required time frame, the evaluator should be allowed to cancel the evaluation, be reimbursed a failed appointment fee, and be allowed to reschedule the evaluation once provided with the cover letter and medical records. Alternatively, the evaluator could elect to continue with the evaluation, notwithstanding the late cover letter/medical records, and be paid a reasonable exigency premium specified by DWC in the fee schedule. We suggest an exigency premium of $500.

14. Electronic Service

Currently, QME Appointment Notification Forms ("ANF") and Medical-Legal Reports are required to be served by mail. This is due to the fact that the proof of service forms (a Declaration of Service accompanying the ANF and QME Form 122 for medical-legal reports) do not allow for electronic service.

We strongly urge the DWC to update these proofs of service forms to allow for an option of electronic service. Each year millions of pieces of paper, toner cartridges, and unnecessary postage are purchased and utilized because of these outdated forms. We have pointed out this environmentally unfriendly and needlessly financially punitive matter to DWC several times over the years but the Division has failed to update these forms nonetheless. We can think of no good reason to continue the status quo and strongly encourage the Division to update service options for QMEs to the 21st century and allow for electronic service.

15. Notice of cancellation must be sent to QME by parties if they settle/cancel

Currently, QME regulations do not require that the parties inform the evaluator if they have settled the case or if they would like to cancel an evaluation. Frequently the first notice that an evaluator receives that an evaluation is not moving forward is when the injured worker fails to appear for the evaluation. Upon contacting the parties, evaluators are often informed that the case settled weeks ago and that the evaluator was not notified because no such requirement exists in the regulations.

It is time to update the regulations and require that QMEs be informed if their services are no longer needed because the appointment has been cancelled, the case has been settled or for any other reason. We recommend that the DWC update the QME regs with this requirement.

16. Notice of objection to QME report must be sent to QME by objecting party

Similar to the previous issue, there is no current requirement that the parties notify the QME that an objection has been lodged to his or her report. Under Labor Code 4622, insurers are required to pay uncontested fees to a QME within 60 days of receiving the report. However, QMEs frequently discover (after 60 days has lapsed) that the insurer will not be reimbursing them because they have objected to the evaluator's report. Frequently, the objection is only sent to opposing counsel but not to the QME.

We strongly encourage the DWC to update the QME regulations to require that a party objecting to a QME's report send a copy of such objection to the evaluator in question.

17. Underserved area Premium

DWC's current proposal seeks to offer a premium to medical-legal evaluators who perform an evaluation in an "underserved area." From the proposal,

"This modifier will be applicable when an evaluation is performed in a geographic area where there were fewer than three physicians in a chosen specialty with a QME-certified office location in that geographic area as of July 1, 2019."

While we applaud DWC for its creativity in trying to remunerate QMEs for performing evaluations in underserved area, the language is drafted in such an ambiguous manner as to render it useless.

First, the term "geographic area" is vague and ambiguous. The term needs to be defined. We suggest replacing "geographic area" with "zip code."

Second, it is unclear why DWC seeks to tether the definition of "underserved area" to the date of July 1, 2019. We suggest instead using the date that the QME panel was generated as the operative

date for determining whether an area is underrepresented or not. Further, DWC is in the best position to know, at any given date, which areas are underserved for each specialty or not. As such, we recommend that all panels generated which would meet the "underserved area" designation be labelled clearly as an "underserved area panel." The regulations should be updated to require that the parties notify the QME, at the time of scheduling, that the case will qualify for the "underserved area premium" so that the QME and the parties are all aware of this ahead of time.

18. Underserved Specialty

While DWC's goal of encouraging QMEs to perform evaluations in underserved areas is laudable, we believe that a more pressing issue facing the QME system is that of underrepresented medical specialties. There are already several specialties for which an injured worker cannot receive a panel due to there being less than the minimum number of 5 QMEs in the entire state of that specialty.

These specialties, to so-called "lost specialties," include Oncology, Infectious Disease, Nephrology, Obstetrics and Gynecology, and Endocrinology.

Several more specialties have significantly fewer providers as a percentage of total provider headcount relative to the demand for their services relative to total system demand. These should be designated as "Underserved Specialties." These include Orthopedic Surgery, Pain Medicine, Physical Medicine and Rehabilitation, and Neurology.

We suggest that DWC provide a modifier and a methodology for identifying and compensating QMEs who are in an Underserved Specialty at a premium rate.

CSIMS appreciates this opportunity to comment on the proposed revisions to the MLFS. In sum, we believe that most of the recommended changes are biased, unreasonable and short-sighted and we urge the Division to consider seriously the comments made herein.

Michael Borok, MD August 21, 2019

This email is a response to the proposed new billing regulations from the DWC governing medical-legal evaluations especially panel qualified medical evaluations. I support the increase of the basic fee to $1650.00 for an initial evaluations; however, allowing only $1100.00 for any re-evaluation and not allowing any reimbursement for review of records already reviewed for the initial evaluation including the initial evaluation report is most unfair since quite often in a re-evaluation especially one done more than 6 months later after the initial evaluation the PQME physician must refer back to those records especially the PQME initial report.

I oppose any per page charge regarding record review in any and all instances as well as the inclusion of 400 pages of record review in the initial examination fee. The time spent reviewing records is a more accurate measure of the effort and work of the PQME reviewing any records in any type of PQME, QME or AME evaluation. It would be simpler and fairer to leave the present billing regulations in place and increase all the fee across the board with a cost of living adjustment increase.

In specific situations such as the cancer presumption for firefighters and public safety officers where apportionment is not allowed and any and all disability due to a cancer caused by an environmental carcinogen is completely apportioned to the cancer, there should be an additional factor of complexity allowed such as detailing any medical monitoring of the patient to see if the patient's cancer recurs.

Susan C. Rose, Ph.D. August 21, 2019
Psychologist

After reviewing the proposed changes to the QME fee schedule, I am in agreement with the many opinions stated above that these are not adequate to securing the Worker's Compensation mandate for QMEs to assess complex medical-legal issues including work injuries, need for and course of treatment, AOE/COE causation, periods of temporary and permanent disability, work restrictions and apportionment factors, wherein permanent disability is parsed into specific percentages based on substantial medical evidence to ensure that the needs/responsibility of the worker and employer are fairly and accurately determined. Although physicians from various fields have raised objections, it is apparent that whoever made these recommendations does not have a clear idea of what is entailed in performing psychiatric/psychological QME examinations in light of the increasingly more complex legal responsibility QMEs have been charged with by the California Legislature.

Given the nature of the psyche, which can impact various aspects of human experience including affect, cognition, soma, perception and social interaction, and be influenced by a myriad of experiences and perceptions of such throughout one's lifetime (not just on the date(s) of an occupational injury), an assessment of the psyche is complicated and takes significantly more time than ten hours in order to examine the claimant, review 400 pages of records and write up a comprehensive report that would be considered substantial medical legal evidence. As well,the process of determining opinions about predominant, substantial and contributory AOE/COE causes in the psychiatric arena requires a great deal of consideration and integration of information from a variety of sources, including medical and personnel records, psychological test data and patterns, in addition to a clinical interview, which typically takes 3-5 hours depending on the capacity of the claimant to articulate their narrative effectively.

A record review is not merely briefly scanning laboratory findings, but carefully reading and rereading the material in order to integrate the details of depositions, mental health and medical findings and reports with the applicant's narrative presented during the clinical interview to determine issues of *credibility,* in addition to case *facts.*

Also, as the Worker's Compensation system has evolved, QMEs have been given the additional responsibility of providing an analysis determining how much of various industrial and non-industrial apportionment factors are contributing to permanent psychiatric disability, which is many times challenging to determine as the context of one's full life experience impacts one's perception of injury and the path towards recovery. Once such opinions are determined, the reasons underlying these must clearly be articulated to a non-clinical reader who does not usually understand or appreciate the nuances involved in these medical determinations; and backed up by up-to-date knowledge of relevant clinical research. As suggested, these fee changes for an initial assessment, reexamination and supplemental report are wholly inadequate to obtain a fair, reasonable and accurate assessment of an injured worker, the responsibilities of the employer, and contributions to permanent psychiatric impairment of non-industrial factors present in the worker's life at the time that their mental disorders stabilize. Also, expecting that these flat rates include not just perusal, but integration, of substantial medical and personnel records without fair compensation is unacceptable.
It is not clear why the recommendations of Suzanne Honor-Vangerov have not been more considered as her suggestions reflect greater understanding of the QME assessment process involved in the determination of complex opinions, than those currently under consideration. Rather, these proposals appear to be an effort to streamline the costs for the insurance company at the expense of the workers and employers of California as it is likely that experienced clinicians will remove themselves from this type of work, which could result in an increase in poorly conceived opinions and diminished quality of reports such that more time will be spent litigating opinions contained therein.

Seymour Levine, MD August 21, 2019

Noting that few if any young physicians have chosen to participate in the Calif. Workers Comp system the fee schedule is in need of revision with physicians being fairly and appropriately reimbursed for their time and expertise before we have droves of physicians leave the program. I would vote for a simple pay by the hour system much as is in place today with appropriate increases for cost of living noting that no increases have been done since 2006 despite costs going up yearly.

Regarding the proposed revisions in the fee schedule, I have studied them and would instead point to the changes proposed by Sue Honor which is much more reasonable and equitable in place of an hourly reimbursement schedule.

I would advise the DWC to not drive out experienced and hard working physicians from the system. It's time to make Workers Comp attractive and rewarding to our younger brethren who look down upon the whole system, not the least because of poor reimbursement.

William J. Previte, D.O. August 21, 2019
Orthopaedic Surgeon

I have practiced Orthopaedic surgery in California for over 30 years and have been a committed active medical legal evaluator. In that time I have observed and complied with the many changes enacted to the medical legal process. In my humble opinion, much of that change has been detrimental to the injured worker while consistently increasing the burden and challenges to the medical evaluators. The DIR has maintained that in order to fairly assess the injured worker within this system, the medical legal process is tasked with an amalgamation of the administrative/legal due process with comprehensive "substantial medical evidence" based medical evaluation. It is held that this connection hinges and relies upon the medical evaluation. Sadly, over the years, this procedure has progressively eroded and deteriorated to a critically "broken system" and an uneven playing field at the expense of the medical professional evaluators. That degradation has occurred in areas such as: imposed time limits for evaluation and report service; regulation on evaluator participation; available appeals process by evaluators; and compensation and reimbursement for services, to name a few. The result has been a progressive attrition of evaluators who have resolved that a "broke system" is beyond repair.
In December 2018, Sue Honor-Vangerov, the former manager of the DWC Medical unit, submitted a proposal which addressed reimbursement and many qualitative issues within the process. Her proposal was widely endorsed and supported by the QME community and it's medical evaluators. The reimbursement profile is acceptable to the providers while the qualitative measures simultaneously aid in diminishing the friction for all stakeholders.
The DWC's disregard for for the many qualitative changes is disconcerting and the DWC proposed reimbursement is inadequate and jerry-built. If enacted, this will only serve to further diminish the pool of well qualified medical evaluators with the ultimate impact of medical legal evaluation delays and substandard reporting that will harm the injured worker and engender advancement in the decay of the medical legal evaluation system.

I support Sue Honor-Vangerov's proposal and implore the DWC's adoption of her recommendations.

James S. Hamada, MD August 21, 2019

I have been a QME Medical Examiner for several years. I am writing to express my concern regarding the proposed changes to the QME Medical legal Fee schedule by the DWC. There are several proposed changes that would severely affect my further participation as a QME Medical Examiner. As an example, the proposal not to pay for the first 400 pages in a review of Medical Records is absurd. Since when is any professional expected to do quality work for nothing? Are you aware of any Attorney who would review medical or legal reports for a client without compensation? I not uncommonly require one hour of concentrated work to review, summaries and comprehend 100 pages of medical records. Why should I be asked to provide that service for nothing? I don't believe any other Professional, especially an attorney, would agree to this pro bono service for an insurance company.

As a second example, we QME Physicians have been cautioned to "not bill" for time spent on research. However, we have been admonished not only to provide medical evaluation sufficient to constitute substantial medical evidence but that it should be framed in proper "legal theories"(Guzman,supra,187Cal.App.4th at p.825). Few of we QME Physicians are also Attorneys and find legal research pertinent to our reports very arduous and time consuming. Yet again we are threatened not to bill for this research effort without the risk of arbitrarily "being kicked off the panel."

These are but two examples of work being asked to be done by QME Physicians by the mandates of the current DWC without compensation. I urge you to please consider the proposal for a new Medical-legal Fee Schedule as set forth by Sue Honor, the former manager of the DWC Medical Unit for a comprehensive, timely and fair compensation for we dedicated QME Physicians

---

Blake Thompson, MD, QME August 21, 2019

I have been treating injured workers for approximately 30 years and my current practice is essentially 100% Worker's Compensation. I have a large treating practice and also do a significant number of QME/AME work. The issue of the Med-Legal fee schedule is complicated and several issues need to be considered to effectively implement change. There have been many doctors commenting on the proposed changes and I would agree that Steve Feinberg MD and Michael Post MD have provided some of the most excellent reviews and suggestions. I support their position and would refer the reader to their comments.

My additional comments are as follows:

1. REDUCED NUMBER OF QME/AME

There has been a marked reduction of specialty physicians treating Work Comp patients. This is largely due to the high number of inappropriate UR/IMR denials for treatment and excessive paperwork that is required. The multiple doctors that I have spoken with that have quit Work Comp frequently just say it is too much of a hassle. (Certainly, this is a

separate issue regarding the complexity and inappropriate treatment denials that drive physicians out of the system). The less physicians that are involved in treating injured workers, the less physicians that are involved in doing QME/AME work. If providing treatment to injured workers was easier, or at least comparable financially to seeing private insurance patients, there would be more physicians involved in the Workers Compensation system and available to do QME/AME work.

2. COMPLEX CASES

The proposed changes to the med legal P schedule would be an improvement for basic mL 102, and even mild complex cases of mL 103. However I see a lot of very complex cases with multiple body parts, complex issues of impairment, causation and apportionment that would not be adequately compensated with the new fee schedule. With the proposed fee schedule, the only way to increase reimbursement is if there are more than 400 pages of medical records to review. Oftentimes, these complex cases do not have extensive medical records, yet still take several hours to complete. Therefore, there needs to be away to identify complex cases requiring extensive time that is not reflected by medical records. I would recommend complexity factors that are very objective such as:

- remote date of injury (ie:
- over 5 years ago)
- multiple body parts (such as more than 5 body parts),
- providing a permanent impairment rating, also based on number of body parts and if the hand is included (note that the hand includes 31 ratable joint motions, versus 2 for the knee).

3. REVIEW OF RECORDS

The proposal to include a review of 400 medical records in the flat rate is not feasible. This number should be 100. This is more in line with what IME's reimburse. Records vary in their complexity. It can take an hour to review a previous complicated 30 page QME. It can take hours just to sort through the records and eliminate the duplicates, and arrange them chronologically. The issue of medical record review needs to be better defined.

4. FOLLOW UP EVALUATIONS

The follow-up evaluation can oftentimes be more complicated and time intensive than the initial evaluation, especially if in the initial evaluation the patient was not determined to be MMI. Hence, an additional complexity factor is necessary, reflecting the performance of an MMI evaluation with determination of permanent impairment, work restrictions, apportionment, causation and future medical treatment. The complexity factor would increase the reimbursement to be comparable to the proposed initial evaluation fee.

5. SUPPLEMENTAL REPORTS

The proposal for supplemental reports at 275 is not feasible. Supplemental reports often require several hours addressing disputed issues, further review of records and answering multiple questions. Oftentimes there are not additional records sent, but rather questions

with regard to previously reviewed records. These records need to be once again reviewed however the current proposal does not provide any allowance for the time spent doing the necessary review. A flat fee based on time spent is recommended (such as the fee for a depo)

6. PRIMARY TREATING PHYSICIAN MED LEGAL REPORTS
There should be clear language that reflects reimbursement for PTP to perform a med legal report. I received several requests on a weekly basis to perform such reports. These are often from the Applicant Attorney but also from Defense Attorneys or the adjuster to clarify or comment on disputed issues. These requests oftentimes require performing essentially the same work as a QME with a history, examination, determination of impairment, apportionment, disability, ability to return to work, and future medical treatment, as well as responding directly to disputed issues regarding the previous QME. However, as the PTP, the bulk of the records have typically been reviewed, and the patient has already been seen, so would the code be for an initial MedLegal or a re-evaluation? Also, there should be the complexity factors as noted above that should be able to appropriately modify the evaluation to make up for lack of review of multiple records.

Overall, it would be most effective to have a discussion between the stakeholders including the DWC, insurance company and the QME representatives

---

Brett Freeburg, President August 21, 2019
Med-Legal Xchange

Thank you for this opportunity to respond to this second set of proposed changes to the Medical-Legal Fee Schedule (MLFS). I have the pleasure to work for and with more than two dozen independent QMEs and not one has said anything positive about this proposed MLFS. Following the relative uproar that occurred after the last proposal in 2018, I was hopeful that the DIR/DWC would reconsider their motivations and return with a reasonable MLFS that would adequately and fairly compensate QMEs for the work that they perform and **ALL** the time it takes them to perform that work. It is challenging to explain the extent of my dismay upon receiving the email from the DIR announcing this second set proposed changes to the fee schedule. It is difficult to believe that after as much feedback as was given about the proposal in 2018, the meetings, and the outcry from med-legal professionals, that this proposal would pay significantly less to QMEs than a much lower cost of living state like Nevada.

A few general thoughts before I make my recommendations for a fair and reasonable MLFS:

1) Cancellation Fee - There should be a mandated cancellation fee for med-legal evaluations and this fee must include payment for time spent reading/reviewing

medical records prior to the cancellation. A med-legal evaluation requires the expert to set aside a substantial amount of time, often at a satellite location, which is not their primary office. For most psychologists and psychiatrists, the time set aside for the interview is three to four hours or more (not including psychological testing which varies depending on the nature of the claim/injury). In order to prepare for a psych evaluation, in particular, it is imperative the evaluator read the records prior to the evaluation, which is the reason psych as a specialty can reschedule an evaluation on the sole basis of not receiving records. As a side note, this ability should be extended to all specialties. In order to perform a proper med-legal evaluation the examiner should have the ability to query the applicant based off the records, to parse inconsistencies in the applicants account, and to have a firm grasp on the issues in the case prior to interviewing the applicant.

2) Moving to a flat rate system, particularly one with this low of a compensation rate, is a poor way to incentivize quality reporting, thorough analyses, and substantial medical evidence arguments. If a QME is paid the same amount of money for a straight-forward single specific injury case with 25 pages of records as for a 10 year CT with two specific injury dates and 400 pages of records (including depo transcripts and QMEs in two other specialties), inherently complex AOE/COE causation, multiple factors of apportionment, and an Almaraz Guzman argument, the system is inherently unfair to the QME/AME. While you may get better reporting on the most basic of cases as the pay has been increased from the current ML102/103 levels, you will end up with lower quality reporting on the complex cases which currently. While the Insurance industry and employers may have been very happy with the low reimbursement rates they were paying since 2006 for ML 102/103s. What this served to cause doctors to leave the system, particularly in specialties where it is harder to bill for their time, like the current codes for ML 102 and 103. Each year attorneys, judges, and case law are requesting and mandating ever more from the experts, yet the fee schedule has not changed to account for inflation, cost of living, increases in staff wages and overhead for office space, or increased reporting expectations. A decade after the fee schedule was last updated, in California an experienced non-psych medical-legal expert is not going to read and review 200 pages of medical records, see a patient for 30 to 60 minutes, formulate opinions on causation and apportionment, and then write a substantial medical evidence report for $674 or even $1,022 very many times before they get out of the business which is what brought us to the record low participation of MD’s in the QME system we as it stands today.

3) Medical Records - The move to $2.00 per page has effectively eliminated any “increase” in pay for the reading of records provided by the miniscule increase in the relative value rate the proposal calls for, because records are no longer a time dependent factor the relative value increase does not apply to reading records. Depending on the density of the raw records, most QMEs can read an average of between 100 and 150 pages per hour. This does not include time to write or dictate the

review of records for the report itself. Trying to decipher handwritten treatment notes (very common in psych cases and can take minutes per page), reading three volumes of the applicant's condensed (4:1 pages) deposition transcript, or dense med-legal reports will take much more time, while flipping through fax cover pages or Kaiser discharge notes requires less. Assuming a QME/AME can read 125 pages per hour, at the proposed rate of $2.00 per page, the QME/AME is now making the same amount (RV-5 x 125 pages per hour) he or she made in 2006 for reading medical records. The proposed flat fee then pays the QME/AME nothing for the summary of records they are obligated to type, dictate, or otherwise prepare. Compounding the records issue is that even though the records are supposed to by neatly organized and indexed, in reality QMEs often receive multiple sets of records, not in any sort of chronological or other order, without an index, and full of duplicates. This problem needs to be addressed by either requiring the parties to do this work, or paying the QME for their time to do the work.

4) Take a sample initial psych comprehensive evaluation under the proposed rules. With 2000 pages of raw records, the QME/QME can bill for reading 1600 additional pages of records at $2.00 per page or $250 per hour at 125 pages per hour, which amounts to the same rate they were paid in 2006, which was $250 per hour at RV-5 at the same 125 pages per hour. The QME/AME is still required to summarize the extra 1600 pages in their report, but the $2.00 per hour only pays them for their time to read the records, the statutorily required summary of those extra pages must now be done for free. The rest of the report only pays a flat fee of $2475 (if it's a psych case), whether there are 25 pages of records or 2000+. This does not account for the additional complexity presented by the medical history of an applicant that has 2000 pages of records the parties deemed pertinent enough to send. The QME/AME still has to query the applicant regarding the significant medical history during the interview, which itself is obviously longer simply due to the medical history, integrate the additional "medical evidence" into the variety of opinions such as; diagnosis, discussion of AOE/COE causation, and possibly an apportionment analysis; not to mention possible analyses per the ever growing list of applicable case law the med-legal expert is expected to know, i.e. Benson, Rolda, Fujimoto, Almaraz Guzman, Kite, catastrophic injuries, violent acts…. Plainly and obviously put, the people sitting on high proposing this fee schedule have never done the work. As any QME who has been doing this a long time knows if your report does not specifically address the one golden nugget of a fact an attorney has glommed onto in their mind…….you are going to depo (or at least a getting a supplemental).

5) The lack of any increase or adjustment to the MLFS during period from 2006 to 2019 time is appalling. Especially when you consider that during this same time period many of the personnel tasked with overseeing the DIR/DWC/QME system received substantial annual pay increases. The DIR's former Director, Christine Baker, saw her salary increase 14.4%, an average of 4.8% per year, from a base of $154,437 in 2016,

to $176,751 in 2017, her last full year with the DIR (all data in this paragraph was gathered via transparentcalifornia.com). The attorney tasked with reigning in QME "abuses", Winslow West, while working as Industrial Relations Counsel III from 2013 to 2016, saw his base salary increase 9.6% from $112,270 to $125,490. Finally, while working as the Executive Medical Director for the Department of Workers' Compensation, Dr. Raymond Meister, saw his base salary increase 13.4% between 2016 and 2018, from $168,008 to $190,665. The hypocrisy of the upper management of the DIR/DWC promulgating a MLFS schedule that will actually serve to pay most QMEs less than the 2006 MLFS, while they get pay and benefit increases on an annual basis, is astounding.

6)

<u>Here is my proposed Med-legal Fee Schedule.</u> (my comments, not to be included in the final language, are in parentheses):

§ 9795. Reasonable Level of Fees for Medical-Legal Expenses, Follow-up, Supplemental and Comprehensive Medical-Legal Evaluations and Medical-Legal Testimony.

(a) The schedule of fees set forth in this section shall be prima facie evidence of the reasonableness of fees charged for medical-legal evaluation reports, and fees for medical-legal testimony. Time spent to read medical records shall be presumably accurate within the range of 100 to 150 pages per hour. Reports by treating or consulting physicians, other than comprehensive, follow-up or supplemental medical-legal evaluations, regardless of whether liability for the injury has been accepted at the time the treatment was provided or the report was prepared, shall be subject to the Official Medical Fee Schedule adopted pursuant to Labor Code Section 5307.1 rather than to the fee schedule set forth in this section.

(b) The fee for each evaluation is calculated by multiplying the relative value by $17.00 (effective January 1, 2020), and adding any amount applicable because of the modifiers permitted under subdivision (d). The fee for each medical-legal evaluation procedure includes reimbursement for the history and physical examination, reading and review of records, preparation of a medical-legal report, including typing and transcription services, and overhead expenses. The times spent to perform each evaluation is expected to vary due to record volume, case complexity, need for interpretation, and other circumstances. The relative value rate will be updated, effective for service dates after January 1 of each year, to account for cost of living increase over the prior calendar year. This adjustment will be the be calculated as the average of Consumer Price Index annual percentage change and 4% ((CPI % + 4%)/2). ***(The proposed relative value rate increase from $12.50 to $13.75, tantamount to 0.077% per year since 2006, is a slap in the face. This is especially true as the proposed MLFS moves everything but med-legal testimony to a flat rate system thereby largely negating even the trivial increase in the relative value.)***

ML-100 Missed appointment Fee – one hour at the RV-5 rate for appointments scheduled and cancelled prior to the AME/QME receiving medical records. For appointments cancelled within 6 business days, there shall be fee shall be one and one-half hours at the RV-5 rate for non-psych, or

three hours at the RV-5 rate for psych, billed as a line item with the date of the of the failed/missed/cancelled appointment. For appointments cancelled after the receipt of medical records the QME/AME will also be reimbursed at the rate of RV-5 for any time spent reading or summarizing the medical records prior to cancellation, billed as a line item with the date of the listed as the date of cancellation. When billing for medical records the QME/AME shall include a letter with the listing the time spent, reading, reviewing, and summarizing the records prior to the cancellation, signed under the penalty of perjury.
(I know the insurance lobby will complain that there is no way to know if the doctor really read the records prior to the cancellation. I would say that this is all the more reason for the adjusters and attorneys to pay more attention to their cases…….when the case settles or you otherwise need to move or cancel the appointment, the responsible party needs to tell the QME/AME immediately. The party responsible for not timely informing the QME/AME should pay for the QME/AMEs time, which they wasted. The parties can fight amongst themselves over responsibility for the payment with the WCJ, but the one sure thing is that it was not the fault of the QME/AME that the appointment was cancelled in the last few days before the evaluation, or they weren't informed the case settled three weeks ago, or the evaluation was otherwise not needed. Regarding the necessity for a reimbursement for ML-100, let me provide a recent real life scenario. Recently we had a case where two days prior to the evaluation a psych QME had read and reviewed the 2000+ pages of raw records received in preparation for the evaluation during the time they could eek out of their schedule over the course of several days and late evenings, at the expense using that time to work on another QME report, see patients, or perform other work/family obligations. Around noon the day before the evaluation defense counsel called and stated that the case had settled and they were calling to cancel the evaluation (and eventually, begrudgingly, faxed written cancellation as is required by statute) …… not surprisingly the insurance company did not timely respond to the QMEs billing within 60 days. Then after being advised they had failed to timely respond, they denied not only the doctors standard cancellation fee of $500, which was communicated in writing at the time the evaluation was scheduled, but they refused to pay any portion of the 12 hours the QME had already spent preparing for the evaluation, also part of the same cancellation policy. This served to add more frictional costs because the matter had to be set for hearing on a Petition for Determination of Non-IBR Medical-Legal Dispute.)

ML-101 Comprehensive Medical-Legal Evaluation – The fee for a medical-legal evaluation includes all initial and follow up med-legal evaluations performed by a QME/AME. The QME/AME will be paid to the nearest quarter-hour for all time spent face-to-face, time spent by the QME/AME reviewing/summarizing medical records, performing medical research, and time spent by the QME/AME preparing the report. The physician shall be reimbursed at the rate of RV-5, which shall be updated on an annual base to account for a standardized cost of living adjustment. ***(The QME/AME should be paid for their time…..based on their time. These are all real examples of reasons an evaluation may take an extraordinary amount of time: the applicant is in so much pain and cannot sit still long enough to complete the evaluation so the QME/AME has to return a second day; the applicant shows up sick and cannot complete the evaluation; the translator is terrible or was not scheduled for the entirety of the evaluation and***

the interview cannot be completed in one day; the evaluation is a psych claim with multiple pre-existing injuries, a 12 year CT plus a specific injury; the applicant has a severe head injury and the evaluator has to speak with the spouse in addition to the applicant in order to obtain a history.

If a party truly finds fault with the report or the billing they can issue and EOR and file a petition for determination of Non-IBR Medical-legal dispute with a DOR. The issue can then be resolved by the WCJ, and all parties can learn and improve. If the QME has failed to make a substantial medical evidence argument the judge can strike the report, something which is already done on occasion, and can replace the QME by reporting them to the DIR.
Not long ago there was a very complex psych case with 24,000 pages of records, all sent by defense counsel much of which was duplicative, fluff, or irrelevant. This case consumed the doctors every spare moment for nearly two months. Under the current MLFS system, while it took lots of time to organize, deduplicate and then for the QME to read and review these records, being sensitive to the cost of the case, it had a final bill of around $30,000. The case billed 98.75 hours for record review, which amounts to a rate equal to organizing/deduplicating/reading one page every 14.2 seconds. Defense failed to pay that bill timely or issue an EOR (I am sure that will not be a shock to any QMEs who read this). Eventually, at hearing some 6 months later on the provider-filed Petition for Non-IBR Medical-Legal Dispute (no the employer did not file either themselves or after their nonpayment was objected to), this issue was settled when the WCJ urged the defense counsel to avoid further costs and sanctions by convicning the client to settle for the billed amount, plus 10% penalty, plus 7% interest, plus petition filing costs and appearance fees, and of course whatever costs were incurred by the employer for defending the petition. Under the currently proposed MLFS that same case would bill out for $53,259. I can only imagine the hoops we would have to go through to get that one paid. The Med-Legal fee schedule should pay the QME based on time required ……. period.)

ML-102 Supplemental Medical-Legal Evaluations – Payment for this fee is for services provided subsequent to a receiving a written request from a party in which the evaluator does not physically examine the applicant, and the written correspondence specifically states the party requests the issuance of a "supplemental report." The fee for supplemental reports shall be payment at the RV-5 rate for all time to the nearest quarter-hour by the QME/AME reviewing/summarizing medical records, and time spent by the QME/AME preparing the report.
(**Take a recent example supplemental request wherein defense counsel forwarded 1500 pages of records, and around 1300 were duplicates. Under the proposed system the QME would still have to spend a good 6 hours (if they can read/organize/deduplicate 250 pages per hour, which they can't, not really) to 12 hours (if they can read/organize/deduplicate a more reasonable average of 125 pages per hour) reading the new records in comparison to the old records. For the sake of our example let us say they can do all of that in 6 hours. Then they have to write a review of those new 200 pages of records, conservatively, another 1.5 hours. The QME then has to review their previous reporting and file to refamiliarize themselves with the case and their opinions. A process that every QME/AME has to do, even though the**

DIR already says you cannot bill for the time it takes you to review the prior reporting and file you have not looked at in 18 months since your last supplemental or evaluation. While you cannot bill for that time, you cannot work on the supplemental without reviewing the prior reporting, conservatively 1 un-billable hour. Then the QME has to weigh and consider the new information in relation to their initial report from 18 months ago, or worse yet their multiple reports which span the past 5 years, also conservatively, 1 hour. Finally, the QME/AME has to write a discussion incorporating the new 200 pages of records and whatever else was asked in the cover letter into a cohesive argument that constitutes "substantial medical evidence" and is supported by the evidence from both your previous reports and the new records, very conservatively 1 hour if there is no substantial change in the opinions or further analysis. This could take considerably longer if the new records cause you to make a change to your diagnoses, apportionment, or AOE/COE analysis. For the conservative 10 total hours this example case would take, under the proposed ML-102 code a psych QME would earn $812.50 (less than that if they are non-psych). If they can manage to do all of this in 10 hours, they will make $81.20/hr. Unless the QME can accomplish all those things less than 3.25 hours, they are going to be paid less than the $250/hour a supplemental report has paid for the past 13 years. Mandating that the QME cannot bill for reading the duplicate records, which in some capacity they must read and organize in order to know if they are duplicate or new records is asinine.

On the Opposite side, I have seen a Supplemental request that included over 7,000 pages of new records (lots of them Kaiser fluff, discharge notes, take home instructions, and many duplicates). Under the current time based MLFS that supplemental billed out based for around $6,500. Under the proposed MLFS that same case will bill out at $14,412.50, a gross overpayment for the work actually required. The MLFS should pay the experts for the required time. There are mechanisms already in place to go after QMEs who overcharge, or fail to write substantial medical evidence reports, but if the MLFS does not fairly compensate the experts for their time, they will not spend their time and the results will be disastrous to the Workers' Compensation system. The ML-103 code as proposed is absurd.)

ML 103, Fees for Medical Legal Testimony – The QME/AME shall be reimbursed at the rate of RV-5 for each quarter-hour or portion thereof rounded to the nearest quarter-hour for time spent by the QME/AME for time spent preparing for the deposition, in deposition, and for travel time if the deposition is held outside of the QME's primary office or satellite QME location where the evaluation took place. Prior to the commencement of the deposition, the QME/AME must be paid for the minimum one-hour of deposition time and a minimum of one-hour preparation time. Payment for preparation time and travel time, unless fully prepaid, must be made within five days in accordance with **CCP § 2034.450.**

(This would make the fee to schedule a deposition equal to two hours. One hour minimum must be reserved, and I do not know a single QME who would walk into a deposition without having spent at least an hour reviewing the file. At the end of the deposition, the QME/AME can present an invoice for their prep time and any time deposition time beyond the pre-paid one hour. Per code of civil procedure, payment must be made within five days. Payment can

be paid by the party who noticed the deposition at that time by check or the payment can be mailed within 5 days. The party who noticed the deposition can then be reimbursed by the insurance company. If a party wishes to dispute the fee for prep time, travel time, or deposition time, following the deposition, instead of paying the additional fee they can file a Petition for Determination of Non-IBR medical-legal dispute and concurrent DOR within five days, notice the QME/AME of the hearing and the WCJ can determine if the QME was overcharging.)

-92 Performed by a primary treating physician. This modifier is for informational purposes only and does not change the reimbursement rate.

-93 Evaluation required an interpreter. This modifier is for informational purposes only and does not change the reimbursement rate. **(The QME/AME is already compensated based on their time spent, therefore a increased rate is not required.)**

-94 The evaluation of medical legal testimony was provided by an Agreed Medical Evaluator or an Agreed Panel Qualified Medical Evaluator. The value of the med-legal code is modified by multiplying the normal relative value by 1.25.

-95 Evaluation or medical-legal testimony provided by a Panel Qualified Medical Evaluator. This modifier is for informational purposes only and does not change the reimbursement rate.

Notes to add to 9795:

*** Objection to Medical-Legal Report/Expense - If the QME/AME/PTP failed to address an issue raised in a medical-legal or supplemental cover letter, a party objects to the billing of the QME, or objects to the report on the basis it does not constitute "substantial medical evidence," this constitutes a non-IBR dispute. The complaining party must issue a denial indicating the reason for the non-IBR denial within 60 days of receipt of the report by way of an EOR per LC 4622 and rule 10451.1 (or whatever the new rule number is for non-IBR disputes). The issuance of this denial does not toll the 60 day limit to issue payment in the event the denial is later found to be improper at the petition hearing. If the objection is not upheld by the judge, the 10% penalty and 7% interest payable under LC 4622, plus any costs incurred by the QME/AME will still apply. The provider upon receiving an EOR/non-IBR objection may;

a) The Provider may immediately challenge the denial by EOR/non-IBR objection by filing an Application for Adjudication, Petition for Determination of Non-IBR Dispute, and Declaration of Readiness, or;
b) The provider may object to the EOR/non-IBR objection within 90 days of receipt, in writing to all parties. Any specific issue raised in the EOR/non-IBR objection can be clarified in this letter in an attempt to resolve the dispute. If following the review of the provider objection letter the employer still disputes the med-legal report or fees, the employer must file a Petition for Determination of non-IBR Medical-Legal Dispute, a concurrent Declaration of Readiness, and an Application for Adjudication if necessary, per

labor code 4622 and rule 10451.1 within 60 days of receipt of the provider's objection. Notification of the hearing date must be served on the QME/AME at the official billing address as listed on the HICFA claim form from the QME's Office by the moving party at least 30 days prior to the hearing.

(Think of it as SBR for non-IBR disputes. Employer denies payment for the report based on the QME/AMEs billed time or failure to address an issue adequately. Through the existing mechanism for non-IBR dispute, incompetent QMEs that write reports that are found not to be substantial medical evidence by the WCJ can be held accountable, as well as QMEs who overbill ……. in short order the report quality will improve or the poor QMEs who's reports are determined not to be substantial medical evidence, QMEs who fill their reports with repeat research, or providers who bill excessive time will be held to task or removed from the system.)

*** Review of medical records - duplicate medical records – The parties must exchange proposed records at least 20 days prior to the scheduled evaluation. Each party has 5 days to object to any proposed records from the date of receipt. Defense counsel or the claims adjuster is responsible for deduplicating, chronologizing, and providing a listing of the records prior to serving them on the QME/AME at the address listed on the QME 110 form for service of records, no later than 7 days prior to the scheduled appointment. **(This way one party is responsible for the deduplication and the method and cost therein. *Don't send duplicate records….if it is not worth your time as an insurer/employer/claims adjuster/attorney office to deduplicate the sometimes thousands of pages of records, it is certainly not worth the time, nor the responsibility of the QME/AME to do the work of the insurer/employer/claims adjuster/attorney office for free.* The only way for the QME/AME to know they have received duplicate records is to spend the time to review their old report(s) or the old records if they still have a copy of them, possibly thousands of pages which were received several years ago and likely long since shredded, and compare them to the new records, possibly thousands of pages, to determine which are duplicate. Then, the QME/AME has read and summarize the non-duplicate records.)**

Closing Thoughts

Under this second proposed med-legal fee schedule, which reads like an insurance lobby wish-list, you will lose a significant number of QMEs from the system. Many of the experienced and high quality QMEs, who currently spend the time to write quality reports based on substantial medical evidence, simply will not stay in the system as they have better opportunities for their skill set elsewhere. Those that do stay, will be the QMEs who do not have a better option (not the best and brightest), who are willing to cut corners, and/or those who already cut corners, i.e. ghost writing, not reading the raw records, spending the minimum time face-to-face despite the complexity of the case, supporting their opinions with minimal or no evidence, etc. This proposal will only serve to ensure diminished report quality, especially on the complex cases. I have spoken to a number of QMEs who will simply quit as they are not willing to take on this work at anywhere near the proposed prices. Honestly, a huge part of the reason the QME numbers are dwindling is because the current (2006) level pay does not adequately compensate QMEs for their time.

Attracting and retaining high-quality medical experts to issue thorough, comprehensive, "substantial Medical Evidence" reports, and compensating them appropriately for their time should be the end goal of the fee schedule. Having high quality initial reports, (timely and complete records provided to the evaluator prior to the evaluation of course) will result in fewer supplemental, re-evaluations, and depositions, resulting in faster case resolution.

And, dare I say, the industry could do a great deal to reduce frictional costs by not denying plainly obvious claims. For example, a recent case of a denied claim for PTSD when an employee in attendance at a work event witnessed the injuries and/or deaths of multiple coworkers during a well-known southern California mass casualty shooting in 2015. The mental injury, treated quickly and appropriately, most likely would have resolved with a few months of therapy; but, the denied claim kept the injured worker untreated and off work for longer than necessary leading to a worsening injury and protracted recovery = TTD; leading the previously unrepresented injured worker to an attorney to fight for treatment = legal fees; treatment which they eventually, and very rightfully received, negating the benefit of denying the treatment to begin and actually requiring more treatment than they may have initially required; then comes a defense attorney to depose the applicant and quibble with the applicant attorney over causation, diagnosis, apportionment to the applicants divorce 4 years ago, or causation because the applicant had an MVA 2 in 2013 that the attorney feels is a better explanation of the PTSD in 2015 = more legal fees; next comes a med-legal evaluation with a very predictable outcome = med-legal expenses; defense doesn't like the opinions or maybe they just need to try to prove they are "fighting" for their clients best interest (a.k.a. wasting money/billing time), so they request a supplemental based on new records that, had they reviewed them prior to requesting the supplemental, are substantially the same and half of them duplicates of the records for the initial evaluation, which would never change a QMEs opinion = more med-legal fees; the attorney with their ego bruised by the QME not changing their opinion based on said records and also still "fighting" for their clients best interest, requesting a deposition = expenses x 4 (QME, defense attorney, applicant attorney, and court reporter); and more legal fees for hearings/petitions . . . . . I hope you can see the point. There are plenty ways to cut expense and waste, but not properly compensating the med-legal experts the system relies upon to resolve issues the parties cannot, is a futile exercise.

The bottom line is the QME/AME is a medical-legal expert, being retained to evaluate a disputed claim because the parties cannot come to an agreement on their own. The QME/AME should be provided the records well in advance of the evaluation. They should be compensated for their time from the moment the evaluation is scheduled until it is finished. Whether the evaluation is cancelled three weeks prior to the date of the evaluation, the applicant no-shows and drops their claim, the parties settle after the date of evaluation and the report is three-quarters finished, or the report is completed by the QME/AME without incident, the QME/AME needs to be compensated for their time and expertise. When you do that you will attract skilled and competent med-legal experts to perform QME/AME work. Once the MLFS is compensating the experts well enough to attract better experts and candidates it becomes the job of the DIR/DWC to provide oversight on report quality as it relates to "substantial medical evidence", other reporting requirements, and to weed out providers who repeatedly fail to write adequate reports or whose billing is out of line.

The system should stop quibbling with QMEs over whether a report is ML 102, 103, or 104, and pay the experts for their time. There is far too much variation from one report to the next in terms of record volume and density, case complexity, length of case history, past medical history, applicable case law, etc. to make a flat fee realistic. We live in the second highest cost of living state in the country and until the MLFS adequately compensates med-legal experts for their work, the QME system will continue to flounder along, or under this proposal, become much worse.

Gerald Markovitz, MD August 21, 2019

Please be aware of several problems in the proposed changes to the medical-legal fee schedule.

Medical records must be paginated if provided on paper or better, sent on a CD which would have an exact page count.

Duplicate medical records should be the responsibility of the sender, not the QME. It is unreasonable to expect the QME to shift through medical records, collate and tally up any duplicates in the submitted records or from prior reports, subtract them out and not be paid for that time. In addition, new questions may arise such as in a deposition of a new or different medical problem that was not claimed or not considered part of the injury. There have been times when I have been requested to review the same medical records to analyze a different medical problem. That time should be paid.

Depositions that are condensed should be counted as 4 pages per page.

Late cancelations or missed appointments should be paid: 2-3 hours are set aside for a QME appointment which cannot be filled by a last minute cancelation.

Time spent on research should be paid, especially if it is requested to answer questions or prove medical-legal conclusions.

The cost of preparing a report should be paid. It takes time to dictate, proof read a dictation, make corrections, sign forms, etc.

Re-evaluations are not less valuable than initial examinations and the reimbursement should be commensurate and the same, not discounted.

Supplemental reports should be paid based on time spent reviewing records, research, prep time, etc, and not paid by a set and fixed fee. This week I reviewed 3100 pages of records for a supplemental report. It is unreasonable to pay a fixed low amount for any and all record reviews.

The cost of living in California must be equal to or greater than Nevada so why is the fee schedule in Nevada higher than the proposed fee schedule?

There is not cost of living increase. The fee schedule has been fixed for over a decade despite rising costs of running a business. It is unreasonable to not increase the fee schedule periodically and regularly.

The proposed fee schedule is not compatible with sustaining a viable and credible QME system.

Jonathan Ng, MD, JD August 21, 2019

The new fee schedule is not viable for a healthy QME/AME system.

One of the major problems is the proposed fixed fee of $ 275 supplementary reports. Quite often the letters from either/both sides are multiple pages requiring multiple pages of reply. Unfair reimbursement is going to create fraudulent billing all over again.

Payment of services according to actual time spent is the accepted method for attorneys, accountants and other professionals. The actual time spent (nor surrogate work such as medical review by third parties or ghost writing) is easily discernible and is given under oath.

Alexandra Clarfield, PhD, QME August 21, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Alexandra Clarfield, PhD, QME August 21, 2019
Licensed Psychologist

It is saddening to see the continued efforts to debauch a system intended to provide services and compensation to those in need, and to preserve those resources when not justified. Providing a full psychological QME report with sufficient analysis to stand as medical evidence in a court of law is a challenging and demanding task, requiring considerable investment of time thinking and writing. Regrettably, the proposed plan will certainly result in the those who care about the quality of the work, leaving. Those who remain, will likely deserve the suspicion cast on the rest of us.

It strikes me as yet another occasion where there is a willingness to relinquish concern for social consensual reality predicated on science as represented by those who hold that training and spent decades in its acquisition and practice. Any set of alternative facts will do it seems.

So many good points have been made by colleagues in each of the relevant fields, many who hold decades of experience. I hope some attention will be paid to these opinions which are rich with the wisdom gained from having conducted these evaluations so many times, among various cases.

Jacob Rosenberg August 21, 2019

The proposed schedule starts down the right path but has so many flaws it will result in a loss experienced QMEs.

After careful analysis it does not provide a fee increase on most evaluations. It will not encourage QMEs to write better reports. It will increase frictional costs and gamesmanship opportunities. Frankly it does not seem to further any of the objectives of the proposed regulatory changes.

Trying to make the physician responsible for identifying duplicates is the obviously inappropriate. If the insurance companies cannot accomplish this to save money then how can the physicians be responsible? One can only wonder about motives.

Re-evaluations that occur more then 9 months after the first evaluation are just as complex as the original exam and may take more time especially if additional records are sent for review creating a need for a reanalysis of apportionment and impairment.

Supplemental reports don't take 45 minutes to prepare and require record review (a minimum of one hour is required on average) all documents sent for review need to count as pages

For practical purposes 400 pages included in the original report lowers the value of a base report to $950 even assuming that we can review 200 pages per hour (2 hours at $350/hour=$700; the base report fee of $1650-$700=$950) for follow up evaluations that leaves a $425 fee which is ridiculous.

Subrosa videotapes are a supplemental report plus video time.

Philip Edington, MD, QME August 21, 2019

In December 2018 a reasonable proposal was put forth to address the antiquated QME fee schedule. This proposal was widely supported in the QME community. The proposal recently put forth from your office is inadequate and does not address most of the concerns of the community. Your proposal will make it difficult to find QMEs willing to work under these conditions. I urge you to consider the December 2018 proposal before the decline in QMEs progresses too far

---

Peter Mandell, MD, Chair August 21, 2019

California Orthopaedic Association

We have the following comments on the recently released DWC draft:

9793 Definitions

(g) - Follow-up medical legal evaluation

The DWC proposes to delete the limitation that a ML102 Follow-up Evaluation must be performed within 9 months of the initial evaluation. We agree that Follow-Up Evaluations should be performed whenever the injured worker or employer requires one – even if the time from the initial evaluation to the follow-up evaluation is only a few days or weeks. However, on the opposite side of the timeline, this change would allow carriers to request a Follow-Up Evaluation years later. We believe this is unreasonable. We believe that a request for a Follow-up Evaluation should occur within 12 months of the initial Comprehensive Medical-Legal Evaluation.

Recommendation: Requests for Follow-Up Evaluations must occur within 12 months of the initial Comprehensive Medical-Legal Evaluation.

(n) - Page definition

Since the proposed fee schedule is now dependent on a page count, we believe it is important to define what is a page. In our mind a page is a one-sided 8.5" x 11" sheet. If the medical records are sent to the evaluator copied double-sided, that would constituent 2 pages. If 4 pages are reduced in size to fit on an 8.5" x 11" sheet/electronically sent on a CD, this would count as 4 pages. X-rays, CT scans, bone scans, and MRIs are defined as one page per image.

Recommendation: That the DWC add a definition of what constitutes a billable page as we have defined above.

9794 - Reimbursement of Medical-Legal Expenses

Duplicate copies of reports

It is common for carriers to request copies of duplicate reports from the QME/AME rather than obtaining the report from their own records. QMEs/AMEs should be able to bill those copy/staff costs under the Official Medical Fee Schedule as they have done in the past.
With the addition of "(3) No other charges shall be billed under the Official Medical Fee Schedule in connection with a Medical-Legal Evaluation or report," we believe that it is unclear whether physicians will be able to continue to bill for duplicate reports.

Recommendation:

Clarify that QMEs/AMEs can still bill for duplicate copies of medical-legal reports requested by the carrier under the OMFS.

9795 - Reasonable Level of Fees for Medical-Legal Expenses, Follow-up, Supplemental and Comprehensive Medical-Legal Evaluations and Medical-Legal Testimony

(b)This subsection still contains reference to complexity factors being the dominate factor in determining the appropriate level of service. Since the revised fee schedule is moving away from complexity factors and time, it seems the last sentence of this subsection should be deleted.

Recommendation: Delete - "The complexity of the evaluation is the dominant factor determining the appropriate level of service under this section; the times to perform procedures is expected to vary due to clinical circumstances, and is therefore not the controlling factor in determining the appropriate level of service."

ML100 - Missed Appointment

We continue to believe that a missed appointment is due when the injured worker fails to show up for their evaluation. Evaluators have set aside a certain amount of time for the evaluation and those appointments can usually not be filled at the last minute. At a minimum, we believe that the Division should make a more neutral statement about whether the missed appointment fee is payable.

Additionally, the Division should clarify that more than a 15-minute late arrival time for a scheduled appointment is the same as a missed appointment.

Recommendation: That the description of a Missed appointment be changed to read, "It does not imply that compensation is or is not necessarily owed. If the QME/AME has notified the carrier of their missed appointment fee and the injured worker does not show at all for the appointment or is more than 15 minutes late for the appointment, the carrier is responsible to pay the missed appointment fee.

Define a 15 minute or more late arrival as a missed appointment. This time would not include the time that a patient is asked to arrive early in the office to complete required paperwork.

ML101 - Comprehensive Medical-Legal Evaluation

We recognize the Division's goal to include the review of more medical records under the flat rate, but we strongly object to the inclusion of 400 pages. We have surveyed our QME/AME members and discussed this issue with other professional organizations whose members perform Medical-Legal evaluations and can find no support for the inclusion of 400 pages. Physicians indicate that they can generally read 60 pages of medical records per hour. This means for the flat rate of $1650, they would be spending nearly 7 hours in the review of medical records. If you allow 2 hours for the preparation of the report and one-hour time with the patient, this means that physicians would be paid $165.00 per hour. A significant decrease in a per hour rate from the current fee schedule.

We believe a more reasonable number of pages to include in the flat rate is 200 pages of medical

records. Also, since the Division is requiring this more work under the flat rate, we believe the reimbursement should be set at $1850 instead of the $1650 proposed by the Division. We continue to urge the Division to reimburse additional pages at $4.00 per page. We believe that this will provide an incentive for the payors to do a better job of organizing the records and eliminating duplication.

Without this incentive, carriers will continue to waste physicians' time by dumping boxes of medical records on them.

Recommendations:

- Flat rate be set at $1850
- Included in the flat rate would be a review of 200 pages of medical records.
- Medical records beyond 200 pages would be reimbursed at $4.00 per page.
- Carrier to communicate to the evaluator the number of pages sent.
- Medical records must be delivered to the evaluator at least 14 days prior to the evaluation.

ML102 - Follow-up Medical-Legal Evaluation

Again, in the Follow-up evaluation it is unreasonable to expect the physician to review 400 pages of medical records as part of the $1100 flat rate. In this case, we believe it is more reasonable to include 100 pages of new medical records. Physicians should not have to compare medical records sent with the Follow-up request with the medical records sent with the initial request for evaluation. There is no mechanism for the physician to be reimbursed for this time. The physician should be able to assume that if the carrier sends additional medical records with the follow-up request, they are new records. Again, the carrier should be required to state how many pages they are sending. Over 100 pages of medical records should be reimbursed at $4.00 per page.

We also have been made aware that sometimes the carrier will not authorize diagnostic tests needed to obtain an accurate Whole Person Impairment. When the physician is performing the evaluation, the need for the test becomes apparent. The surgeon then needs to order the test and bring the patient back in to discuss the results of the test. When the physician must call the patient back in because the medical records are incomplete and there is a needed diagnostic test, we believe that this circumstance should also be reimbursable as an ML102.

Recommendations:

- Flat rate: $1100
- Included in the flat rate would be a review of 100 pages of new medical records
- Medical records sent to the physician would be assumed to be new medical records
- Medical records beyond 100 pages, defined as new and/or previously received pages, would be reimbursed at $4.00 per page.
- Carrier to communicate to the evaluator the number of pages sent.

- Allow an ML102 billing when the applicant needs to be reevaluated following new tests which may require surgery or a change in level of impairment.
- Any request for an ML102 that is more than 12 months from the initial Comprehensive Evaluation should be billed as a ML101 evaluation.

ML103 - Fees for Supplemental Medical-Legal Evaluations

Based on the hourly rate proposed by the Division, we believe that the flat rate for a supplemental report should be $440. Again, review of the medical records should be set at $4.00 per page. Also, we believe it's reasonable for the physician to assume that if the carrier sends additional medical records, they are new medical records.

Recommendations:

- Flat rate: $440
- Medical records sent to the physician would be reimbursed at $4.00 per page.
- Any additional medical records sent should allow the physician to assume they are new medical records.
-

ML 104 – Fees for medical-legal testimony

The existing fee schedule specifies that a QME/AME may bill for a minimum of one-hour preparation time. This proposal indicates that the QME/AME may bill for preparation and travel time, but removes the one hour minimum. We believe that this is a mistake and will lead to billing disputes.

Recommendation: We would urge the Division to restore the language clarifying that a QME/AME may bill a minimum of one-hour preparation and travel time.

Modifier -94 - Evaluation and medical-legal testimony

We support continuing the Modifier -94 which provides for an additional 25% increase for AMEs. We object, however, to eliminating medical-legal testimony for this increase. Depositions often are very stressful and adversarial. AMEs should be reimbursed at the same rate for this time. In addition, we should create a disincentive for attorneys to routinely depose AMEs.

Modifier -97 -Evaluations performed in an Underserved area

We appreciate the Division's goal to encourage QMEs/AMEs to be available in underserved areas of the state, however, the QME/AME selected for the evaluation won't really know if their location is in an underserved area. We can envision that this modifier will create a lot of controversy – QME/AME believes they saw the injured worker in an underserved area, carrier disagrees. When the Division sends out the notice of the evaluation, we believe that they should tell the parties if this evaluation is being done in an underserved area of the state. This will make it clear for all parties and eliminate billing disputes.

Issues not addressed in the proposal:

1. Review of surveillance videos - videos are commonly sent to evaluators to review. The current proposal does not address how these video records should be billed. We believe that the reimbursement for reviewing these videos should be set at the same hourly rate as a ML104 - $440 per hour - billed in increments of 15 minutes with a minimum of 15 minutes for reviewing the video and report writing time. Time not to review the video shall not exceed the total time of the video. Included in this fee would be a requirement to do a report on the findings in the video.

2. Cost-of-Living Increase
   To help ensure that the fee schedule does not become dated as soon as it is adopted, an automatic annual cost-of-living increase is critical. Just like the Division has included a cost-of- living increase for the Official Medical Fee Schedule and the recently proposed copy service fee schedule, the cost-of-living increase should also be included in the Medical-Legal Fee Schedule. The increases proposed by the Division, only accounts for the 13 years CPI increases and does not plan for future practice cost increases that happen every year for physicians. We strongly recommend that the Division include a cost-of-living increase in the Medical-Legal Fee Schedule based on the Medical Economic Index (MEI).

3. Joint Letter
   During meetings that COA has had with the Division and at the stakeholder meeting, there was significant discussion about the Joint Letter and its importance to make sure there is clear communication with the evaluator as to the issues they are to address.

   Unfortunately, we see no mention of the Joint Letter in the DWC proposal.
   We would recommend that the Division at least define what elements are required in the Joint Letter and specify that the Joint Letter must be received by the evaluator at least 5 days before the evaluation. Without a clear understanding of the issues to be addressed, it is hard to ensure that the evaluator addresses all issues in dispute. If this step is not done well, it leads to other, potential costs in the system and unnecessary delays in resolving the claim.

Finally, we continue to believe that the best interests of injured workers would be served, if the fee schedule contain more incentives and disincentives to encourage good behavior and parties working together to resolve disputes - for example, allowing the carrier to request an expedited report and reward the physician for complying by paying an increase to the flat rate, discourage late reports by reducing the reimbursement amount are just a couple of examples. We would be happy to continue to provide input on incentives and disincentives for the fee schedule.

Ron Gowey August 21, 2019

After reviewing the above proposed fee modifications, the following are my comments and conclusions:

1. Minimum flat fee = $1650. It appears at first glance to be an increase in the fee from $650. to $1650. However, on closer interpretation, there is no increase in the flat fee. One is merely adding $1000 from $650 with the one hand and taking the $1000 back with the other hand, by a fee reduction of a $1000 for a review of 400 pages of records for $0. This accomplishes nothing and is deceitful.

2. For record reviews of over 400 pages, there appears to be a decreased reimbursement from $1000 to $800. This is inadequate for some claims with greater than 5000-10,000 pages.

3. For Supplemental Reports, including writing reports, data interpretation, dictating and editing reports, a flat fee of $275 is woefully inadequate. This should be increased to $300 per hour.

4. The most egregious absence of increased reimbursement involves patients with multiple body part complaints. This phenomenon has markedly increased commensurate with the increase in cumulative trauma claims.
   Each body part must be examined and evaluated with respect to Causation, Apportionment and Impairment. Your assumption that each examinee involves only one body part is significantly misguided. For each additional body part, there should be an additional $500 fee and reimbursement.

   In summary, with this reduced reimbursement fee schedule, I would anticipate a reduction in the quality of the reports and a reduction in the number of QME'S willing to participate in this program.

   I disagree with all the proposed modifications of this fee schedule.

Thomas S. Allems, MD, MPH August 21, 2019

I am not sure what is driving what appears to be a consistent effort to undermine and devalue the QME process in the California Workers' Comp system. It does not appear that anyone who has been a QME, written a QME report, or used or relied on a QME report has had any input into these proposed changes.

Other have pointed out the following problems:

1. No shows and late cancellations need to be reimbursed. A doctor sets aside time for these evaluations (1 hour in my case) and late cancellations (often due to the appointment being used as a negotiating strategy I find) or a no show (which is then often rescheduled while refusing to pay for the missed appointment) need to be reimbursable.

2. A flat fee for a supplemental reports of $275 is inexplicable. Supplemental reports often involve additional record review, additional research, etc. Voluminous records often are received long after the report has been submitted.

3. In many cases that I am involved in (complex internal medicine and toxicology cases) it is simply not possible to produce a report or determine causation without considerable time spent in research. Just how is causation to be determined in a cancer case, a complex exposure case, a claim of an internal medicine diagnosis being caused or aggravated by occupational factors? Research is a critical part of determining causation in these cases and I have no idea what the DWC is thinking when there is to be no reimbursement for research.

4. There seems to be no mechanism to bill along the lines of complexity – due to organization and volume of records, research required, number of body parts to be evaluated, etc. As I read the proposed changes the only charges are for a flat fee and then a charge per page of records reviewed. I routinely issue reports that are 30+ pages in length (with a synthesis and discussion of all the facets of the case running many pages, to address all the issues and the many questions posed), with multiple references and a discussion of multiple medical conditions and / or exposures. How the DWC expects that kind of complexity to be reimbursed is not at all clear from these proposed changes.

The proposed changes would appear to have the unintended effect of driving away competent physicians and encouraging a real degradation in the quality of reports and opinions.

Allan L. Kipperman, MD August 21, 2019

In light of the upcoming proposed changes to the MLFS, I have taken the time to carefully review data pertaining to both my income as a QME and expenses incurred in the course of my QME work. If the changes you proposed were to be implemented, my QME-related expenses would exceed my QME income. These expenses include office staff to manage appointments and produce forms and other paperwork related to scheduling and issuing QME reports, transcription costs, office supplies and expenses, QME fees, travel, overhead for office rental, and so on.

I cannot imagine that your intention is for a QME to perform evaluations essentially at his own expense. However, the severe reduction in fees would do just that, especially for QME providers who live in metropolitan areas where the cost of living is high.

I have been performing psychiatric QME evaluations for several decades and I find the proposed changes, which will certainly force many current QME evaluators to stop doing evaluations, to be unconscionable, as injured workers would no longer have doctors available to them who are committed to performing quality comprehensive evaluations and to producing medically and legally sound reports.

Gary Watson, MD August 21, 2019
Orthopedic Surgeon

I strongly object to the proposed changes to the Med-Legal fee Schedule for QME and AME evaluations. These proposed changes are ridiculous, unreasonable, and unworkable. If they are imposed, many QME examiners will either stop doing QME exams altogether, or drastically reduce the number of exams they perform. This includes me. After performing QME exams for 10 years, I dropped out of the QME system for another 10 years when reimbursements dropped drastically around 2005. I can do that again!

It appears that the DWC has taken the Nevada rules and modified them in order to reduce reimbursement to QME and AME evaluators. Why should we be paid significantly less than doctors performing the same work in Nevada when the cost of living in California is significantly higher?

If California adopted the exact payment rules that Nevada uses, QME and AME examiners would be much more fairly compensated than we are now and certainly more fairly compensated than we would be under the rules proposed by the DWC. However, the payments should be increased to account for our higher cost of living.

A comparison of the rules proposed by the DWC and the rules in place in the lower cost of living state of Nevada is striking.
For a basic original evaluation, Nevada pays $1735.53, and the DWC proposal pays $1650. This fee includes reviewing 50 pages of records in Nevada and 400 pages in the DWC proposal. The payment for reviewing additional pages is $4.34/page in Nevada and $2.00/page in the DWC proposal. Nevada requires records sent to the doctor to be organized in chronological order and pays the doctor $.95/page for organizing records in chronological order. The DWC proposal does not require the records to be organized in chronological order and pays the doctor nothing for organizing the records. Nevada pays $325.41 per body part when more than 2 body parts are

involved, but the DWC proposal does not consider the increased complexity of addressing additional body parts.

Ms. Sue Honor-Vangerov, Esq. has proposed a different set of rules that I would support. She obviously has a better understanding of the value of the work a QME examiner performs than do the DWC personnel.

Payment for a missed appointment should be guaranteed and paid a minimum of at least $550, not an unguaranteed maximum of $550. We frequently have spent a lot of time reviewing records and preparing for an examination before a late cancellation or before the examinee fails to show up for the appointment. Then the time allocated for the appointment is usually wasted, but overhead expenses continue.
Having a review of 400 pages of records included in the basic fee schedule is totally unreasonable. The Nevada rule of 50 pages is much more reasonable. Reimbursement of $2.00 for each additional page is also inadequate. If $2.00 per page is considered reasonable, reviewing 400 pages of records would be worth $800. Now, the DWC proposal would pay $1,100 for a followup evaluation. So, the DWC apparently believes that $300 is adequate payment for performing the examination, preparing the report, getting the report typed, and for paying overhead expenses!

Ms. Sue Honor-Vangerov, Esq. believes that fair reimbursement for reviewing each additional page of records over 50 pages should be $5.50.

The proposed rules regarding payment for review of records in excess of the number of pages included in the basic fee for follow-up examinations and supplemental reports are particularly unreasonable. The proposed rules specify that the doctor is only to be paid for reviewing records that were not previously reviewed. The DWC obviously does not recognize the time that is require to determine whether each page of newly submitted records was previously reviewed. Both the earlier records and the newly submitted records must be reviewed to determine whether each page of newly submitted records was or was not previously reviewed.

I recently performed a QME Re-evaluation. We had received 4144 pages of records for that exam. The Adjuster's cover letter stated that additional records would be sent by a copy service. I then received a request for a Supplemental Report, along with the original Adjuster's cover letter, and 86 pages of supposedly "new" records. This case demonstrates the absurdity of the DWC's proposal not to allow billing for records previously reviewed. I had spent quite a bit of time reviewing the 86 pages of “new" records before I realized that at least some of them were duplicates of records already reviewed. It took much time to compare the “new” records with the 4144 pages previously reviewed for my last report. I found that all of the records supplied for this supplemental report had already been received and reviewed for my previous report.

Perhaps the DWC might be more concerned about denying payment for newly received records that were previously received if they realize how much time and money it will cost them to compare records received for subsequent reports with records previously received to determine

whether some records are duplicates and exactly how many pages are duplicates in order to enforce that rule. It would be much more reasonable for the DWC to require the person sending the new records to guarantee that none of the records are duplicates.

The proposed rules do not make any provision for paying for the extra time involved when one or both attorneys or the adjuster sends a lengthy list of unreasonable questions they want the doctor to address in the report.

Requiring the doctor to prepare a supplemental report for free under any circumstances is ridiculous.

Although this is a relatively minor concern, we have all gotten used to ML 101 being a re-evaluation, ML 102 being a basic evaluation, ML 103 being a more complicated evaluation, ML 104 being a very complicated evaluation, and ML 106 being a supplemental report. Why change these definitions?

Anonymous August 21, 2019

In reviewing these proposed changes, it is clear that the DWC is not taking into consideration the actual time spent by doctors performing evaluations, writing reports that must meet the standard of medical legal evidence, and organizing and reviewing records sent to doctors, often in an unorganized heap, dual sided, and with duplicates interspersed that still must be reviewed to determine if they are in fact a duplicate.

As for the record review time: Has the DWC even considered how will a doctor bill for sub rosa videos? How should a doctor bill for records that are copied back and front, or condensed depositions with four actual deposition pages shrunk to one page?

The DWC requires my office to schedule the exam, spend the time and money to send ANFs to all parties, and chase down adjusters and attorney for records ALL PRIOR TO THE EXAM, and yet if parties cancel the exam a few days or even a day in advance, there is a suggested but not required paltry amount that I am allowed to bill and even if I bill this, by the proposed schedule the insurance company is not even required to pay. This is ridiculous and so obviously skewed to the insurance companies that cannot be veiled. What possible reasoning could the DWC have for refusing to yet again make at least some mandatory cost for these late cancellations.

It appears that the DWC is actually proposing to REDUCE rates for most of us, especially the field of psychology and psychiatry, and then put lipstick on it and call it a raise. How can the DWC even begin to justify these rates when Nevada is paid at a higher rate, with much lower overall operating costs and a lower cost of living? i guarantee that I spend much more time than I actually

bill already at this point. I guess the DWc would like us to work pro bono, and if that is the case perhaps the attorneys should too. This will be the end for me as a QME.

David E. Sones, MD
Diplomate, American Board of Psychiatry and Neruology
Assistant Clinical Professor, David Geffen School of Medicine at UCLA
Fellow, American Psychiatric Association

August 21, 2019

This proposal to alter the regulations for the Medical-Legal Fee Schedule represents a major change from the current policy. However, I have not seen any statements from the DWC that explains why any change is needed. Without this critical explanation, it is not possible to determine what problems were identified that the new fee schedule is supposed to resolve.

I along with many others have major objections to the proposed changes. As a psychiatrist, virtually all of my initial examinations are billed at ML104 due to the additional complexity factor for this type of exam. While many who have traditionally billed at ML102 and ML103 will see an increase in reimbursement, even with the multiplier for psychiatry this proposal will result in a drastic cut in pay for me and all the physicians in my specialty. I had anticipated that since there had been no change to the rate of reimbursement since 2006, any new fee schedule would actually lead to an increase in pay.

One proposed solution is that that for more complex cases, the fee should be negotiated. However, this suggestion is completely impractical. I never know how long it will take an exam to complete in advance. What may seem to be a simple case based upon materials sent prior to the exam can often become extremely complicated due to important events at work-- extensive sexual harassment, repeated threats of violence-- that cannot be ignored. There may also be traumatic circumstances in childhood and adult life that have to considered. Add to that a poor informant or an interpreter who is unable to discharge their duties well, and the exam can take several hours to complete. The more complex the exam, the more time it takes to prepare the report.

To remedy this flaw in the proposed fee schedule, I think the best solution is the one in Suzanne Honor's proposal: an additional fee for every 15 minutes of face-to-face time in ex
cess of the first two hours. It is simple and reasonable, resulting in more fair reimbursement.

In an analogous situation, when I call the plumber about a clogged drain, there is no advanced flat fee to make the repair because they do not know in advance the cause of this problem. The charge to replace a sewer line is far greater than a mere rooter service, as it should be. If increased rates are appropriate for my plumber, then physicians should expect increased reimbursement for more complicated cases that take up considerably more of our time and effort.

This is just one of several problems that I and many others have identified with this proposal. I believe all the shortcomings can be resolved if the parties are willing to negotiate in good faith.

Lisa Breuner, DPM August 21, 2019

I have been a QME for 28 years and find the proposed fee changes to be unacceptable. The proposed changes, if enacted will increase the administrative burden on QME and not compensate them fairly, resulting in even fewer physicians who are willing to provide this service to injured workers.

I urge you to adopt the fee schedule which was proposed by Sue Honor, the former manager of the DWC Medical Unit which can be found at the following link: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal.

I urge you to replace the proposed changes with Sue Honor's proposal. Should the current proposed changes go into effect, even more QME's will decide that the burden of continuing education in Medical Legal Report writing as well as the increased administrative burden for decreasing reimbursement does not justify providing these services.

Robert Egert, MD August 21, 2019
Physical Medicine and Rehabilitation

Like the vast majority of comments, mine is to underscore the fact that the proposed changes to the fee schedule will compromise the evaluation of injured workers with complex/multiple injuries. If implemented I will reduce the number of medical-legal evaluations I perform until the situation is remedied.

On the bright side, perhaps this biased proposal will be the catalyst for another perfect storm and rid us of the Schwarzenegger legacy of ACOEM, AMA Guides and UR/IMR. Time for those to go and for house cleaning at the DWC.

Anonymous August 20, 2019

The QME fee proposal is not for you if you are an injured worker who is significantly injured or in the system for any prolonged period of time. Your evaluator will want to have less complicated patients to evaluate because this means there is an increase in hourly rate for less complicated evaluations but effectively a cap for more complicated evaluations and reports. This means that after a certain amount of records that the evaluator reviews, the evaluator will start to look at you as a loss. After 400 pages under this new proposal, the evaluator will be looking at you as a more significant loss as now they have to look at a highly complicated claim at 2 dollars per page. You will be cut short on interviews, your records will be read or skimmed in less depth. If your complicated injury requires research, forget it. Your evaluator will be less likely to spend their money to access journals at a further loss. This is because there is no compensation for research.

If you are a patient who is very sick or have a complicated history, you want your evaluator fully attentive to what you are reporting. The only way to do that is to make sure they get paid for each and every single hour they have to pour into talking to you, reading your records, and writing potentially lengthy reports. You don't want your evaluator looking at you and categorizing you as "flat fee 50 pages", "flat fee 200 pages", "flat fee 400 pages," flat fee 400 pages and a much greater loss over 400 pages."

The proposed system rewards relatively shoddy evaluations. You may have seen these evaluations that are relatively few in pages. These evaluations provide one or two sentences of the records or will just simply say, "I reviewed so and so's records". There is typically no integration of the records with the opinions. The opinions simply state that the injury is consistent with the mechanism of injury. There is no explanation why. This also goes for the rest of the opinions. You will see these reports say my opinions are based on a review of records, the patient interview, etc. Well, that does not justify your opinion, yet this shoddy work will be accepted and rewarded in this proposal as it is currently rewarded. These reports don't have research. The evaluators documents histories they have not adequately taken. For example, they will say that the mental health review of systems was negative or that the person was not depressed, when in fact, the person has been complaining of severe depression. They will take substance use histories that will say that there is no alcohol, but other evaluators will find multiple drugs. They will take histories that will say there was no motor vehicle accidents but come to find out, there are multiple motor vehicle accidents. So you can see how this kind of shoddy evaluation compromises other evaluations. However, funny enough, many of these persons are AME's. These evaluations probably take only a few hours to complete because there is not genuine talking to the patient. Another evaluator may see these patients and they patients will report that their prior AME spent about 5 minutes with them. These types of evaluations, under the proposed system, will be richly rewarded. This type of "fraud" will likely get many hundreds or possibly the equivalent of a 1000 dollars an hour. Yet, you see the DWC has targeted complicated evaluations.

So as the DWC pushes out complicated evaluations and incentivizes shoddy, non-research based evaluations, you will see many reports that do not meet substantial evidence and much more opportunity for the parties to go after the QME for significant holes in their reports. On the other hand, because so many patients, lawyers, and judges lack the sophistication to understand a good

medical legal evaluation, many of these reports will likely be accepted like they are now, except now they will be more common.

We know that mental health claims rank among the most complicated in the system. As one commenter said, mental health claims do not lend themselves to a flat fee. The proposed factor multiplier is grossly inadequate and does not affect record review. Every mental health claim is highly complicated and what is affecting one person emotionally will always be different than what is affecting another person emotionally. What needs to be reviewed in one patient's records will be different than what needs to be reviewed in another patient's records.

We are also not Nevada. The laws in California regarding mental health claims and what needs to be evaluated is significantly more complicated. Mental Health claims require a detailed Rolda analysis and determination of predominant cause. Under the proposed system, there is no additional financial compensation for spending time with a patient to get at the non-industrial factors. There is also no additional compensation to get into details about personnel actions or listen to lengthy histories of harassment. There also may be more than one mental health injury. Also, there may be a personality disorder and/or substance use problem involved which may significantly complicate the history taken. There is also a significant amount of time necessary to unwind the shoddy histories taken from evaluators who are doing tons on medical legal evaluations. This includes mental health evaluators who, when they see an orthopedic injury, automatically assume there is a compensable mental health injury. Other mental health providers may just automatically assume that because there is a lot of pre-existing mental health history, this is not compensable.

Another issue is that why are there AMEs? There is no objective criteria and we can see how many AME's are doing shoddy evaluations. There is no qualitative difference between QME and AME evaluations. In order to be an AME, there should be objective criteria that all evaluators can achieve. Not everyone can "split the baby" between the parties as others have relayed.

Another issue is sub rosa. There is no compensation in the proposed system for sub rosa review. In order to review the film, you need to be able to review the records and your own report as well. That takes a lot of time.

The only true way to get at the truth is to make sure that more complicated evaluations are not dis-incentivized. The best way is an hourly rate as practice around the country and as we practice now. The real cost control would come from the parties determining what records to send and choosing an evaluator that they feel comfortable paying. Every panel has three people. If your concern is cost, strike out the most costly person. If you have many factors to consider, strike out the person who you don't want. Another way to control costs is to look at all these shoddy evaluations that are passing off as AME and QME evaluation. That seems to be the biggest problem. This is because the flat fee where there is no incentive to do better. No one needs the DWC to single-handedly change the nature of medical legal reports to fit into a certain cost structure to appease

insurers. The insurers can also cut costs by making sure they insure safe physical and mental workplaces.

Steven D. Feinberg, MD
Board Certified, Physical Medicine and Rehabilitation
Board Certified, Electro-diagnostic Medicine
Board Certified, Pain Medicine

August 20, 2019

While I think there are some positive aspects regarding the proposal, I also believe that there are significant problems.

On the positive side, for the initial evaluation which falls within the "old" ML 102 or ML 103 category, there is an increase in remuneration for the initial report, especially when there are minimal medical records.

I understand that many physicians feel they should be paid time-based. However, in the past, "efficient" evaluators have been penalized financially, whereas inefficient or inexperienced ("slow") evaluators have benefited from codes which allow billing by the hour (ML101, ML104, ML106). This bias against efficient reporting is partially eliminated in the newly proposed system although there is an additional huge problem when it comes to very complex and difficult cases and especially as it relates to supplemental reports.

Let me start with some comments and recommendations on specific topics:

- Medical Records:
    - As has been pointed out by a number of individuals contributing to this Forum, medical records can be very dense such that even a small number of records can take considerable time to review as opposed to medical records that are not dense (think hospital records or subpoenaed records from large healthcare organizations) which once sorted with duplicates removed, sometimes do not take much time at all to review.
        - Recommendation: With current technology already available, referral sources have the ability to provide electronic medical records either transmitted over the Internet, by way of flash drive or on a CD. Such technology includes the ability to remove duplicates and to provide a spreadsheet with the records in chronological order. (Note: I am not talking about providing summaries of the records). In this scenario, the provider would only be given one set of electronic records (the applicant and defense would have to agree on a single set of records).
    - All records received, including <u>letters</u> from applicant and defense attorneys as well as claims examiners, should be counted - each page should be counted as one page.

  - There should be acknowledgment that double-sided pages count as 2 pages and type smaller than 12-point font would have a special dispensation. Depositions should paid by the real page not per "condensed 4 to a page".
  - If the referral source chooses to send duplicates, unrelated pages (such as cover pages from subpoenaed records), etc., they should be included in the page count.
  - The referral source should be responsible for listing the number of pages submitted in the cover letter or accept that the number of electronic pages is exactly what it is.
    - There needs to be a mechanism to deal with disagreements regarding the number of pages.
  - The DWC proposal does not address payment for review of medical records previously reviewed. The problem is that often the physician needs to reconsider those records and not just go by his or her prior summary. Furthermore, if the carrier sends both old and new records, the physician is still obligated to sort through and evaluate all of them. I strongly recommend that the all medical records provided be considered in the page count.

- Face-to-Face & Supplemental Reports:
  - Absent the fee being raised for an initial evaluation, I strongly urge that the number of pages included be reduced to 200 rather than the 400 in the proposal.
  - After the first evaluation/report, include the page count from all previous reports combined. In other words, if I as the QME or AME have already written 100 pages of reports, I need to review them again and that should be counted in the page count.
  - Sub Rosa films should be paid based on time spent reviewing/time length of video at $440/hour (which is the proposed hourly rate for a deposition).
  - Radiographs/imaging studies/diagnostic studies reviewed directly (i.e., not just the report) should be billed time based or at a flat fee per study.

- Recommendation for unusually complex cases: An exemption is recommended which would allow the QME/AME the ability to negotiate the fee for very complex cases and/or have the ability to refuse cases they credibly express cannot be done within the timeframe in relationship to the fee allotted. It is frankly not practical (or from my standpoint even appropriate/reasonable/fair) to "force" a physician to do work that he or she does not want to do or work that is not adequately compensated.

- Recommendation regarding ML100 Missed Appointment –
  - Recommendation: A flat no show of $440, Late show (>15 minutes) $440, or late cancelation (5 working days) $440 fee.
  - Recommendation: For records reviewed and completed ahead of time (prior to) the visit, a + $2 per page (this could not be charged a second time if the appointment is rescheduled).

- Recommendation regarding ML101 Comprehensive Medical Legal Evaluation: $1650:

    - As noted previously, this is actually an increase for the ML102 and ML103 reports.
    - For complex cases, under the proposed system the only way to gain additional revenue for time spent is based on pages sent. While it can be argued that pages reviewed or sent will average out over time, physicians/QMEs may balk and the reporting provided may well not meet the needs of referral sources when excessive time is required for the payment allotted to compose and create a report.
        - The DWC, payers, applicant's and the QME/AME community need to find an amicable way for those unusual cases that are very time consuming (especially when there are limited medical records) to be compensation reasonably.
        - While I would personally prefer getting paid for my time spent, an alternative would be to have the applicant and defense agree about complexity factors on a check off list and have some methodology to increase payment based on addressing those issues.
- Recommendations regarding ML102 Follow-Up Medical Legal Evaluation $1,100.
    - The big problem I see here is that if the injured worker was not deemed permanent and stationary on the first visit, the follow-up visit, even without extensive records, can result in a very complex and time-consuming report if the individual is now permanent and stationary.
        - While again I prefer getting paid based on time spent, an alternative would be a reversion to the original ML 101 fee when a P&S report is provided.
- ML103 Supplemental Medical Legal Evaluations $275.
    - This is simply inadequate remuneration and, thus, creates a larger problem. My bills for supplemental reports can be as little as less than a quarter hour and as much as 5-10 hours depending on the issues. I can show you examples where the attorneys have sent me letters with up to 40 questions to be answered in a supplemental report and payment does not reach the level of effort and time. I do not see any alternative but to have supplemental reports billed by the time spent. Putting aside charges for records submitted for a supplemental report, another approach would be a category for simple reports at $275, medium level reports at $440 (about one hour) and in the case of prolonged or more complex report, an agreement by the concerned parties that the QME or AME can bill by the quarter hour.

- Role of PTP: Many PTPs do not want to issue a permanent and stationary report without being paid on a medical legal basis. The reimbursement for a PR-4 using the treatment schedule is inadequate. I strongly recommend that when there is no AME, that the PTP be allowed to provide a report on a medical legal basis.

- Quality Issues: The system needs a mechanism for better education of QMEs and one that deals with the issue of reporting quality. This is somewhat of a separate topic but part of the reason the current system is not working has to do with dissatisfaction on the part of both the payers and applicants that they are not getting quality reports sufficient to settle cases. Another issue has to do with excessive and inappropriate billing practices on the part

of some less-ethical physicians. Providing quality QME or AME reports is arduous and takes considerable time, training and education. Physicians need to be compensated adequately for this work but at the same time, whatever system is ultimately chosen, there needs to be a mechanism to avoid excessive/inappropriate billing.

John C. Austin, MD
Orthopaedic Surgery

August 20, 2019

The proposed QME reimbursement changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Many quality physicians have chosen not to become a QME because they don't want to accept the poor reimbursement and the increased administrative burden. I have continued to serve as a QME despite all of these issues.

I strongly recommend that you reconsider the QME reimbursement. Perhaps somewhere in the middle between Sue Honor's recommendations and the currently proposed QME fee schedule is appropriate. There has not been any QME payment increases in over a decade, and there is no Cost Of Living Annual adjustment. I am sure that you are aware that California is an expensive state in which to live. There needs to be fair and equitable QME reimbursement in my opinion.

Ashton Wolfson, CEO — August 20, 2019
Medical Legal Management Group
Tukko Labs

https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Joselyn E. Bailey, MD, FACP, FAAC — August 20, 2019
Qualified Medical Evaluator

I have been a QME doctor for 28 years. I am an Internist with a specialty in Nephrology.
The fee schedule that you are purposing is unacceptable. My colleagues and I have gone through special training and have to take special classes to do the work that is requested.
The changes would not compensate QME doctors for their work and it would cause a burden to us.

I absolutely disagree with the reimbursement fee's for record review. This is a long and sometimes tedious task that takes hours. We put in the time, we should be compensated for all time spent on these sometimes complex cases.

What happened to the proposal for a new Med-Legal Fee Schedule that Sue Honor endorsed. Her proposal received over 1,500 signatures. Her proposal was widely endorsed. It looks a if this is being totally disregarded. This is very disheartening.

I am positive you will lose many of the QME doctors that provide services for the workers' compensation patients. if this unfair proposal passes. The cost-of-living is much lower in the state Nevada than it is in California.

Despite all of these issues, I have continued to serve as a Qualified Medical Evaluator.

Thomas Pattison — August 20, 2019

My comments include that the current system is subject to abuse and has unacceptable variations among QME physicians doing similar work. The cost of the reports can probably vary three-fold or more, and I have not frankly seen that reflected in the quality of reports.

I commend the DWC on a search for a system that seemingly works better. If this proposed system is not adopted, support for an increase as proposed by SB 1832 would be an appropriate alternative. Going to Nevada's fee structure has some advantages as presumably their system is working better than ours in terms of medical/legal reporting. On the other hand, it is somewhat

insulting to California physicians that we are going to be paid quite a bit less than our Nevada counterparts. The cost of living in California is quite a bit higher which is in part due to the high income taxes we pay for government services.

Drilling down to the specifics, the flat rate of $1,650.00 does seem too high for report that do not include a permanent as stationary rating. I think a dual rate structure would be better, such that the flat rate should only apply to reports that propose finalized ratings for the cases. Otherwise, it is tempting to never finalize a case and see people endlessly. I am afraid that flat fee structure would emphasize this type of self-serving reporting. Accordingly separating out permanent and stationary from non-permanent and stationary reporting regardless of whether it is the first or second visit seems to me to be a good idea. The definitions could be rewritten so that one code covers reports, whether initial or follow-up, where the injured worker is not permanent and stationary ($1100) and the other code covers reports where the injured worker is permanent and stationary and all the other things needed for a finalized report. ($1650).

In terms of a flat fee for record review per page, that makes sense. If and only if we have adjustments for number of injuries and/or number of cases like Nevada does at $321, then two dollars per page after four hundred pages seems reasonable to me, but then I would downgrade the rate to one dollar per page after two thousand pages. Including attorney letters and the actual page count from prior reports this would to better reflect the time spent in this type of endeavor. I deal with a lot of five thousand page cases and when there are that many pages there are going to be a lot of things that are repetitive and you can go through quite quickly.

The lesser fee could apply to any report that does not opine apportionment, permanent and stationary status.

The fee for the supplemental report seems reasonable and I think eliminating the ability to bill for things that were not covered originally is certainly appropriate. I certainly never try to bill for things that I should have done right the first time. Getting rid of research time makes sense because it was abused so much. It is sometimes necessary but given the flat rate increase, it seems to me like you win some and you lose some. Another nice thing about the new schedule is that it is less subject to dispute. Although I am certainly in the minority of physicians who think that this proposed change is a lot better than what we have now, I do think that a no-show fee is extremely appropriate. I only charge $250.00, and I have calculated that if everybody no-showed the entire year, I would lose money because I would still have to pay rent, insurance, staff, etc. Thus, having a more defined no-show fee that we agree on would seem to be appropriate. It also should have a defined date of cancellation. Essentially, it is very hard to fill a slot where you do not get one month notice. A week notice of cancellation really just helps organize the schedule but it is not compatible with filling the spot. Having the records organized in date order would be a tremendously helpful thing and is a part of the Nevada system. Again, they have a failed appointment fee of $651.00. Thus, I would argue for a more expanded definition of missed

appointments as the Nevada code gives a 30-minute grace period for a scheduled appointment or cancellation less than 24 hours. That is not very helpful.

Michael Slutzker, MD, QME August 20, 2019

I have served as a QME provider for over 20 years and I am writing to express my concern and disappointment with the direction of the proposed changes in the DWC proposal. The proposed changes are unfair and unacceptable. The reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

The new changes proposed to DWC have a full potential to generate endless billing disputes, cause more QMEs to leave and collapse the system.

I urge to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported.

Steve B. Silbart, MD August 20, 2019

I forward this letter in response to the California Department of Workers' Compensation call for public commentary regarding the looming QME crisis.

As a respected subspecialty surgical expert frequently called-upon by Judges to serve as an IME, I have evaluated QME patients ever since the designation was first adopted some 25 years ago. Currently, QME work is riddled with lack of compensation for (on some days) 20-30% 'no-show' appointments, unreimbursed administrative costs for increasingly expensive transcription/report preparation, random and capricious bill review by undertrained 3rd party bill reviewers totally unqualified to evaluate these complex report charges, slashing valid billing sometimes by thousands of dollars, for nebulous interpretation of 'complexity factors' on 2,000 and 3,000 page cases, with no meaningful opportunity for appeal. In spite of these structural headwinds, I have continued to provide such service.

It is shameful that such a crucial piece in the efficient adjudication of such claims has been so devalued that the DWC proposal does not even recognize that there hasn't even been a cost-of-living adjustment in the QME fee structure in over 10 years. That the DWC proposal recommends just a fraction of the reimbursement of much lower cost-of-living states (Nevada and Virginia, to name

two), is just a further slap in the face to good faith providers with decades of irreplaceable experience navigating the exponentially increasingly complex California industrial medicolegal landscape.

The risk to the State of the current DWC proposal, of course, is that only low quality, high volume, inexperienced providers will be able to produce such reporting, which will cause irreparable harm to California's injured workers, and double or triple the cost to insurers, by the time bogus reports by unqualified examiners are finally disqualified, months (or years) of unnecessary Total Temporary Disability benefits are paid, indefensible Permanent Disability ratings are proffered and multiple unnecessary depositions are set even on cases with straightforward issues.

I urge the DWC to adopt the good-faith, well-reasoned proposal from 'one of its own,' the former manager of the DWC Medical Unit, Ms. Honor-Vangerov, so that experienced, high quality providers can continue to protect the integrity of the QME process.

W. Timothy Brox, MD August 20, 2019
QME, Orthopaedic Surgeon, FAOA

The good news is that we have a proposal from the DWC to replace the dated and unworkable current medical legal fee schedule. This proposal is a start.
There are however significant problems.

1. From an orthopaedic perspective, multiple body parts in excess of the first two will be problematic.
2. A definite no show reimbursement is a must have for orthopaedics.
3. The current proposal includes too many pages of record review and the cost per page is low.
4. Lack of an automatic cost-of-living escalation of the fee is going to cause eventual problems.
5.

If this proposal is enacted without the changes requested by the QME community, it is my sense that there will be a significant number of experienced QME assessors leaving the system. The California Workers' Compensation system requires a professional and experienced QME roster. Please consider significant improvements as suggested by Sue Honor.

Todd Baldini, Regional Vice President August 20, 2019
ExamWorks

Once again, we appreciate the Division of Workers' Compensation's August 6, 2019 request for

comments regarding the **proposed Reimbursement of Medical-Legal Expenses Regulation changes.** We recognize that the DWC has been striving to create a system that is objective and fair for all stakeholders. As the nation's leading med-legal administration provider, ExamWorks has these same goals in mind. We sincerely appreciate the opportunity to provide input in the creation of an objective solution. Our leadership continues to review internal data, communicate with physicians, and asses potential options that would lead to a better system.

Your current proposed changes are certainly a good starting point towards a successful and needed new system. By moving to a "Flat Fee Plus" fee schedule, the costs can be more objective and measurable. Your proposal is a step in the right direction, and with proper language and accountability measures, a system similar in principle to your current proposal is workable. To this point, we have identified a few areas which would benefit from additional thought and consideration.

As a preliminary matter, we cannot emphasize enough importance of a thorough review of each of the services completed by a QME physician so that the new fee schedule takes into account a fair reimbursement for each of these services. The services reviewed should include new exams, re-exams, supplemental requests, depositions and no shows. Each service and every QME specialty have various differences and nuances that need to be taken into consideration. Case complexity in the California Workers Compensation system can be extreme at times and this too requires review and additional consideration with any fee schedule changes. We, of course, would like to avoid the unintended consequence of a compromise of quality reports.

It is equally important to address the system, the required procedures, the administrative processes and most importantly, the management of the necessary medical records for each case. Unless we identify sound and efficient solutions to the medical records delivery and management, friction within the system will remain, and your efforts will be counterproductive. Your current language regarding medical records as it relates to various services requires significant additional attention.

Accordingly, we would like to draw attention to four additional specific areas of concern:

1. More thought and attention need to be drawn to the highly complicated cases where there are extensive records, multiple dates of injury, multiple body parts/systems involved and complex med-legal issues to sort out. This does not include every ML104 but it is a common type of case AME/QME physicians evaluate every day. The proposed fee schedule inadequately compensates the AME/QME in these specific **ML104 extraordinaire cases**.
2. We appreciate that additional consideration is given for **Psychologist and Psychiatrists** in the new proposal; however, based on the above point and the time requirements for a mental health specialist to develop a report that meets the substantial evidence test, further compensation increases must be considered.
3. Like mental health specialists, **Internal Medicine (and their sub-specialties)** are

routinely required to spend excessive time consulting, reviewing systems, examining, reviewing records and studying the literature in constructing their opinions. This specialty should have a fee modifier as well.

4. The current proposal does not appropriately address today's real world **supplemental requirements**. Because of the highly contentious med-legal environment, supplemental requests are common place and often requiring extensive review of records (both new and previously submitted) and significant report preparation time. The current proposal does not adequately compensate the examiner for most supplemental reports.

QME physicians have already been steadily leaving California's convoluted system, even before the threat of changes to the med-legal fee schedule by the DWC. The new fee schedule will ultimately determine whether we will continue to lose QMEs or begin the long needed reversal of this trend and start to increase physician interest and participation in the system. Without additional conversations, input, and revisions to the proposed fee schedule, the DWC's goals will not be obtained and the ultimate victims here will be injured workers who deserve appropriate resolution of their claims.

ExamWorks respectfully submits that the DWC should continue to accept stakeholder input and thoroughly revise its proposed regulations. ExamWorks remains committed to assisting the division in creating a solution with high consideration of the injured worker and with the QME physicians.

David Sami, MD August 20, 2019

The DWC has proposed a new fee schedule with a single, flat fee for comprehensive ($1,650), follow-up ($1,110), and supplemental ($275) medical-legal evaluations; with elimination of complexity factors. Review of medical records in excess of 400 pages shall be reimbursed at the rate of $2.00 per page.

The proposed flat fee of 1,650.00, that includes up to 400 pages of records, *will cause a mass exodus of qualified medical examiners.* This will cause serious delays in care for injured workers and millions of dollars in additional costs for employers.

Reviewing 400 pages of records and writing a well thought out med-legal report based on substantial medical evidence requires at minimum 10-12 hours of work (and more so in complex cases). At the proposed flat rate the qualified medical evaluators time is valued at about $150.00 / Hr.

The current ML Fee Schedule has not been increased since 1995. Thus it has effectively remained static for 20+ years, while the cost of living / business has increased each year. Further, due do the

panel process physicians performing QME work are incurring significantly more costs to travel and rent space, which compounds the absence of cost of business adjustments for 20+ years.
Starting at the current rate of 250.00/Hr and increasing by 3% per year for 24 years comes out to $500.00 per hour. Thus the hourly rate should be increased to $ 500.00 / Hr. This is consistent with current rates adopted by physicians who perform IME work.

Please do away with the ML designations, as well as arbitrary flat rate(s) and page counts that are not based on any realistic assumptions, and simply adopt an hourly rate of $ 500.00 / Hr , with a 5% increase every two years.

Additional Considerations

1. Missed appointment fee: A significant percentage of missed appointments involve repeat offenders. A missed appointment should incur at minimum a 1 hour charge (at the rate of 500.00/hr) as partial compensation for the time and cost involved in prepping and lost time from patient care.
2. The 30 day Rule for reports should be changed to 30 Business Days ("count down clock" to exclude weekends and Federal holidays). The report for a patient seen the a few days before the Christmas and New Years holidays, should be given more than a strict 30 day time-line.
3. A physician must have the right to refuse a panel if he/she chooses to do so. This will encourage Insurance companies and attorneys to behave better towards their QMEs. I do not know of any other example where a licensed professional is forced to perform an evaluation against his will: A physician may not wish to work with an insurance company / or law firm which has a recurrent pattern of mistreating him/her.

Anonymous August 19, 2019

The QME fee proposal is not for you if you are an injured worker who is significantly injured or in the system for any prolonged period of time. Your evaluator will want to have less complicated patients to evaluate because this means there is an increase in hourly rate for less complicated evaluations but effectively a cap for more complicated evaluations and reports. This means that after a certain amount of records that the evaluator reviews, the evaluator will start to look at you as a loss. After 400 pages under this new proposal, the evaluator will be looking at you as a more significant loss as now they have to look at a highly complicated claim at 2 dollars per page. You will be cut short on interviews, your records will be read or skimmed in less depth. If your complicated injury requires research, forget it. Your evaluator will be less likely to spend their money to access journals at a further loss. This is because there is no compensation for research.

If you are a patient who is very sick or have a complicated history, you want your evaluator fully attentive to what you are reporting. The only way to do that is to make sure they get paid for each and every single hour they have to pour into talking to you, reading your records, and writing

potentially lengthy reports. You don't want your evaluator looking at you and categorizing you as "flat fee 50 pages", "flat fee 200 pages", "flat fee 400 pages," flat fee 400 pages and a much greater loss over 400 pages."

The proposed system rewards relatively shoddy evaluations. You may have seen these evaluations that are relatively few in pages. These evaluations provide one or two sentences of the records or will just simply say, "I reviewed so and so's records". There is typically no integration of the records with the opinions. The opinions simply state that the injury is consistent with the mechanism of injury. There is no explanation why. This also goes for the rest of the opinions. You will see these reports say my opinions are based on a review of records, the patient interview, etc. Well, that does not justify your opinion, yet this shoddy work will be accepted and rewarded in this proposal as it is currently rewarded. These reports don't have research. The evaluators documents histories they have not adequately taken. For example, they will say that the mental health review of systems was negative or that the person was not depressed, when in fact, the person has been complaining of severe depression. They will take substance use histories that will say that there is no alcohol, but other evaluators will find multiple drugs. They will take histories that will say there was no motor vehicle accidents but come to find out, there are multiple motor vehicle accidents. So you can see how this kind of shoddy evaluation compromises other evaluations. However, funny enough, many of these persons are AME's. These evaluations probably take only a few hours to complete because there is not genuine talking to the patient. Another evaluator may see these patients and they patients will report that their prior AME spent about 5 minutes with them. These types of evaluations, under the proposed system, will be richly rewarded. This type of "fraud" will likely get many hundreds or possibly the equivalent of a 1000 dollars an hour. Yet, you see the DWC has targeted complicated evaluations.

So as the DWC pushes out complicated evaluations and incentivizes shoddy, non-research based evaluations, you will see many reports that do not meet substantial evidence and much more opportunity for the parties to go after the QME for significant holes in their reports. On the other hand, because so many patients, lawyers, and judges lack the sophistication to understand a good medical legal evaluation, many of these reports will likely be accepted like they are now, except now they will be more common.

We know that mental health claims rank among the most complicated in the system. As one commenter said, mental health claims do not lend themselves to a flat fee. The proposed factor multiplier is grossly inadequate and does not affect record review. Every mental health claim is highly complicated and what is affecting one person emotionally will always be different than what is affecting another person emotionally. What needs to be reviewed in one patient's records will be different than what needs to be reviewed in another patient's records.

We are also not Nevada. The laws in California regarding mental health claims and what needs to be evaluated is significantly more complicated. Mental Health claims require a detailed Rolda analysis and determination of predominant cause. Under the proposed system, there is no additional financial compensation for spending time with a patient to get at the non-industrial

factors. There is also no additional compensation to get into details about personnel actions or listen to lengthy histories of harassment. There also may be more than one mental health injury. Also, there may be a personality disorder and/or substance use problem involved which may significantly complicate the history taken. There is also a significant amount of time necessary to unwind the shoddy histories taken from evaluators who are doing tons on medical legal evaluations. This includes mental health evaluators who, when they see an orthopedic injury, automatically assume there is a compensable mental health injury. Other mental health providers may just automatically assume that because there is a lot of pre-existing mental health history, this is not compensable.

Another issue is that why are there AMEs? There is no objective criteria and we can see how many AME's are doing shoddy evaluations. There is no qualitative difference between QME and AME evaluations. In order to be an AME, there should be objective criteria that all evaluators can achieve. Not everyone can "split the baby" between the parties as others have relayed.

Another issue is sub rosa. There is no compensation in the proposed system for sub rosa review. In order to review the film, you need to be able to review the records and your own report as well. That takes a lot of time.

The only true way to get at the truth is to make sure that more complicated evaluations are not dis-incentivized. The best way is an hourly rate as practice around the country and as we practice now. The real cost control would come from the parties determining what records to send and choosing an evaluator that they feel comfortable paying. Every panel has three people. If your concern is cost, strike out the most costly person. If you have many factors to consider, strike out the person who you don't want. Another way to control costs is to look at all these shoddy evaluations that are passing off as AME and QME evaluation. That seems to be the biggest problem. This is because the flat fee where there is no incentive to do better. No one needs the DWC to single-handedly change the nature of medical legal reports to fit into a certain cost structure to appease insurers. The insurers can also cut costs by making sure they insure safe physical and mental workplaces.

Hamilton Chen August 19, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community.

Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported.
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

R. Jeff Scott, DC, QME August 19, 2019

The proposed changes are unacceptable to say the least. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself. I am probably not alone in that often Quality Family Time, recreation opportunities, or other uses of our free time are sacrificed to perform the duties of a QME. My expertise has value, I will not let DWC have access to my intellectual expertise at any reduced rate. To even consider a reduction in reimbursement for any aspect of what a QME does, shows a gross disconnect by the DWC and the economic climate in California. It is very expensive to conduct small business in California, it is also very expensive to be a licensed professional in California and only looks to get worse. That being said, if the DWC is intellectually honest and they are looking to retain talent and expertise, they will do the right thing and consider Sue Honor's proposal.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Evan Marlowe, MD August 19, 2019
Physical Medicine and Rehabilitation

I have reviewed the comments provided in opposition to the proposed fee changes, and find I am in distinguished company. The proposal would be amusing if it weren't so demeaning. By way of comparison, here is the IME fee schedule used in Nevada:

	Nevada	California DWC Proposal
Minimum Flat Fee	$1,735.53	$1,650
Pages Included in Flat Fee	50	400
Reimbursement per page	$4.34 (starting on page 51)	$2 (starting on page 401)

Organization of medical records in chronological order per page	$0.95	$0
Failed appointment fee	$650.82	$0
Evaluation of each body part in excess of the first 2	$325.41 body part	$0
Medical records required to be sent in an organized manner to doctor?	Yes	No
Cover letter required to specify number of pages sent to doctor?	Yes	No
Definition of failed appointment/late cancellation?	Yes	No

Nevada's schedule is, in my opinion, an attractive comparable to anyone performing QMEs in California. The differences are astounding, particularly when considering the lower cost of living in Nevada. Keeping reimbursements low to maintain the status quo will provide little incentive for skilled, fresh evaluators to enter the system, and every reason for seasoned ones to exit.

Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which received over 1,500 signatures in support. I encourage you to embrace Sue Honor's proposal, which is widely accepted by the QME community.

Ashraf Helmy, MD August 19, 2019
Psychiatrist

It appears to me based on the new proposed fee schedule that DIR is either unaware of the effort needed to be a QME and complete timely meaningful reports or the DIR is intentionally trying to end the idea of QMEs by this new fee schedule. I think this new schedule, if enacted, will leave the system with the worst quality uninformative QME reports that can possibly exist as self-respecting QMEs will resign in droves. That's my prediction. <u>This proposal will be the final straw for many providers, including myself.</u>

Please reconsider this fee schedule if you want the QME process to survive.

Craig Joseph August 19, 2019

Ladies and Gentlemen,I am proposing a system with two options. The first option is the proposal as set forth by Sue Honor .The second option is how I have been doing my billing since 1990– - I keep time like an attorney and the billing is submitted on an excel spreadsheet. Sometimes I am sent from ten thousand to fifteen thousand pages of records and I do my own record reviews. If your system is implemented the reports will be constructed in a way such that the judges will consider them as not substantial evidence. The ball is in your court— you can improve the system or destroy the workers comp system!!

Kenneth Hammerman, MD August 19, 2019

I am writing to express my extreme displeasure with the proposals for the new medical legal fee schedule for QME and AME evaluations. The proposals do not allow for any meaningful cost of living increase since the last 3 schedule adjustment 13 years ago. In fact the fee schedule actually decreases reimbursement for hard-working evaluators. The proposed schedule is significantly lower than what has been proposed in Nevada, a state with a lower cost of doing business

Many of my colleagues have quit serving as a QME. As one of only a handful of evaluators in gastroenterology I would seriously have to reconsider my participation in the program if the proposals go through as are planned.

Jeffrey Hirsh, MD August 19, 2019

Thank you for allowing my comments on these changes.

I agree with many of these changes.

However, may I suggest several items as follows:

1. ML 100 needs to be defined, not left to the discretion of potentially unfair unilateral decisions. Many circumstances arise during which appointments are cancelled or postponed. Those should not merit reimbursement. But often patients just don't show up, even though we call them to remind of appointment. We run complex offices with multiple staff members; we pay rent for office space in professional buildings. So QME's and AME's should be promptly paid for no-

shows (the amount you view as maximum $550 should be the SET amount). And the reimbursement should not be at the whim of claims administrator or defense attorney.

2. Not paying the same $2 per page record review reimbursement for ML 103 reports is not going to work. Each month I review probably several thousand pages of medical records that I receive long after the statutory deadline for submission of the initial report. So the system you propose will incentivize the carrier to withhold records, obtain an initial at ML 101 level, then send 2,000 pages of medical records six weeks later.

Why not create a structure like this:

The submission of an ML 101 report is automatically "credited" with 400 pages. Once that 400 page level is exceeded, the $2 per page charge is applied onward.

3. In parallel, research is necessary on the reports I submit about 2 or 3 times per month. I see patients with exotic infections, bizarre post-operative complications, and many types of toxic exposures. The quality of my analysis will drop on some of these cases if I were to curtail or truncate those efforts. You should strongly consider some mechanism to reimburse physicians for research, at least on complex cases.

Mikiko Murakami, MD August 19, 2019

I put a lot of hard work and effort into seeing applicants and doing my QME reports. The upcoming proposed fee schedule would make it difficult for me to continue doing this. Please consider improving payments for providers and saving costs in other ways.

David Glaser, MD August 19, 2019
Medical Director
Glaser Forensic Group

I have been performing QME evaluations for almost forty years. Since my days at the USC Institute of Psychiatry and The Law, my practice has been predominantly forensic psychiatry. I have performed thousands of forensic psychiatric evaluations since 1979.

I am very concerned that the proposed fees will adversely impact injured workers, insurance companies, and applicant/defense attorneys.

Particularly in psychiatric/psychological cases, our work is time intensive. We typically spend hours meeting face to face with claimants. We typically spend hours putting together reports that are detailed, with opinions that are supported by the evidence available and ratable.

With the proposed fee schedule, there is no doubt in my mind that the quality of the reports will plummet. In addition, many current QME's will simply drop out of the system because the fees would not support a viable practice. Attorneys on both sides will need to scramble more than ever to obtain competent, timely, well written, and thorough reports.

With initial reports being less than adequate when compared to the current time, there will be more requested and needed supplemental reports and more delay in resolving cases. To varying degrees, applicants will suffer, have injuries more resistant to treatment, and arguably some will actually die during the legal battles over their cases.

In the final analysis, a proposal to save money could possibly cost more money as litigation will become more expensive simply based upon the hard reality that with less fair remuneration, one can expect a less quality product. Attorneys will be frustrated. Injured workers will get a raw deal. Insurance companies could pay more for a claim that could be resolved by an initial solid QME report.

As of the writing of this, QME reimbursement rates are already a bit dated and not up to current standards of forensic reimbursement. The proposed rates represent yet another blow to the fair reimbursement for competent services.

Benjamin Simon, MD, FACC August 19, 2019

The proposed changes to the medical legal fee schedule will worsen an already broken system. As there has been no change in the reimbursement or meaningful revisions since 2007 is unacceptable. The current DWC proposal is in fact a movement in the right direction, yet the proposed reimbursement may actually cause a decrease in reimbursement to those individuals like myself that perform evaluations of complex internal medicine/cardiovascular cases. The complexity of reviewing medical records has actually increased with electronic medical records rather than decreased the time that is required to review those records. Therefore the reimbursement proposed for these complex cases will unfairly penalize individuals like myself that review complex cases with records that are frequently thousands of pages in length. Certainly there is no improvement to reimbursement and again to have stagnant reimbursement for the last 12 years is not appropriate.

The proposal that the DWC has put forward appears to be based in part on the Nevada formula yet reimburses less (despite the increased cost of living in much of much of metropolitan California

especially Los Angeles and San Francisco). A proposal that has been promoted by Suzanne Honor-Vangerov who previously managed the medical unit of the DWC and understands the complexity of this system is a much more fair approach and I would encourage the DWC to adopt a system that fairly reimburses physicians for the time spent in performing these often complex evaluations. The number of physicians that are performing these evaluations are dwindling, often are nearing retirement, and the need to encourage new physicians is imperative. An updated fee schedule will be a step in the right direction and I hope that the correct steps are made to correct the known problems in this system.

Anonymous August 19, 2019

The DWC should read or re-read the medlegal fee schedule proposal by Sue Honor Vangerov. The proposal is fair and just. Maybe then the system will have some eager QMEs that are willing to work hard and represent the California Workers Comp system.

https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Arnaldo Aleman, DC, QME August 19, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Paul Kisilewicz, DPM August 19, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Neil Steinberg, PhD — August 19, 2019
California Psychologist

The proposed QME fee schedule results in a reduction of psychologist compensation that would not be commensurate with the time, effort, and knowledge required to administer a comprehensive medical legal evaluation involving extraordinary circumstances. Administration of these evaluations is an exceptionally demanding task. The proposed fee schedule will result in the competent psychologists discontinuing the delivery of these services. Though it will increase the profits of the insurance companies. The injured workers will become unfairly under-served.

Richard J. Horne, DC, QME, ACR — August 19, 2019
Chiropractic Orthopedist
Qualified Medical Examiner
Accident Crash/Injury Reconstructionist

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's

recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

Clive M. Segi, MD, FRCS, FACS August 19, 2019
Orthopedic Surgeon

It's with great concern that I appeal to the DWC to immediately take action in this important proposed QME fee schedule change. Please be cognizant of the immense amount of time and effort that Sue Honor Vangerov, the former manager of the DWC Medical Unit spent to come up with a reasonable proposal for the requested new medical-legal fee schedule. Based on her reputation and the sensible proposal she made which was endorsed by over 1,500 signatures, it is imperative that these changes be instituted. You all must be aware of these changes as noted in https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

It is very disheartening that the quantitative suggestions from her, have been disregarded.

The reimbursements that are now proposed are an insult to physicians, especially to orthopedic surgeons like myself who, have had many years of training and practicing in California.

Many physicians will not provide QME services at the suggested ludicrous reimbursement rates. To date, many have removed themselves from serving as QME's, especially as a result of the recent DWC underground relations lawsuit that was filed by several QME's against the DWC, that was finally settled. This was an ill-advised knee jerk attempt to retaliate against doctors for evaluating California's injured workers.

I appreciate the fact that the fee schedule has not been updated in 13 years, and based on the current high cost of living, the high cost of medical practice, the excessive demands by the applicant and defense communities, the reasonable fees that Sue Honor proposed should be adopted.

The consequences of not passing this proposed reasonable, fee schedule would be dire, and as I have seen there will be very few qualified experienced QME health care providers in the state of California. It goes without exception that the Sue Honor Vangerov proposed fee schedule should be adapted as soon as possible.

Robert Owen Boyd, PhD August 19, 2019

As a psychologist who performs approximately three ML 104 evaluations per month, I am opposed to the flat fee payment schedule currently proposed.

The major reasons for my objection are that these proposed fee changes for the ML 104 & ML 106 evaluations will most likely result in many psychiatric reports failing to meet the substantial medical evidence standard. For most of my psychiatric evaluations, I typically receive ten to fifteen referral questions per counsel and/or claims adjusters. Moreover, many of these questions consist of extremely complicated issues, which require considerable time to ponder and provide the substantial needs of the question. For example, many psychiatric claims now require a Rolda analysis, which again takes considerable amount of research and time. Additionally, often in these evaluations, I am asked to review three to six thousand pages of medical/legal records. It does not appear that evaluators will be paid for the allotted time in the present proposal. .

In order to properly conduct these highly complex evaluations, I usually spend between fifteen to twenty hours in total physician time, including all categories of physician time: face-to-face interviews, review of records, psychological testing, research, consultation, and extended report writing time. Based on the figures provided by by the new proposed guidelines, DWC considers roughly $2,100 for a ML 104, and again assuming the present $250/hour base payment rate, then evaluators for these difficult cases will be limited to just over eight hours for both face-to-face and non-face-to-face time. In the present proposed payment structure, psychiatric providers will not be able to perform all that is required for the complex evaluation. If these evaluations are limited to the flat fee payment arrangement as proposed, the quality of these evaluations will profoundly diminish.

My position is thus a variation on the old saying of "...you get what you pay for!" And that is not what the injured worker is looking for when they have relied on the Department of Workers' Compensation to provide then with the best possible assistance for the State of California.

If enacted, this examiner speculates that many psychiatrist's and psychologist's reports will deteriorate to the degree that such evaluations will be not accept as substantial medical evidence.

Leonard Gordon, MD, QME, AME August 19, 2019
Hand Surgery

I am responding to the request for feedback regarding the proposed medical- legal fee schedule. I appreciate the work that has been done on this. That said, the schedule does not address varied claim situations that arise, and more granularity and detail is needed. As written, experienced evaluators who deal with complex cases will be disadvantaged. The schedule may be adequate for some evaluations but and reimbursement will be too low in many situations.

Here are some concerns:

1 – Medical Records:
Number of pages - Medical records may be easy to do and some may be of a general medical nature unrelated to the injury making the review rapid; however, the records may all relate to the injury in question spanning many years and multiple sites. In cases such as these, a 400-page review will be very time-consuming and difficult. A 50-100 page limit would be more appropriate, with a per-page charge or a time charge thereafter. Some states have a fee for each additional 100 pages.

2 - Depositions and sub-rosa film:
These can take a long time to review. These should be separated and paid by time.

3 - Re-evaluations:
A re-evaluation may involve doing an update and some additional questions, for example, questions about apportionment and an MMI assessment. On the other hand, in complex cases, a re-evaluation can be difficult, requiring review of years of additional history and complex treatment, and may require a response to many pages of cover letters from both sides. The $1150 standard fee does not address this discrepancy.

4 – Failure of an injured employee to appear for an appointment:
This time is scheduled and cannot be filled at the last minute. A compensatory fee for at least 2 to 3 hours should be mandated at approximately $750.00.

5 - Supplemental reports:
As with the examples above, supplemental reports may be simple or may be more complex. The fee suggested may, at first glance, seem adequate, but in some situations is very low. This depends on whether an evaluator deals mostly with simple or more complex claims. A $500.00 fee would be more reasonable as most supplementals, at minimum, require review of the entire case and usually review of additional records. Somehow, the more complex problems should be separated out from a simple clarification of a few points in the original report. Perhaps two levels of supplemental reports would be reasonable and the more complex ones paid by time.

6 – Complex situations:
There is no mechanism to add reasonable payment for certain legitimate complex situations that are clearly quantifiable. For example, an evaluation of more than 2 body parts i.e. 3 or 4 should be reflected in the payment. Perhaps there should be an added $300.00 for the added complexity for

each additional body part. There is a reason that complexity factors are currently in use, and I understand that these might be misused or confused. In my opinion, however, some factors, which can be easily verified, should remain. These are valid reasons for added reimbursement.

Clearly there needs to be a method for reimbursing varied situations so that the more complex evaluations and longer record reviews are fairly compensated. One size fits all will result in a decrease in the quality of evaluations or even the loss of experienced evaluators.

Robert F. Meth, MD August 19, 2019

The proposed fee schedule in inadequate for all QMEs and AMEs and all parties should be involved in the discussion of the fee schedule before any final decision is made.

Kevin J. Cebula DDS, QME August 19, 2019

I don't see how you can expect medical professionals to continue working as QMEs in the State of California with the new DWC fee schedule proposal. I would expect most current QMEs to measure the proposed compensation against their average hourly rate and either scale back the number of evaluations performed or stop doing them altogether. If this happens, then you can imagine the backlog and waiting times for injured workers to receive compensation for their injuries. This will eventually lead to collapse of the system and the State will lose a significant portion of its tax revenue.

I fully support the proposal of Sue Honor, especially as it pertains to the cost of living adjustment in the State of California. I appreciate the effort to simplify compensation for the challenging work we do, but it should be done with reimbursements commensurate to our level of expertise.

By my math, the State of California compensates a university head football coach at the rate of $1773.58 an hour. This is generously based on a 40 hour work week for 52 weeks in 2017, which likely grossly overestimates the actual time spent working. If the State suddenly decided to drastically reduce the compensation for that position as they are doing with this proposed fee schedule, it would be reasonable to expect that the position would be vacated and the program would suffer. The DWC will experience a similar blowback if it decides to move ahead with its current proposed fee schedule.

To close, I recommend that the DWC reconsider and accept the proposal from Sue Honor to preserve the value and importance of California's Workers Compensation system.

Iren Fruchtbaum, PhD, QME
Clinical Psychologist

August 19, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

David Brendel, PhD, QME

August 19, 2019

I wholeheartedly object to the proposed fee schedule as it fails to adequately compensate the medical and legal burdens placed on QME's. The fee schedule would cause the loss of many quality practitioners who could not survive as a result. Given the costs attached to doing such work, it would be much easier to deal with a medical practice outside of this arena and avoid the associated stress and lack of reimbursement.

I do support the proposed fee schedule presented by Sue Honor as it takes into account the time, effort and qualitative changes necessary for such evaluations. Indeed, the loss of numerous qualified QME's is an obvious indication of the shortcomings of the present system. Therefore I would sincerely request a re-examination of all factors and the adoption of Sue Honor's recommendations.

Alexis E. Dixon, MD
Board Certified Orthopaedic Surgeon
Foot & Ankle Specialist

August 19, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Marta Recasens, MD August 19, 2019

I am one of 12 QME's in Ophthalmology in Southern California. I have been doing QME's since 2015. I take great pride in being unbiased, accurate, and compassionate about my work. I can tell you that I spend many weekends without rest completing my reports. There are many restrictions placed on QME's as to timely scheduling, the evaluations, and report writing deadlines. I will not be continuing my QME work should reimbursement be reduced.

I can tell you there is a learning curve and it will take years to replace those of us that will resign.

David Narang, Ph.D. August 19, 2019

The proposed fee schedule changes are not workable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders. Her proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal The disregard for most of Sue Honor's qualitative suggestions in the current proposed schedule is disheartening.

The reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California. I and others I know will have no choice but to leave the QME system if the proposed fee schedule is passed. It has been over a decade since the last rate increase for QMEs, and a cut such as this will certainly force me out. I conduct high quality evaluations, and I and many who do so would also exit the QME role if this fee schedule is passed. I request that you reconsider the schedule.

Salvador Echeverria, MD August 19, 2019

Diplomate, American Board of Psychiatry & Neurology in
Child, Adolescent & Adult Psychiatry

The proposed changes to the QME fee schedule are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California. Many of my colleagues have discontinued serving as a QME. This proposal will be the final straw for many providers.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Sanjay Deshmukh August 19, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's

recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Stewart Lonky, MD, FACP August 19, 2019
QME provider, AME provider

I have been working in the Worker's Compensation arena since 1990. I have seen all the plans to try and reign-in all the costs since then, and have been a QME and AME since these designations were put into place. I have now read the newly proposed Medical Fee Schedule and have read all the comments that have been made thus far. It is clear that there is some confusion and a lot of consternation regarding these new proposals.

Before I make recommendations, let me state that I am an internal medicine doctor, with a specialty in Pulmonary Medicine and Critical Care Medicine. I have published articles and a book on toxic exposures.

I am generally faced with QME cases that are complex, and require my attention to details, both from the patient's history and a review of medical records. I also spend a fair amount of time researching various possible mechanisms of injury, or the lack of a basis for such an injury, in Workers Compensation QME and AME exams. I try to produce honest, well reasoned reports that meet the level of reasonable medical probability.

With this said, there are a few provisions in the proposed reimbursement proposal that would make the maintenance of the quality of evaluations plummet.

1. Starting the reimbursement level lower than that provided for initial reports in Nevada makes no sense at all. This needs to be adjusted upward. A value 20% above Nevada makes sense.

2. The number of pages of medical records reviewed before the "per-page" reimbursement is far too high. This number needs to be revised downward to 50 pages, after which the per page fee would kick in.
3. The "per page" fee is too low. It needs to be increased to $3.00 per page. The records that I review include the medications given, each and every blood pressure and other vital sign reading, and even the nursing notes for patients who are hospitalized. All this information adds or subtracts from the credibility of the patient. In addition, I review all lab data, and x rays, as well as physiologic testing.
4. The "Supplemental Report" fee is way too low. May of the "supplemental" reports I do are letters from one side or the other (sometimes both) asking what amount to "interrogatories" and are many pages in length. Others are records or reports, or labs that I need to put in context with all the data existing in my previous reports. Sometimes, these data come a year (or more) after the initial report. It means there is a fair amount of time spent reviewing old reports, and in some cases, reviewing the literature, to be certain things still make sense. This is tedious work, and the "base fee" should be at least $550 for this and then the $3.00 per page record and data review fee tagged on.
5. Re-Evaluation fees are dreadfully low and do not take into account what we do in internal medicine. I frequently ask for patients to be treated for 6 months or a year, and then sent back for re-evaluation. This is done to make certain that the term "Maximal Medical Improvement" has some validity. Almost always, there is a decrease in impairment/disability. However, there are months and months of records to review, an extensive "updated" history, and new lab data. The "base fee" should be 20% above the Nevada base fee and then medical record review needs to be paid for starting after 50 pages at $3.00 per page.
6. I note that some feel that a review of depositions should be done at a "per hour" rate. I believe the $3.00 fee is fine.
7. I do get "subrosa films" and this particular activity needs to be paid on a "per hour rate" I suggest $275/hour spent, plus a basic report fee of $500. This would cover the time spent reviewing old reports.
8. My time at deposition is usually preceded by a review of the case. I feel that $500 per hour is more reasonable than $440.

Thank you for reviewing this. I believe that with a decreasing number of QMEs, the DWC needs to be sure they maintain quality rather than a bunch of rather useless, unreasoned, unresearched reports. It is only fair to both the injured workers and the insurers.

Craig B. Grether, PhD August 19, 2019

The proposed changes to the QME fee schedule are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California. Many of my colleagues have discontinued serving as a QME. This proposal will be the final straw for many providers.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Sanjay Deshmukh August 19, 2019

It is clear from the proposed fee schedule that good QME providers will leave the system. Quality work requires time and keeping up with current treatments. With the proposed changes I will have to reevaluate my willingness to continue with QME work. The changes are not fair to physicians. It seems to be more punishing for providers. Please do not change the system.

John Parke, PsyD August 19, 2019
Mindhealth

I have read over the proposed changes and feel Sue Honor's proposal would be fine to adopt. The DWC proposed changes are too low in fees and will likely result in exiting of current QMEs who are on the fence.

Please consider adopting Sue Honor's proposal or moving from your proposal toward hers.

Thank you. A flat fee would be nice if it was not a net reduction in pay.

David Brendel, Ph.D, QME August 19, 2019

I wholeheartedly object to the proposed fee schedule as it fails to adequately compensate the medical and legal burdens placed on QME's. The fee schedule would cause the loss of many quality practitioners who could not survive as a result. Given the costs attached to doing such work, it would be much easier to deal with a medical practice outside of this arena and avoid the associated stress and lack of reimbursement.

I do support the proposed fee schedule presented by Sue Honor as it takes into account the time, effort and qualitative changes necessary for such evaluations. Indeed, the loss of numerous qualified QME's is an obvious indication of the shortcomings of the present system. Therefore I would sincerely request a re-examination of all factors and the adoption of Sue Honor's recommendations.

David J. Parks, MD August 19, 2019
Pacific Retina Specialists

I am posting this as my comments regarding the current fee schedule proposal. I give you permission to post the following with my name.

I am one of approximately 12 QME's for Ophthalmology in all of Southern California from Bakersfield and Santa Barbara to the border. Although Ophthalmology injuries are fortunately rare, my office is scheduling patients three months out due to the quantity of requests.

At present, the QME portion of my practice is less than one percent. Given the aggravations with the large quantity of patient no shows, the document dumps, depositions, and poor reimbursement, I considered resigning from the panel last year. I have decided to wait to see if a new fee schedule would make remaining on the panel worthwhile.

I do not need to restate the excellent comments by my colleagues, but I feel I will have no choice but to resign from the panel if the fee schedule is enacted as proposed.

Anonymous August 19, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs . Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all. The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California. Many of my colleagues have quit serving as a QME. Some. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. This proposal will be the final straw for many providers, including myself. I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported.

Janice Skiljo Harris, RN BSN MSN CNLCP® MSCC August 19, 2019
Shawn King, J.D., SOS Consulting

We wish to express our support for the draft proposal set forth by the DWC for revision of the Medical Legal Fee Schedule. The draft contains many excellent provisions and successfully reasserts the notion of straightforward criteria as controlling the designation of charges for medical-legal reporting. Lead among the well-considered changes is the designation of a base level for services and recognition of the importance of records in the preparation of medical-legal reporting.

We believe with relatively minor exceptions the draft proposal should become the basis for a new fee schedule. We have made our suggestions for modifications in the accompanying mock-up of the draft proposal. Our revisions are in red-underline. Any necessary striking of existing text is mark with blue ~~strikeout~~.

As to the changes we recommend, the following is offered:

The change in the designation of what constitutes a Follow-up medical-legal evaluation was necessary, as nine months quite often fell within twelve month designations for obtaining permanent and stationary status following surgery or other medical procedure. As a result, evaluations taking place within nine months of the prior evaluation was too brief a window before the status reverted to treating the evaluation as a new evaluation equivalent.

However, the proposal provides no substitute value. As a result, one could interpret the draft proposal as essentially meaning once a claimant is seen, all evaluations forever and anon must be considered follow-up evaluations. While nine months was an overly narrow window of time, forever is by definition truly all-encompassing!

Given that passage of time leads to production of new records, as well as often times consideration of new legal theory or new information in general regarding historical aspects of a claim, fifteen (15) months is a proper length of time such that interventional/surgical style care can reasonably be expected to have ceased and/or been completed. Likewise, fifteen months allows for ample legal review of circumstances and the bringing to conclusion of the majority of claims. Additionally, whereas nine months is well within the likely time for clearly remembering, or readily bringing forth memory of a claimant, fifteen months is the outermost window for ready recall. Beyond that time frame the claimant is essentially new to the mind of most evaluators. More importantly, findings of a clinical sort are certainly stale by fifteen months out, requiring full re-review of history and rededication of clinical assessment.

With respect to diagnostic testing, concern exists that a particular type of diagnostic testing has not been enumerated clearly in the draft proposal. We recommend specific recognition of the need for testing in neuropsychological assessment, with said testing being submitted as per the OMFS. The interview portion of a neuropsychological evaluation is not considered part of the battery of tests ordered in such an examination.

We also recommend explicitly specifying that neuropsychological evaluations are considered part of the -96 modifier code. The degree of difficulty to these evaluations should be clear. Dual problems in the realm of cognitive disorders as well as psychological disorders are the norm for these evaluations. The face to face interview time is expected to match that of a more standard psychiatric or psychological evaluation. It is also virtually always the case that the predominant cause standard is part of neuropsychological assessment, once again because it is the norm for consideration of <u>both</u> cognitive and psychological presentation. Also with respect to the -96 modifier, we suggest the base level be expanded by 1.75 as opposed to the draft recommendation for 1.50. Essentially this reflects our belief that the time involved in preparing psychiatric/psychological/neuropsychological reports is well outside the norm in comparison to other reports, and requires more expansion of a one size fits all type billing to reflect the difference. As is reflected in our regulatory mark-up, this recommended change would then carry over to interpreter and AME modifiers for these types of reports as well.

The setting of a maximum value for a missed appointment is an excellent step in recognizing the transactional costs and irretrievably lost scheduling time caused by a missed appointment. However, while a maximum has been set, no value has been given as a standard minimum for a missed appointment. We believe a fair value for this is $450.

The setting of a base fee for a Comprehensive Medical-Legal Evaluation at $1,650 is a successful recognition of the effect of cost of living and inflationary pressures on the provider community

since the production of the last full scale revision of the fee schedule on the order of the changes now contemplated. However, when compared to the values used quite remotely under the 80th percentile fees of the 1990s for example, even the $1,650 value falls short. Per that old schedule, an orthopedic exam in 1991 was paid $984.00. Using nothing more than a calculator of inflation since, the value of that $984 has risen to approximately $1847. Because a Consumer Price Index arguably might overstate inflationary values in the field of medical-legal report, we suggest the base fee for an ML101 be set at $1800.

Additionally, we recommend that the base rate include the first 200 pages as they may be dense records and would consider one to two hours or more of review time. Further, to avoid the transactional costs of an annual Cost of Living index adjustment to the fee schedule in terms of payor and provider education and implementation, we recommend raising the rate of records review beyond 200 pages from the currently recommended $2 per page to $2.50 per page, with that figure then better able to account for future inflationary advances prior to the next revision of the overall fee schedule. In point of fact, given the number of cases that do not exceed 200 pages of records, we suggest that figure should be the number of records to include in the base fee.

Also left is the Sisyphean task of avoiding gamesmanship in what constitutes a page of records. All manner of font size manipulation and other machinations can be imagined. But truly, starting down the path of imagining all eventualities is fruitless. We recommend only making sure a one page equals one page doctrine of sorts in set forth. Additionally, given the prevalence of special studies and sub rosa material, we recommend specific coding for those items.
The proposed new fee schedule wisely continues recognition of the value of an Agreed Medical Evaluator (AME). However, the proposed schedule does not consider that the value of an AME extends across the entire production of a report, especially inclusive of the higher level of record analysis routinely accomplished by an AME. Thus, we recommend the AME modifier apply to the records portion of an evaluation as well as to the base level fee. The same would hold true for AME testimony charges. We agree the interpreter fee should apply to the base fee alone and not to the records portion of an evaluation.

Recommend revisions by section:

9793(g)
(g) “Follow-up medical-legal evaluation” means an evaluation which includes an examination of an employee which (A) results in the preparation of a narrative medical report prepared and attested to in accordance with Section 4628 of the Labor Code, any applicable procedures promulgated under Section 139.2 of the Labor Code, and the requirements of Section 10606, (B) is performed by a qualified medical evaluator, agreed medical evaluator, or primary treating physician ~~within nine months~~ within fifteen (15) months following the evaluator's examination of the employee in a comprehensive medical-legal evaluation and (C) involves an evaluation of the same injury or injuries evaluated in the comprehensive medical- legal evaluation.

9794(a)(1)

(1) X-rays, laboratory services and other diagnostic tests shall be billed and reimbursed in accordance with the ~~o~~ Official ~~m~~ Medical ~~f~~ Fee ~~s~~ Schedule adopted pursuant to Labor Code Section 5307.1. In no event shall the claims administrator be liable for the cost of any diagnostic test provided in connection with a comprehensive medical-legal evaluation report unless the subjective complaints and physical findings that warrant the necessity for the test are included in the medical-legal evaluation report. It is specifically recognized that the production of a neuropsychological report requires a battery of testing as determined by the evaluating neuropsychologist. Such tests shall be considered a diagnostic test for the purposes of medical-legal reporting and billing. The interview portion of a neuropsychological evaluation is not considered part of the battery of tests ordered in such an examination. Additionally, the claims administrator shall not be liable for the cost of diagnostic tests, absent prior authorization by the claims administrator, if adequate medical information is already in the medical record provided to the physician.

9794(d) –(Recommends adding in an extra section which requires the remaining sections to be re-lettered.)

(d) As used in Section 9795, a page of records means information typically and normally conveyed on a single side of a page. Records printed on two sides shall count as two pages, and reports using a four-page to one format shall count as four pages.

9795(c)

(c) Medical-legal evaluation reports and medical-legal testimony shall be reimbursed as follows:

CODE	*B.R.*	*PROCEDURE DESCRIPTION*
ML100		*Missed Appointment for a Comprehensive or Follow-Up Medical-Legal Evaluation*. ~~This code is designed for communication purposes only. It does not imply that compensation is necessarily owed.~~ In the event of a missed appointment not related to a recognized emergency (medical, family or environmental such as wildfire or earthquake), a minimum fee of $450 shall be paid to the medical legal evaluator. However, in no event shall the missed appointment fee exceed the sum of $550.
CODE	*RV*	*PROCEDURE DESCRIPTION*

ML101	1205 130.9 ($1,8001,650)	*Comprehensive Medical-Legal Evaluation*. Includes all initial comprehensive medical-legal evaluations. The fee includes review of 200400 pages of medical records. Review of medical records in excess of 200400 pages shall be reimbursed at the rate of $2.50 per page. When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical records reviewed by the physician as part of the medical-legal evaluation and preparation of the report. *Follow-up Medical-Legal Evaluation*. Limited to a follow-up medical-legal evaluation by a physician which occurs within nine months of the date on which the prior medical-legal evaluation was performed. The physician shall include in his or her report verification, under penalty of perjury, of time spent in each of the following activities: review of records, face-to-face time with the injured worker, and preparation of the report. Time spent shall be tabulated in increments of 15 minutes or portions thereof, rounded to the nearest quarter hour. The physician shall be reimbursed at the rate of RV 5, or his or her usual and customary fee, whichever is less, for each quarter hour.
CODE	*RV*	*PROCEDURE DESCRIPTION*
ML102	8050 ($1,100)	*Follow-up Medical-Legal Evaluation*. Includes all comprehensive medical-legal evaluations performed after the initial comprehensive medical-legal evaluation. The fee includes review of 200400 pages of medical records that were not reviewed as part of the initial comprehensive medical-legal evaluation. Review of medical records that were not reviewed as part of the initial comprehensive medical legal evaluation that are in excess of 200400 pages shall be reimbursed at the rate of $2.50 per page. When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical

		records reviewed by the physician as part of the follow-up medical-legal evaluation and preparation of the report. ~~*Basic Comprehensive Medical-Legal Evaluation*. Includes all comprehensive medical-legal evaluations other than those included under ML 103 or ML 104.~~
CODE	*RV*	*PROCEDURE DESCRIPTION*
ML103	20~~75~~ ($275)	*Fees for Supplemental Medical-Legal Evaluations*. The fee includes services for writing a report after receiving a request for a supplemental report from a party to the action or receiving medical records that were not available at the time of the initial or follow-up comprehensive medical-legal evaluation. Fees will not be allowed under this section for supplemental reports following the physician's review of: (1) information which was available in the physician's office for review or was included in the medical record provided to the physician prior to preparing the initial or follow-up comprehensive medical-legal report; or (2) addressing an issue that was requested by a party to the action to be addressed in either an initial or any follow-up comprehensive medical-legal examination. Failure to issue a supplemental report upon request because of an inability to bill for the report under this code would constitute grounds for discipline by the Administrative Director or his or her designee. Review of medical records that were not reviewed as part of the initial or follow-up comprehensive medical-legal evaluation shall be reimbursed at the rate of $2.50 per page. When billing under this code, the physician shall include in the report a verification under penalty of perjury of the total number of pages of medical records reviewed by the physician as part of the supplemental medical-legal evaluation and preparation of the report.

		~~*Complex Comprehensive Medical-Legal Evaluation*. Includes evaluations which require three of the complexity factors set forth below.~~
		~~In a separate section at the beginning of the report, the physician shall clearly and concisely specify which of the following complexity factors were required for the evaluation, and the circumstances which made these complexity factors applicable to the evaluation. An evaluator who specifies complexity factor (3) must also provide a list of citations to the sources reviewed, and excerpt or include copies of medical evidence relied upon:~~
		~~(1) Two or more hours of face-to-face time by the physician with the injured worker;~~
		~~(2) Two or more hours of record review by the physician;~~
		~~(3) Two or more hours of medical research by the physician;~~
		~~(4) Four or more hours spent on any combination of two of the complexity factors (1)-(3), which shall count as two complexity factors. Any complexity factor in (1), (2), or (3) used to make this combination shall not also be used as the third required complexity factor;~~
		~~(5) Six or more hours spent on any combination of three complexity factors (1)-(3), which shall count as three complexity factors;~~
		~~(6) Addressing the issue of medical causation, upon written request of the party or parties requesting the report;~~
		~~(7) Addressing the issue of apportionment, when determination of this issue requires the physician to evaluate the claimant's employment by three or more employers, three or more injuries to the same body system or body region as delineated~~

		~~in the Table of Contents of *Guides to the Evaluation of Permanent Impairment* (Fifth Edition), or two or more or more injuries involving two or more body systems or body regions as delineated in that Table of Contents. The Table of Contents of *Guides to the Evaluation of Permanent Impairment* (Fifth Edition), published by the American Medical Association, 2000, is incorporated by reference.~~
		~~(8) A psychiatric or psychological evaluation which is the primary focus of the medical-legal evaluation.~~
		~~(9) Where the evaluation is performed for injuries that occurred before January 1, 2013, concerning a dispute over a utilization review decision if the decision is communicated to the requesting physician on or before June 30 2013, addressing the issue of denial or modification of treatment by the claims administrator following utilization review under Labor Code section 4610.~~
CODE	*RV*	*PROCEDURE DESCRIPTION*
ML104	8~~5~~ ($424/ hr)	*Fees for medical-legal testimony.* The physician shall be reimbursed at the rate of RV 8, or his or her usual and customary fee, whichever is less, for each quarter hour or portion thereof, rounded to the nearest quarter hour, spent by the physician. The physician shall be entitled to fees for all itemized reasonable and necessary time spent related to the testimony, including reasonable preparation and travel time. The physician shall be paid a minimum of one hour for a scheduled deposition. ~~*Comprehensive Medical-legal Evaluation Involving Extraordinary Circumstances*. The physician shall be reimbursed at the rate of RV 5, or his or her usual and customary hourly fee, whichever is less, for each quarter hour~~

		~~or portion thereof, rounded to the nearest quarter hour, spent by the physician for any of the following:~~
		~~(1) An evaluation which requires four or more of the complexity factors listed under ML 103; In a separate section at the beginning of the report, the physician shall clearly and concisely specify which four or more of the complexity factors were required for the evaluation, and the circumstances which made these complexity factors applicable to the evaluation. An evaluator who specifies complexity factor (3) must also provide a list of citations to the sources reviewed, and excerpt or include copies of medical evidence relied upon.~~
		~~(2) An evaluation involving prior multiple injuries to the same body part or parts being evaluated, and which requires three or more of the complexity factors listed under ML 103, including three or more hours of record review by the physician;~~
		~~(3) A comprehensive medical-legal evaluation for which the physician and the parties agree, prior to the evaluation, that the evaluation involves extraordinary circumstances. When billing under this code for extraordinary circumstances, the physician shall include in his or her report (i) a clear, concise explanation of the extraordinary circumstances related to the medical condition being evaluated which justifies the use of this procedure code, and (ii) verification under penalty of perjury of the total time spent by the physician in each of these activities: reviewing the records, face-to-face time with the injured worker, preparing the report and, if applicable, any other activities.~~
~~*CODE*~~	~~*RV*~~	~~*PROCEDURE DESCRIPTION*~~
~~ML105~~	~~5~~	~~Fees for medical-legal testimony. The physician shall be reimbursed at the rate of RV 5, or his or her usual and customary fee, whichever is less, for each quarter hour or portion thereof, rounded to the nearest quarter hour, spent by the physician. The physician shall be entitled to fees for all itemized reasonable and necessary time spent related to the~~

		~~testimony, including reasonable preparation and travel time. The physician shall be paid a minimum of one hour for a scheduled deposition.~~
~~*CODE*~~	~~*RV*~~	~~*PROCEDURE DESCRIPTION*~~
~~ML106~~	~~5~~	~~Fees for supplemental medical-legal evaluations. The physician shall be reimbursed at the rate of RV 5, or his or her usual and customary fee, whichever is less, for each quarter hour or portion thereof, rounded to the nearest quarter hour, spent by the physician. Fees will not be allowed under this section for supplemental reports following the physician's review of (A) information which was available in the physician's office for review or was included in the medical record provided to the physician prior to preparing the initial report or (B) the results of laboratory or diagnostic tests which were ordered by the physician as part of the initial evaluation.~~

(d) The services described by Procedure Codes ML-101 through ML-10~~6~~3 may be modified under the circumstances described in this subdivision. With the exception of modifier -94, t~~T~~he modifiers shall not be applicable to per page charges for record review in any of the Procedure Codes ML-101 through ML-103. The modifying circumstances shall be identified by the addition of the appropriate modifier code, which is reported by a two-digit number placed after the usual procedure number separated by a hyphen. The modifiers available are the following:

-92 Performed by a primary treating physician. This modifier is added solely for identification purposes, and does not change the normal value of the service.

-93 Interpreter needed at time of examination, or other circumstances which impair communication between the physician and the injured worker and significantly increase the time needed to conduct the examination. Requires a description of the circumstance and the increased time required for the examination as a result. Where this modifier is applicable, the value for the procedure is modified by multiplying the normal value by 1.1. This modifier shall only be applicable to ML-10~~2~~1 and ML-10~~3~~2.

-94 Evaluation ~~and medical-legal testimony~~ performed by an Agreed Medical Evaluator. Where this modifier is applicable, the value of the procedure is modified by multiplying the normal value by 1.25. If modifier -93 is also applicable for an ML-10~~2~~1 or ML-10~~3~~2, then the value of the procedure is modified by multiplying the normal value by 1.35. This modifier shall also apply to review of records, Procedure description 104, and modifiers 98 and 99.

-95 Evaluation performed by a panel selected Qualified Medical Evaluator. This modifier is added solely for identification purposes, and does not change the normal value of any procedure.

-96 Evaluation performed by a Psychiatrist or Psychologist or neuropsychologist when a psychiatric, ~~or~~ psychological or neuropsychological evaluation is the primary focus of the medical-legal evaluation. Where this modifier is applicable, the value of the procedure is modified by multiplying the normal value by 1.75~~50~~. If modifier -93 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.85~~60~~. If modifier -94 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 2.00 ~~1.75~~. If modifier -93 and -94 are also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 2.05~~1.85~~.

-97 Evaluation performed in an Underserved Area. This modifier will be applicable when an evaluation is performed in a geographic area where there were fewer than three physicians in a chosen specialty with a QME-certified office location in that geographic area as of July 1, 2019. Where this modifier is applicable, the value of the procedure is modified by multiplying the normal value by 1.25. If modifier -93 is also applicable for an ML-101 or the ML-102, then the value of the procedure is modified by multiplying the normal value by 1.35. If modifier -94 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.50. If modifier 96 is also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.75. If modifier -93 and 94 are also applicable for an ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 1.60. If modifier -93, -94, and -96 are also applicable for in ML-101 or ML-102, then the value of the procedure is modified by multiplying the normal value by 2.10.

-98 Evaluation requiring the review of sub rosa video. The evaluator shall set forth the total time of the video and will be paid in fifteen minute increments at a rate of $275 per hour.

-99 Evaluation requiring review of actual hard copies or original of special studies. Special studies is taken to mean: x-rays, MRIs, CT scans and EKG tracings, EMG and NCV testing data. The fee for review of such material shall be paid in fifteen minute increments at a rate of $275 per hour.

Janice Skiljo Haris, R.N. M.S.N., MEDLink
Shawn King J.D., SOS Consulting
Stephen Conrad, M.D.
Alfredo Fernandez, M.D.
Victoria Barber, M.D.
Leslie Kim, M.D.
Eric Bava, M.D.
Gordon Baumbacher, M.D.
Mathew Duncan, M.D.
Greg Goddard, D.D.S.
Grant Hutchinson, Ph.D.
Karen Hutchinson, Ph.D.
Stancil Hutchinson, Psy.D.
Brian Jacks, M.D.
Robert Lauridsen, Ph.D.
Janet Lord, M.D.
Lucy Lin, M.D.
Michael Meehan, M.D.
Fred Naraghi, M.D.
Joel Reiter, M.D.
Alex Reyzelman, D.P.M.
John Safanda, M.D.
Stephen Schneider, M.D.
Mark Shelub, M.D.
Randall Smith, Ph.D.
William Stearns, M.D.
David Teicheira, M.D.
Ramon Terrazas, M.D.
Barry Tuch, M.D.
Ernesto Villafuerte, D.D.S.
Ronald Ward, M.D.

Jorge Kim, MD August 19, 2019
PM&R and Pain Medicine

The proposed reimbursement of medical-legal expenses is not equitable to the physicians participating as QMEs. There has always been a long running understanding that the quality of QME reports will reflect the value into reimbursing the QME authors. Obviously, if the majority of QMEs do not agree with the new proposed changes the quality of the future reports will reflect this thinking. On the other hand, I understand the QME reimbursement schedule needs to be revamped and there are budget considerations.

I for one can tell you that I have greatly reduced my participation writing QME reports by 75% in this last year due to issues with billing, and valuing my time/profession. I hope the new reimbursement schedule will change my current convictions.

Michael A. Sommer, MD August 19, 2019
Orthopedic Surgeon

I've been doing medlegal reports since forever… Over the years, issues have become more complex and there are more and more records which accompany many of the cases.

I try to take my time and do a good job for the injured worker and the referring parties.

This proposal is really discouraging—at the bottom line, little to no consideration is given to the time needed to complete a report. And time is what it's all about. Pages of records sometimes do, but often don't reflect the time necessary for their interpretation.

Should this proposal become the new schedule, I'll likely join the many others who have said it, and fold up my tent. steal away into the redwood forest….

Jeffrey T. Miller, DDS August 19, 2019
Diplomate, American Board of Periodontology

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported.

Daniel M. Rockers, PhD August 19, 2019

The proposed fee changes to the QME program are poorly thought out. It appears that the downstream changes have not been thoroughly considered. Sue Honor's proposal has apparently been disregarded; the proposed fees are so far below Sue Honor's proposal that it will certainly negatively affect the quality of the QME reports that will be submitted.

One of the reasons that so many QMEs have left is because of the reimbursement rates or the threats of punitive actions.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Don Houts, MD August 18, 2019
Distinguished Life Fellow, American Psychiatric Association
Associate Clinical Professor, Department of Psychiatry,
UCSD School of Medicine

I've been doing psychiatric AMEs in the workers' compensation arena since 1984, and the fees have not been updated for at least 20 years. If the proposed fee changes go through, then I will discontinue my work in this system. The insurance companies have become more difficult to deal with, and it would not by worth my time and energy to take on complex matters at a much lower fee than I'm now paid. If it is the intent of the insurance industry to drive long established and trusted practitioners out of the system, there could be no more efficient method of doing so than the implementation of the recommended fee changes.

Roy Curry, MD, QME August 18, 2019

I am submitting the following comments on proposed changes to the M/L Fee Schedule. I have been a QME physician since the inception of that program and over many years served as an AME. Please consider the following:

#1- there has not been an increase in the fee schedule in years yet the complexity of medical legal issues has increased. For ex. The legislature is considering PTSD as a rebuttal presumption for Police/ Firefighters. Rebuttals are very complicated necessitating extra time. Another issue is the catastrophic which has not been defined but is beginning to be so with the Trier of the Fact making the final decision necessitating extra time and effort to provide the Trier with the evidence for his decision.

#2-in my experience 35% of the cases lend themselves to a fixed fee but 65% are far more complicated. Including 400 pages of medical record review in the fix fee at proposed level will not result in quality reports and decreased expenses but result in more cases being accepted and/or more frequent depositions and supplemental. I just finished a case with 200 pages of depositions in addition to the medical records and often personnel records need to be considered.

#3-I have some experience with the Nevada system it is far simpler than the California and to imagine the California should be reimbursed less is defying reality.

#4- not reimbursing for missed or cancelled visits is unrealistic. Often applicants wait until near the day of the exam before cancelling often this allows the employer to deny the claim and save money. In other cases they fail to appear at all which is in unfair to the evaluator.

#5-Psych claims are complicated and should be reimbursed at a higher standard which the proposed fee schedule recognizes as they necessitate ferreting out predominant versus substantial cause, whether lawful personnel matters are a substantial cause, consideration for the impact of a violent act, or sudden and extraordinary and whether a physical injury is catastrophic, contemplating the possibility that discrimination may be operative which do NOT come up in other medical evaluations.

Thank you for your consideration. Many younger MDs are avoiding the QME/ WC process a contrast from the PAST.

Gregory J. Firman, MD August 18, 2019

First, a note of appreciation for the time, thought, and efforts of the people who have worked on the analysis and proposed changes to the current medical-legal fee system: most notably Sue Honor, the CSIMS leadership, and the DWC.

I was a QME in the ‘70s and ‘80s, then moved out of state for nearly 20 years. Now back in California, I’ve worked in the present QME system for about 4 years.

When I re-started, essentially as a semi-neophyte, I accepted the current ML fee schedule as a given.

By now, however, I think the basic reimbursement model—both existing and proposed-- is so conceptually flawed that it should be scrapped in its entirety.

Specifically, and as mentioned by Dr. Kirz in his comment of 8/7/19 on this string:

> What distinguishes one case from another? Complexity and time.

Similarly, Dr. Meisner, on the same date:

> I strongly oppose a flat fee rather than per hour schedule. Especially in claims of injury to the psych there is a vast difference in complexity.

Per Dr. Cohn’s opinion of 8/15/19:

> The idea of a flat fee for psychological reports assumes a hypothetical norm for psych applicants which simply does not exist. While I am of the opinion that certain aspects of psychological evaluations should in fact be standardized, there is no way applicants themselves can be regarded as standard. The time spent face to face for example, is going

> to vary enormously depending upon the nature of the injuries sustained as well as the psychosocial and clinical histories. Likewise, the time spent on report writing also fluctuates significantly depending on the details of the case. I have written reports that fall both under and over the flat fees proposed by both Sue Honor and the DWC. Because of the inherent variable nature of psychological evaluations and report writing, I strongly believe that a flat fee simply does not correlate with the reality of writing a solid report that examines and integrates all required evidence.

Both the current and proposed systems are essentially "the tail wagging the dog," or, in more elegant nomenclature, "procrustean," in that evaluators must structure their evaluations and reports to fit arbitrary criteria in order to be reimbursed (and the latter not even adequately, given the lack of indexing hourly fees to the CPI for some 15 years).

Examples:

- As cited by many responders, medical records vary widely in complexity. Recently, I received over 4000 pages of records on a patient. But they were almost all from the Kaiser system, and probably 90% of the latter were email strings, nurses' and medical assistants' notes, lab results, and the like. I was able to quickly scroll through the electronic records and identify and summarize only the ones that were substantive and relevant to my examination. On the other hand, 200 pages of dense and detailed records would require about the same time to review and abstract.

- Why should I not be compensated for medical research, regardless of whether or not it meets some hourly threshold? If the research required 1 hour in an ML 104 report, it would not be reimbursed for it at all. In that case, I either would have to forego the research (diluting the probative value of the report) or to do it anyway, gratis (as has been the case).

- What is the logical basis for a system in which X hours spent on a currently-denominated "ML 103" case is compensated at a lower *hourly* rate than for an "ML 104"?

- Why should the *hourly* reimbursement for an examination requiring 1.75 hours face-to-face be less than that requiring 2 hours?

Rather than quibble about reimbursement for record reviewing and abstracting, whether an evaluation is an initial one, a re-evaluation, or a supplemental report, all parties should recognize that the time required to perform any professional task is just that: i.e., the time required.

We therefore should scrap the entire arbitrary flat-fee system and establish one that is time-based.

Regarding the stated justification for the current byzantine system, i.e., that it prevents potential fraud (which it does not accomplish in any case), I second the comment of Dr. Caren of 8/15/19:

> If there is concern that QMEs/AMEs cannot be considered credible in attesting to the extent of time spent on the evaluation, then why would their medical-legal opinions be considered credible? Conversely, if a QME/AME's medical-legal opinions are to be considered credible, then his/her attesting to time spent in the evaluation and report process should also be considered credible.

Further on this point: Does any entity oversee or audit the billable hours attorneys claim for doing legal work? Not that I know of. The implication is that all attorneys are honest, whereas medical providers might not be. This is frankly insulting.

So, again: let's all go back to the drawing board and develop a time-based compensation system for providers.

Some of the commentators have stated that they would leave the QME system if the currently-proposed changes are implemented. I would not make such a flat statement…yet. But I certainly might consider doing so in such a case.

Paul J. Gordon, MD, FAHA August 18, 2019

I have reviewed the proposed Medical-Legal fee schedule dated July 2019 in 8 C.C.R. 9793, 9794 and 9795.

It is evident that it was formulated with intent to demolish the Workers' Compensation system in California. Currently there is significant attrition of QME's from the panel and this new schedule will drastically accelerate this process.

Clearly the individuals who proposed this "improvement" have no idea what it takes to generate a medical=legal report that is considered substantial evidence by WCAB. In the internal medical and cardiology specialty a comprehensive history taking and examination of the applicant takes at least 2 hours. The inclusion of 400 pages of records in the flat fee does not make sense. Generally records include medico-legal reports, deposition transcripts, treatment records, electronic health records that are template driven and difficult to eliminate duplicate entries, literature references that may require additional research in PubMed. Electronic medical records review on the computer screen takes more time than flipping paper pages and not able to hi-lite and earmark critical data for dictation. That can easily result in 4-6 hours of work. Then to analyze all the data, formulate the conclusions about accurate WPI rating, provide apportionment in compliance with 4663 and 4664 and dictate a report minimum 14 pages long, I average 20-45 pages; add the cost of transcription and then my time to edit for accuracy of transcription.

The minimum estimate to generate report with 400-page review is 7-8 hours. This means per hour flat fee of $206.25 - consider average medical office overhead is 50%. The tech installing telephone wires charges $125 per hour. I doubt the QME panel will survive with pre=tax income of $100/hour.

I have practiced in W.C. since about 1982 producing credible high quality reports in the old system as well as the QME/AME but may not be able to match that with the new proposal.

The supplemental reports frequently are very complex and the proposed fee is totally inadequate, the excess $2/page is ridiculous unless the page is blank or contains ¼ page text. The time set for internal medical evaluation is not 15 minutes, it is 90-120 minutes, “no-show” is a major direct loss in overhead costs and lack of payment cannot be sustained. Sue Honor’s proposal is not perfect but definitely fair and should be strongly considered and accepted.

Anonymous August 18, 2019

It has become apparent that the DWC has been engaged in retaliation against QMEs. Many QME’s have pointed to the underground regulations. As we all know, the DWC engaged in using the underground regulation and denied QME’s due process. Then, when the district court decision came, many thought the DWC was going to be engaged in looking at the current fee schedule in an appropriate manner. That did not happen. Many view the last QME fee schedule proposal as retaliation from the district court decision. It was draconian and poorly thought out. Nobody asked for that fee schedule. They were seeing what they could do to try to make the system better in light of a hostile DWC. Then then the DWC acted like they were engaging QME stakeholders. In the meantime, QME’s understood how hostile the DWC was and worked on introducing AB 1832. That has gotten support. Not by coincidence, the DWC release this poorly written and ill-conceived fee schedule when AB 1832 came out. Everyone can see that the new proposed fee scheduled is pro-insurance company.

The one common thread from the time of the underground regulations until now is that the DWC has been working on getting rid of ML104. This is why they were using underground regulations to try to go after complexity factors under ML104 to get rid of QMEs in the system. This is why the last proposed fee schedule made it virtually impossible to get to ML104. This is why this current proposed fee schedule explicitly gets rid of ML104 and turns everything into a flat rate.

The DWC has not explained why they are proposing to pay doctors who are doing more complex evaluations less per hour than those who are doing less complex evaluations. The obvious answer is that they do not want to pay for complex evaluations. They don’t want to pay for complex evaluations involving research and are about to transform the legal landscape Workers’ Compensation evaluations by not paying doctors for research.

This newly proposed fee schedule helps the insurance companies, pays doctor lower than even low-cost Nevada, makes doctors spend hours of unpaid time courting records, and still does not get the DWC out of the lives of QME. The new proposed regulations are ripe for abuse by the DWC. QMEs will soon be in a new debate over what constitutes a page of records and what are duplicate records. You will have to sign under penalty of perjury or the DWC will come audit you and then will work to get rid of you if there is a discrepancy. For supplemental reports, you may not get paid and have problems with the DWC if they believe that what is being asked should have been part of the original report. Even if it was supposed to be part of the original report, the DWC will allow you not to get paid for the extra work you would have had to do at the time of the original report.

The DWC is so insurance oriented that they will let the insurance companies decide if they will pay you for no-shows or late cancellation and how much. This helps to introduce bias into the system because QME's will have to be extra nice to the insurance companies to hope that they get paid for the no show. Basically it is a defense-oriented proposal. Then the DWC has put a cap on what that reimbursement would be if you are so lucky as to get it. This means, that hours of preparation for the examination and the cost of having to reserve time for the evaluation will be lost. This means that the DWC, who makes it impossible for you to refuse to do an exam, will force you to lose money because someone did not show, or the parties cancelled on you in the last minute.

The DWC with this new fee schedule, will have single-handedly decrease access to QMEs in more remote parts of the state because QMEs will not be able to absorb both the decreased compensation and increased costs. If you are an injured worker in these locations, you will have to figure out how you are going to travel many miles to get to the big cities to get your evaluation done.

The first thing QMEs need to do is to find out who is involved in making up these proposed fee schedules. That process is not transparent and shrouded in mystery. Who are these persons? Why were not more QMEs contacted regarding these proposed fee schedule proposals? What are their backgrounds? Are they neutral parties? Why did they ignore the QME community again? Why are so many QME evaluators commenting that their colleagues were unfairly targeted? Is the DWC retaliating against QMEs? The QME community needs to know the conflicts of interest the persons who are coming up with these schedules have including all insurance company ties. All proposed fee scheduled should have the authors of the fee schedule listed so there is accountability.

The QME community needs to know the process they have gone through in coming up with these fee schedules. The QME community also needs to know what underground regulations can come from the proposed fee schedule.

The release of this fee schedule was also not above board. You can see that the comments did not start the same day as the proposal was released. Many QMEs found out about these changes by word of mouth. To get to the public commenting section, you have to go deep into the website. The DWC can release something and many in the public would be completely unaware and then claim something was publicly release. This potentially reduces the number of QMEs commenting. Maybe the DWC should extend the public commenting time for this and send a letter to the every QME in the state regarding their proposed changes. The DWC should explain the timing of this release, why were the stakeholders not notified in advance of the release, and why the timing coincides with AB 1832.

Serina Hoover August 18, 2019

I have serious concerns about the new proposed fee schedule for psychology and psychology. These evaluations require comprehensive analysis that can take hours. The new prosed fee schedule will defer most qualified psychologists for participating in work comp evaluations because of the flat fee. You get what you pay for. If the statue is not willing to pay Psychology or psychiatrists adequately then do not be surprised if you have none in the panels.

Jack Akmakjian August 17, 2019

Institute these crappy changes and there will be a mass exodus. Doctor's time is valuable too. You send records and don't want to pay for review of those records guarantee they won't be reviewed. And the losers will be the insurance companies.

Elliot Gross, MD, QME/AME August 17, 2019

The new fee schedule results in a decrease in pay to the QMEs, especially for multiple body part exams, Psychiatric and other more complex evaluations. All comments stated that the proposed fee schedule is inadequate. Many stated it was poorly thought out. Based upon this schedule physicians will be faced with the ethical dilemma of choosing between less detailed reviews of the records, and less detailed reports, or just pulling out completely. I will pull out of the system. This Proposed Fee Schedule seems to be a retaliation by the DWC to the Howard, et al. v. Dir, DWC case where the DWC was defeated, as it was first proposed only a few weeks after that case was settled, and the settlement held the DWC to the fee schedule. The new fee schedule appears to favor the insurance companies as they may not pay for missed appointments with a ceiling of

$500. Medical record review is very time consuming and they plan meager reimbursement. Video files and research may not get reimbursed. I highly recommend that Sue Honor-Vangerov's Medical Legal Fee Schedule Proposal be enacted instead.

Robert L. Weinmann, MD, Editor August 17, 2019
Politics of Healthcare

Utilization Review and IMR doctors should be held responsible for Duty of Care -- that they are not allows them to get away with medically wrong and harmful decisions. See editorials on this subject on the columns section of workcompcentral and on my own blog at Politics of Healthcare

---

Marvin Zwerin, DO August 17, 2019

As a longtime AME/QME, my take on the proposed OMLF is that it is worse than the current schedule, punitive and likely to cause the collapse of the system. If, that is the goal, it is likely going to succeed as it will reduce reimbursements for quality complicated med-legal reporting below the cost to produce such a report.

Specifically, the new fee schedule results in a decrease in pay to the QMEs, especially for multiple body part exams, and for all other complex evaluations. From my perspective, the proposed fee schedule is inadequate and is overtly poorly thought out.

In response to this new schedule, physicians already dealing with a reimbursement rate unchanged from the 1990s will be faced with the dilemma of choosing between less detailed reviews of the records, and less detailed reports, or just pulling out completely. Those who hang in will be forced to cut corners to survive.

Other states – including but not limited to Nevada and Virginia – reimburse at a rate that is p higher than the new Proposed Med-Legal Fee Schedule for California.

The new fee schedule appears to favor the insurance companies. Following are a few of the reasons for this apparent favoritism:

- There is a ceiling of $500 for any cancelled appointment, and the insurance company alone gets to decide if they pay any amount at all.

- Payment for medical records review has been cut significantly, and the insurance company has no requirement to send medical records over in order or by relevance. It was noted that the insurance company could send over less than 40 pages initially, and then send the rest requesting a supplemental and thus paying only $275 extra for the review of potentially thousands of pages.

- It was noted that not every page is the same – some take longer to read due to handwriting, size of the print, upside-down pages on e-files, and complexity of content.

- No compensation appears to be given for review of video files as part of the record review.

- No compensation is given for research which may also lead to lowered report quality.

There is a great concern that the medical reports may more frequently fail to be determined as substantial evidence creating unnecessary judicial burden and thus driving costs back up as judges send reports back for development of the record, and litigation is continued.

The insurance companies must be held responsible for the documents sent to the QME to be reviewed. Charging for each page would be the best way to ensure that duplicates and irrelevant information is not sent for the physician to have to sort and review. And, the insurance companies will ultimately save money by sorting for duplicates and relevance prior to sending to the QME, rather than paying the QME to do the sorting.

I anticipate that the DWC's Proposed Fee Schedule will result in the loss of experienced AME and QME physicians, a commodity in very short supply already and that ultimately may lead to the collapse of the entire QME system. This could ultimately result in an increase in lengthy litigation. The new fee schedule results in a decrease in pay to the QMEs, especially for multiple body part exams, Psychiatric and other more complex evaluations. All comments stated that the proposed fee schedule is inadequate. Many stated it was poorly thought out.

In response to this new schedule, physicians will be faced with the ethical dilemma of choosing between less detailed reviews of the records, and less detailed reports, or just pulling out completely.

Other states – including but not limited to Nevada and also Virginia – reimburse higher than the new Proposed Fee Schedule for California.

This Proposed Fee Schedule seems to be a retaliation by the DWC to the Howard, et al. v. Dir, DWC case where the DWC was defeated, as it was first proposed only a few weeks after that case was settled, and the settlement held the DWC to the fee schedule.

The new fee schedule appears to favor the insurance companies. Following are a few of the reasons for this apparent favoritism noted in the comments:

- There is a ceiling of $500 for any cancelled appointment, and the insurance company alone gets to decide if they pay any amount at all.

- Payment for medical records review has been cut significantly, and the insurance company has no requirement to send medical records over in order or by relevance. It was noted that the insurance company could send over less than 40 pages initially, and then send the rest requesting a supplemental and thus paying only $275 extra for the review of potentially thousands of pages.

- It was noted that not every page is the same – some take longer to read due to handwriting, size of the print, upside-down pages on e-files, and complexity of content.

- No compensation appears to be given for review of video files as part of the record review.

No compensation is given for research which may also lead to lowered report quality.

There is a great concern that the medical reports may more frequently fail to be determined as substantial evidence creating unnecessary judicial burden and thus driving costs back up as judges send reports back for development of the record, and litigation is continued.

The insurance companies must be held responsible for the documents sent to the QME to be reviewed. Charging for each page would be the best way to ensure that duplicates and irrelevant information is not sent for the physician to have to sort and review. And, the insurance companies will ultimately save money by sorting for duplicates and relevance prior to sending to the QME, rather than paying the QME to do the sorting.

The DWC's Proposed Fee Schedule will result in the loss of several very experienced QME's, and that ultimately may lead to the collapse of the entire QME system. This could ultimately result in an increase in lengthy litigation and prevent both applicant and defendant attorneys from attaining fair and unbiased recommendations from QMEs; which is why the QME system was initiated in the first place.

I highly recommend that Sue Honor-Vangerov's Medical Legal Fee Schedule Proposal be enacted instead.

Victoria Eagle, PsyD August 17, 2019
Licensed Clinical Psychologist

Please consider my response to your proposed fee schedule:

For a psychiatric/psychological report, there are many important factors including thorough history, a psychologically informed interview, medical review of multiple psychiatric and medical sources, and thoughtful report writing that require a great deal of time and expertise. You are proposing a rate decrease that is substantially less than the $250 an hour that we are currently receiving. If you are looking for competent reports to be written, the fee schedule you are proposing is absolutely absurd. If you continue with this change, it will result in myself and countless other capable practitioners leaving the QME system. Please consider this carefully.

David Hall, MD August 16, 2019

The proposed changes are unacceptable. If enacted, the fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

The proposed reimbursement for psychological and psychiatric mental health evaluations is particularly egregious. In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

Sue Honor's proposal featured many elements that would have compensated mental health providers more fairly. These elements include: a much higher flat fee for psych initial evaluations, an hourly rate for extended face-to-face time, and a much higher flat fee for psych supplemental reports.

Additionally, I notice that DWC has intentionally NOT applied the psych multiplier to record review. This makes no sense. Reviewing medical records from a mental health perspective is inherently more time-consuming and complex than reviewing medical records for a non-psych specialist. I urge DWC to apply the psych multiplier to record review, not just the flat fee.

Further, the fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

I have a practice helping patient's as a ptp. I survive financially as a one-man-shop by having an occasional QME eval. More and more, I find the work is very time consuming and not always worth my time.
I've hung in there with the system, but you guys have to support us when we call for help. Please give us a fair update to fees and help us get paid on these time consuming difficult evals.

Meera Jani, DC, QME August 16, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have

avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

Russel Ellis, DC, QME August 16, 2019

As a QME provider, I find the proposed changes to the QME fee schedule to be poorly constructed for these reasons:

1. As I understand it, our job as evaluators is to provide unbiased insight to resolve disputes for matters significant to both the applicants and the employers. In almost every case, this involves making poignant decisions on complex matters such as causation and apportionment. Escobedo further requires that we buttress our opinions and not just make them on personal belief or experience. This requires research, another element of complexity. I personally find that there is often a large degree of variation in what is reported in the medical records versus what the applicant will relay during the evaluation. Having reviewed the medical records beforehand in most cases, I need 1 1/2 -to-2 1/2 hours to complete a thorough interview and exam to validate or disprove variations in the patient's history. Even with a template and dictating my notes, almost all reports necessitate 5 to 8 hours of my time in production, constantly referring back to my exam, consultation, patient questionnaire and the medical records for completion and accuracy. Complexity factors, research, and time to produce a report are not taken into consideration with your current offering **unless you are hoping to discount the current rate of reimbursement** for a comprehensive evaluation and report. You would be encouraging incomplete or indecisive reports with the need for secondary evaluations or depositions and a delay of resolution of these matters, in my opinion.

2. You have made optional the payment for a missed appointment fee without consideration of any preview and summation of available medical records. Carriers ***should not*** have the prerogative of dismissing their responsibility to provide an interpreter or get the applicant to the evaluation at time scheduled. Consider for one moment all of the rules placed on the physicians about the QME appointment that cannot be varied in the slightest without the risk of disciplinary action. Put the burden on the applicant (with certain allowances) if you must, but not the doctor that has spent so much time coordinating the exam, given up at least 1/2 day in the office, and frequently drives in traffic for hours (or flys).

The removal of complexity matters used as a high bar is good. Require them to be included in the all-inclusive report, and research also if it seems appropriate. But the base fee must be more realistic ($2,000) and the number of medical records included in the base fee reduced (50-75 rather

than 400). I find that for every 50 pages (20-30 minutes of reading), it adds 15-20 minutes to my report since even with summaries, there are four or five places in the report where that information has a critical bearing on the outcome of the issues in dispute.

Daphna Slonim, MD August 16, 2019

The new proposal is insulting and so extremely inadequate that after serving as a psychiatric QME since 1992, I will no longer continue to do this work should this proposal be adopted.
There is no way I could spend many hours with an applicant, review hundreds of pages and write a comprehensive report, taking hours, for this amount of money. I will be better off financially and benefit my patients more, doing individual psychotherapy in my private practice.
I hear the same from quite a few of my colleagues.

Richard M. Braum, MD August 16, 2019

In response to the invitation to submit a "lengthier,more in-depth comment " regarding the proposed QME fee schedule change, I have attached the letter I sent to Mr. George Parisotto in October 2018. Please read it again- it is still relevant in 2019.

There must be a way to differentiate a more difficult and complex report from the more standard problem that can be addressed with a fee schedule.Any " gamer" can replace quality with quantity and turn out higher profit margins for his mill.That process places the most injured, the most disabled, the most complex, and the most disadvantaged and powerless patient at risk for additional injury. The final blow will be delivered by the QME, the "Quicky Medical Evaluation".

Text of October 16, 2018 Letter:

An open forum on the proposed change in the Medical Legal Report fee schedule is about to begin. We are all hopeful that some positive change will result from these meetings. All of us have been disappointed in the past when brief encounters have produced much more heat than light as all self- interested parties seem only interested in a "quick fix" and turf protection. We should be able to do better than that.

I am an Orthopaedic Surgeon with 50 years of California surgical practice experience. I have been on the QME panel for many years and I believe the work is important enough to reach out to you with a few ideas that I feel are necessary to understand before diverting into the secondary system of "who gets paid for what".

I have no financial interest in the ideas that I wish to share with you. I speak only for myself and the patients I serve. I am proud to be a member of the California Orthopaedic Association and a faculty member for our Instructional Course that provides continuing educational experience for those planning to take the QME Examination. The CCA and our course director Dr. Paul Wakim are trying to improve the quality of service that we offer as Orthopaedic Surgeons in California.

I hope you will understand the critical importance of a high quality QME Report. The evaluating physician has the responsibility to cope with the problems of the patient who is often leaving the system and is completely dependent on the competence, compassion and caring of the physician performing the evaluation. The physician's responsibility is similar to that of the operating surgeon-in my case, that feeling is always there...and the needy patient and his/her family depends on my ability to do my job as well as I can because so much depends of the evaluation of the disability, the need for further medical care, and the recommendations for return to a job that is suitable for this patient. Furthermore, the report must explain, teach, and convince other parties that the positions I have taken are reasonable and correct. The time spent editing a report to create a logical and informative narrative is done with the care of a critical dissection because the lives of people and families depend on the written word. Respect must first be given before it is received and the value of every single patient must be respected. A good evaluator must learn to listen and to care.

I would like to contrast the value of a really good evaluation and report, with a more routine, mechanical, uninvolved ethic that reflects, "this is a job...move 'em in and move 'em out ". The fee schedule is part of the problem, but in my experience, I don't think that you always get what you pay for when fixing your pragmatic goal on just paying for what you get. A cheaper service may suffice in some simple presentations, but my experience as an evaluating physician teaches me that there are so many cases where discernment of problems that are unique to this presentation, that the intense focus of a highly qualified, experienced and disciplined physician is the key to making the important decisions usually required in the evaluation of these complex cases.

I will briefly discuss a patient seen within the last few weeks - the case is not unique but may be illustrative.

I was asked to evaluate a middle-aged man who fell at work and fractured his foot. His case was over three years old and the adjuster was attempting to close the case. After all, it's "only a foot "and "three years have elapsed since he fell at work". I was asked to "move things along." The medical history - missed at the time of admission to the trauma center - revealed that the injury occurred when the patient fell 25 feet from a ladder at a construction site. My service with the Marine Corps and twenty years of experience at the Rancho Los Amigos Rehabilitation Center facilitated a diagnosis of Traumatic Brain Syndrome and the discovery of an occult but significant hip injury. Clinical competence as an Orthopaedic Surgeon revealed a rotational malalignment of the foot fracture and the need for further surgical treatment. A one hour conference with the wife and daughter of the patient allowed me to explain the loss of cognitive abilities and the seemingly

strange behavior of an injured husband and father. A request for the services of a Social Worker and family counseling were planned at our impromptu meeting in the small examining room. The worker's life and family would change because the Qualified Medical Evaluation was taken seriously.

Stories like this are not unusual, The decisions that are made can be "game changers". The requirement to explain why you are initiating an Almarez-Guzman analysis to change the assignment of the standard use of the AMA Guides, the request for imaging studies to search for a diagnosis that has been missed, the explanation that is required to define appropriate causation of an industrial injury, are only a few of the decisions that are incorporated into these reports. This level of medical opinion derivation should not be left to those with inferior clinical skills, inexperienced physicians with limited training, and individuals with reduced commitment. There is no product or service that cannot be offered at a cheaper price, if price is the only consideration in the decision to offer the service.

The majority of QME cases falls into the venue of Orthopaedic Surgery. These physicians should be your partners and associates in delivering an important service to California's injured workers. We are not the enemy because we request reimbursement for services at a level that is competitive with earnings derived from office practice or operative work. We have offices that are expensive to maintain, skilled assistants that deserve reasonable salaries, substantial insurance costs and families to support. A fee schedule that is fair and attractive will keep Orthopaedic Surgeons as participants and avoid alienation of the specific group of physicians that offers you the best chance of providing a quality service for workers who need the skills that are available in the Orthopaedic Surgical "workforce." You cannot replace real qualifications with mass produced quantity and a QME label. Please try to remember that there is an injured person (and his/her family) attached to each evaluation.

I would like to make a few general suggestions in planning a fee schedule revision:

1. Find out where the increased costs are coming from - What geographic area is most frequently involved with excessive charges? What specialties are involved? What specific practices seem to be abused? Is there a reasonable explanation for increased charges that appear excessive but may be acceptable when the explanation is provided...are you getting what you are paying for? What do the judges think about the quality of the reports they are asked to read and the decisions they are required to make?
2. Consider consultation with Orthopaedic Surgeons who have established track records in the field of QME evaluation. What changes will encourage them to stay "in the game"? Experienced Orthopaedic Surgeons should participate in the decision-making process - you would not be inviting the fox into the chicken coup. These are ethical representatives of an essential professional group and they can offer wise counsel, if only you would ask!
3. Please allow each evaluating physician the option to explain his/her decision when creating a probative report. A less well trained, less caring, less informed, and less committed evaluator can easily "check the boxes and move on". At the end of the day, he will pocket

the fee for his mundane effort and believe that "all is well...". The budget will be balanced on the shoulders of injured workers that the system was originally designed to help - not only to "process".

4. Please get to know some of the leaders of the Orthopaedic Community. These physicians are usually experienced, reasonable, ethical, and likable individuals who can help you to achieve a goal that all of us want to accomplish. We can do a lot better than the raucous deluge of our previous impromptu encounter. We are on the same team and the patient is counting on us to create something of value when preserving a system that promises him/her a truly Qualified Medical Evaluation.

Erik J. Marquis, President
E-Billing Solutions, LLC

August 16, 2019

Complex cases often require multiple hours of face-to-face time with the claimant. This may include taking the patient's history, performing diagnostic tests, range of motion tests, EMGs, psychological test, and other exams. Additionally, preparation time of reports can vary depending on the complexity of the case. Under this fee proposal, simple cases and complex cases will be paid the same. The quality of the reports for complex cases will diminish greatly if these fee proposals are enacted. This is a short-sighted and misinformed undertaking. You will either lose all of your QMEs, the injured workers will suffer, or both. Please rethink this proposal. Feel free to contact me for fee changes that make actual sense.

Dawnmarie Risley, DO

August 16, 2019

Having reviewed the proposed Fee Schedule for Medical-Legal Expenses, as much as I credit the DWC for attempting to streamline the system, the fee schedule itself will constitute a boon for some practice specialties, it will be a bust for other clinical specialties and most of us will not perform the work for such low reimbursement.

The Flat Fee Treats all Patients and Practice Specialties the Same

For a workers' compensation case wherein the claimant suffers a broken ulna, the initial evaluation would consist of ER records and follow up appointments and radiographs that can be reviewed in ten minutes. If a 5 minute exam determines that the claimant is not yet at maximum medical improvement, then that physician doesn't even need to formulate and opinion and got paid $1,650 for a 15 minute event.

That same claimant who claims emotional distress from that injured ulna requires a complete psychiatric history and a face-to-face meeting that usually lasts in excess of two hours. If that

claimant has been on intermittent antidepressants for the last 10 years, then record will be voluminous and easily take 12 hours to review.

Additionally, a psychiatrist must review the same records that the orthopedist has, since those records contain the patient's statements of condition. Note that review of records consists of understanding and assessing the psychiatric records. Getting paid an $200 for the amount of time it takes to review another 100 pages of psychiatric notes is not financially viable.

As valuable as the work of an orthopedist is, the orthopedist can *usually* evaluate multiple claimants in the time it takes a psychiatrist to review records and evaluate just one.

ML-104 Sets Reasonable Hourly Rate at $440 Per Hour, But ML-101 Sets the $1,650 Flat Fee, Which Compensates for 3.75 Hours at that Rate

The proposed fee schedule contradicts itself by setting a reasonable value for physician compensation at $440 per hour (ML-104), but setting a flat fee for review of records and initial evaluation of $1,650 for Comprehensive Evaluation.

It is preposterous to think that an adequate and competent review of 400 pages of psychiatric records can occur within 225 minutes. Add to that another 60-180 minutes of face-to-face claimant interview and another 6-12 hours of writing a report apportioning causation and it could easily be 18 hours and come to $90/hour for the initial report. This is less than a plumber's fee.

The ML-101 flat fee that is proposed flies in the face of the ML-104 rate in which the DWC considers $440/hr to be reasonable. While some cases and specialties can expect to compensate in excess of $5,000/hr for the Comprehensive Medical-Legal Evaluation, others will struggle to make even $100/hr for the efforts.

For psychiatry in particular, which requires greater face-to-face assessment, review of records that other practitioners also review, and demands more information to make baseline medical judgment, this system grossly underpays.

ML-102 Is More Insulting

ML-102 suggests that a supplemental report receive a flat fee of $1,100. Incidentally, this also include review of up to 400 pages of medical records. At $440 per hour as stated to be reasonable for a physician's time, this comes to 2.5 hours of a physician's time. In a large number of cases, events subsequent to the initial Comprehensive Evaluation are far more extensive and significant than events prior to it. If that same person with the prior history ends up requiring hospitalization, goes through a divorce, or the like, there will be much greater time necessary to obtain a clinical picture, as well as more time spent in face-to-face interview with the claimant.

This could and will result in psychiatrists routinely making around $60 per hour for time spent.

The Flat Fee Will Result in Psychiatrists Quitting QME Panels

A psychiatrist cannot afford to perform the work for that low of a reimbursement. With overhead, the effective reimbursement can be expected to at times amount to the range of $25 to $30 per hour. While there are, of course, some cases that will come down to an hour, in the field of psychiatry this just will not happen. As much as the system appears to be designed to balance out the long run between low-information cases and complex medical issues, this is not the case with psychiatry. Psychiatrists cannot spend 5 minutes running through range of motion, reflex and palpation.

The number of psychiatrists performing QMEs is already limited on the basis of the effort required compared to the compensation. With such a grossly inadequate fee schedule, many psychiatrists such as myself with simply withdraw,

ML-101 and ML-102 Creates Mistrust of QMEs in Complex Cases by Inherently Impeaching Their Credibility and Making Them Useless, Anyway

If a physician has made the $2,750 in the ML-101 and ML-102 exams and reports spending 25 hours performing those tasks in a complex case, any reasonably competent lawyer will question the veracity of that physician's preparation. A question and answer could be expected to go as follows:
Lawyer: "You spent 25 hours but only made $2,750 with this. Is that correct?"
QME: "Yes"
Lawyer: "You are making $440 per hour right now, correct."
QME: "Yes."
Lawyer: "And you expect us to believe that you did all that work for $110/hour when you could be making much more doing anything else?"
QME: "Yes."
Lawyer: "There is no way you can afford to work for that amount of reimbursement, is there?"

Sadly, in many instances the lawyer will be spot on. This flat fee system creates a baseline of mistrust of any QME who is working a complex case. And complex cases are the ones where there is usually most money at risk. If the QME's credibility is going to be routinely impeached on the basis of poor compensation, then the QME will have wasted his/her time and wasted the money of the third party payor.

Robert C. Larsen, MD, MPH
Center for Occupational Psychiatry
August 16, 2019

I am submitting the following comments on proposed changes to the M/L Fee Schedule. I have been a QME physician since the inception of that program. In fact, I was a member of the

Industrial Medical Council throughout its existence. I am a clinical professor of psychiatry at UCSF School of Medicine.

The current M/L Fee Schedule has seen no adjustment for several years while expenses have impacted medical practices.

1. Under the current proposed changes research by QME & AME doctors will no longer be reimbursed. If there have been abuses this is not the solution. The parties should be able to grant permission for an evaluator to conduct necessary research on pertinent topics to a given case. The doctor would be expected to request permission and propose the amount of time needed to complete the task. This would affect a small number of complex cases.

2. Having no mechanism for cancelled appointments or no shows to be reimbursed is a mistake.

3. The M/L Fee Schedule should demonstrate some parity with expert fees in civil litigation. You get what you pay for. The proposed schedule will not attract new high quality doctors to a system that has many regulations and a dwindling population of clinicians.

4. A set fee expecting the doctor to review up to 400 pages before receiving reimbursement on a per page basis needs to be reconsidered. 400 pages from a hospital can not be compared to deposition transcripts, personnel files, WCAB records, voc rehab evals, academic transcripts, as well as military and criminal records.

5. While psychiatric/psychological exams are to be reimbursed at a level greater than for other medical exams, a set fee for the most complex cases, which are contentious, is inadequate. There needs to be a provision in such cases that the parties can request the doctor to produce a set of opinions that are comprehensive about matters that include: the predominant versus substantial cause threshold, whether lawful personnel matters are a substantial cause, consideration for the impact of a violent act, whether a physical injury is catastrophic, contemplating the possibility that discrimination may be operative, and a number of other factors which do NOT come up in other medical evaluations as they most certainly do in complicated psych claims.

I wish you well in your deliberations. Amendments to the proposed regulations are needed. If done properly one can imagine the system will improve. As currently proposed the outcome will be a reduction in the number of clinicians who are willing to perform these forensic exams. Also, the trend of few new doctors entering the QME pool will intensify.

Lawrence Weil August 15, 2019

It seems that Nevada fee schedule is reasonable. They also use AMA guides 5th edition. They are a lower cost of living state

Nevada's basic fee schedule is below.

INDEPENDENT MEDICAL EVALUATION REIMBURSEMENT
Nevada Specific Codes:

NV02001 Review of medical records (up to 50 pages), testing, evaluation and report..... $1,701.50 **NV02002**

Review of each additional 100 pages of medical records (shall be prorated for increments less than 100 pages) $425.38

NV02003 Evaluation of more than 2 body parts, for each body part in excess of (use body part descriptions located under Permanent Partial Disability Reimbursement) $319.03

NV02004 Organization of medical records in chronological order based on date of service ..... per 50 pages $46.46

NV02000 Failure of an injured employee to appear for appointment $638.06

Is the DWC really proposing that California Physicians should be paid lower then Nevada Physicians for similar- though actual more complex reports then Nevada requires?

Prena Mona Khanna, MD, MPH, August 15, 2019
MRO, FACP, FACPM, FACOEM, QME

I am new to the QME process and became certified because I thought it was a natural adjunct to treating worker's compensation practices. I thought my practice would benefit and I thought my experience treating WC patients could be of use to claimants who needed a QME with experience in this area.

I put an extraordinary amount of care into my evaluations, which I take very seriously. I will never be compensated fully for the effort and time and care that I take; however, I am willing to do so because I think we are obligated in a sense to help use our skillset to do the right thing and contribute meaningfully to the process.

However, I find myself in a difficult position with these changes which will make it more difficult to try and contribute meaningfully, as it may become less and less worth my time to do so. I strongly urge reconsideration.

Marjorie Cohn, Ph.D. August 15, 2019
Clinical Psychologist
Qualified Medical Evaluator

I am writing in response to the proposed fee schedule changes for QME report writing and related activities.

I support the recommendations Sue Honor has proposed with the exception of a flat fee for psychological reports.

The idea of a flat fee for psychological reports assumes a hypothetical norm for psych applicants which simply does not exist. While I am of the opinion that certain aspects of psychological evaluations should in fact be standardized, there is no way applicants themselves can be regarded as standard. The time spent face to face for example, is going to vary enormously depending upon the nature of the injuries sustained as well as the psychosocial and clinical histories. Likewise, the time spent on report writing also fluctuates significantly depending on the details of the case. I have written reports that fall both under and over the flat fees proposed by both Sue Honor and the DWC. Because of the inherent variable nature of psychological evaluations and report writing, I strongly believe that a flat fee simply does not correlate with the reality of writing a solid report that examines and integrates all required evidence.

Karen Bertram August 15, 2019

In regard to the proposed fee schedule change for Qualified Medical Evaluators:

I initially became a Qualified Medical Evaluator in order to better understand the Worker's Compensation system so as to benefit those patients I treat.

Because it is financially difficult to run a practice in Southern California treating primarily Worker's Compensation patients, because of the limitations of the official medical fee schedule, the additional income which can be earned after hours and on the weekends as a QME has enabled me to continue to my practice by supplementing the practice income in this manner.

However, except for the actual examination of the patient; this is done in what would otherwise be my free time.

Oftentimes I receive voluminous medical records, which are arranged in a haphazard fashion. These take hours to review and to incorporate these facts into my ultimate conclusions.

Because of this burden I have considered ceasing further such evaluations, but have continued to do so because of the economic benefit to the practice.

However, with the proposed changes, this will no longer balance the burden to my private life with the financial remuneration. If these changes are enacted, I intend to drop my QME certification.

Jeffrey Caren, MD, FACC, QME August 15, 2019

Please note the following comments. It seems clear to me that the proposed changes in the Fee Schedule are entirely inequitable on their face, and they appear to imply, on the part of the decision-makers, a lack of understanding of, or appreciation for, the work required of a QME/AME in meeting the requirements of formulating reasonably medically probable medical opinions based on a preponderance of the evidence available.

1) Based on the proposed fees for ML104 Medical-Legal Testimony, it appears the DWC is establishing $440 per hour as reasonable and appropriate compensation for an hour of time spent by a QME/AME in the medical-legal process.

2) Based on the implication of $440 per hour being reasonable and appropriate compensation for an hour of a time spent by a QME/AME in the medical-legal process, a flat fee of $1650 (RV 120) for an Initial Comprehensive Medical-Legal Evaluation and report is grossly excessive if, as an example, a QME is required to evaluate an orthopedic injury that involves one body part, there are no medical records provided for review, and the QME determines that the patient/injured worker has not achieved maximum medical improvement/a permanent and stationary status, and thus he/she does not need to formulate and outline opinions regarding permanent impairment and apportionment of the cause of permanent impairment. This would represent is a 164% increase from the current $625.

3) Conversely, a flat fee of $1650 is grossly inadequate if:

a. the claimed injury involves multiple body parts or systems (i.e. heart, hypertension, pulmonary, diabetes, GERD), and the QME must interview and evaluate the patient with regard to each claimed body part or system;
b. the QME must organize, collate and review 400 pages of medical records from various different medical providers for the purpose of understanding the chronology of the onset of medical symptoms and diagnoses previously made, medical evaluations already performed, the course of treatment already provided and diagnostic testing already obtained; and determine whether the records are consistent or inconsistent with the history provided by the injured worker;
c. determine whether additional testing is required and, if so, obtain it;
d. perform medical research, if warranted;
e. then determine and outline opinions regarding all of the issues pertaining to a workers' compensation case – to include formulating permanent impairment ratings for each separate body part or system for a patient who is considered permanent and stationary;
f. all of this in addition to paying for office space and administrative staff to perform all the administrative functions attendant to scheduling and reporting Qualified and Agreed Medical Evaluations.

The amount of time involved in medical-legal evaluations of this nature, requiring this extent of work, simply would not warrant the very same $1650 fee for the services of a QME in the #2 example above who reviews no medical records in conjunction with the evaluation.

4) For ML101, the proposal provides a flat $1100 for a Follow-up Medical-Legal Evaluation, regardless of whether it is performed one month subsequent to the initial QME, or three years or more subsequent to the initial QME; and thus irrespective of the extent of time that has elapsed subsequent to the initial QME. Was surgery indicated and performed, or has no additional treatment been provided? Have additional complications of the injury developed, or is the condition and the extent of symptoms and impairment the same as at the time of the initial QME? Are there 400 pages of new medical records/evidence available that must be taken into account in order to support reasonably medically probable opinions regarding all workers' compensation issues? Apparently, none of that matters; and apparently the extent of work required of the QME/AME (whether 5 hours or more of time, or less than an hour of time) will have no impact on payment for the Follow-up Medical Legal Evaluation. The QME who spends 45 minutes on the evaluation and the QME who spends 5 hours or more will be paid the same $1100?

5) Offering an additional $2 per page for reviewing additional medical records beyond 400 pages (or for reviewing medical records that were not initially made available resulting in an ML103 report of supplemental medical-legal evaluation) is an insult and seems to demonstrate a complete lack of understanding of what constitutes review of a medical record. Reviewing medical records does not simply mean "reading" medical records. It's

not like reading a 400 page book. As already noted in #3 above, the medical information must be organized, collated, read, understood and digested. In order to provide reasonably medically probable opinions based on the preponderance of evidence available, the QME/AME must understand the course of medical evaluations and treatment for the injury, understand any documentation of a pre-injury history of relevant issues, understand any documentation of a post-injury history of relevant issues, determine whether the records are consistent or inconsistent with the history provided by the injured worker, determine whether various medical opinions associated with the injury at issue are consistent with themselves; and only then formulate reasonably medically probable opinions regarding the effects of the substantial medical evidence on all workers' compensation issues. Each individual work injury claim is unique and there is no way to estimate or average the necessary amount of time required to review records. The time it takes is the time it takes.

6) As noted above in #1, ML104 specifically identifies $440 per hour as a reasonable and appropriate fee for a QME's time for medical-legal testimony. Compared to the previous Medical-Legal Fee Schedule, which was based on $62.50 per quarter-hour/$250 per hour, this would represent a 76% increase. A fee of $2 to review a page of medical records is entirely inconsistent with $250 per hour, let alone a 76% hourly increase of $440 per hour.

7) "Medical research" is defined in Section 9793, but is not subject to payment of fees anywhere in Section 9795?

8) If the intent of these flat fees is an attempt to address "padded" billings by QMEs/AMEs, and/or reduce what are considered excessive costs for the employers and insurers/carriers by providing a "clean" system that would be "expected" to "even out" for QMEs and AMEs over the entirety of their careers (by overpaying them on some cases and underpaying them on others); the proposed fee schedule is not a reasonable schedule. What it will do is reduce even further the incentive for QMEs/AMEs to continue to be involved in California workers' compensation evaluations. If there is concern that QMEs/AMEs cannot be considered credible in attesting to the extent of time spent on the evaluation, then why would their medical-legal opinions be considered credible? Conversely, if a QME/AME's medical-legal opinions are to be considered credible, then his/her attesting to time spent in the evaluation and report process should also be considered credible. The only QMEs/AMEs who will want to continue with this fee schedule are those who already do not spend enough time formulating reasonably medically probable medical opinions, and who will be paid 164% more than they currently are for Initial Medical-Legal Evaluations.

9) If employers and insurers/carriers truly want to reduce the costs of Medical-Legal Evaluations, they have control over doing so. They could do the following to reduce the time the QME/AME would need to spend:

a. Prepare unique cover letters for each Medical-Legal Evaluation as opposed to simply issuing generic, boiler-plate letters that would apply to any Medical-Legal Evaluation of any injured worker with any injury. They could outline the issues specific to the specific case. They could outline only the issues they want addressed. If they don't need the QME/AME to address anything but the extent of whole person impairment and apportionment of the cause of it because those are the only disputed issues, then they could say so. If injury AOE/COE is the only issue, then they could say so. If the QME/AME receives only a boiler-plate cover letter, or no cover letter, he/she will spend the time necessary to formulate opinions on every single workers' compensation issue and should be entitled to be compensated for spending the time.

b. Organize the medical records prior to sending them to the QME/AME, and avoid the need for the QME/AME to spend their time doing that.

c. Review the medical records themselves. Send only the relevant information. Eliminate the need for the QME/AME to have to spend the time to review every piece of medical information in the Kaiser records in order to determine what is or is not relevant.

My recommendations:

A) Re-name ML101, "Initial Comprehensive Medical-Legal Evaluation," since it applies only to initial evaluations and nothing else. Then, based on a presumption that the currently proposed $440 per hour for medical-legal testimony is considered a reasonable and appropriate fee for a QME's/AME's time, based on retaining the recommended increase in fee [as noted in Rules and Regulations Section 9795 (b) to be multiplied by the RV] from $12.50 to $13.75, translated to $110 per quarter-hour (or $440 per hour); and based on the implication that an Initial Comprehensive Medical-Legal Evaluation will involve up to 2.5 hours of the QME/AME's time; establish the flat fee for ML101 as RV 80 for $1100. (This actually is consistent with the current proposal for a flat fee for a Follow-up Qualified Medical-Legal Evaluation, currently proposed to be "ML102" at RV 80 for $1100.)

B) Then, create a new designation for ML102 as "Initial Comprehensive Medical-Legal Evaluation requiring additional time." If performance of the initial Medical-Legal Evaluation requires more than 2.5 hours of the QME's/AME's time, then the QME/AME would bill ML102 rather than ML101, and must document the extent of time spent in any and all aspects of the evaluation. There is nothing unique about addressing any specific issues (to include causation or apportionment), or evaluating any number of body parts or body regions, or accomplishing any of the previously-established "complexity factors," other than the extent of time required to perform such aspects of the evaluation. The time required of any and all aspects of a medical-legal evaluation is the time required, and time spent in all aspects of the evaluation is what should determine the fees for the QME/AME.

C) Assign RV 8, as currently assigned to the proposed ML 104 medical-legal testimony, to ALL ML designations other than ML101 [the new ML102 (which will become "Initial Comprehensive Medical-Legal Evaluation requiring additional time"), the new ML103 (which will become "Follow-up Medical-Legal Evaluation" and will be defined by only the first sentence of the current proposal), the new ML104 (which will become "Fees for Supplemental Medical-Legal Evaluations and will be defined as per the current proposal, but with a deletion all the verbiage beginning with, "Review of medical records…"), and the new ML105 (which will be "Fees for Medical-Legal Testimony" and shall continue to be defined as in the currently-proposed "ML104"); all to be paid at $110 per quarter hour of time spent in all aspects of the medical-legal evaluation. As indicated in B above, there is nothing about any of the additional medical-legal reporting requirements that would imply more complexity or comprehensiveness than any of the others. The QME/AME is required to provide reasonably medically probable opinions based on the preponderance of evidence available. It is possible for a Follow-up Medical-Legal Evaluation to take significantly less time for a QME to accomplish than it would take to accomplish a Supplemental Medical-Legal Evaluation; and providing a flat fee of $1100 for the former, while providing only $275 for the latter plus only $2 per page of records reviewed, is entirely inappropriate.

D) "All time spent" for ML101, ML102, ML103 and ML104 purposes would include face-to-face time with the injured worker, review of any extent of medical records, any appropriate and warranted medical research, and time spent by the QME/AME formulating opinions and personally dictating/preparing the report. If the QME/AME cannot be considered credible in attesting to the extent of time spent on the evaluation, why then would his/her medical legal opinions be considered credible? Conversely, if the QME/AME's medical-legal opinions are to be considered credible, then his/her attesting to time spent in the evaluation and report process should also be considered credible.

E) Retain all modifiers; however, do not provide additional fees for modifiers -94 or -96; only for modifiers -93 and -97. There is nothing intrinsic about being designated an AME, or performing a psychiatric or psychological evaluation, that would warrant additional fees other than any additional time that would be required in accomplishing such evaluations; and other than the flat fee for up to 2.5 hours of the QME/AME's time to accomplish an Initial Comprehensive Medical-Legal Evaluation, fees for all medical-legal evaluations would be based on total time spent by the QME/AME, regardless of the physician's specialty.

In summary, except for a minimum fee for an Initial Qualified (or Agreed) Medical-Legal Evaluation of $1100, for up to 2.5 hours of time spent by the QME/AME; all fees would be based on RV 8 [multiplied by the currently-proposed $13.75 fee per Rules and Regulations Section 9795 (b) for $110 per quarter hour] for $110 per quarter hour of time spent by the QME/AME in the evaluation and report process.

Jeremy Blank, PsyD, QME August 15, 2019
Neuropsychologist

As a newly certified QME, I am strongly against the proposed changes to the fee schedule. Rates of reimbursement as they are already too low to run a reasonable practice, after subtracting the 20-50% taken by QME management companies. I joined the ranks of the QMEs in order to help the injured worker, but if reimbursement is too low, I will be forced to take my work elsewhere. Record review is a complex task, and should be reimbursed at least $4 per page after the initial 50 pages. Moreover, I support using Sue Honor's proposed changes as a starting point for fee schedule increases. If alternative changes are made, you will likely see an exodus of QMEs from the system.

Sandy Abdelkedous, MD, QME August 15, 2019

As it is, QME is hardly worth the stress. The going rate for psychiatrists per hour at state hospitals is $300+/hour, corrections is $230+/h with absolutely no added stress, of extended face to face times, fear of depositions, pouring over medical records etc. I definitely will NOT be doing QME if this goes into effect. I don't think the current compensation is enough as it is. I am finding myself billing significant less hours than what I put into the work as it is, and considering there are only 200 or so QME psychiatrists, and the amount of Psychiatric QME panels drawn I'd say they are making a huge mistake to even consider this- there won't be any psychiatrist left. This would leave the market open to only psychologists (as they would be the only one left where it would be still competitive in pay). This would in turn affect the bottom line for the insurance companies as well, as psychologist tend to be claimant/applicant leaning so they (insurance carriers) would end up paying out more in the long run. Psychiatrists -on the other hand- tend to middle of line/defense leaning, hence psychiatrists are saving workman's compensation- without us it would run completely amok!

Perminder Bhatia, MD August 15, 2019
Neuro-Pain Medical Center

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported

---

Henry E. Bruce, MD August 15, 2019

If the proposed changes are enacted, I will likely cease participating as a QME.

Pamela Hall, Ph.D. August 14, 2019
Qualified Medical Evaluator
Forensic Psychologist

The DWC proposes to reimburse QME experts in psychology or psychiatry a flat fee of $2,475 for initial PQME examinations, inclusive of the first 400 pages of records. Additional pages of records, past the first 400, would be compensated at $2 per page. Additional reimbursement for extended face-to-face for complex evaluations necessitating more than 2 hours of face to face examination is not offered.

My QME colleagues in psychology and psychiatry have previously discussed in open forum the range of time required to produce an initial PQME report adequate for the purpose of adjudicating

a claim. Per that discussion, the least complex cases could be completed in as few as 12 hours. Under this proposed fee schedule, the doctor performing the least complex examination would be paid at a rate of $206.25 per hour. Time spent on examination, record review, and report writing for more complex cases could reach 20 hours. Under this fee schedule, the doctor would be paid at a rate of $123.75 per hour. Neither rate is sufficient for the degree of expertise required to produce the clarity of opinion writing required by the Trier of Fact as to causation and severity of claimed industrial injuries to the psyche.

To accommodate the new fee structure and not take a dramatic cut in reimbursement, I would have to reduce the time spent on face to face examination, which is typically 2-3 hours, and the time spent in psychological testing, which is typically 3-4 hours. In doing so, my ability to discern discrepancies and consistencies in claimant symptom report and claimant report of relevant personal history would be significantly compromised.

I would also have to reduce the amount of time I spend integrating data from the examination, psychological test results, and record review, formulating opinions, and compiling a useful report. Specifically, analysis of the case for concurrent or prior nonindustrial medical and/or mental health conditions and/or concurrent or prior industrial medical and/or mental health conditions would be rushed and inevitably less thorough. The resulting PQME report would be insufficient to provide Triers of Fact with unbiased expert opinions based on collected data that would stand up to the scrutiny demanded by the insurance companies and attorneys.
I will not continue to be a QME provider if this fee proposal is enacted by the DWC. I cannot take a pay cut to provide the same quality product I have been providing to the DWC under the current payment structure. Also, I will not even consider reducing the quality of work that I am able to provide in order to be compensated fairly for the expertise that I am able to bring to this very important task.

Peter Dell, MD August 14, 2019
Retired QME

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

I am now a former QME because I'm afraid that I saw the "handwriting on the wall". The underground regulations issue was first, showing me that the DWC is interested in appearing to punish QMEs who are doing quality work. I feared that the DWC would further erode the professional compensation for QMEs, and decided to retire. In light of these proposed changes, I unfortunately believe I made the right decision. The DWC seems to have the insurance industry's best interests at heart by attempting to nickel and dime experts which in turn short changes applicants who will now wait even longer for QMEs based on retirements like mine. My decision to retire as a QME will be followed quickly if the DWC chooses to accept these changes.

This proposal will be the final straw for many providers.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

H. Leon Brooks, MD August 14, 2019

As a qualified Medical Examiner I have reviewed the proposed fee schedule for med legal expenses and comprehensive med legal evaluations. I feel the proposals are reasonable but would personally request that the fees for supplemental reports be $500 for a report and record review should be $5 a page. This in my opinion would be fair to all parties.

Kamyar Kamjoo, MD August 14, 2019

The new proposed changes to the payments for QME evaluations are unacceptable. The new proposal does not compensate the physicians fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system. Under this new payment plan, the quality of reports will certainly deteriorate because of poor compensation for the time that is needed to evaluate cases.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal

modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues. If these new regulation go through, I will seriously consider to stop doing QME evaluations.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported.

Sanjay J. Chauhan, MD August 14, 2019

I disagree with DWC proposed Fee schedule. Only thing needed is upgrade current schedule to adjust for inflation/Cola.

DWC is wasting time and resources creating new schedule.

I have been QME since 1994 and current version of fee schedule is already revised but still at very lower compensation than previous one. So now lowering it further makes no sense.
Hope DWC will just keep current schedule and upgrade it for inflation and cola adjustments.

Alan Engelberg, MD, QME August 14, 2019

The proposed fee schedule indicates that physicians must accept a substantial reduction in payments for their reports.

For example, if time spent on medical research is not reimbursed, little will be done.
The fee schedule should be increased to at least $2400 per report so that quality work can and will be done.

Gregory L. Marusak, MD August 14, 2019

Let's do some simple math. At a minimum I spend two hours face-to-face with each applicant and at least an hour of preparing by reading the pertinent records for every case. Record review of 400 pages will take me at least five hours and finally writing all this up, editing and prep another seven hours for the simplest of cases. So I'm up to 14 hours for probably the most straight-forward case (actually a rare event in psych and I usually spend about twice that time and I'm not even adding in my ridiculous commute times). Now the $2,475 for psychiatric cases divided by 14 is $176.80 per hour. That's almost an acceptable rate if we didn't have something called overhead. This varies between specialties, office locations, staffing, insurance rates etc. but a simple Google search reveals that average medical practices are in the 40-55% range for overhead so now I'm down to $80-110.00 an hour. This is California, living expenses are not even close to other states, housing, transportation, daily expenses, schools etc. Today I paid a plumber $250.00/hr to install a new water heater. Either we all went into the wrong field and need to retrain as plumbers or these rates are just absurdly low. Considering what we could all make in private or even group practices, I believe the later is true and these ridiculous rates will lead to a mass exodus from the system. This is not even in the ballpark of acceptable and a move in the completely wrong direction if you are attempting to gives us a cost-of-living raise after so many years without.

If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with

DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself after 25 years of service to this system.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal.

Eric Levander, MD, MPH August 14, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Dane Jay August 14, 2019

I applaud the DWC's attempt to simplify the MLFS, but my praise stops there.

"It is of more than theoretical importance in the workers' compensation system that medical providers be paid promptly and **treated fairly, for without them the entire benefit system would fail**."

- (*American Psychometric Consultants, Inc. v. Workers' Comp. Appeals Bd.* (1995) 36 Cal.App.4th 1626, 1640 [60 Cal.Comp.Cases 559].)

This sentiment was expressed by the vast majority of QMEs in the comments of the previous proposed regulations. And yet the DWC's second proposal again threatens to destroy the workers' comp. system as we know it. It seems not even self-preservation was able to compel rational thought behind this proposed fee schedule.

Moreover, the proposed MLFS would pay QMEs – in a state with a higher cost of living – <u>less than HALF</u> of what physicians in Nevada are paid for similar work. As such, this proposed fee schedule blatantly and unequivocally conflicts with Labor Code section 5307.6 which states that the fee schedule shall produce "fees which provide remuneration to physicians performing medical-legal evaluations at a level equivalent to that provided to physicians for *reasonably comparable work*." The DWC is essentially ignoring the directives the Legislature has given it which is downright appalling.

And the timing of this proposal cannot be overlooked. After abandoning the previous proposed revisions over a year ago, the DWC suddenly proposes another absurd fee schedule right after AB-1832 is introduced. Clearly this bill was introduced because the DWC has not adopted a fee schedule that adequately compensates QMEs, and the DWC response is to adopt a different fee schedule that is ridiculously low compared to what physicians in other states are paid "for reasonably comparable work." These actions are astonishing and validates the Legislature's need to intervene.

Adam Kremen, Ph.D., QME August 14, 2019

I would like to comment on some aspects of the proposed revisions to the regulations for reimbursement for medical-legal expenses. I am a QME psychologist, and I speak here for psyche reports.

As many have noted on this forum, it is impossible to evaluate and write up a case that has any complexity, such as those routinely found in psyche cases post SB863, in anything less than 15 to 20 hours, while also doing any justice to the responsibility to produce balanced, probative reports that provide evidence that can be used by attorneys, unrepresented injured workers, claims administrators, and WCAB judges to move cases forward towards resolution. The DWC's own suggestions for an adequate psychological or psychiatric evaluation report, as stated in the "Method of Measurement of Psychiatric Disability", include a comprehensive evaluation of an applicant's history, symptoms, current and pre-morbid psychological functioning, to name a few, as well as a review of medical records and objective testing. As many have argued on this forum, given these suggestions and given the high likelihood that a psyche case will be complex, it is unlikely that report preparation will be less than 8 or 9 hours, and it is often the case that it will be more. On top of these hours for report preparation there is also the time spent in the interview (typically 3 to 4 hours; record review; and research if there are any special issues). Thus, one major problem with the proposed revision is that QME's who take the necessary time to write an adequate and legally useful report will be unfairly compensated.

The second problem is that this proposed revision will pressure QME's to cut corners and thereby produce inadequate reports. As many have noted, this will in all likelihood lead to additional inefficiencies in the system, clogging down the wheels of justice and paradoxically increasing the financial burden as many more supplemental reports and depositions will be required to make up for the inadequacies of the reports.

I agree with the majority of comments that the proposed revisions to the Medical-Legal Fee Schedule would impose such onerous financial burdens as to force many highly qualified QME's to leave the system. Of note, many commentators in this forum have stated their intention to leave the system should the proposed revisions be implemented.

I also urge the DWC to seriously consider Sue Honor's proposed revisions, as many here have also noted.

Teresita Morales, PhD QME August 14, 2019
Clinical Psychologist

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

<u>The proposed reimbursement for psychological and psychiatric mental health evaluations is particularly egregious.</u> In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which

was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

Sue Honor's proposal featured many elements that would have compensated mental health providers more fairly. These elements include: a much higher flat fee for psych initial evaluations, an hourly rate for extended face-to-face time, and a much higher flat fee for psych supplemental reports.

Additionally, I notice that DWC has intentionally NOT applied the psych multiplier to record review. This makes no sense. Reviewing medical records from a mental health perspective is inherently more time-consuming and complex than reviewing medical records for a non-psych specialist. I urge DWC to apply the psych multiplier to record review, not just the flat fee. Further, the fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Anne Retzlaff, PhD August 14, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Michael D. Angioli, Ph.D., ABPP, QME August 14, 2019

I think that 400 pages is way too many. Also the price per after 400 is also too low. I think you need to try to encourage QMEs to keep working.

Michael D. Angioli, Ph.D., ABPP, QME August 14, 2019

New Proposed QME Fees:
-Flat fee for Psychiatric/Psychological 1st eval: $2,475 ($2,640 w/interpreter)
-Flat fee for Psych Re-evals: $1,650 ($1,760 w/interpreter)
-Pages of medical records included in these Flat fee rates: 400 pages.
-Reimbursement per page of Medical Records AFTER 400 pages: $2.00 per page. For a re-evaluation, you will only be paid for the review of NEW records submitted.

-Failed Appointment Fee: $550 (suggested but still not mandatory for ins. companies to pay.
-Supplemental reports: $275 + $2 per page of records - BUT: only if this supp request is for additional question or review of additional records. If they are asking you something that was already asked int he initial cover letter, or about a record you were originally sent to review, you are required to answer the supp request BUT not bill.
-Depositions: $424 per hour (a minimum of one hour).

I was rather shocked such draconian suggestions were being offered in light of just what a Psych QME eval entails, replacing the existing billing complexity factors which actually captures the professional skill and time required to complete these very complicated examinations.

Essentially, if these "fees" are instituted, it will make conducting psych QME evaluations *cost-prohibitive* for me as a psych examiner. I enjoy assisting the State as an examiner, however, with these "suggested fees" *I would not continue*. I would be saddled with additional costs incurred due to travel to my various locations, which at times require overnight stays, and I would lose additional income from my practice due to the downtime required to complete these complex examinations. I realize that it is difficult enough for the DWC to attract good examiners, however, this will be a deal-breaker for many psychologists and psychiatrists.

In summary, I am requesting the DWC to strongly reconsider any entertainment of this *poorly constructed* and *misguided* "fee reduction" proposal. As an alternative, a fee schedule offered by Sue Honor has been proposed and has the support of many existing psych QME's. I would recommend the DWC study that proposal, otherwise, I fear there will be a substantial loss of experienced psych examiners from the DWC, further burdening the courts adjudicating processes if this proposal is enacted.

Barry Ross, Ph.D., QME Psychologist August 14, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Howard Sofen, MD, QME
Associate Clinical Professor of Medicine/Dermatology
UCLA School of Medicine

August 14, 2019

After careful review of the proposed changes to the QME fee schedule I feel that I must voice my opposition.

As one of only a small handful of dermatological QME's available in the state of California, the new fee proposals are significantly below the changes that were proposed by Sue Honor. As the former manager of the DWC Medical Unit, she submitted a proposal in December 2018 that was well received by the QME community. The changes that she proposed would greatly benefit the efficiency of the current standards and would fairly reform current outdated reimbursements. In fact, reimbursements for the state of California are consistently much lower than those of Nevada, which as you are aware has a much lower cost of living.

Some of the changes that were proposed by Sue Honor include 50 pages of medical record review to be included in a flat fee schedule while the California proposal was 400 pages. An additional 350 pages for a flat fee report can make a significant difference in the time spent on one single report, thereby reducing the economic aspect of my time and expertise. A 50 page inclusion would be much more feasible. By the same token, a proposal of $1000 for a supplemental report is a much fairer amount for additional time spent than the proposed $275, as there are many times when additional records are requested to be reviewed. With the time constraints for QME reports

to be completed, it remains imperative that there be a limit or adequate compensation for the time spent on review of copious records. Organization of records is relatively important as well, as many times there are numerous copies of the same records but not in the same order. This type of disorganization takes up a significant amount of time; which brings me to the missed appointment fee. Ms. Honor has proposed a fee of $1000 and the California reimbursement has proposed a $0 fee. A reasonable compromise would be $500 as my schedule is booked weeks in advance and a missed appointment without proper notification ahead of time limits seeing other patients in a timely manner.

The proposed changes by the California Department of Workers' Compensation are well below what should be the standard reasonable compensation awarded to a Qualified Medical Examiner. After all, it is the expertise in our specific fields of medicine that we have earned the right to claim that we are indeed "qualified".

Adel Mostafavi, MD August 14, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Donald C. Pompan, MD
QME since 1994

August 14, 2019

Here are my comments in regards to the proposed fee schedule change for QMEs:

1. While I applaud the initiative to simplify initial evaluation fees into one fee, the fee is too low. If you look at Nevada, their physicians receive $1735 for a new evaluation, and the cost of running an office is considerably lower.

2. 400 pages of record review are included in the initial evaluation fee. That is an absurdly high amount of pages that take a long time to review and organize, and should not be included in the evaluation fee. Adding record review fees starting at over 50 pages makes more sense.

3. Reimbursement per pages over 400 is very low, half of what Nevada physicians get paid, and which they get paid starting on page 51

4. There is no reimbursement for organizing the medical records, this is a necessity because it is a time consuming process that takes away time that we could be spending with patients.

5. No failed appointment fee- this is necessary out of respect to our time and lost revenue 6. Medical research is uncompensated- this is a backward step.

7. There is no cost of living increase- this will open the door to continued issues every year that the reimbursement does not rise with inflation.

These proposed changes are a step in the right direction. I think that a more realistic change would look like this:

1. Recognizing the increased expenses of operating a business here in California, the initial evaluation fee should be one fee, and be at least $1750.

2. Any record review time spent over one hour should be reimbursed at a reasonable hourly fee.

3. There should be a costs of living increase

4. There should be a failed appointment fee of at least 600 dollars, out of respect for our time

5. Medical research is an important component of good report writing, and needs to remain compensable.

Jeffrey Coker, QME August 14, 2019

Many other QME doctors have already pointed out how the new proposal by the DWC regarding the MLFS is unwise and why. I am perplexed. Given that there is reportedly a shortage of QMEs, why would the DWC recommend significantly reducing pay? It makes no sense at all. The only explanation I can see is that some higher-ups at DWC are doing the bidding of the insurance companies - which, if true, is unethical. As many others have indicated, if the DWC's proposed MLFS is enacted, I will likely quit serving as a QME. The quality of the reports will undoubtedly decline. I hope you can come to your senses in terms of what is ethical and fair before you create even bigger problems for the system.

William F. McCarron, DPM, FACTAS August 14, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have

avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Ira B. Fishman, MD August 14, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden of QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

Please go back the drawing board and draft a detailed, unambiguous billing schedule.

Gang Li, MD, PhD, DABA, FAARM, DABRM August 14, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Frederick Butler II, MD August 14, 2019

I believe that the changes proposed in AB1832 should be adopted.

Why shouldn't QMEs get an increase in pay when California is increasing the Minimum Wage?

Cost Adjustment in step with Inflation should be applicable to All Wage Earners.

Dmitry Sherman, MD August 14, 2019

New changes proposed by DWC to med-legal fee schedule have a full potential to collapse QME system and cause exodus of QME's out of QME practice whatsoever.

The number of QME 's is critical already and if changes will be implemented as proposed there would be no doubt serious crisis in QME system as a whole.

Kevin Kelly, Ph.D. August 14, 2019

I am writing to express my concern and disappointment with the direction of the proposed changes in the DWC proposal.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

I have served as QME for over 15-years in order to support workers and carriers with objective information. It is a difficult job and reimbursement was not comparable to other services that I provided in my practice.

I am willing to continue as a QME, unless the fee proposal is adverse to my professional and financial interests. I trust that you will adopt a fair schedule as proposed by Sue Honor.

Steve Nitch, Ph.D., QME August 14, 2019

I have worked as a QME for about 4 years to supplement the income that I earn as a state employee. During this time, I have found the work to be interesting and challenging with reimbursement that generally matched the amount of time I put into the task. As is probably true for most conscientious QMEs, the hours that I actually billed did not always match the time I invested in the various elements of a quality PQME – including face-to-face time, record review, research into unique aspects of the case, and report writing. To date, though, I have usually felt that I received fair reimbursement for the job as a whole. In reviewing the proposed changes to the Medical Legal Fee Schedule, however, I have some serious concerns that this will no longer be the case. The minimal flat fee for a psychological PQME is now proposed to be $2475, which includes 400 pages of record review. Notably, that fee will shrink drastically before it reaches a final take-home amount. Most professionals employ a management company that charges anywhere from 20-40% for overhead fees. Taking the mid-range value of that figure (30%), the amount received by a professional for an evaluation under the proposed schedule is reduced to $1733. But that still is not the final amount. Personal income tax estimated at 40% will reduce that number to approximately $1040. If you consider the typical PQME that requires 4 hours of interview and testing of the applicant (i.e., face-to-face time), 2 hours of medical record review, and then 10 hours of test scoring, interpretation, and report preparation (18 hours total), that equates to an hourly wage of $58. This figure does not include travel time, which can be up to 3 hours round trip. As a public servant, I am used to sacrificing for the welfare of my patients, but this fee is simply unacceptable for the expertise that psychologists and psychiatrists have to offer. I would anticipate a mass exodus of qualified experts from the workers' compensation system were this proposed fee schedule come to pass.

Donald A. Eisner, PhD., JD August 14, 2019
Licensed Psychologist
Attorney at Law

PSYCHOLOGICAL TESTING
Is psychological testing a part of the flat fee? That seems unreasonable, especially if there is a need for extensive testing including neuropsychological assessment.

RECORD REVIEW
It seems that there is no payment for the first 400 pages of review. That means that there is no payment to QME'S or their reviewers for the review at this point, even if one has to re-check the records.
Why does one paragraph count as much as a full page?
What if a deposition or a surveillance video need to be looked at, perhaps even twice? The time spent collating and reviewing is the best method for reimbursement.

There are many pitfalls in the new proposal which I hope can be cleared up and corrected.

Stuart Rubin, MD August 14, 2019

Thank you for accepting comments regarding the future changes in the QME fee schedule.

As a board certified MD who specializes in Physical Med and Rehabilitation and Pain Medicine and a physician licensed in FL, NY and CA I have performed over 1000+ IMEs and peer reviews since 1993.

Although I am new to the QME program I do want to share the following thoughts which apply to any of these complex type of medical evaluations - including QME.

When I am asked to evaluate a claimant and review his or her records, regardless of the number of pages - I often go back and re-review parts of the records. I often jump around the chart to capture a better understanding of the case. This occurs because as I understand the case better I often want to re-review records that I may have seen earlier in order to get a better understanding of the case.

So the effort that I spend on the case - whether the case has 5 or 5000 pages is best measured in time spent and not in # of pages reviewed. If the case effort is reimbursed primarily as # of pages reviewed - a less thorough and accurate report may arise.

The professionals that I work with, be they insurance companies, vendors, or attorneys all reimburse hourly for these types of medical services because they know that the hourly approach ensures that the clinician is reimbursed appropriately for a quality supportable report. The end result is that the "hourly approach" produces a better, more supportable and understandable product.

Mark Kimmel, Ph.D. August 14, 2019

The proposed changes to the ML fee schedule will have unintended consequences which, in my opinion, will do harm to injured workers. There are dwindling numbers of psychologists that are trained in the workers' compensation laws and can write useful reports. The DWC eliminated the neuropsychology specialty a few years ago and now injured workers in many instances are sent to psychologists without appropriate training. This is an example of a change that was made without much consideration for the effects it would have in providing admissible reports and useful treatment recommendations.

In much the same way there appears to be an attempt to discourage psychology/psychiatry specialists from remaining QMEs by reducing compensation. Perhaps this is intentional but the consequences may not be understood for years.

Shane P. Hutton, PhD August 14, 2019
Psychologist, Neuropsychologist

First and foremost, I don't understand why the DWC or colleagues would even consider making a comparison with the Nevada system. I believe this is a smoke and mirror tactic designed to justify lower payment for QME's. This is an apples and oranges comparison and I urge my colleagues to be careful in using "Nevada" as a starting point in negotiations.

Second, the Honorable Suzanne Honor-Vangerov's proposal should serve as the starting point for negotiation, once gain not Nevada.

The current proposed fees are ridiculously low. This will drive down QME availability. Not only will people leave in general, but individuals will need to reduce office locations thus reducing availability of QME's in more remote areas. The expenses associated with office rental and travel would make the reimbursement rate even more ludicrous and less attractive. Thus, the remaining and limited QME's will huddle in major cities only.

This is also an unnecessary burden for injured workers living in remote areas as they will need to wait extended periods of time for an appointment (due to lack of QME's or people leaving the system) and will need to drive say 2 to 4 hours for an appointment. As a neuropsychologist I would need to seriously question the testing data I would receive under these circumstances based on the built in frustration of long waits for appointments and the fatigue factor associated with travel.

Michael Gadbaw, MD, QME August 14, 2019

I have reviewed the prosed changes and I have serious concerns. While I am supportive of a flat fee system, which I believe is more fair, as a psychiatric QME the proposed fees are untenable and result in a significant reduction in pay. In order for psychiatric QMEs to get a price increase, they should get at least $300 per hour. It is worth noting the providing QME services requires significant overhead costs: office space, administrative help with billing, appointments and mailing. I am in support of Sue Honor's previous proposed changes.

1. The flat fee of $2475 with 400 pages is too low. Take a typical psychiatric evaluation and report of 2 hours of evaluation, 10 hours of report writing, 2 hours of record review (14 hours total). This results in $154 per hour, a huge reduction from $250 per hour. In order to experience an increase in pay with this schedule, less than 10 hours total on everything including record review is necessary, which is not possible for me (or others I believe) to write a comprehensive report that will result in substantial medical evidence.

Psychiatric evaluation with 400 pages of record review should be $4200 (at 14 hours of work total (2 hours eval, 10 hours report, 2 hours record review) that is $300 per hour).

Or Psychiatric evaluations should be $3600 for 50 pages as Sue Honor proposed.

2. The fee for record review of $2 per page is too low. At the current rate of $250 this results in a rate of 30 seconds per page. This is very low given the record review includes sorting the records into chronological order, removing non-essential pages and duplicates, reading sometimes dense depositions or personnel files as well as poorly legible hand written notes, and writing summaries for the records.

Record review should be $4 per page

3. Supplemental Fee of $275 is too low. Nearly all supplementals take more than one hour. Also it takes time to sort out previously reviewed records. This time should be compensated of at least $1 per page.

Supplementals should be $900 + $4 per page record review + $1 per page duplicates

I enjoy my work as a QME. It is challenging, complex and at times stressful work, but I believe it is an important public service. The bottom line is that if the recent proposed changes to fee schedule are passed, then I will be stopping my work as a QME.

Bahman Omrani, MD, QME August 14, 2019

As an internal medicine QME 10+ years I am against the proposed changes to the medical legal schedule. The reimbursement for QME evaluations has not changes for many years and has fallen behind all rises in reimbursement seen with other insurance types. It has fallen behind inflation rate and to lower the reimbursement will jeopardize the neutral QME system. Many qualified doctors will simply drop out as the proposed reimbursement rate is incompatible with cost of running a medical practice. We almost always have to hire and/or pay for medical historians, record review staff, technicians, medic assistant, admin staff, phlebotomist, ultrasonographers, appointment coordinator, billing staff, collector, etcetera, such as rent, supplies. All of these costs are paid for upfront by the QME. It often costs more than the proposes reimbursement rate to conduct a QME, especially internal, death and toxic exposure QME'S. For instance many of these QME'S present with rather complicated histories and thousands upon thousands of medical record. It can easily take a doctor several dozen hours or more than half of a work week to complete a QME. Such system would cause loss of revenue for the practice and many QME'S will be forced out of medlegal practice. . In order to maintain a highly efficient and unbiased QME system the reimbursement rate should increase by at least 25%. If the proposed changes take effect please cancel my QME status as I will not be able to finalize a quality meaningful compliant report at the proposed reimbursement rate.

David W. Baum, MD August 14, 2019

Thoughts from an internist

The proposed amendments to the med-legal fee schedule are not viable for those of use who spend considerable time with claimants and dedicate long hours to medical research and report preparation.

I am asked to evaluate the most difficult and unusual cases (ie pesticide exposures and cancer, rare infections and parasitic diseases, autoimmune disorders). The research, in particular for the cancer and pesticide cases, often requires hours, sometimes days.

Many of the claims are derivative so that the principle claim needs to be understood in detail and explained in order to proceed with the internal medicine issues.

The referring parties may have meritorious claims, but the complexity eludes them, so that I am required to disentangle the relevant issues and explain them before the internal claim can proceed.

I personally review all the relevant records, which is essential for an adequate understanding of the claim. This process requires hours, sometimes days.

The medical decision making process is often complex.

The current proposal is untenable for those of us who may see 2 or 3 patients on most days and devote long hours to highly complex cases. Unless a viable proposal is implemented, specialties other than orthopedic surgery and physical medicine will be eliminated for the WC system.

Neurologists and physical medicine specialists can inflate their charges with unnecessary and sometimes cruel tests, such as the routine use of EMG/NCS, perhaps the money wasted on unnecessary studies could be utilized for legitimate purposes; so that claimants with highly complex cases may be examined carefully and thoroughly, enabling the QME examiner to provide a fair and reasonable finding. .

If these proposals are implemented mostly cursory and template-driven reports will be written and internists will abandon workers' compensation.

Christopher Chow, MD, QME August 13, 2019

I am extremely disappointed by the proposal. The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have

avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Dominick Addario, MD
Clinical Professor, Psychiatry
UCSD School of Medicine

August 13, 2019

Over the past 20 years there has been a continued destruction of evaluation and care for injured workers. First changes in psychiatric injury causation to a utilization review system stacked against authorizing care to treatment fees and denials so severe and unnecessarily cumbersome patients can no longer find a physician through work comp. Now with the new QME fee system proposed it is another systematic blow to what little is left to employee injury benefits. The system is so damaged workers will be left to return to litigating all work injuries as the principal of caring for workers outside of civil litigation has become farcical and is destroyed.

Anonymous

August 13, 2019

The multiplier for psychology is too low

The interview of a psych injury which is a consequence of a physical injury might be completed in one to two hours.

But when you have a convoluted story about harassment or hostility in the work environment due to a supervisor or coworkers it is not unusual to spend 3 to 4 hours. To make the interview economically feasible under the proposed fee schedule, you would have to cut the worker off. The injured worker does not know the definition of an injury. The examples the workers are stopped from telling may be situations that qualify as an injury, while the limited examples they were permitted to tell may not.

Additionally the history of a physical injury can often be completed in 2 to 3 pages. The history of a hostile work environment can take 8 to 10 pages.

The review of medical systems takes much less time than the social systems under social history. Social histories need 0to be completed in much more detail. For a physical injury it does not matter the worker has not talked to family members or not. In a psych injury the refusal to contact family usually reflects the injured worker may angry over an incident that occurred over 5 to 10 years ago. For a psych injury it suggests the individual is unable to let go of upset. This suggests that some of the residual impairment may be a result of not letting go of anger.

Similarly the medical report of injury requires the detail of the social history needs to be much more complete to support apportionment conclusions with facts rather than just stating conclusions.

Finally, the review of psychological records takes much longer per page. Each session needs to be read. In reviewing hospital or office medical records 90 percent of the pages are copied from previous reports and do not need to be reviewed.

David Desai, QME, Psychiatry August 13, 2019

I am very disappointed with the proposed fee schedule. I am a psychiatrist QME since 2011 & was trying to push myself to continue as QME with positive hope for increased compensation, but looking at current proposal, I am debating with myself to continue or stop working as QME. Looking at the extensive work done by psych QME, current & new proposal fees are not comparable to hourly pay with state or county jobs either. I am strongly supporting new fee schedule comparable to Nevada QME fee schedule or greater looking at high cost in California.

Anonymous August 13, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Gangaw Zaw, Ph.D. August 13, 2019
Forensic Psychologist

The proposed changes are unacceptable as it significantly minimizes the work that we do. If enacted, this fee schedule will increase the administrative burden on QMEs without proper compensation, and undoubtedly reduce the already record-low number of QMEs still left in the system.

The proposed reimbursement for psychological and psychiatric mental health evaluations is particularly egregious. In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

Sue Honor's proposal featured many elements that would have compensated mental health providers more fairly. These elements include: a much higher flat fee for psych initial evaluations, an hourly rate for extended face-to-face time, and a much higher flat fee for psych supplemental reports.

Additionally, I notice that DWC has intentionally NOT applied the psych multiplier to record review. This makes no sense. Reviewing medical records from a mental health perspective is inherently more time-consuming and complex than reviewing medical records for a non-psych specialist. I urge DWC to apply the psych multiplier to record review, not just the flat fee.

Further, the fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Leon Barkodar, MD, ABPN August 13, 2019

I don't see how I can continue being a QME if the new proposed changes are put into effect. The complexity of these cases that often last years and involve numerous healthcare providers. These cases often demand a significant amount of time that with the proposed changes is not sufficiently compensated for.

Victoria Kuhl, Ph.D. August 13, 2019
Licensed Psychologist, QME

I have been doing QMEs in psychology since 2010, and I am appalled at the proposed changes to the ML Fee Schedule. This proposal, if enacted, will cause many good evaluators to leave QME practice, particularly specialists in psychiatry and psychology; I seriously doubt that I would be able to continue as a QME. It is truly disheartening to realize that there are powerful individuals at the DWC who have such low regard for the professionals who are relied upon to do fair, impartial evaluations of injured workers. There have been no increases in QME pay in a decade, and yet DWC has proposed to drastically reduce compensation. There is no question in my mind that these draconian fee reductions will leave no one to do psyche QMEs other than unscrupulous people who are willing to generate "boilerplate" reports that are lacking a thorough review of all of the relevant factors to be considered when properly analyzing a case. There will be a mass exodus of quality evaluators from the system if this reduction in the fee schedule is adopted. If there are concerns about overbilling or other malfeasance, DWC should go after whoever is allegedly breaking the rules, rather than attempting to punish all QMEs for the misbehavior of a few. This proposed fee schedule reflects the interest of only some stakeholders in the system, rather than balancing the interests of all of the stakeholders in the system.

In contrast to this unreasonable proposal, Sue Honor's proposal is workable and suggests fair reimbursement for QMEs. It should be adopted, while this punitive proposal should be rejected.

Michael M. Takamura, MD August 13, 2019

I am a QME here in the San Diego area.

With the current proposed QME fee schedule, I likely would reduce my QME work caseload, by relegating fewer offices devoted to QMEs. Rents are high and getting higher, office staff salaries do not go down, and I feel as if I am getting referred very complex cases these days with multiple dates of injuries and body parts.

I would second Sue Honor's well thought-out proposal.

Please kindly reconsider the current proposal as it stands.

Charles McDaniel, MD August 13, 2019
QME Psychiatry

The most recent proposal is absurd.

It is clear that the DWC is in the pocket of the insurers.

The proposed fee schedule will drive QME's away from the QME system, thereby straining an already limited capacity of QME's, leading to longer and longer times for settlement of cases. This is another instance of the DWC proposing a change that will disadvantage applicants. DWC's bias to the benefit of insurers is unjust.

Sue Honor, the former manager of the DWC Medical Unit submitted a proposal that was endorsed by the majority of QME's. Her proposal would modernize the QME reimbursement system as well as facilitate settlement of cases. Why did you disregard her recommendations? She is the former manager of the DWC Medical Unit with clear insights into how to make the system work better for all stakeholders. Instead, it is clear that the current DWC leadership is pandering to the insurance companies.

Ms. Honor's objective, informed, widely endorsed recommendation is here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

We have already seen QME's leaving the system. Some left by choice because compensation and DWC administrative headaches were no longer worth their time. Others were kicked out based on the DWC's underground regulations. Many good doctors avoid becoming a QME due to poor reimbursement, administrative hassle, and fear of DWC's punitive actions. (For the record, I am fearful of DWC retaliation just because I wrote this letter.)

If the DWC enacts the current proposal — the one that is going to drive QME's out of the system and preference insurers over applicants — then many providers, including myself, will find that this is the final straw.

Anish Chandra, MD, DC, CCSP, QME August 13, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Nancy M. Molina, DC, MBA, JD August 13, 2019

Opposition statement: I note that several of my forum colleagues have voiced meritorious opinions regarding the proposed new ML fees for QME's. I predict added and foreseeable risks imposed upon the injured worker (IW) and the judicial efficiency for claim adjudication. Arguably, many injured workers in California previously have not been able to get through the system quickly or easily. When faced with denials of their claims or long delays; these workers invariably have ended up in protracted disputes and litigation. Another potential added burden foreseen is if a QME report is deemed underdeveloped.

The Industrial Medical Council was created to train and regulate the conduct of qualified medical evaluators in the workers' compensation system. A reminder that Panel QME's were developed to examine the IW; to evaluate disability claims and write medical-legal reports that give guidance to how the IW's claim is processed and settled.

On the face of the proposed new fee schedule; if the conclusion of the QME does not constitute substantial evidence, does a trial judge have a duty to develop the record if the party does not meet its burden of proving apportionment? Would this not further burden the WCAB judge who serves in its adjudication? Understandably the QME reporting must focus on the nature of the injury and this is a fact-driven inquiry to avoid any unnecessary judicial administrative burden. Substandard reimbursement fees provide little incentive for good work.

For example, regarding apportionment and the extent to which each of 2 or more probable causes are found responsible for an effect, in which only probable causes are included: the first step in the QME apportionment is scientifically based causation analysis. Second, one must allocate responsibility among the probable causes and select apportionment percentages consistent with the researched medical literature and facts of the claim in question.

Arbitrary, merely opinion based unscientific apportionment estimates which are nothing more than speculations must be avoided. Adequacy in regards to the Medical literature research takes time in which to further develop the record. Thus the cause and effect requirement is for the probably etiologically related causation. This is the premise which QME's are asked to analyze and then opine if they support or refute the claimed industrial nexus.

This requires an experienced QME; one who must know pathogenesis of the condition in question and facts of a case and must follow a logical, rational, and thereby defensible thought process when drawing conclusions and explain the basis for those opinions in a coherent manner understandable to a lay person. Absent any speculation QME's are required to perform an extensive explanation of how and why the pre-existing asymptomatic condition is presently causing a portion of an applicant's current disability in order for the WCAB to parcel out the causative sources i.e., nonindustrial, prior industrial, current industrial and decide the amount directly caused by the current industrial source. Arguably the current fee proposals would create potential risks: delay expedite settlements; burden judicial efficiency or whether the under-developed QME reporting would likely be deemed to be not substantial medical evidence.

Benjamin A. Carey, MD August 13, 2019
CAPT MC USN (Retired)

I am a board Certified Forensic and Addiction psychiatrist who has performed Workers Compensation evaluations since 1986 with a high percentage of AME and Court appointed Regular Physician evaluations in very complicated cases. The proposed fees are about one third of what I receive on an hourly basis in Virginia where I live. Due to the lower reimbursement rate in California, I no longer commute from Virginia to California which I did for over 30 years. Put simply, the proposed reimbursement rates do not entice me to return to California now.

Michael B. Levey, MD, FACC August 13, 2019

As a relatively new (4 years) and low volume (<25 cases per year) QME in the area of Internal Medicine and Cardiology, I find the newly proposed fee schedule inadequate to support the financial requirements of running my office and providing income for myself.

No compensation for missed appointments and low compensation for supplemental reports and follow up reports must be addressed.

I do support the proposed change to a flat fee schedule as used in Nevada. This will prevent the unscrupulous physicians in the system from padding their bills with boilerplate research (most of which is poor science) for which they charge thousands of dollars as well as other fraudulent practices. However I really don't understand why we should be paid less than physicians in Nevada where there is a much lower cost of living. Additionally the inclusion of 400 pages of medical review is really inappropriate. Most often the documents are not presented in chronological order and when on CD or FAB frequently found upside down. Given that the review of the medical records is essential in performing a proper evaluation of the patient and that the process is laborious, and at times difficult, I would prefer to be reimbursed either per page or per hour for pages in excess of 50. Additionally the $2 per page suggested is inadequate.

I feel that maintaining skilled as well as ethical Qualified Medical Examiners is essential. This will provide a systems for the evaluation of the injured worker that is fair both to the worker and the Insurance provider. I am afraid that in the absence of adequate reimbursement many quality physicians will resign from the program leaving the system with physicians who have and will continue to manipulate the billing scheme no matter what changes have been made.

Praveen Kambam, MD, QME August 13, 2019

I have reviewed the proposed QME fee schedule, and I have several concerns. The proposed medical legal fee schedule actually represents a reduction in pay for many specialties, especially for psychological and psychiatric evaluators. Such evaluations are complex, involving lengthy interviews to cover every area of the applicant’s life as required of a psychiatric evaluation, with consideration and discussion of multiple factors with regard to both causation and apportionment. It is not possible that I can provide a report that would be considered substantial medical legal evidence in the amount of time that I would have to reduce down to in order to make these rates cost effective, or even equal to the previous rate of $250 an hour. Unfortunately, the proposed fees will not compensate a psychiatrist or psychologist adequately, resulting in the resignation of many psych QMEs such as myself, or worse, rushed and shoddy reports by any remaining QMEs that will only create further costs and delays to the system in the long run. Additionally, the rate for record review is low and would fail to compensate a doctor who has to look through records to determine which records may be duplicates. The supplemental report rate would not sufficiently compensate a doctor who is asked several complex questions and has to

review indicated case law such as new rulings as well as looking at the original report findings in order to provide a germane report. Due to all of these concerns, I strongly urge that the proposed fee structure be reconsidered.

Don Houts, MD
Distinguished Life Fellow, American Psychiatric Association
Associate Clinical Professor, Department of Psychiatry,
UCSD School of Medicine

August 13, 2019

If the currently proposed QME fee schedule is adopted, then I will completely opt out of doing any further work in this system.

Lisa Wolf, Psy.D.
Psychologist

August 13, 2019

I am writing in response to the proposed changes to the Workers' Compensation QME Fee Schedule.

As a psychologist, licensed in California since 1999 and designated as a QME since 2002, I have performed hundreds of psychological evaluations in my capacity as either a QME or AME. The proposed fee schedule, paying QMEs at a flat rate of $2475 for a psychological report, translates to reimbursement for a total of 9.9 hours, at the current rate of $250 per hour. According to the proposed schedule, this fee includes the sorting, review and integration of up to 400 pages of records.

There are myriad problems with this proposed fee schedule.

1. **9.9 hours is approximately the amount of time a psychologist would spend interviewing an applicant and writing the associated report, without reviewing any medical records, administering any psychological tests or integrating the information derived therefrom into the report, at large.** A psychological evaluator must address, in depth, the applicant's early/family history, educational, marital, occupational, military, medical, psychological, drug/alcohol and legal histories, as well as the history of injury or injuries in question. In fact, the 2016 edition of the *Physician's Guide to Medical Practice in the California Workers' Compensation System* indicates that, although one hour of face-to-face time is required by law, "A psychiatric evaluator more typically will spend two to three hours with the patient." I typically spend 3 to 4 hours, performing a face-to-face interview with a claimant, depending on his or her age, the complexity of his or her history

and his or her ability to provide a coherent, linear narrative. Translating the vast amount of historical information gleaned during a four-hour interview into a coherent, chronological history requires at least four hours of report preparation time, before one addresses the medical-legal issues at hand.

2. Scoring and interpreting psychological tests takes time and costs approximately $100 per case (when using Pearson or a similarly well-regarded test scoring company). The time and cost associated with these tests is over and above the 9.9 hours, included in the flat fee.

3. 400 pages of records can take anywhere from 6 to 60 hours to sort and review. The average adult reads at a rate of approximately one page per minute. 400 pages would, therefore, take approximately 400 minutes or 6.66 hours to read, all other things being equal. Reading records for the purpose of producing a medical-legal report, which constitutes part of the legal record and which affects the outcome of individuals' lives requires a great deal more care than reading a novel. By point of comparison, *Sense and Sensibility* is approximately 400 pages long. The nature of the written word also accounts for tremendous variability in the amount of time required. Handwritten psychotherapy notes take much longer than one minute per page to read, comprehend and summarize whereas typed reports may take less. In either case, the DIR is expecting doctors to perform this function for free, essentially expecting them to read *Sense and Sensibility*, along with each report they produce, summarize its contents and integrate that information into the report, with no additional compensation.

4. The proposed fee schedule does not require insurers to provide records in a sorted, organized fashion, leaving that task to the doctor. On many occasions, I have spent as much or more time sorting records by doctor, date and report as I have spent reviewing them. I have always considered this an absurd waste of time and money. We are often sent duplicates or triplicates of records, which represent a total waste of paper, ink, postage and time. These must, however, be isolated from the new records, before the review can begin. Again, according to the proposed fee schedule, the DIR is expecting doctors to perform all of these functions for free.

What exact problem is the DIR attempting to address with these fee changes? Presumably, Workers' Compensation carriers continue to lobby on their own behalf, despite research showing that their costs have diminished as their profits have risen, over time. If insurers nonetheless want to reduce the costs associated with the QME process, they could do so very simply by:

a. Paying their clerks $20 an hour to sort and organize records so that doctors needn't spend $250 an hour, performing the same function.

b. They could quadruple these savings by sending each doctor only the records they require to perform a comprehensive evaluation in their specialty. As a QME, I am required to review every record sent to me, whether or not it pertains to the claimant's psychological

condition. Physical therapy notes are not necessary. Kaiser records pertaining to ingrown toenails and annual vision tests are not necessary. An orthopedic doctor's first comprehensive evaluation report and final MMI report are sufficient for my purposes, but I am often sent a banker's box of records covering the claimant's lifetime medical history.

c. Paying doctors a flat fee, as outlined in the proposed fee guidelines, for the interview and report, with an additional reasonable fee paid for medical record review, e.g., $4.00 per page.

It is not only unfair but absurd to punish doctors for performing the duties demanded of them while requiring absolutely nothing from the insurers who are most often the source of the problem, i.e., time and money wasted reviewing reams of disorganized, duplicative and/or irrelevant medical records.

The proposed fee schedule would make it impossible for me to continue functioning as a QME for practical, ethical and financial reasons. Practically speaking, I would feel pressured to cut both my interview and analysis short. The result would be large holes not only in the history but in the WHY and HOW portions of the conclusions, on which attorneys and judges rely. My reports would, consequently, be impressionistic, vague, and/or incomplete, such that my conclusions would not constitute substantial medical evidence.

It would also be an ethical breach for me to perform a hasty evaluation, without developing an adequate rapport and/or giving claimants the opportunity to articulate their concerns. **A psychological evaluation is not about obtaining JUST THE FACTS; the interview process, itself, is diagnostic.** Cutting that process short would limit not only the factual information obtained but the clinical data, as well. In addition, it would be an ethical breach for me to submit a report of such consequence where said report contained inadequately supported findings.

Financially, I could not afford to perform QME evaluations reimbursed according to the proposed fee schedule. After rent, gasoline, paper, ink, postage and test scoring fees, it would simply not be worth my time. I shudder to imagine the quality of reports that would be produced by QMEs attempting to earn a living at the proposed rate. More importantly, it would be impossible for an applicant to obtain a fair evaluation under such circumstances.

Paul Nottingham, MD August 13, 2019

400 pages of records is too much to be part of a standard fee for evaluations or supplemental reports. 200 pages is a reasonable maximum for the number of pages to be included in the standard.

Missed appointments should be paid for.

Fee schedule should be comparable to Nevada's. The evaluations done in California are not inferior or less valuable than this in Nevada.

Finally, there should be payment for review of Sub Rosa videos.

Malcolm McHenry, MD August 13, 2019

I have reviewed the documents of the proposal and have the following comments:

A system that excludes time reviewing records is blatantly unfair. Additionally, denial of payment for records already reviewed has a similar onerous flavor. How do I know that there are duplicates if I have not done an extensive review?

My cases are invariably complicated and difficult. Yet, the new proposals give no weight to such complexities and as stated by another physician, an ankle sprain pays the same as a complex case involving several employers and several body parts.

No show conditions must be defined and allowed billing. My internist charges me for a missed appointment. So does my attorney. Are we not comparable?'

Improper adjustments or weak changes in the schedule will kill the QME system and force legislative action.

The present ML 101 to 106 tiering should be retained. This so far has covered the complexity issues. Each "tier" should have a higher pay rate as it does now. I have no fault in the basic flat fee but complexity is increasingly encountered and requires thought, medical research and at times prolonged report preparation times.

All people who contract with me use a system based on time spent and difficulty. I hope a new WC fee schedule would reflect what goes on in the world of business!

John MD QME August 13, 2019

The proposed fee schedule from the DWC is weak. It shows that the "powers at be" still don't get it. We need a fee schedule that works for the doctors for a change and not the insurance

companies. The proposal by Sue Honor Vangerov was a great start and now it appears were back to the same the nonsense as last year with some "clever folks" playing games with the careers of QMEs. The only exception this time around its a fixed rate rather than an hourly rate (which btw was made unattainable). California is in need of QMEs and this proposal does nothing to encourage new ones let alone with keeping the current experienced ones. If this passes I quit!

Nima Yavari MD August 13, 2019

The proposed changes are absolutely disheartening to me. With a current shortage of QME physicians in California, it surprises me that the DWC does not realize that further reducing compensation for the amount of time we spend addressing issues of the injured worker will only cause more physicians to resign form QME work. Nevada has a significantly lower cost of living than California and to propose a fee schedule that pays less will ultimately harm the injured worker here in California who we signed up to help in the first place. I also strongly support Sue Honor's proposals and strongly urge the DWC to reconsider her widely accepted schedule. I also have resisted the urge to recruit my fellow colleagues into QME work due to the uncertainty of the future proposals and I am certain this will exacerbate our current situation.

Richard Lieberman MD August 13, 2019
Associate Clinical Professor
UCSF Department of Psychiatry

I have been an AME almost exclusively for about 15 years, addressing complex factors in psychiatric matters. MD AMEs must adhere to the whole person statute of the 'how and why' the conclusions are arrived at, to anticipate deposition inquiry and to formulate the impact upon the psyche of multiple and continuing biological or medical, psychological, and social factors impacting upon the patient's immediate circumstance. Detailed record review with full accountability, followed by a report with high internal consistency of the report, and accuracy is required. The assignments, therefore, before the AME are substantially greater than to the QME, whose opinions must often must challengingly be crafted with inadequate medical records. The AME has the most salient records and must integrate fully the data to arrive at the most accurate likely truth. The opinion of the AME therefore, is derived from more data, deals with a lengthy history, multiple medical issues, is unusually complicated, and is not dependent on surface symptoms or behaviors but on a formulation of the person's internal and external strengths and dilemmas over the course of time, a significant assignment requiring much thought. I have never seen an easy AME case.

Eliminating the complexity factors for AMEs is a mistake, I believe, and will precipitate a mass exodus of the most trusted physicians in the system, namely, those chosen by both sides to resolve the difficult and highly varied cases, across all specialties. I will be amongst them in their exodus, if the new fee schedule does not recognize this, for I refuse to reduce my clinical judgmental process to more simplifying measurable data, required by the actuarial assessors in this new paradigmatic age insisting that everything be measurable. The best clinical judgment must be accountable, detailed, but always non-reducible to fit external formulae convenient to the age.

In the worse circumstances, given these proposed changes, I would predict a paradoxically more expensive outcome for patients with even more formulaic treatments, interminable care, more extensive secondary gain, and sustained and worsened disabilities. It will be even more costly for our state and insurers and the patients more than before will not return to competitive employment.

Simplified solutions never work with human beings, but excellent care with high accountability in a timely manner always reduces morbidity. Lets protect both our QMEs and AMEs whose assignments are truly complementary.

Kenneth R. Sabbag, MD August 13, 2019

Thank you for addressing the Worker's Compensation Medical-Legal Fee Schedule.

I have reviewed the most recent DWC proposal. Unfortunately, the current proposal falls short of adequately compensating the evaluating physician for many of the services provided and the time needed to produce a thorough medical-legal evaluation that can serve as substantial evidence.

For the most basic evaluations with minimal or no medical records, then the proposal for an evaluation (an ML102) is reasonable as it represents an increase over the current schedule. However, most cases in my practice involve in excess of 100 pages and sometimes over 1,000 pages of medical records of varying density that must be reviewed to produce an adequate report. Many cases involve multiple body parts. Many have had multiple injuries and re-injury to the same body parts. The proposed fee schedule does not come close to adequately compensating a medical office for those services.

I have reviewed the fee structure of our neighboring state Nevada. The Nevada Fee Schedule seems more equitable and appropriate for the services provided by a medical-legal evaluator. I would support adopting the Nevada Fee Schedule for California with a cost of living adjustment. The cost of living and the cost of maintaining a medical office is generally higher in California than in Nevada.

According to Realtor.com, living in Los Angeles costs 62.4% more than living in Las Vegas (even before considering taxes.) According to bestplaces.net, the cost of living in Los Angeles is higher due to the following:

The total of all the cost of living categories weighted subjectively as follows: housing (30%), food and groceries (15%), transportation (10%), utilities (6%), health care (7%), and miscellaneous expenses such as clothing, services, and entertainment (32%). State and local taxes are not included in any category. Updated: 09/18

In summary, it is my hope that the DWC adopts a fee schedule similar to that of Nevada and adjust the fees schedule to account for the increase in cost of living and the increase in the cost of maintaining a medical office in the Los Angeles area and in California.

Anil Garde, MD August 13, 2019

Our overhead expenses have increased significantly in the past few years. Please consider increase in schedule payment by 15 to 20%.

Meghan Marcum, PsyD, ABPP, QME

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Shereen Tabibian, Psy.D., QME August 13, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Steven Garman, PsyD, QME August 13, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Mitchel Silverman, MD August 13, 2019

I have reviewed the proposal regarding the changes to the QME fee schedule.

I find the payment proposal woefully inadequate.

Having had no increases since 2006, speaks for the lack of regard for the expertise that the majority of QME's pride themselves on.

The amount of office staff that is required to process and assemble a quality report goes un-reimbursed.

Absent/late appointment letters, late medical records, CT claims encompassing 8 or more orthopedic complaints are part of the hurdles many QME's in my discipline encounter daily.

Increasing demands for expedited reports and ordering/reviewing diagnostic studies also need to be included in the equation. All of this is possible, if we are paid so that we can employ the personnel and develop resources necessary to continue to provide the information.

Reading the comments of my fellow QME's seems like a deja vu from the DWC Forum from last year. We seem to have no real momentum to achieve a positive outcome. I enjoy performing Medical-Legal reports. Under the proposed DWC fee schedule, I fear it will no longer be possible. I cannot emphasize enough the need for a fairer proposal. I wholeheartedly endorse the qualitative suggestions of Sue Honor.

The likelihood of a mass exodus from QME providers would otherwise occur. Consider paying extended TTD to injured workers while they await their medical-legal exams. Also consider what the delay would ultimately cost in additional medical care and increased Permanent Disability.

It seems penny-wise to short change the Evaluators and pay far more on the back end costs. Many of us would close shop and consider retirement.

Nathan Morello, DC, QME August 13, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Anonymous August 13, 2019

All evaluators should look up AB 1832:

> *Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries sustained in the course of the employee's employment. Existing law requires the employer to provide medical, surgical, chiropractic, acupuncture, and hospital treatment, as specified, that is reasonably required to cure or relieve the injured worker from the effects of the worker's injury. Existing law also requires the employer to reimburse the employee for the employee's medical-legal expenses, as specified. Existing law requires the administrative director to adopt and revise a fee schedule for medical-legal expenses and requires the fee schedule to consist of a series of procedure codes, relative values, and a conversion factor to produce the fees that provide remuneration to physicians performing the medical-legal evaluations, as provided.*
>
> *This bill would require the conversion factor to be at least $18.75. The bill would require the administrative director to increase the conversion factor quarterly, as necessary, to reflect any increase in the Bureau of Labor Statistics Consumer Price Index for medical care, as specified. The bill would also require the administrative director, on or before*

> *January 15, 2020, to assign a reasonable relative value, greater than zero, for a missed or failed appointment for a comprehensive or follow-up medical-legal evaluation and for a review of medical records associated with a missed or failed appointment.*
>
> *This bill would declare that it is to take effect immediately as an urgency statute.*

It may be that the DWC's release of this terrible fee schedule is not coincidental and may be to undermine the bill that is getting traction in the California legislature. Also, the audit of the DWC after their enforcement of underground regulations has not been released.

Remember, the DWC is not a friend or advocate of the QME evaluator. Different persons mention that this is the result of a "few bad apples." The DWC engaged in the enforcement of underground regulations. Then they released a horrific feel schedule that was severely criticized. Now, many are severely criticizing this fee schedule.

Now that you understand that the DWC is not your friend, you should realize that the DWC has been trying to get rid of ML 104. They also do not want to give COLA. They do not want Sue Honor's proposal or any proposal that will increase the rate for extraordinarily complex evaluations. They have also rejected other proposals. They are only interested in proposals that lead the QME community to give up part of their income. This is why you have seen the last proposed fee scheduled and this fee schedule give severe cuts to these evaluations.

You can also see that the DWC is not your friend when they allow insurance companies to determine if they will pay you for no shows and even if they do, there is a limit. Again, if you do extraordinarily complex evaluations, you lose money. You will see the DWC is cutting supplemental report reimbursement. Again, if you go extraordinarily complex evaluation, you will lose money. These evaluations may not come with records but may take significant amounts of time to answer a particular question.

Also, now that you understand that the DWC is not your friend, you will realize they increased the work for evaluators but changing them from extraordinarily complex evaluators to petty page counters.

By the way, you better count these pages correct, or the DWC will go after you as you signed something under penalty and perjury. Maybe you counted an extra five pages. Maybe three pages were duplicate. It looks like you opened the door for the DWC to come into your life. We all know that the DWC told QME's that they are the judge, jury, and executioners, in order deny QME's due process, so expect your experience to be horrific. Also, the supplemental report wording allows the DWC to come into your life.

The DWC is also not the friend of evidence-based medical legal evaluations. Notice how there is no reimbursement for research. Obviously, research is necessary, especially for extraordinarily complex evaluations. Under this fee schedule, you have to essentially do that for free. You have to

purchase your own journal articles and use your own time. This actually will lead to fewer reports being substantial evidence. The DWC has not explained if lawyers and Workers' Compensation judges will accept reports that are not adequately backed with research.

The DWC is not your friend if you have a harassment claim. For example, if you have a sexual harassment claim, you want an evaluator to listen to you. An evaluator will not have any financial incentive to spend more time listening to you. If you have a harassment claim that has been going on for years, an evaluator will not have the financial incentive to listen to your entire history or to listen to the pages of written material you have brought in. There will be more glossing over of witness reports and depositions because these take a lot more time and at 2 dollars per page, an evaluator is not able to take care of overhead to spend time sorting through that material.

If you are a policeman or a fireman with injuries going back decades, your evaluator has no financial incentive to hear you out.

If you have multiple orthopedic injuries, this fee schedule is not your friend. We already hear of many stories about how different injured body parts are being ignored.

All injured workers should realize that the incentive proposed by the DWC is to have evaluators read your records as fast as they can. This is because the compensation is only 2 dollars per page after going through the first 400 pages of records. So that means a lot of skimming and a lot of glossing over many details that may be important. If you have a complicated case, you don't want your evaluator to be looking at you as a financial loss.

On the defense side, there is no added financial incentive to explore non-industrial factors. You will get more of these reports that are templates where they say a certain history has been reviewed but it hasn't.

Let's turn to who is the friend of the DWC. That is the insurance companies and employers. So while getting rid of ML 104, the DWC has increased the rate for those persons who are doing much less complex evaluations. This will help to increase the number of evaluators for relatively less complex injuries and take care of waits for orthopedic QMEs. This is also help QME mills and those companies who take off the top a QME's reimbursement. These kind of companies have low level persons who can spend hours on counting pages or record and figuring out what is duplicate. These companies will also get much greater compensation and incentive to take less complicated patients.

So, basically, what is expected from this fee system is that reports will get less complex, there is less incentive to fully hear out patients, and there will be a collapse of research-back reports. There will be more poorly written reports. There will be more of these companies that pop up to help take care of counting and the skimming of QME fees. Applicants attorneys and those representing themselves will need to be very careful that all injuries are adequately heard out, especially if there

is significant complexity to a case. Defense attorneys will have to do more digging into non-industrial factors.

I would urge QMEs to not accept this fee schedule or a compromise on the fee schedule. You are going to be doing a lot of free work under the new system if you try to do quality work. There seems to be discussion about Nevada but that is a different state and different system. Our fee schedule is supposed to be comparable to what we would get privately, not what we would get in Nevada. QMEs have been through much turmoil because of the DWC and you deserve much better treatment and compensation. The people working at the DWC have more incentive to give you cuts because it will help their careers in the long run. They will not be getting jobs helping doctors. They will be getting jobs in the insurance industry or higher level state jobs where showing cuts helps to pad your resume.

What QMEs want is a raise in the current fee schedule absent underground regulations along with a cost of living adjustment. QMEs should wait until the DWC audit is done and see the fate of AB 1832. Once the results of the audit come out, QMEs can see if there are any changes to the DWC that are will lead to a more favorable environment for QME. We need a DWC that is on the side of the QMEs. We don't need one that enforces underground regulations and proposes harmful cuts on an ongoing basis.

Ren Hong, PhD, QME August 12, 2019
Licensed Psychologist

The proposed medical legal fee schedule that was recently announced for public comment actually represents a **reduction** in pay for many specialties and most certainly for psychology. Doctors like myself cannot be expected to stay in the QME system without adequate pay for their time and services, particularly taking into account traveling for evaluations can be up to three hours for me. I am a relatively new QME but am strongly considering the possibility of not continuing as a QME if the proposed changes go into effect. For psychologists like myself, the proposed fee schedule would result in a significant reduction.

I implore the DWC to consider the proposed fee schedule presented by Sue Honor; it has been thoroughly looked at and endorsed by myself and my QME colleagues! Your proposed fee schedule appears to benefit insurance companies more than any other party. The results will be disastrous, leading to many QMEs including myself leaving the system.

Andrea Lackovic, PsyD, QME August 12, 2019

I have read the proposed QME fee schedule and regulation comments and as a QME, I am concerned. The new rates calculate to a significant reduction in pay, especially for psychological and psychiatric evaluators such as myself, it does not increase our pay. The exams and interviews that we complete are complex, with a multitude of factors that must be considered, queried, analyzed, verified, to determine both causation and apportionment, and is especially more difficult in complex cases. It is time consuming in order to do an effective, efficient, and thorough assessment. In addition the record review rates that you are suggesting appears deficient & would not compensate me for the appropriate amount of time that it takes. I, as many, are dedicated to providing quality reports, to include discussion and rationale and this system would not be worth my time. In turn, those who remain in providing services will be hasty in completing their evals in a manner that correlates with the reimbursement rate, and in turn, it will in fact create more cases, costs and delays to the system. This is taking a back step in the strides that have been made to recruit and ensure there are qualified examiners and provide thorough and accurate reports. A proposed fee schedule such as suggested by Sue Honor IS something that should be considered. Please reconsider your proposed fee structure. I, as well many QMEs, will resign if your proposed system is put into place.

Ann Richmond, President August 12, 2019
Work Comp Medical Services

It is apparent that the current fee schedule is perhaps being abused by some QMEs and that is the reason for the DWC's proposed new Medical Legal Fee schedule. I bill for several reputable QMEs and have done so for 25 years now. I see where some doctors take longer to review records and longer to prepare the medical-legal report than others. Those seem to be the area where it might seem like some are taking advantage of the fee schedule as it is. It seems to me that rather than punish all QMEs, some restraints on those areas could produce a working Medical Legal Fee schedule that would not persuade mass exodus of the QME doctors. The proposal as it stands now will persuade many QMEs to drop out. I have spoken to at least 6 doctor who say they will exit if the proposal goes through.

I propose the following:

There should be hourly rate for face to face with caps for certain specialties.

There should per page rate for all records (averaging 100 pgs per hour) 2.50 per page. Number of records sent should be recorded by the sender in referral letter.

There should be hourly rate for integration, interpretation of all data into report format with caps for specialty. This should be another code.

If research is needed to come to pertinent conclusion, QME should request such in writing to the parties explaining why it is needed.

Code	Unit	Rate	Cap
MLFF100 (face to face time)	1 hr	250.00	2 hr all specialties accept psych /3hr
MLRR100 (record review)	page	2.50	# of pages designated by referring party
MLRPT100 (report)	1 hr	250.00	3 hr all specialties accept psych / 5 hr psych
MLRSH100 (research)	1 hr	250.00	allowed only with special Authorization

Reevaluations the face to face within 1 year should be flat fee for face to face. i.e. 250.00/

MLFF200	1 hr	250.00	1 hr
MLRR200	page	2.50	# of pages designated by referring party
MLRPT200	1 hr	250.00	2 hrs all specialty except psych / 3 hr psych

Reevaluations after one year goes back to first.
See above.

Supplemental should be 2.50 per page of records with # of pages designated by referring party.

MLSUP100	page	2.50	# of pages designated by referring party.
MLSUPRPT	1 hr	250.00	1 hr for every 250 pgs of records reviewed

---

Sandy Klein, Ph.D. August 12, 2019
Newton Medical Group/Exam Works

As a psychologist/neuropsychologist I believe the proposed add on of 50% for psych cases is unrealistically low, given the complexity and time needed for each case. Other specialists might see 4-6 cases a day compared to our 1 or 2 cases. The exams are longer and the reports more complex and take longer to write. Psychological and cognitive tests need to be administered, scored and interpreted for a low testing fee rate. The colleagues I have spoken to do not feel the proposed fees are reasonable and that psychiatric and neuropsychological QMEs/AMEs are being

unfairly penalized. I suggest a 100% add on for psych cases and an increase if possible in the amount we bill for testing.

Tanya Mesirow, Psy.D. August 12, 2019
Clinical Psychologist

These comments are addressed to the DWC regarding the Proposed New Med-Legal Fee Schedule. As a clinical psychologist and QME, I am concerned about certain proposed changes being presented by the DWC.

For example, 400 pages of records is way too much to be part a standard fee evaluation or a supplemental. Evaluations should NOT include 400 pages of medical records reviewed. Any review of records should be a separate independent charge or service as is presently the case. The review of records should be based on time, not exclusively on the number of pages as is presently the case. The whole issue of being a QME in an underserved area and being paid more for it should be completely abandoned. The State does not pay more for physicians to practice in an underserved area and until that is corrected it should not pay QMEs more to do QME evaluations in underserved areas. I approve of the increase of the fees for the initial evaluation, and follow-up evaluations. There should be NO exclusion of records already reviewed while doing a supplemental evaluation or report since the QME quite often has to review those previously reviewed records. The time period between an initial evaluation and a reevaluation needs to be defined since quite often a QME will do a reevaluation at least a year afterward an initial evaluation. I would raise the fees and leave all the present rules in place with NO changes.

In addition, I am concerned that the QUALITY of reports would go down with the new rules. In essence, evaluators who perform very quick evaluations, without great depth or analysis will reap the benefits of the new plan. On the other hand, evaluators like myself who do very in depth histories because their cases demand it, would take a substantial loss.

Also, will QME's be paid for research time? This is a required part of reports for Psychologists at this time.

Finally, rates for psychological evaluations are simply too low. The amount of time spent on this type of evaluation (time with patient is usually at least 4-6 hours) exceeds other specialties and although the rates are higher for psychologists, they are not high enough to pay for the time actually spent on the evaluation. It will be difficult to retain good QME in psychology if the rates change to flat fee that is being proposed.

Katheryn Raphael, MD, QME August 12, 2019

I looked at the last six cases I have completed which include a mixture of QME evaluations, supplemental reports, re-evaluations and SIF cases. I compared what I billed for those cases with what I could bill under the new proposed fee schedule. Four of the six cases would bill for less, two would bill for more. Adding up the gains and losses, I came out with a net loss of $369.20 per case. I have concluded that the new proposed fee schedule is actually a pay cut, and not a raise.

Most of the cases I see as an internal medicine specialist are complex.

Medical records are a big issue in my specialty. The claims examiners and lawyers always obtain the primary treating physician's reports, the QME/AME reports but mostly lack the medical records from the applicant's regular medical doctors who they have seen for their internal medicine conditions. Furthermore, I have never seen records in chronological order and most records have duplicates. In order to review the records I have to put them in chronological order, look at each page- in order to determine if there are duplicates and then abstract them. This takes time. Including 400 pages in a base fee is a terrible idea. Very dense records with little filler and duplicates of 400 pages can easily take 4 hours to abstract.

I always spend at least two hours with each applicant. More time if the applicant is illiterate, has low health literacy, requires an interpreter or who has multiple internal medical conditions that the parties want addressed. This is typical of most of the folks I see who are in the workers comp system.

In some complicated cases research is essential for a quality report that can help to resolve the issues in the case.

It is not unusual to receive a letter from an attorney or even both attorneys asking 8- 10 questions for me to address in addition to the basic requirements of a report. This is often billed as prep & edit time.

In summary, this proposed new medical legal fee schedule is in actuality a pay cut for those who do a thorough well written report. In order to not take a pay cut under the proposed new fee schedule I could spend less time with applicants, forgo research, list instead of abstracting records and gloss over the lawyers questions. Frankly, I would not feel good about my reports if I did so. My other option would be to surrender my QME license and remove one more internal medicine doctor from the panel.

There are other negative things in the proposal- why pay more in "underserved areas" frankly this proposal will definitely create more "underserved areas".

J. Singer, PQME Evaluator August 12, 2019

The new fee structure proposal is not matched to effort, time required and spent, and not even time and effort to review records for psychiatric evaluations. A very simple case evaluation with few records could be covered by $2475 or about ten hours. The time for record review depends on what the records contain. Skimming records with little psychiatric content e.g. orthopedic records, could be done at 100 to 150 pages per hour. But obviously psychiatric records could not be done at that rate - 25 pages would be more reasonable per hour. Then there is the time needed to cull all the important information out of the records and compare and contrast it to the patient's presentation at the exam, test results, previous exams with the patient, which can be quite time consuming. Complicated cases easily take 20 hours for interview, record review, analysis of test results, and report writing and editing. So without any raise in ten years or so, that would amount to $5000. Cutting the time for all this in half would not provide a useful report so this proposed fee schedule would sabotage the usefulness of the entire report procedure.

Evaluators need to be paid for time and effort required and spent for a report.

Sarvanan Ram DDS August 12, 2019

I am concerned about the new flat fee schedule and payment per page of records under the proposed new med-legal fee schedule. This will lead to inadequate and incomplete record review, poorly written records and request for multiple supplemental reports and depositions to clarify the underlying med-legal issues. The purpose of the QME is to review records thoroughly, analyze the subjective and objective findings and formulate a discussion/conclusion on the complex med-legal aspects of the case. All this takes time and the QME must be reimbursed by the time spent and not on flat rates or fee per page. To cut the reimbursement of the QME will only lead to an attrition of QMEs and poorly written reports. QMEs must be reimbursed appropriately to ensure high quality reports that will enable the attorneys and insurance carrier to resolve claims quickly, and enable the injured worker to get back to work and receive the necessary treatment and compensation. After all, that it is the purpose of the medlegal system.

Susan Velasquez, Ph.D., QME August 12, 2019

In reviewing the proposed fee schedule, I see many flaws and possible problems if this proposed change were to be enacted.

Psychological exams are complex, require extensive interviews, and there are multiple factors that must be considered and discussed with regard to both causation and apportionment in the final report. The record review rate also appears low and would not compensate a psychologist who is sent duplicate records and still has to look through these to determine that factor. As for the supplemental report rate, this would not sufficiently compensate a doctor who is asked several complex questions and has to review indicated case law such as new rulings as well as looking at the original report findings in order to provide a germane report. The proposed fees will not compensate a psychologist adequately resulting in the resignation of many psych QMEs like myself. I hope that this is not the case as, I believe in serving the workers' compensation community and take pride in providing comprehensive reports that include the medical legal evidence to help expedite these cases. I am sure that many QMEs will be leaving the system if this is put into effect, or the result will be rushed and shoddy reports by any remaining QMEs, that will only create further costs and delays to the system in the long run. I strongly urge that the proposed fee structure be reconsidered.

I again endorse Sue Honor's proposed fee schedule as I have previously, and also suggest that the labor code include an allowance for additional offices for tenured doctors. Any QME who has been certified for 5 years or more without any disciplinary action by the DWC, should be allowed to list 5 additional offices for a total of 15 office listings every year thereafter that they remain in good standing.

Michael Sachs August 12, 2019

Physicians need to be compensated adequately for these exams. You don't want only to have evaluations paid to physicians not interested in doing well done and medically supported exams who do not do good work. Cut corners and do not carefully review records but produce unsupported reports as they do incomplete sloppy work, doing this because they feel and are willing to accept less, receive inadequate compensation, or leave the work comp system--

---

Bobbie McDonald, PsyD, QME August 12, 2019

In reviewing the proposed fee schedule, I see many flaws and inherent problems if this proposed change were to be enacted.

1. Despite being presented as a rate increase, the proposed fee schedule results in a lower rate of pay than the existing fee schedule for many specialties, and particularly for psychiatry and psychology. The flat rate fee system may be a more efficient system as

it eliminates ambiguity in the billing but needs to be increased to a rate that adequately compensates the doctors if doctors are to remain in the QME system.

2. The proposed fees discuss the review of records being only paid for records that were not previously reviewed. Many times, insurance companies and attorneys send duplicates of records that must be gone through page by page to ensure that all and not just some of the pages were duplicates. Is this additional work to be performed by the doctor for free? Also, at times the duplicate records are received two years later at re-evaluation. Does the doctor have to perform a line by line assessment of what records are new and which are duplicates, again at their own time and expense? The way that this proposed fee schedule is written indicates that the doctor would be required to take the time to go through these records each and every time they are submitted, but only bill for any new records that found amongst those received. This is unacceptable. The language should be changed to state that any records that are submitted by any involved party shall be counted and billed. It is up to the attorneys and insurance company to ensure that the doctor only receives records one time, and does not receive duplicates, or to compensate the doctor if they are sent duplicates.
3. A psychiatric exam according to Title 8 Division 1 Chapter 1 Article 4 Section 43 "will almost always be one to three hours." According to this section the expectation for the interview and required elements to be documented in a psych report are extensively more comprehensive than any other specialty, making the report writing time substantially longer as well. With regard to the record review, according to Title 8 Division 1 Chapter 1 Article 4 Section 43 a psych cannot have another individual review our records and must perform this review of submitted records ourselves. From the section: "…the use of other than the examiner to review the records and edit/write reports is unacceptable. Not uncommonly, the psychiatric examiner reviews personnel files, military records, educational documents and other administrative reports that must not be delegated to the purview of others." For this reason, the psychiatric/psychological medical report review should pay a minimum of $4 a page.
4. The missed appointment fee must be mandatory. If a doctor has set the time aside in their schedule and taken time to prepare for the evaluation, then if it is cancelled within 6 days they should be compensated and this should be specifically stated as such in the fee schedule.
5. Also, with regard to the missed appointment fee, psychiatry and psychology are the only specialty that the labor code specifically states can cancel an evaluation if records are not received in time of the evaluation. Physicians in these areas of specialty are expected to review records BEFORE the evaluation in order to comprehensively evaluate the applicant. For this reason, psychiatrists and psychologists should also be allowed to bill for record review of submitted records as part of the late cancellation/missed appointment fee, at the per page rate from the first page.
6. The rate of pay for supplemental reports is inadequate. Many times, the questions asked are numerous and complex. If a doctor is asked to consider his previous findings on causation or apportionment based on new records, deposition or personnel records provided, that doctor must go back and look at the previous findings in his report in

> order to consider the new information in that regard. The doctor cannot be expected to recall every detail of a case when presented with new records or information for a supplemental report and often requires time to review the previous reporting to gain a basis for considering the new information presented. The proposed fee schedule expects the doctor, in essentially one hour, to consider the information, review the previously information to be able to consider the value of the new information, and then distill it down into a thought out response that constitutes medical legal evidence. The rate of pay for supplemental reports should at the very least be the equivalent of 3 hours with a per page add-on for any records submitted for review.

In sum, for the new fee schedule to adequately compensate doctors for their time spent, these factors need to be reconsidered. A substantial percentage of the current QME doctors signed on to the plan presented by Sue Honor for a new fee schedule. Why is this not being considered as the standard as opposed to a fee schedule even lower than that of Nevada where the cost of living and of doing business is substantially lower than that of California? It seems like an attempt to lower cost for insurance companies is going to result in higher costs in the long run if the QME system is abandoned by most seasoned doctors leaving inexperienced and underpaid individuals issuing reports that are of no value to parties in expediting the cases that are clogging the system as it is. The key to improving the system is to actually pay QMEs adequately for their work, which will draw new and competent doctors into the system rather than driving them away as this proposed fee schedule will do.

I again endorse Sue Honor's proposed fee schedule as I have previously, and also suggest that the DWC include an allowance for additional offices for tenured doctors. Any QME who has been certified for 5 years or more without any disciplinary action by the DWC, should be allowed to list 5 additional offices for a total of 15 office listings every year thereafter that they remain in good standing.

Linda d. Nelson, Ph.d, ABN, QME August 12, 2019

I'm a licensed clinical psychologist and board certified neuropsychologist and have been a QME for a number of years working as a paneled provider, performing psych PQME's.

Please consider a flat rate with a ceiling for psych PQME's. Our injured workers with mental health issues require longer examination times with or without interpreters than those administered by medical doctors, such as orthopedists. Reason being is that we are the only QMEs who are called on to rule-out issues, like malingering, and determine medical necessity for treatment and compensation.

Face to face interviews in our field require more than standard MD exams because, we are asked by counsel to determine if a claimant is seeking to obtain compensation for a true psyche injury

and/or is seeking compensation for secondary gain (e.g., the need for compensation for fabricated injuries, physical and otherwise). Psychologists are trained and are skilled in this area. Motive to seek compensation from the DWC may be based on factors *other than true mental health diagnoses with sufficient medical evidence to support their claims*. In short, psychologists perform med-legal exams just as they would in any arena where secondary gain is considered. I stress this because we are experts in this regard.

Having said that, and having worked in the field for a number of years in the great State of California, I would propose the following:

Carve outs specific to our specialty of clinical psychology:

1. flat fee for face to face exams: history taking, including history of industrial injury and background history not to exceed 6 hours X minimum $250./hour = $1,500.
2. review of record fee: fee by the inch of records (to be decided)
3. flat fee to prepare a comprehensive report that includes data analysis and interpretation of data: 6 hours X minimum $250./hour. $1,500.
4. flat fee for psychological testing of $1,500. (including administration of MMPI-2, BDI-II, BAI-II), test scoring and interpretation.
5. **total cost of a psych PQME examination, ML level, for an injured worker in California for a psych PQME: Ceiling rate of $4,500.**

That is at the low end for the usual and customary rate for psychologists in California. Having performed examinations that meet DWC standards of excellence for ML-type exams, this is one idea for the DWC to consider for any proposed fee schedule for psych PQME.

Eli E. Hendel, MD August 12, 2019

The proposed changes from the DWC are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal. This legislation/proposal should also include punitive actions against DWC should they be found doing unfair and illegal practices.

Judith A. Thurber, DC, QME August 12, 2019

Your proposed changes to the QME fee schedule are TOTALLY unacceptable. If enacted, this fee schedule will increase MY administrative burden dramatically for performing a QME, not compensate me fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system. I have been in the "QME/work comp" system for over 30 years, dedicated to the injured worker that they get fair portrayal of their injury. If you enact these changes ***I WILL*** leave the program. There is absolutely no way I can do this work with this fee schedule.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders. Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is dismaying at best. It appears that you are not interested in providing injured workers with a reasonable selection of qualified, experienced QMEs. If you complete this fee schedule changes, no QME I know can afford to continue to do this work. The reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Most relatively new quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's increasingly burdensome administrative actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Howard M. Greils, MD August 12, 2019

In in response to the proposed changes to §9794 - Reimbursement of Medical-Legal Expenses: It is clear that the authors of this proposal are not acquainted with the complexity and infinite number of variables involved in producing a comprehensive medical-legal evaluation report. Since the authors have not taken this into consideration, the resulting proposal stands to inflict widespread damage to the entire system of medical-legal evaluation and reporting. This will impede the ability of both the applicant and the defendant to attain fair and equitable conclusions and recommendations from Qualified Medical Examiners.

Hopefully the following information will help to influence the decision-makers to abandon this proposal.

First of all, there is the issue of the flat fee for a medical-legal report. This assumes that any one report is similar to any other. This is a completely ill-informed assumption. In some cases, there might be one injury at issue and this might fit into the proposed pay scale. But more often there are two or three or more injuries, and each has to be carefully studied, evaluated and analyzed. There might be one cause of injury - or many causes, and each of these has to be carefully considered and apportioned. In the latter cases, the analysis requires a great deal more time than in the former case. Therefore, one payment standard for each of these cases cannot be appropriate or adequate to cover costs.

There are additional complicating issues. For example, in a psychiatric evaluation, if there is any possibility of causation by lawful, non-discriminatory, good faith personnel action, a *Rolda* analysis is required. This demands a careful study of every event that has occurred in the workplace and assignment of a percentage of cause so that the trier of fact can determine if there is substantial contribution from that cause. This can be extremely time-consuming. Or - sometimes the applicant is a poor historian and his or her reporting is unclear. These cases require extensive time comparing the applicant's reporting to the information in the medical records, and to deposition testimony, etc., in order to arrive at a fair understanding of the history and arrive at fair conclusions. This extra time requires additional compensation.

The second, and even more problematic, issue is that regarding compensation for the review of medical records. The proposal suggests that a review of 400 pages of records should be included in the flat fee being offered for the completion of an initial QME medical-legal report and that any further records be compensated at two dollars a page. This is ill-informed in that it appears to assume that each page of medical records is relatively equivalent to any other page. This is FAR from the reality. At times, there may be little to no significant information on a single page, but often, one page may contain dense and important information that requires a lengthy period of time to summarize and to consider. For example, most deposition transcripts are presented in condensed form with four to six pages of important testimony printed on a single sheet of paper. Deposition testimony is essential medical evidence. A fair conclusion cannot be reached without careful study, summarization and review of this evidence - which is extremely time-consuming. Also, as a psychiatric evaluator I often have to carefully review historical psychotherapy progress notes. These can be dense and filled with important information. Further, these are often handwritten and may require extensive time to study and interpret. Additionally, credibility issues must be assessed and issues regarding over reporting and exaggeration require careful study. The applicants reporting must be cross-checked for inconsistencies. Appropriate compensation is necessary for this task.

The authors of this proposal are also apparently unaware of the manner in which medical records arrive. Often, many additional hours are required simply in order to sort them by date and provider, eliminate duplicates, and determine which documents are relevant. Also, of late, medical records are more often arriving electronically or in digital form on compact discs. Sorting through these documents in this form takes even longer than hard copies. Another issue is that there is often video surveillance footage. The evaluator is often asked to scrutinize such video as part of the medical record. How would this even be counted?

All in all, it is extremely important that it be understood that all medical record review time needs to be compensated separately from the preparation of the report so that the each of the variables can be appropriately considered and compensated.

A third issue is that of the proposal of a flat fee payment for supplemental reports. This is likewise ill-informed for the same reasons as those discussed above regarding evaluation report, i.e., the vast variability in these reports. And further, the authors may not realize that, often a supplemental report is issued in response to an attorney's interrogatory. This may involve responding to multiple complex questions involving legal and medical issues, and the time demands of such a report can vary widely. Therefore, a flat fee is totally inappropriate.

In summary, what the authors of the proposal have not taken into consideration is that there is a vast, VAST amount of variability from one applicant to another in the preparation of any medical-legal report. Since each report has unique time demands, the ONLY fair and equitable way to provide compensation is to continue to allow the evaluator to submit an assessment of the number

of hours involved in the preparation of each individual report, separate from each individual review of records, and be compensated accordingly.

I must state that, if the proposed section does go into effect, I predict that the vast majority of expert, caring and professional evaluators will simply have to withdraw their services. There will be no way to provide these services without sacrificing the ability to make ends meet. (I know that I, personally, would have to retire from this type of work as it would end up costing me more to produce a report than I would be paid.) Unfortunately, when the good ones leave, the vacuum will be filled by those who are willing to whip out reports without the attentiveness, accuracy, clarity, complexity and professionalism which is absolutely necessary to provide a final product that is fair to both the applicant and the defendant. I strongly suspect that the judges will be sending such reports back over and over again for development of the record. This would end up costing more in the long run, and would be counterproductive to the goal of saving money, which obviously is the purpose of this perhaps well-intentioned but grossly ill-informed and dangerous proposal.

Ultimately, the passage of this proposal would result in a disastrous outcome for all involved.

Ira B. Fishman, MD August 12, 2019

Express profound disappointment in the DWCs current proposal that is completely unworkable as written.

Major lack of detail and thought to unintended consequences.

If the DWC cannot draft a detailed nuanced proposal that provides adequate explanations of all terms and ramifications, just adopt the Nevada system and save all of us much stress and hassle.

The present proposal without radical changes will cause more QMEs to leave the system and generate endless billing disputes.

J.A. Weiss MD, PhD August 12, 2019

I have a number of concerns with the new proposed fee schedule.

The 400 page threshold is too high - I believe that it should be reduced to 200 pages. There are many cases where the density of information in 400 pages is very high and reviewing 400 pages is

extremely time consuming- it can involve several hours of review and even more time to analyze the material to arrive at what is supposed to constitute substantial medical evidence..

The proposed schedule does not take into account the complexity of the case - multiple injuries and body parts which require a lot more analysis although not always accompanied by > 400 pages of records. QMEs/AMEs who typically review simple and single issue cases will be happy and probably be overcompensated, but those of us who have a preponderance of complex cases will not be adequately compensated.

Research is also time consuming and there does not appear to be any built-in compensation for that. I see some very unusual conditions where my opinions need to be backed up by literature. There will are no incentive to do research that leads to substantial medical evidence if the time is not compensated.

The proposed fee for supplemental reports is woefully inadequate for a number of reasons. I just spent 3 hours on one where I had to rebut another QME's opinions; it required a lot of analysis and review of all my and his reports, but despite that, there were only about 25 pages of new material. The new proposed fee will be inadequate for an evaluator to perform an in-depth supplemental analysis.

There does not appear to be any fee for sub rosa viewing which is another time consuming process- These are most often done in a supplemental reports and the current proposed supplemental fee will not cover it.

Finally, how much time is the evaluator expected to spend going through records sent for a supplemental report to determine whether they are duplicates of those reviewed for the initial or follow up examination? It takes a lot of time to sort through the record "dumps" of subpoenaed files that can be in the thousands of pages to select out what might be a relatively small amount of new material.

How will preparation time for depositions be compensated? How will additional records or deposition transcripts reviewed in preparation for a deposition by handled?

Joseph K. August 12, 2019

This proposed new fee schedule is ridiculously biased in favor of the insurance, in that it will clear out the system of ANY doctors who might view their role as being impartial, rather than in the pocket of the insurance companies. The current system of CA work comp has been eviscerated in the past 15 years or so, and to propose a fee schedule based upon NEVADA of all places, but LOWER still, smacks of a complete disregard for even the optics of corruption in the work comp insurance industry in California.

How much demonstrable greed from the insurance companies will it take before California's working people get their state government to wake up and take some action to defend them?

Mark Kosker, DC, QME, IME August 11, 2019

I have reviewed the proposed changes in the QME Compensation Fee Schedule for the State of California. If this fee adopted will harm the Worker's Compensation system which is already in trouble. As written, it will most likely result in further loss of QMEs.

This new proposed fee schedule is unfair and unacceptable. It does not offer a fair wage for the work performed. Compensating someone $2 per page is nonsense! I urge to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. I ask that there be a raise in all areas of the QME system allowing for increased overall compensation so that providers can have an increase in their wages which would reflect inflation and the increased overall demands of this system. Cost of living is going up every day.

Why should California QMEs be paid any less than those in Nevada providing the same service? Low reimbursement and the enormous amount of time often required to do a fair job in reviewing applicant cases is killing the system.

Your job is protecting workers. You spend a lot of time making sure that they get their evaluations and reports on time and that the work is ethical and professional. Your proposal would mean that workers will not get the careful and thorough evaluations to which they are entitled.

William H. Ramsey, MD August 11, 2019

400 pages of record review as part of standard fee evaluation is way too much. 200 pages is reasonable. Please note that voluminous records containing irrelevant material not only waste our time but cost unnecessarily, even worse when multiple evaluators are involved. Abridged records containing material only pertinent to the injury(s) being evaluated would help us all.

Keyvan Yousefi, MD August 11, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported.

Anonymous August 11, 2019

I want my own business. Dealing with the state here is BS. We will still do ok, but not in the realm of what is happening now.

Bruce Roth, MD August 10, 2019
Psychiatric QME

Today I performed a psychiatric QME on an applicant that indicates the absolute disaster that the proposed fee schedule changes would bring. This applicant had over 4,000 pages of records to review, has had previous orthopedic and psychiatric injuries with previous permanent injuries. The applicant was alleging new orthopedic and psychiatric injuries with new employer. The applicant had numerous previous QME reports to review including internal medicine, orthopedic, PMR and psychiatry. He was noted to have evidence of symptom exaggeration along with history of numerous severe medical conditions such as CAD, CABG and CVA. His evaluation due to interpreter and cognitive impairments took about 3 hours to complete. The evaluation, record review and write up will be extensive in order to provide a report that appropriately addresses the questions from DA and AA. If the fee schedule changes as proposed, I would be asked to do these types of evaluations without adequate payment. The proposal has an unfair low flat rate, unfairly low per page record review rate and no

reimbursement for first 400 pages, wouldn't reimburse for face to face time after the 2 hours, wouldn't require the records to be organized.

I find the flat fee as proposed as grossly undervaluing the time and work required on not only complex cases but also more moderate cases as well. I find the majority of cases fall into ML104 complexity. I can appreciate how removing complexity factors sounds easier for billing purposes but flat fee billing would remove the opportunity to justify cases with high complexity that require extensive involvement of time and effort to complete.

BTW, Is the DWC asking attorneys to reduce their fees, of course not! The QME rates have not had an increase in over 10 years. This proposal is short sighted and I'm sure would deplete the ranks of quality QME causing a crisis for the DWC. Better to propose a better fix, one that includes more simplified complexity factors and more appropriate fees. Sue Honor's proposed QME fee schedule was at least more equitable than the one proposed by the DWC. Sue also proposed other important administrative billing issues to protect QME reimbursement.
The fact that the DWC has disregarded essentially all of Sue Honor's qualitative suggestions is disheartening especially when realizing reimbursement paid to IMEs in Nevada are higher in a state with a much lower cost-of-living state than California.

I hope they will reconsider and not implement this proposal.

Richard Lettieri, MD August 10, 2019

This proposed fee schedule, if adopted, will undoubtedly lead to an exodus of experienced QMEs.

Hose Kim, MD August 10, 2019

In addition, some of us QMEs, including myself, prefer to receive actual paper records and NOT electronic. There should be a choice in the matter.

Hose Kim, MD August 10, 2019

The proposed changes from the DWC are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal. This legislation/proposal should also include punitive actions against DWC should they be found doing unfair and illegal practices.

Jed M. Sussman, Ph.D., QME
Clinical Psychologist
Board Certified, ABFE
Fellow, ACFE

August 10, 2019

I have been a QME and AME for the past 25+ years. My practice as a clinical psychologist and neuropsychologist has been almost exclusively devoted to the workers' compensation system in California. I have done thousands of AME's and QME for defense attorneys, claims adjusters and applicant attorneys. I can tell you over the years the complexity for workers' compensation cases has increased dramatically. Typically QME's and AME's arrive with 7-8 page letters from the respective parties with each posing 20+ questions and issues to address. More often than not the cases are accompanied by a great deal of medical material to plow through and entail

complications involving psychiatric issues, chronic pain issues, allegations of employer mistreatment issues, pre-existing issues, medication side effect issues, drug/alcohol abuse issues, and personality issues. It is for this reason psych and neuropsych claims are extraordinarily complex and require great deal of time to generate a thorough and probatively useful report. The reports also must address multiple medical-legal issues such as causation, predominant causation, a Rolda analysis, Benson, Almaraz-Guzman-II/rating, apportionment to causation, and disability overlap issues and use of the CVC.

As you can see crafting a psychiatric and neuropsychiatric QME and AME is highly labor intensive and considering the complexity there are fewer and fewer new psychologists and neuropsychologists willing to learn how to do it. It is unsurprising the number of psychologists and neuropsychologists actually willing to do the work is dwindling. By this I mean psychologists and neuropsychologists actually willing to do medical-legal work - versus those listed but who do not accept the work.

Considering the importance of AME and QME work and the amount of time and complexity to do good medical-legal evaluations, unless the recently proposed revision to the Medical-Legal Fee Schedule is substantially improved I will no longer take AME and QME cases. The rate of pay is far far far too little considering the complexity and expertise needed.

There also needs to be a mandated fee of at least $650.00 for failed appointments. QME's and AME's require up to 6-7 hours of time and when it is failed the doctor should not be penalized by the insurer's indifference about the value of his time.

The reimbursement rate for record review needs to be substantially increased too.

The proposed rate of pay for a Supplemental Report is ridiculous since many times it necessitates a re-analysis of the case and findings after reviewing boxes of additional records and having to craft another long thorough report.

Most of all the rate of pay for a psychological QME is pitiful. It surely would cause many psychologists and psychiatrists to drop out the the workers' compensation system and thereby leave the work to novice and burned-out doctors.

No doubt you have seen the proposal by Sue Honor. She is a fair expert in this arena and her proposal for a revised medical-legal feel schedule is far better. May I suggest you re-read and adopt it.

Roger Nacouzi, MD August 9, 2019

400 pages in flat fee shall be changed to 50 pages as in Nevada.

$500 shall be added for each body part in excess of the first.

$2 per page shall be changed to $7 per page ($ 4.34 per page in Nevada that has lower cost of living).

$1 per page shall be added for organizing records - note EHR are very messy referring parties/photocopy service shall specify verifiable number of pages.

One tier of pay for routine medical records and a higher tier for complex records (depos, personnel, evaluations, dense or handwritten notes.

Allow additional pay for prep med search reporting time beyond pay for records review.

Re-evaluation (lower flat fee) be limited to evaluation within 8 months of initial evaluation.

Julius Woythaler August 9, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with

DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

G. Lohiya, MD, MS, FACOEM August 9, 2019
QME Toxicology

Under the proposed new med-legal fee schedule, toxicology QME compensation for ML101 and ML103 will be unfairly low, and much less than for ML104 under the current med-legal fee schedule. This is because medical research is not adequately compensated in the new med-legal fee schedule.

Toxicology evaluations typically require much more medical research than non-toxicology evaluations. Toxicology exams require review of material safety data sheets of numerous chemical products. A given product may contain 5-10 chemical ingredients whose toxicology has to be individually researched. No toxicologist can memorize the toxicity of thousands of chemicals. Besides, science is constantly evolving in terms of carcinogenicity, teratogenicity, mutagenesis and general toxicity. There is often controversy whether a given chemical causes cancer, and there are research articles on both sides of the matter, e.g. Glyphosate in Round Up. Such research is time consuming, and has to be undertaken from PubMed, ToxNet etc, and involves studying many pages of intense scientific text with considerable time expense. The number of pages in a product's material safety data sheet is usually low (5-10 pages). Besides the MSDS are often not part of the records (QME has to search online) so they are not even part of the $2 per page fee. Currently such extraordinary medical research is compensated under ML104. In contrast, with due evaluation of applicants with a knee meniscal injury involves relatively little medical research.

Suggestion: Allow additional fee at $424/hour for time spent in Medical Research if extraordinary circumstances are present (by justification based on number of chemical ingredients, or research articles studied, or evidence of scientific controversy in the peer reviewed medical literature

---

Jeffrey Keith Bridges, PhD August 9, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Shaul M. Saddick, Ph.D., QME August 9, 2019
Clinical & Forensic Psychology
Clinical & Forensic Neuropsychology

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed

by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Dan Kaplan, MD August 9, 2019

I have been a QME since the program started. Please adopt payment reform as per Sue Honor.

Michael J. Feldman, MD August 9, 2019

I am a QME in Southern California/Los Angeles. My specialty is orthopaedic upper extremity surgery. I have been in the QME community since 2003.

The reimbursements to doctors for performing QMEs have been declining, not to mention there have been no cost of living/cost of doing business considerations. The further proposed changes are entirely absurd. These changes, based on a flat fee schedule adopted in Nevada, are significantly lower in reimbursement to the doctors than in Nevada, where the cost of living is significantly less. I won't mention all of the crazy comparisons between the two state's schedules,

but to require the doctor in California to review 400 pages of records before he/she can bill for his/her time, whereas in Nevada it is only 50 pages, is outrageous. There are so many differences between the two schedules, all of which burden and disfavor the doctor in California by comparison to the doctor in Nevada. It is entirely unfair, and we know it.

If these proposed changes are adopted in their current format, I will discontinue my participation in the QME program in California. I think you will be hearing this from many of the MD's in the state. Sorry to tell you, but the program won't work without doctors.

Robert MacArthur MD August 9, 2019

My understanding is that the current proposal is for 1650 flat fee for QMEs.

I respect and support the goal of creating fair payment for QMEs. Fair from both points of view. I strongly support the concept of a flat fee due to the discrepancy of charges between doctors for reports of similar complexity.

My concern is that operating surgeons, like myself, will be priced out. Meaning it would make more sense for me to schedule another surgical day than another QME day at the 1650 rate. Frankly. I like doing surgery more than QMEs. So a little bump up would go a long way. I'm aware of Sue Honors proposal of 2200 per report. If you could meet half way,1900, you would keep me and other operating surgeons in the game . Less than 1900 and I suspect you will lose most active surgeons and have a panel of retired surgeons.

I am available for a very open and honest discussion and I appreciate your work on this project.

Stuart Fischer, MD, FACP, FACC, QME August 9, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Sukhjit Brar, MD, FAPA, QME
Board Certified Adult & Child Psychiatrist

August 9, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Christina Averill, PhD, QME August 9, 2019

As a QME psychologist for many years, I am appalled at the latest recommendations proposed related to the Fee Schedule. The level of disrespect for the work QME physicians and psychologists provide is evident in these proposed changes to the Fee Schedule and I am deeply disappointed in this latest disconnect.

I would hope that some degree of effort would be demonstrated by the DWC to stabilize the QME system rather than putting forth suggestions that would undermine the entire process.

Gordon MacLean, Ph.D., ABPP, QME August 9, 2019

The proposed revised fee schedule would drastically reduce payments for future QME evaluations as well as discourage physician participation in these evaluations. Why? These are lengthy evaluations that typically involve truly complicated issues. There would be no need for an independent evaluation if the issues were not complicated. I rather enjoy the challenge of writing an independent report that truly attempts to address all of the important issues in a fair and balanced manner. I typically charge for fewer hours than it takes me to complete a QME, particularly when it is a good faith type evaluation. The highly dramatic reduction in fees would reward a much more superficial evaluation. I again wonder about the motivation to reduce fees. To respond to a few evaluators charging truly excessive fees? I have reviewed a few evaluations that involved what appeared to be excessive fees…as well as evaluations of poor quality. The proposed reductions represent a highly dramatic and punishing act of over-kill and perhaps also reflect unknown influences on the decision makers.

Please work to improve rather than dismantle the system. If this is a problem-solving process, please share your criticisms and begin a process to address identified problems.

Robert Ruder, MD, QME August 9, 2019

I have been a QME physician for almost twenty years. I have several concerns regarding the proposed change in Fee schedule. Physicians in Nevada get more than double per page review. I don't understand how anyone can come to the conclusion that the Nevada imbursement should be higher than the California rate. This is completely counter-intuitive.

I leave at least two to three hours set aside for QME patients. I also have my audiologist present. Not being able to bill for a “missed appointment” would be prohibitively financially disruptive and not allow me to continue with the program.

ML 101 &1650:. The increased fee of $1650 requires far more work than the increase in remuneration provides. What if we need to review medical records again, to be sure of content, or if something was missed, or if the actual CT scan needs to be re-read as opposed to getting another one? I, nor can anyone else, remember what was in a report several months from an initial report. Reports will not be based on time spent rather it would be based on pages of records reviewed. These changes would make med-legal work almost obsolete. Many med-legal doctors are leaving because of unfair treatment and repayment for their time and work. These fees are not reasonable whatsoever. In short, you are asking for far more work than you are paying for.

Physicians will not be interested to devote their time to learn the process and spend time outside their clinical practice doing such reports. I can say for myself, such a change would likely force me to give up this medical legal work. I would like to be fairly compensated for these actions. I anticipate more QMEs feel the same way.

Randall Caldron, MD, QME August 9, 2019

I agree with Sue Honors proposal of changes in the fee schedule. I would like to propose a change in the minimum flat fee for QME examination that Non Psychiatric exam. I propose a fee of $3000 instead of $2200 as mention in Sue Honors proposal.

Fernando Marchetti, DDS, QME August 9, 2019

The proposed changes to the fee schedule are entirely unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system. These fees will barely cover my overhead costs for performing QME's.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is frustrating and disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

These rates will barely cover my overhead costs for performing QME exams, including office space rentals, psychological testing and interpretation fees, dictation and transcription fees, as well as office support and overhead fees.

Many of my colleagues have quit serving as a QME. Some have left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers.

I have continued to serve as a QME despite all of these issues, as I enjoy the work and providing high-quality QME reports.

This proposal will be the final straw for many providers, including myself. Why should I now lose money as a QME evaluator?? These regulations reflect a disregard for injured California workers, and magnifies the lack of parity in the Workers Compensation system between physical health and mental health

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

Stephen P. Nicols, MD
Diplomate, American Board of Orthopaedic Surgery Fellow
American Academy of Orthopedic Surgeons Fellow
The Royal College of Surgeons Qualified Medical Evaluator

August 9, 2019

I'm am an Orthopaedic Surgeon and have been in private practice since 1992. I became a QME in 1993. The "new proposal" for the fee schedule is absurd! We as QME's have not seen a fee schedule change since 2006! I believe one is desperately needed, but it should be favorable for the QME's. As it stands, QME's are in decline. Several of my colleagues have elected to stop being active in the QME process. My former two partners won't even see work comp patients anymore. The DWC system and process makes it very difficult to practice medicine efficiently. We should be compensated fairly for providing a difficult and necessary service. I recently completed an evaluation of an applicant with 6700 pages of medical records. Your proposal of a "flat rate" for such a difficult exam and report would be very unfair. Subsequently, you will lose "good QME's", while the mediocre ones will remain. I doubt very seriously this is what the DWC wants.

Nevada has a "flare rate schedule", which I oppose, but it's far more favorable than the proposal for California, which has a far higher cost for operating a practice, and living expenses in general. How can the DWC justify that? I certainly wouldn't be able to. I wouldn't be able to live with myself for offering such an unfair and unrealistic proposal! Currently, it seems the DWC is more in favor of the adjustors, insurance companies, and attorneys than the physicians who are providing the most essential service in the QME process. Be realistic and step up to the plate. I feel I provide a very necessary, and very competent service with all my experience. I also feel I should be compensated fairly for the service I provide.

Your proposal equates to my going to a restaurant, ordering a meal and receiving a bill for $20, and I say, here's $5, take it or leave it!

Della M. Silva, Psy.D., ABPP-CN, QME
Board-Certified in Clinical Neuropsychology
Qualified Medical Evaluator
Pacific Neurobehavioral Clinic, PC

August 9, 2019

I have been certified as a QME since 2013. I have conducted both psychological and neuropsychological evaluations in this capacity. Since legislation passed around 2017 that considered neuropsychology no longer as a QME specialty (which has led to deleterious effects, separate from this new issue of the ML fee schedule), I have continued to perform psychological QMEs.

Here are my opinions regarding the proposed changes to the medical-legal fee schedule:

- ML101: A flat fee of $1,650 for ML-101 which includes 400 pages of medical records is not sufficient compensation for a comprehensive medical-legal psychological evaluation. Typically, 100 pages of records equals an hour of time (on average, this of course it variable depending on the content of the records). Thus, $800 of that $1,650 is for record review only. At $250/hr (the current med-legal rate), that leaves 3.4 hours of time that the evaluator is being paid for. A psychological clinical interview may range from 1-3 hours, and administration and scoring of psychological testing can range anywhere from 2-8 hours, depending on the tests that are needed. This does not include interpretation of the results and report-writing, which can add another 3-8 hours, depending on the complexity of the case. As you can see, there is much variability that can account for the time spent on a psychological evaluation, and the proposed flat fee for the entire evaluation is not reasonable. The proposal noted only further reimbursement for records over 400 pages at the rate of $2 per page. There was no mention of additional time spent on other activities. In order for examiners such as myself to continue performing these evaluations, with the level of detail that a medical-legal evaluation requires, the ML should reflect hourly rates, not flat fees.
- ML102: Same argument as above. $1,110 flat fee with 400 pages of records accounts for 1.2 hours for remaining activities, which is unreasonable for psychological evaluations, which undoubtedly require more time for the clinical interview, administration of tests, scoring and interpretation of tests, and report-writing.
- ML103: $275 flat-fee for supplemental reports suggests one hour of the physician's time in producing the entire report. Again, this does not take into account variably in time needed to respond to the report, which may include engaging in research, which is not addressed anywhere in this proposed change in fee schedule. Furthermore, although the physician would not be billing for reviewing records that were already review, it is certainly necessary for the physician to review previous records in order to have an adequate recollection of the information in question, and scrutinize whether a change in opinion is justified.
- ML104: I appreciate this increase in rate for testifying. This is more on par with non-work comp forensic fee schedules for experts.

If this proposal with flat fees passes, I likely would no longer continue working as a QME, as these evaluations are some of the most time-consuming referrals that I currently engage in. It would not make financial sense for me to continue doing these if I'm not being paid appropriate for my actual time spent.

Moshe Benarroch DMD, QME August 9, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Graham Woolf, MD, QME, AME August 9, 2019

As you know the number of QMEs in California have markedly decreased due to false disciplinary actions by the DWC and ridiculous reworking of the rules.

As one of the seven remaining gastroenterologists in the entire state, several of the remaining ones will drop out. The remaining doctors will not be able to handle the load. Reports will be late and pushed out further than the one month required for evaluation. This will result in further attrition of doctors not just in my specialty but in all specialties. The effect on the patients will be devastating. They are already waiting years to see specialists. In addition some doctors will drop

out of the PQME panels and just do AMEs resulting in the patients driving long distances in their already poor conditions.

You should be honoring the QMEs, not trying to wear them down. Your system will fall apart very quickly if you lose further doctors. You need to keep the remaining QMEs and attract new ones as the remaining ones are aging and will retire. My younger associate became a QME last year and quit after the first case as the effort was just not worth the reimbursement he received.

The DWC needs to increase the fees paid to the QMEs to maintain the high quality they give on a daily basis. You are missing the forest for the trees. Look at the big picture which is keeping quality QME evaluations for the patients who are already suffering from their injuries.

Gerardo Guevara, DC, QME August 9, 2019

Thank you for taking the time to entertain this very important topic. After reviewing the proposed changes, they unfortunately fall very short of an acceptable solution.

As you are well aware, there has not been a change in the fee schedule since 2006, yet the cost of not only running a business but also living has gone up year after year.

Many QME's were very encouraged and backed the proposed Medical-Legal Fee Schedule submitted by Sue Honor, the former manager of the DWC Medical Unit. This proposal was backed by over 1,500 QME's. Unfortunately, this seems to have fallen of deaf ears and virtually all of her recommendations were ignored.

QME's in other states such as Nevada are compensated at a higher rate. A state with no state tax and a much lower cost of living!

The noose around the QME neck continues to tighten. Many have left because of the poor reimbursement while others have been removed or sanctioned based on inappropriate regulations. I urge you to reconsider this fee schedule and make the necessary corrections to have a good, stable, and qualified base of providers to provide these important evaluations.

Anne C. Welty, MD August 9, 2019

The proposed changes to the fee schedule are entirely unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly

reduce the already record-low number of QMEs still left in the system. these fees will barely cover my overhead costs for performing QME's.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is frustrating and disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

These rates will barely cover my overhead costs for performing QME exams, including office space rentals, psychological testing and interpretation fees, dictation and transcription fees, as well as office support and overhead fees.

Many of my colleagues have quit serving as a QME. Some have left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers.

I have continued to serve as a QME despite all of these issues, as I enjoy the work and providing high-quality QME reports.

This proposal will be the final straw for many providers, including myself. Why should I now lose money as a QME evaluator?? These regulations reflect a disregard for injured California workers, and magnifies the lack of parity in the Workers Compensation system between physical health and mental health

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

Drew Peterson, MD August 9, 2019

If you want to keep competent QME physicians, adopt the recommendations from Sue — Check out the table below comparing Sue Honor's proposal with DWC's proposal.

	Sue Honor's Proposal	**California DWC Proposal**
Minimum Flat Fee – non-psych	$2,200	$1,650
Minimum Flat Fee – psych	$3,850	$2,475
Pages Included in Flat Fee	50	400
Reimbursement per page	$5.50 (starting on page 51)	$2 (starting on page 401)
Supplemental report minimum fee – non-psych	$1,000	$275
Supplemental report minimum fee – psych	$1,750	$275
Organization of medical records if not received in an organized manner	$0.95/page	$0

Missed appointment fee	$1,000	$0
Reimbursement for time spent reviewing records for a missed appointment	$5.50 per page (starting on page 51)	$0
Impairment rating (after first body part)	$500/body part	$0
Complex Apportionment Analysis	$400	$0
Face to face time in excess of first two hours	$400/hour	$0
Fee for cover letter/medical records sent late to QME	$500	$0
Medical records required to be sent in an organized manner to doctor?	Yes	No
Cover letter required to specify number of pages sent to doctor?	Yes	No

Missed appointments must be reimbursed?	Yes	No
"Page" defined to prevent gamesmanship (e.g. double-sided print-outs, condensed pages, etc.)	Yes	No
Premium for reports served on an expedited basis	5%	0%
Minimum COLA increase to fee schedule annually	4%	COLA Ignored
Allowance for electronic service of medical-legal reports and ANFs by QMEs	Yes	No
Requirement that parties notify QME of appointment cancellation	Yes	No
Requirement that parties copy QME on objections to QME's reporting	Yes	No

This begs the question: Why did DWC ignore the QME community's consensus on the fee schedule?

Ali R. Berenji, MD August 8, 2019
Board Certified Orthopedic Surgeon

I am sorry to contact you again (this is my second E-mail in the last 24 hours). I am concerned about this new proposal. I have reformed my practice to charge as less as possible. I have educated myself to properly bill only when there are complexity factors.

However, I am afraid bringing our fee down too low causes people like me to stop practicing. We have difficulty to survive in the current environment if we treat worker comp. patients. Despite the fact we have genuinely tried to help the injured worker and W/C system. Treatment we propose for our patients usually not being authorized or delayed. Surgeries we recommend are not easily authorized.

The QME section of our practice also have started to be less fruitful. "DWC" fighting us rather than helping us to survive. When our bills are not paid we have no mechanism to be reimbursed, but anybody can demand refund from us.

We need our fee to be reasonably paid commensurate to the time and energy we spend to help attorneys, patients, judges, adjusters. The system neglecting us and if we have to stop practice. Gradual departure of experienced, qualified QMEs, will cause great damage to worker comp. system by not being able to get needed experts. The good practitioner needed to be awarded not penalized by continued fee reduction.

I feel we need some flexibility, but we need be paid to be able to continue practicing orthopedic for injured workers:

1. flat rate for QME for rating 1-2 body part needs to be not less that 3000.00.
2. For every additional body part to be rated, they should add additional 1000.00.
3. The first 100 pages of records to be covered by above fee. For each additional page fee to be $5 per page.
4. Suppl. Report if additional record sent will be charged $5 per page if past records need to be revisited $2 per page.
5. Flat rate for Suppl. Report. depend to complexity to be 1500.00to 2000.00
6. Missed appointment $1000.00.
7. Deposition of a Dr. $1500.00

Jennifer Lundy-Aguerra, M.A. August 8, 2019
Coast Medical Evaluations & Billing

I am writing to express my concerns regarding the proposed changes by the DWC to the QME reimbursement structure.

I have been providing billing and scheduling services for a Panel Qualified QME Psychologist for the past three years. During the three years, I have spent numerous hours calling claimants, adjusters and attorneys to be sure that everyone is on the same page for scheduling. Then, I often spend additional time on the phone with adjusters to receive appropriate compensation for the doctor's time and expertise when claims are erroneously denied or reduced. None of the administrative time required "behind the scenes" is currently compensated for.

The Psychologist I provide scheduling and billing for writes EXCELLENT reports. She reviews claimants' medical records on her own and is able to write a concise, thorough report every time. The grammatical and spelling errors are minimal, and a second set of eyes (mine) reviews each report for any such errors before it is sent to the attorneys and adjuster.
To change to a "flat rate" system will be detrimental to the quality of report writing. If a provider once spent 20 hours interviewing, reviewing medical records and writing the report, he or she would have been compensated at a rate of $5000.00, more than TWICE what is being proposed for an initial psych QME. To attempt to equal the previous fee schedule, I think it would be likely that providers would spend MUCH less time reviewing records and report writing, resulting in poorer reports and outcomes.

To change to the proposed fee schedule of having "flat rates" for initial, follow up and supplemental reports is doing a disservice to the injured workers of California, as well as to the highly trained evaluators providing a very specialized service.

Please consider a cost of living increase for the hourly rate structure currently in place by the DWC. This is what the QME Providers deserve!!

Ripu Arora, MD, MBA, QME August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Trevor B. Mackin, PsyD., QME
Licensed Clinical Psychologist

August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Shivani Patel Escamilla, MD, PsyD, MHA, QME August 8, 2019

I wanted to share some thoughts in hopes it helps. The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues. I am also very grateful for my ability to help others thru my QME role.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Wayne M. Whalen, D.C., QME August 8, 2019

Like many on this list, I've been doing this a long time: I sat for the very first QME exam in the early 2000's and have been teaching QME courses and continuing education for almost 2 decades. Two simple facts are inescapable in the QME world: the issues have become far more complex and difficult and the reimbursement is woefully inadequate to compensate the caliber of physician the legislature had in mind to help resolve the ubiquitous disputes.

In the late 1990's the DWC had to create a brand new OMFS with the advent of the CPT system. Believe it or not, they held meetings around the state that stakeholders (like COA, CSIMS, SCIF, the chiros, PT's, Acupuncturists and psychologists) and anyone else who was willing to work and help could show up for. They lasted all day, and we weren't cut off at 3 minutes or limited to our name and a comment on whether we were for or against something. We'd tackle one issue at a time, with carriers and providers each arguing their points (often diametrically opposed), trying to persuade with facts and logic. Most of the time, a pretty clear consensus would emerge. Frequently compromise evolved, and when there was no possibility of agreement, the administrative director, Casey Young, would make the call.

It was unbelievably inefficient, politically messy, time consuming and costly, as each stakeholder paid their own way. But it worked. It created relationships across the aisles that have lasted decades which still produce benefits. And it created a fee schedule that, while imperfect, has remained in place and largely unchanged for 20 years.

Contrast that to our current problem: It is plainly evident the current MLFS is not working, as evidenced by the protracted legal issues and related fallout from the "underground regulations" battles. In response, the DWC proposed new regulations that essentially codified the underground regs interpretations. That generated more than 500 pages of comments opposing those proposed changes to the fee schedule regs, along with some very thoughtful and workable changes to the MLFS, in particular the widely cited recommendations of Sue Honor Vangarov. That was months and months ago.

Now we are given another set of proposed guidelines. They vaguely, remotely resemble some aspects of Ms Honor's efforts, and in some ways reflect some facets of the Nevada medical legal schedule. They come nowhere near elevating reimbursement to a level similar to med-legal fees in general practice, do little to actually resolve the frictional costs and issues, and appear to have come from who knows where?!? None of these proposed changes really seems to have been mentioned in the comments previously posted on the DWC website. I am not aware of any extended discussion/meetings among involved stakeholders over these issues. They seem to have been created largely in a vacuum by folks who don't actually use them every day.
This is important stuff: QME/AME reports have profound effects on the lives of the patients they are the subject of, and impact carriers, employers, providers and the courts. They are not cheap, and shouldn't be. If the system wants quality, experienced, conscientious and informed doctors writing these reports, they need to pay them fairly and stop making them fight for reasonable reimbursement.

Clearly this proposal falls woefully short of those goals. So maybe instead of another hearing where you get 3 minutes to say your name and explain why this proposal is such a bad idea, we should have a meeting where we actually sit down with folks representing all sides and see if we can hammer out something that works for all of us? I'll be there, and I'll save you a seat!

Bruce L. Roth, D.O. August 8, 2019
Board Certified Psychiatric QME

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Jennifer Hertz, MD August 8, 2019
Diplomat America Board of Orthopedic Surgery
Board Certified Hand & Upper Extremity

As an evaluating medical doctor with a sub-specialty, you are asked to review hundreds, sometimes thousands of records in order to formulate your opinion. This process is quite extensive and it requires time, knowledge and a meticulous thought process to formulate your opinion. I find that the proposed fee schedule change does not adequately compensate the evaluating MD. I strongly disagree with this proposed change to the QME fee schedule.

As an extremely busy Hand surgeon with a private practice, **the low flat fee and non-payment for no show QME appointment proposal will make it difficult to continue to perform these services**. I reserve one hour in my scheduled calendar a week for QMEs,and when a patient does not show for their QME appointment, I incur a significant cost, such as employee wages, among the other factors involved in our overhead. To continue to provide QME services, we deserve to be compensated appropriately, otherwise the shortage in sub-specialty QME physicians in California will continue to worsen.

Shawn Uraine August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Alison Magoun Moreno, Ph.D. August 8, 2019
Clinical Psychologist

I find the proposed changes to be unacceptable. If the proposed fee schedule is enacted, QMEs will not be compensated fairly and their administrative burden will be increased. Furthermore, I anticipate that the number of QMEs will diminish in response to these changes.

I am aware that in December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening and discouraging. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a state with a much lower cost-of-living than California.

I am aware of colleagues who have quit serving as a QMEs. Many quality physicians have avoided becoming QMEs because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite these issues.

This proposal will likely be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Anonymous August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Jennifer Hertz, M.D. Diplomat America Board of Orthopedic Surgery August 8, 2019
Board Certified Hand & Upper Extremity

I have seen the proposed new fee schedule, based on the Nevada model, but it is significantly lower. *Please do not adopt this fee schedule for California.* Such changes will make it exceedingly difficult for solo private practice doctors to compete in this ever-changing medical reimbursement climate.

I strongly oppose the proposed changes. I hope you will take in to account the concerns of such QMEs.

Jason Rowden, Psy.D., QME August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Charles Feng, DC, ATC, CSCS August 8, 2019

I am writing in response to the proposed QME Fee schedule. As a QME, I take tremendous pride in my position and this fee schedule will put a tremendous amount of pressure on me to deliver a well-timed and thorough report.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. The former manager of the DWC Medical Unit, Sue Honor submitted a proposal received over 1,000 signatures from the QME community. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

The reimbursement you are proposing is far below Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Some of my colleagues have quit serving as a QME including a co-worker of mine. He was discouraged by the reduction in the fee schedule from the 90s. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement. I have continued to serve as a QME despite all of these issues.

If the proposed fee schedule is enacted, I will be forced to withdraw from my appointment as a QME.

Doreen Fukushima, MD August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Jonathan T. Nassos, MD August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.
In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Joseph A. Sclafani, MD, QME August 8, 2019

Although I did not write the below, I 100% agree with the text . If the newly proposed reimbursement schedule is passed, I will no longer continue serving as a QME in Pain Medicine as well as Physical Medicine and Rehabilitation. The proposed reimbursement schedule will not be sufficient to cover my overhead. Additionally, this proposed reimbursement schedule will not even be close to adequate for the effort and time involved in performing a comprehensive evaluation, medical record review, and narrative report that addresses complex medical legal issues.

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Michael Fuijinaka, MD, QME August 8, 2019

I am a Q.M.E. in Northern California. My specialty is Pain Management.

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system. I would lose money compared to my current practice for every day I give to perform evaluations.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Daniel Buch, BS, DC, QME August 8, 2019

I have read the DWC's proposals to the MLFS and I am perplexed by the lack of understanding of the role of the Medical Legal Evaluator and particularly of the costs involved in serving as a QME. Anyone familiar with the duties and expenses of a QME will realize that the DWC's proposals fall well short of the needed adjustments to the MLFS. As the QME roster continues to decline, there is both a lack of urgency and understanding shown by the drafters of these proposals. While the proposals do away with the unclear and combative issues regarding Complexity Factors, the proposed changes significantly undervalue the physician's time and expertise. If the proposed changes to the MLFS are put in place more QME's will exit the QME roster which will have devastating ramifications for the California Workers' Compensation system. While this is no doubt the "end game" for the insurance industry, it is reprehensible that California workers are NOT informed of the apparent intentional disembowelment of their rights.

While there are many short comings to the prosed changes, a few of the obvious issues include:

- **The proposal does not reflect the added complexity of multiple body parts, addressing Almaraz Guzman issues and complex Apportionment and Causation issues.**

- These proposals do not compensate for the time required to perform a record review involving the arbitrary 400 pages included in the flat fee. At a minimum and FAST speed of 1-2 minutes per page **to review AND summarize**, this arbitrary 400 pages represents 6.6 hours of the physician's time. One can quickly see that **this arbitrary 400 page flat fee inclusion is complexly off-base, punitive and frankly insulting to the physician.**

- There is no fee whatsoever for the time required to organize provided records.

- These proposals do not allow for compensation on Follow-up and Supplemental Reports which may involve complex questions from the parties involved. Hours can be spent addressing attorney questions. These proposals do not account for the complexities often encountered in such situations. **A $275 fee for all Supplemental Reports substantially undervalues the physicians time.**

It appears that the DWC is attempting to "get ahead" of **California AB 1832** which would require an immediate increase to the MLFS. **AB 1832** will be heard in the legislature in August of 2019.

(read here)
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1832

Again, I am rather confused by the lack of understanding of the need for QMEs to be compensated in a timely and reasonable manner.
- These proposals do not include a greatly needed Cost of Living Adjustment (COLA). (The current MLFS has not been adjusted for a COLA since 2006.) As pointed out by Dr. Marc Wilkerson, under these proposals a California physician would be paid **less** that a Nevada state physician, although California has a higher cost of living and doing business.

Nevada vs California Proposed Changes as previously noted by Dr. Wilkerson.

	Nevada	California Proposed Changes
Minimum Medlegal Fee:	$1735.53	$1650
Pages of Record Review included in Flat Fee:	50	400
Reimbursement per page:	$4.34 per page after 50	$2.00 per page after 400
Reimbursement for Organization of Records:	$.95 per page	$0
Each body part in excess of the first:	$325.41/body part	$0
Records required to be sent in an organized manner?	Yes	No
Letter required to specify number of pages sent to doctor?	Yes	No

The urgency of this matter is underscored by the upcoming California AB 1832, which is being tracked as an Emergency piece of legislation, AB 1832 will be seen in steep contrast to the proposed DWC proposals which completely fail to address the current undervaluing of the physician's time and overhead expenses in California. The exodus of QME physicians from the system calls for the recognition of the issues facing QME physicians. These new proposals represent a gross misunderstanding of those issues and represent another slap in the face to a QME system already reeling from attacks by the DWC Medical Unit and neglect of an aging and unrealistic fee schedule. I urge the parties involved to await the vote on AB 1823 and to act according to the public mandate to develop a sound, clear and fair fee schedule.

Massoud Nassiri, DC, QME August 8, 2019

I support Sue Honor's proposal as I believe is reasonable and fair. Cost of living in California continue to rise and Doctor's fee continue to decline as insurances including worker's comp carrier are demanding more documentation and no practical reimbursement for extra time.

QME fee schedule is not adequate for doctors living in California. Our operating expenses including rent and wages are expensive.

Good quality evaluation and report need to be paid reasonably.

Patrick Jermone Wymore, DC, QME August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal
The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Sarah Miller, MD, FAAPMR, QME August 8, 2019
Expert Reviewer, Medical Board of California
Adjunct Clinical Instructor, Dept of Neurology
Keck School of Medicine at USC

I have seen the proposed new fee schedule, based on the Nevada model, but significantly lower. *Please do not adopt this fee schedule for California.* Such changes will make it exceedingly difficult for solo private practice doctors to compete in this ever-changing medical reimbursement climate.

I strongly oppose the proposed changes. I hope you will take in to account the concerns of such QMEs.

Martin R. Taubman, DPM, MBA August 8, 2019
Board Certified Foot & Ankle Surgeon

THIS MAY BE A RECOMMENDED RESPONSE, BUT BELIEVE ME I AM SERIOUS AS CAN BE. HOW DARE YOU TREAT YOUR QME PROVIDERS SO POORLY AS TO REDUCE THE FEE SCHEDULE. IT SHOULD BE INCREASED. I SUGGEST THAT YOU AT LEAST MEET ARIZONA'S SCHEDULE. I LIKELY WILL PERSONALLY QUIT MY POSITION IF YOU DECREASE THE FEES. WHAT ARE YOU THINKING?!

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with

DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Marc Meth, MD August 8, 2019

The proposed QME Fee Schedule changes as proposed are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders. Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues. This proposal will likely be the final straw for many providers, including myself, further worsening the QME crisis. **I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported.** https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Gregg M. Baringoldz, Ph.D., QME August 8, 2019
Licensed Psychologist

I have read the proposed changes to the reimbursement schedule for QMEs/AMEs, and find the proposed changes unacceptable. If enacted, this fee schedule will increase the already formidable administrative burden on QMEs, not compensate them fairly and, over time, reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

That you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Many quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues and would like to continue doing so.

This proposal may be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Vlad Gendelman, MD, QME, FAAOS August 8, 2019
Orthopaedic Surgery

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Standiford Helm, MD August 8, 2019
The Helm Center for Pain Management

I appreciate the DWC's efforts to amend the medical-legal fee schedule. The changes as currently proposed would have the effect of causing QMEs such as myself to stop doing medical-legal evaluations as the reimbursement would not be commensurate to the effort.

Sue Honor has proposed an alternative fee schedule (https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal). Her proposal strikes a balance between the appropriate cost concerns of the DWC and the need to ensure that the desired high-quality reports are provided. I encourage the DWC to accept her proposals.

Andrew Levine, Ph.D., ABPP, QME August 8, 2019

The proposed changes to the QME fee schedule are unacceptable. If enacted, they will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly support.

Kari Tervo, Ph.D., QME — August 8, 2019
Licensed Clinical Psychologist

I am really astonished by the proposed overhaul to the QME fee schedule. Not only does it constitute a significant pay cut, the framers of this schedule do not seem to understand the realities of performing a psychological QME evaluation.

I like performing QME evaluations. I find them challenging and interesting. But they are also complex and time-consuming. Psychology QME initial evaluations involve an interview that lasts around 3 hours (and many times, I drive a four-hour round trip just to get to the field office and back), test administration and interpretation, analysis of numerous complex historical and concurrent factors, review of often thousands of pages of records, real-time analysis of credibility factors including behavioral observation and probing of internal inconsistencies, and report preparation time of 10 hours or more. And you're asking me to accept a flat fee of $2475 for all of that? HA!

I didn't even talk about all of the administrative time, such as scheduling, communication, receiving and organizing records, submitting renewal forms, serving reports, collections, and calendar-and-deadline keeping. I pay 50% of my fees to a company to do those administrative tasks for me because I realistically do not have time for all of that, so in effect, you're asking me to perform a huge and complex task for around $1200. Again, I say HA! What qualified professional would accept so little pay for so much work, especially when it constitutes a significant pay cut?

A flat fee is completely unrealistic. Some cases are quite complex and require significantly more time than others, but I'm supposed to accept the same fee for cases that may vary substantially with respect to the time involved in report-writing and record review? How does that make any sense?

Also, where are considerations for neuropsychology evaluations in all of this? I cannot even enumerate all of the ways in which it would be an act of self-loathing for someone to accept this fee schedule for a neuropsychology evaluation.

As far as the late-cancel and no-show fees, it is unbelievable that you would let insurance companies off the hook for, in essence, preventing me from earning any income at all on a day that I had scheduled for a QME evaluation. I set aside an entire day for these evaluations, and someone could blow it off, and the response of the DWC to the QME doctor who has lost significant income is "too bad, so sad." Why would you so severely disrespect the time of doctors who are serving the DWC?

Plus, you're asking me to review 400 pages of records for free, and these may be presented in a haphazard way, for which I am expected to provide organization--for free. The only response I can offer to that is one of pure exasperation. Has anyone involved in putting together this fee schedule ever actually reviewed records for a psych case?

And come on--there's no cost-of-living increase involved in a fee schedule for which there has been no increase since 2006? You not only want to bring our wages down, you want us to do all of this work in the context of steadily increasing cost of living and overhead costs. It's just unbelievable. We are living and working in one of the most expensive states in the country.

I really don't know what you guys are thinking except that you are actively trying to make the QME system implode. Who would join the QME system under these conditions? How many of us are going to be willing to stay?

Okay, you want to lose good doctors, that's on you. I am a highly-skilled professional, and if this is how you're going to treat me, I can certainly find other ways to spend my business hours. But if you want to prevent that, you could at least pretend to care about the needs of injured workers and pretend to respect the doctors who have dedicated their time and expertise to providing quality service to the DWC. As it is, I feel slapped in the face. Why are you punishing QME doctors so severely? All we're trying to do is a good job serving both parties in a neutral manner, and you're

presenting us with a compensation schedule that is completely divorced from reality.

Robert Dickman, DC, QME August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Kien Ta, DC, QME August 8, 2019
CK Chiropractic Center

After reviewing the recent proposal with regard to the changes in the QME fee schedule from the California DWC, I am shocked that the DWC would only cherry-pick the changes that are benefiting to the insurance companies and not QMEs. The proposed changes are unacceptable to many QMEs. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Vahe Sukiasyan, Psy.D, QME August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Stephen Dell, MD August 8, 2019

The proposed Fee Schedule changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018 the DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada.

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Joel Weddington, MD, QME August 8, 2019

As an experienced orthopedic QME who gets selected for more complex cases, the new fee schedule will work against me. I rarely get simple ML102s but am referred complex multiple injury, multiple body parts mostly ML 104s. By capping the payments the new fees will reduce my income which also applies to supplemental reports which typically take me 2-3 hours for these cases. My solution will be to reduce the number of QMEs I see and increase my treatment schedule which will provide better and more fair compensation.

Gary Martinovesky, MD Pain Medicine August 8, 2019

I have served as a Qualified Medical Evaluator for 13 years. Recently due to decrease in the number of physicians performing QMEs I have had to evaluate many more injured workers, at which point I realized that the enormous amount of time spent on evaluations and report preparation was not adequately compensated. As you or may not be aware I chose not to renew my QME license after it expired last month, and I know many physicians who made a similar choice.

The proposed changes are unacceptable and will result in further loss of physicians willing to serve as QMEs. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some, including myself, left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues until last month, when it became obvious that DWC is interested in padding the bottom line of insurance carriers and does not appear to have any interest in assisting injured workers or physicians treating and evaluating them. In the long run, when there are so few evaluators left and their numbers will continue to dwindle, even the insurance industry will lose.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Truong P. Nguyen, DC, QME August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Richard Alloy, Ph.D. August 8, 2019

I am a psychology QME since the beginning of the QME process. I am also a neuropsychologist.

I have grave concerns over the Proposed QME Fee Schedule. I believe it completely lacks appreciation for the complexity of the work required of a QME.

I also wonder why you are making the fee schedule so unnecessarily complicated for you and for us. In private practice, at least in my experience, billing as long been done based on time spent, for the most part. I bill by the hour, for the most part. Some cases take less time; some take more time.

Record review, and diagnostic and medical-legal opinions are sometimes simple and straightforward, but other times are hugely complex and require much thoughtful time. One size does NOT fit all.

The same is probably true for your job. Somethings can be handled quickly while others take immense time and thoughtful consideration.

We are dealing with the lives and potential welfare of injured workers. That must be a priority in the context of how QME's are reimbursed and how they can bill for services. This is the same reason why I have effectively quit most private insurance managed care programs, because they expect one size fits all. They are more worried about cost containment than patient welfare, for the most part.

Frankly, I would prefer that you set one reasonable hourly rate of reimbursement for QME's. We would then bill by actual time spent.

We really are professionals. It is time you trust us to be professional.

If there are QME's who appear to take advantage of the system, then those are the people who should be referred for an audit. Similarly, the "marketplace" will also have some impact as attorneys and adjusters would be less likely to use QME's who appear to bill excessively without justification.

Robert Meth, MD August 8, 2019

I have reviewed both fee schedules and Sue Honor's is the most fair and equitable schedule for all QMEs and AMEs I strongly urge you to adopt the Sue Honor fee schedule.

Elliot Gross MD August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system. As we well know the QME is vital to the work comp system to ensure adequate treatment is provided to our injured workers.
In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported.

Robert E. Markison, MD, QME, AME, IME August 8, 2019
Hand Surgeon
Clinical Professor of Surgery, UCSF
Faculty Member, San Francisco Orthopedic Residency Program

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's

recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

I continue to train orthopedic surgeons x 35+ years, and none of them wish to become QMEs. In fact, most are leaving the state of California to practice where they are appreciated and fairly compensated for their difficult work.

Irina Ganelis August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Daniel Dunkelman, MD, FACS, QME August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Robert G. Aptekar, MD August 8, 2019

This proposal is draconian and unacceptable as is.

I urge you to change it and support Suzanne Honor Vangerovs medical-legal fee schedule proposal instead.

Vince Marino August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.
In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here:
https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers,

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Heidi Page, PhD, QME August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Patricia Wiggins MD MPH August 8, 2019

These proposed changes attempt to over-simplify a complex issue. Speaking as an Occupational Medicine and Internal Medicine specialist; why would you not compensate physicians for the time-consuming task of literature review to confirm or refute opinions regarding causation? It is not possible to address these issues with a reasonable degree of medical probability without reviewing the current literature. This is particularly true for toxicology and cancer cases.

Also, as the number of QMEs continue to dwindle, the complexity of cases continues to increase in regards the number of claimed body parts per case and consideration for past injuries and conditions. Again,it takes time to address apportionment.

Are you just looking for reports that pull random opinions out of the air without regard to truth or fairness?

Adam Brooks August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with

DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.
I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Israel Mak, DC, DABCA, QME, EMT August 8, 2019

The proposed changes are unacceptable. Originally I was proud to be part of QME system because there is a high legal standard, which emphasizes on fairness, thoroughness and impartiality. I often advocate on behalf of QMEs to my applicants that we are neutral doctors, and we are here to help to resolve the disputes between the employers and employees, based on the tier of facts, professional guidelines, evidence-based researches, and objective medical findings - not based on personal feelings or preferences.

To provide such level of services, it requires extensive amount of training, experiences, researches, time, painstaking and thoroughness. In average, it usually takes me 10-15 hours to complete my work in order to generate a good quality report.

However, if the proposed changes are enacted, I could only spare 5-7 hours to do a work that demands 10-15 hours of my time. This is not reasonable and practical because the higher the requirements is, more time should be allowed for the medical-legal examiners to complete their works instead of being cut short. Unfortunately, the proposed changes are the opposite to this direction.

I believe, many remaining QMEs, would not be able to spend adequate amount of time to produce the medical legal reports under the latest proposed changes. As a result, the quality of the medical evidences would be gravely reduced and suffered. Consequently, I am not sure if our reports could still be considered as substantial medical evidence, to facilitate the Workman Compensation judges and attorneys to resolve disputes in an effective and efficient manner. I do not believe that this is your original intent.

For the greater good and fairness, I would like to remind you that a new Medical-Legal Fee Schedule is already made and being proposed in December 2018, by Sue Honor, the former manager of the DWC Medical Unit - a submitted proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported.

Anonymous August 8, 2019

Preparing A QME Impairment Evaluation and Narrative is far more time-consuming than the current Fee Schedule pays for my time. I currently am compensated less than $40 an hour for the approximate 22 hours it takes from beginning to end of submitting a typical 15-page report. I must write the report out by hand in order for the report to make any sense when I dictate to my dictation company. I must then edit her dictation which can take additional hours. She then charges me for dictation, but doesn't print a finished product which I must do. I subtract her charges from whatever I receive from the insurance company. If you think reducing our compensation is going to somehow produce improved Impairment Narratives or increase any QME's interest in this process then your thinking is completely limited and unrealistic. Leave the current fee schedule in place. Please Stop creating an environment that is Producing artificial fears based on your own misunderstandings of a difficult process. Everyone in your department is currently making more income than us. We are trying to keep insurance, employers, the patient and the DWC happy with our decision making process. We save the state $1000's every year by reducing the burden on the WCAB. Stop creating a negative work environment for us.

Bob Chen, MD August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Sayed Naweed Miry, DC
Doctor of Chiropractic

August 8, 2019

I am writing to express my concern and frustrations with the newly proposed changes to the medical-legal fee schedule by the DWC.

As a newly appointed QME, I have already been told by several physicians and mentors not to waste my time with becoming a QME and working with the DWC medical unit for various reasons. It seems as though many doctors are leaving the system because of growing frustrations with the way we are treated.

The changes will abolish hourly rates and complexity factors and establish flat rate fees. This can be problematic for us because there is a high degree of variation from case to case and a flat fee would not take that into consideration. These proposed changes will negatively impact my QME practice and cause myself and other physicians to re-consider if it is still worth being a QME.

I would advise the DWC against these changes and hope to see a response in favor of the QME's of California.

Sung Cho August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Lawrence Weil, MD, QME August 8, 2019

Overall, it is quite clear that:

1) these fees are way too low:
2) changes appear poorly thought out.
3) Nevada's fee schedule Much more appropriate

Some examples to illustrate points of problems with proposed Ca changes:

#1 - patient is seen for QME with 357 pages of records
The new records arrive- 6,800 pages with request for supplemental-- is that expected to be done for $275 ??

#2- Patient has 8 body parts injured - and requires 3+ hrs face to face and has 400 pages of records -- Is that supposed to be only $1,650 ??

#3- Patient has 5 hrs video tape and 350 pages of records-- Is that supposed to be only $1,650??

This type of proposal makes me want to move to Nevada, For the QME portion of my practice at least. WHY would Ca pay/propose SO MUCH LESS THEN NEVADA???

Steve Barnett August 8, 2019

The fee proposal released by DWC this week includes some important structural changes that, as a QME, I would welcome, specifically the “hybrid” model involving a flat fee plus a per-page record reimbursement. This is also the model proposed by Sue Honor.

The fee amounts presented by DWC as part of this proposal, however, are certain to result in a substantial reduction in payments per case overall. When I do the math for a hypothetical psychiatric QME eval comprising 1,000 pages of records (an average amount), my net income per case would be reduced by one-third to one-half. Part of the reason for this is that QME overhead costs remain the same (and/or increase over time), and are substantial.

Were the new proposal to be enacted as-is, I would likely need to reconsider the sustainability of continuing to provide this service to the DWC.

This proposal, as-is, appears to fly in the face of all of the challenges DWC currently has in terms of QME retention, recruitment, and timeliness of services to injured workers.

Please consider the hybrid model, but with fees set such that QME reimbursement reflects current levels, plus cost of living adjustments that have not been seen since 2006.

James E. O'Brien, MD August 8, 2019

The State of California's own website indicates the cost of living for all urban consumers rose basically from and index of about 200 to 280 from 2005 to April of this year.

https://www.dir.ca.gov/OPRL/CPI/EntireCCPI.PDF

These are OFFICIAL statistics from the state of California. Not something I made up, guessed, or researched from a biased source.

That's a forty percent increase in COLA just to break even.

Any attempt to argue that QMEs are entitled to less than that is disingenuous and basically represents the State of California arguing with itself, not QMEs. It's as disingenuous as paying less than Nevada doctors.

This is especially true when QMEs are leaving in droves because of the unaffordability of continuing QME practice.

As far as making failed appointment payments discretionary, what is the purpose of a regulation if it is optional? What would happen if you made QME reappointment fees optional? Do you think payors will pay out of the kindness of their hearts? That's not how human behavior works.

Failed appointment fees as written in this proposal or inadequate and should be mandatory.

I know plenty of former QMEs who quit because of problems with no-shows and last minute cancellations.

Sloane R. Blair, MD August 8, 2019

I am in receipt of an email from an advocacy group detailing the changes you are proposing to the fee schedule.

As it stands, It makes much more sense for me to get a Nevada license and take my experience to Nevada. If you like Nevada's structure, it should be implemented with the protections to the QMEs and compensation Nevada affords. Not less. If the proposed changes occur as is, with no improvement or changes, I think you will add to the crisis of lack of QMEs. I can really only speak for myself. if the changes to the fee schedule occur with the burdens placed on the QME administratively, as you propose I will cease functioning as a QME. I also suggest to you the

QMEs remaining will have to some way compensate for the changes, and the quality of QMEs done will decline, and spend much more time dispute and judicial review.

Ashton Wolfson, CEO August 8, 2019
Medical Legal Management Group

The latest proposed medlegal fee schedule is an improvement from the previous disaster proposed in May of 2018. But it's still a far cry from where it needs to be to adequately reimburse the QMEs for their time and effort. This is especially true if the DWC is interested in recruiting more doctors to an already under served California QME program.

By all looks, the proposed MLFS reimburses at a far lower rate than the MLFS of Nevada. This is unacceptable, especially when you consider the COLA (cost of living and business) in California, on average, is far greater than that of Nevada.

I do feel a flat rate along with reimbursement for medical record review is the way to go though. But, the proposed amounts for reimbursement is definitely not.

Here are my thoughts:

ML101 $1,650 flat rate for a report and $2.00 a page after the first 400 pages is a start. But, it still does not adequately take under consideration the time and cost associated to produce a high quality report. In many ways its no different than the current MLFS and in some ways worse. Basically, the proposed MLFS is underwhelming and basically rearranges "the deck chairs on an already sinking Titanic."

My recommendation: The flat rate for a report should be anywhere from $2,000 to $2,200 (as proposed by Sue Honor Vangerov) for the first 75 pages of medical records... anything after that $3.00 to $4.00 a page.

ML102 $1,100 flat rate reimbursement for a re-evaluation is totally inadequate. Again this proposed flat rate amount does not take under consideration the time and cost associated with producing a high quality report. It doesn't allow for the doctor to be compensated for a sometimes extensive re-review of the medical records on an old case.

My recommendation: At the minimum reimbursement should be $1,800 for re-evaluation and the QME should be reimbursed to re-review the previous medical records, especially cases that are six months to several years old.

ML103 $275 for Supplemental reports and $2.00 add on for every page of not already reviewed medical records. The proposed amount is totally inadequate. Over the years, Ive found that QMEs

dislike doing supplemental reports and in many instances the supplemental report is more challenging for the doctor than the actual QME report itself. Ive also seen over the years doctors are bombarded with sometimes repetitive frivolous supplemental requests, which clog up an already heavy QME workflow. Maybe this issue should be addressed on how many supplemental reports parties can request per QME report. By not adequately reimbursing QMEs for supp reports will only exacerbate the problem ie. more frivolous supp requests leads to more delays

My recommendation: The minimum reimbursement for a supplemental report should be $500.00.. At this rate, it will encourage the different parties as whether a supplemental request is really warranted or not. At the minimum it will encourage all parties to gather all their questions into one supplemental request rather than spread over five supplemental requests, which are difficult to track and wastes everyone's time. The $2.00 per page of medical records is not enough... The rate for supplemental Medical Record review should be $3.00 to $4.00 a page.. Good record reviews take time and effort and the doctor should be reimbursed for it.

Its understandable that the DWC wants lower medlegal costs.. But, lets remember when you have an inefficient system you have increased costs. Currently, there are a lot of imposed regulatory costs associated with presenting a report. Many of those costs are imposed unnecessarily due to archaic regulations. For example, I spend a fortune postage, paper, ink, equipment, and labor to print and mail QME reports, supplemental reports, and reminder letters.. Many of the costs associated with these tasks could be alleviated if reports could be submitted digitally to a secure platform where all case parties could view the documents. This is by far more efficient and secure than mailing several 50 to 80 page reports in triplicate and sometimes quintuplicate. But, because of some archaic pre-digital era regulations the industry is still forced to submit reports and data through mail and fax like it was 1987. this is inefficient and creates additional costs

When a TPA or Law Office submits medical records, they should be presented in chronological order and within a minimum of a week before the examination. Often times a doctor receives medical records (sometimes 3000 pages) the night before the examination... How can a doctor do their job? all too many times the different parties push their jobs off onto the doctor and their staffs, therefore continuing to complicate the QME work flow. this is inefficient and creates additional costs and delays.

The doctors that conduct quality QME reports are highly skilled professionals that are asked to make very complex decisions regarding causation and apportionment In a highly adversarial system with a complicated workflow that's wrought with potential liability (especially in the current "enhanced enforcement" environment). The doctors need to be fairly compensated, if not they won’t do it... period. If QMEs continue to be over regulated, over punished, with lowered opportunities for reimbursement. I guarantee, in the next few years there will be no QMEs to handle the ever growing panel requests of injured workers. There arent enough currently.

Basically, the proposed fee schedule is a start, but its definitely not better than the current fee schedule. Why? sometimes the devil you know is better than the one you don’t. I would ask the

"powers at be" to tread lightly before making any big changes to the MLFS...the law of unintended consequences is alive and well and if this proposal isnt done correctly, the results could be catastrophic for the injured workers of California.. bad decisions have consequences.

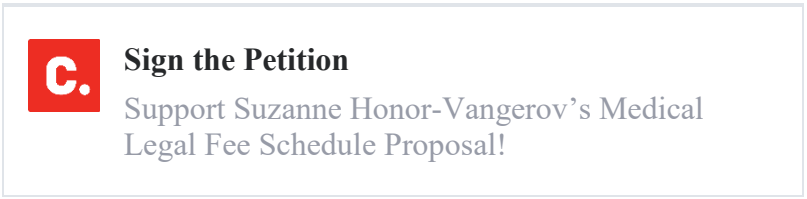
Vicent Bernabe, MD
Orthopedic Surgeon-Board Certified

August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: Sign the Petition



The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

Please reconsider your unfair and outdated proposals.

Tigran Garabek, MD
Board Certified Orthopedic Surgeon
Sports Medicine and Joint Replacement

August 8, 2019

The proposed changes are unacceptable. If enacted, this fee schedule will increase the administrative burden on QMEs, not compensate them fairly, and undoubtedly reduce the already record-low number of QMEs still left in the system.

In December 2018, DWC requested proposals for a new Medical-Legal Fee Schedule. Sue Honor, the former manager of the DWC Medical Unit, submitted a proposal which was widely endorsed by the QME community. Her proposal received over 1,500 signatures. Not only did her proposal modernize reimbursement for QMEs, but it also contained many critical qualitative changes that would decrease friction for all stakeholders.

Sue Honor's proposal and the accompanying petition can be found here: https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

The fact that you have disregarded essentially all of Sue Honor's qualitative suggestions is disheartening. Additionally, the reimbursement you are proposing is far below Sue Honor's recommendation and even beneath the reimbursement paid to IMEs in Nevada, a much lower cost-of-living state than California.

Many of my colleagues have quit serving as a QME. Some left by their own choice while others were thrown out by DWC based on underground regulations. Most quality physicians have avoided becoming a QME because they don't want to accept the poor reimbursement or deal with DWC's punitive actions towards providers. I have continued to serve as a QME despite all of these issues.

This proposal will be the final straw for many providers, including myself.

I urge you to replace this proposal with Sue Honor's proposal which the QME community has already broadly supported. https://www.change.org/p/support-suzanne-honor-vangerov-s-medical-legal-fee-schedule-proposal

---

Kent Karras August 8, 2019

I am shocked at the lack of support for QMEs. By the Medical Unit. Frankly they should know better. These proposed changes are a disgrace. These exams take a lot of time. Skill and judgement to perform. The pool of QMEs is declining and this is due to poor compensation. The Medical Unit is frankly playing into the hands of insurers. If there are less QMEs then injured workers will have to wait longer to be evaluated. This will force many to. It pursue their claims. Why does it seem that providers and injured workers are constantly getting the shaft while insurance companies make larger profits. I think that the Board needs to step back and rethink this. Compensation rates should be going up and considerably up not down.

Paul Aubin, DC August 8, 2019

I am writing to comment on the proposed medical-legal fee schedule changes. While the recommendations are certainly a vast and long overdue improvement on the current schedule I would add at least two significant modifications.

1. A "missed appointment" should be specifically defined under this code to include a no-show by either the applicant or a requested interpreter, and the fee payable to the QME for any missed appointment should be mandatory. Furthermore, the fee should be defined as half of the value of the fee for an initial comprehensive evaluation under this code. Not only must a QME block off substantial time on his calendar from treating patients in order to perform a med-legal eval but in cases where the eval is scheduled for a satellite location there is often significant travel involved in both directions. The QME must be adequately compensated for this loss of time and income.
2. The current fee schedule has been in force without increase for more than a decade. This fact is at least partially responsible for the significant decrease in the number of providers participating in the QME system. To prevent a repeat of this problem following the implementation of this new fee schedule a subsection should be added to this code requiring that the fee schedule be reviewed and increased at specific intervals, not to exceed every two years.

Fred Nicola August 8, 2019

Totally unacceptable. Record review should be the same as Nevada. Failed appointment same – is my time worth nothing? No record keeping requirement and payment for organizing records. Complex reports billed at higher rates.

George Balfour August 8, 2019

The proposed fee schedule is really a fee cut. Given the falling numbers of QMEs, given that QMEs are an aging demographic, given that the QME defends patient from fraudulent UR, the proposals are the worst possible answer.

You would be better served firing your expensive consultants and adopting Nevada's schedule unedited.

Annette Swain, PhD ABPP-CN August 8, 2019

I am writing to express my serious concern about the proposed changes to the QME Medical Legal Fee Schedule. If such changes are enacted, it is my professional opinion that the psychiatric and psychological services will be decimated, as there will be almost no providers willing to take such low fees for what can be very long and complicated evaluations. I am a clinical psychological and neuropsychologist, board certified in both areas, and I have been in practice for over 20 years. I have completed QMEs in the state of California for over 15 years. Psychological exams even without the record review can take 5 to 7 hours, and a neuropsychological evaluation, again without the record review, can take 10 to 12 hours (including the report preparation). In addition, there is the proposed expectation that the first 400 pages of record review is encompassed in that flat fee. Review of psychological records is extremely time consuming as they need to be carefully read and are not simply pages and pages of lab results. This can easily double the amount of time devoted to completing these exams. If these changes are put into effect, it will not be in my financial interest to continue to provide services as a QME, and I am sure my colleagues have the same opinion. I am further concerned that there is no reimbursement for missed appointments, as this is lost valuable time due to no cause of my own. I understand and appreciate the need to contain costs, but the dramatic cuts that are being proposed will serve only to harm the clientele because there will be few to no providers willing to provide services as QMEs.

Ron Perelman August 8, 2019

I am happy that after the 2018 COA meeting, at which time a group of us met with Mr. Parisotto, that serious progress has been made. We now have a framework in which to work— flat rate with record review add-ons. Now we need to tinker with the amounts and fill in the blanks. Records are a big problem. We should have the right to reschedule a patient if the records are not received 2 weeks before the appointment. They should be in order and counted, so the there is no dispute. It should also be clarified that an interpreter no show is reimbursable as a patient no show. It looks like the Nevada fee schedule is more agreeable than what has been proposed. I think public hearings and written responses are fine, but if COA and CSISM form a negotiating committee, we could quickly get this done. Suzanne Honor could moderate.

Jay Sordean, MD August 7, 2019

I object to the unfair way the DWC is disrespecting the time and expertise required to be a QME and to do a proper and thorough examination, evaluation, history taking, analysis, record review and report production. You do not even match the Nevada standards when the cost of a practice in California is at least 3 times more than in Nevada. What you propose is the equivalent of having a nursing assistant do all of the work when they aren't even qualified to properly diagnose. Knowing the Guidelines in and of themselves is an expertise which most physicians are clueless about. The demands upon QMEs, with added administrative costs, time having to be spent putting everything in with separation sheets, etc. is for your convenience. The review of records should be compensated at over 40 pages and the fee to review should be higher than the Nevada fees.

Nevada physicians are not qualified to do California QMEs. Why are you using their fee schedule unless you are being bought off by the insurance industry.

I object to your current thoughts on revision as ill considered and an affront to the QMEs who remain in the system. Haven't you shaken out enough already or is your intention to totally GUT the system?

Anonymous August 7, 2019

The proposed regulations are good for orthopedic and other physical injury doctors as they allow them to have 330 an hour. The regulations are a pay cut for mental health evaluators and anyone who does significantly complex medial legal work. Many mental health evaluators are upset at the proposed regulations. Many mental health evaluators will leave the QME system.

Let me give a few examples for ML 101:

1. If you are valuing record review at 2 dollars per page, that means, you have to review 125 pages an hour to get to 250 dollars per hour of record review to make the same hourly rate. Again, for persons whose medial legal evaluations are simple, they may accept this, but this level of work is impossible for more complicated evaluations. It may take hours to go through a 100-page deposition. It may take many hours to go thought contradictory witness statements and evidence.
2. A mental health evaluation would be compensated at the normal value times 1.5. This makes a mental health evaluation with 400 pages worth 2475 (1,650 X 1.5). Under the current system, for an ML104, this is 9.9 hours of total work at 250 dollars an hour. It is impossible to see a person, do the record review, analyze, and write the report in 9.9 hours. So if you have a multi-hour interview, 400 pages of records, and a complicated evaluation, evaluators would lose money. You, will be paying the evaluator much less than 250 dollars an hour and this is not comparable to the market.
3. The reimburse rate will not cover the overhead and the hourly rate.
4. The proposed regulations put the burden on the doctor to count the records and to sign under penalty and perjury the total number of records reviewed. If you have 2000 pages of records, that is too much uncompensated time counting records in addition to the cutting of the hourly fee and having inadequate reimbursement.

Let's move to ML102

1. Sometimes the second evaluation is more complicated than the first evaluation. So if I see someone five years after the first evaluation and received 400 pages of records, the evaluator will be reimbursed less (1100 X 1.5). This would be 1650 dollars.
2. If the evaluator received 800 pages of records, this would be 1650 plus 400 dollars which would mean that would be 2050 dollars. If those records included depositions, witness statements, etc., this again would be inadequate.

Let's move to ML103:

1. This is draconian because now, the doctor is responsible for going back and sorting out what records the doctor reviewed before and what records the doctor did not review. Then the doctor has to count the pages in uncompensated time. Now you only get 275 dollars and 2 dollars per page.
2. The doctor may have to read record previously reviewed to find out if they were previously reviewed or not and not get compensated for this.
3. The language in the ML103 is hostile.

Let's move to ML100

1. Basically, you let the insurance company choose whether or not they pay for a missed appointment. That is not fair. The evaluator did not have a choice of whether to pay for the office space, the overhead, or to lose pay because of lost opportunity.

2. Now, additionally, you are setting a ceiling on the reimbursement without taking into account time that could have been set aside to do other activities, preparation time, lost overhead costs, etc.

I want to get back to my first paragraph. An orthopedic provider will benefit by getting a raise to around 330 an hour. In order for mental health and other specialties requiring complicated evaluations, I propose factoring my 3.

In regard to record review, a comprehensive evaluation should cost 1650 X 3 = 4950 dollars as a base. At the current fee schedule, this is equivalent to 19.8 hours of work on an evaluation. However, to be on par with the orthopedic doctors, this would be equivalent to 15 hours of work by a mental health doctor using the proposed fee schedule (4950/330). This helps to justify that a mental health provider has to take at least three times the history, thee times the face-to-face time, look for at least three times as much detail in the records, have three times as complex reports, etc. Remember, mental health doctors have much more complicated causation thresholds including much more complicated Rolda analyses, many potential areas of nonindustrial causation, personnel action, and whatnot.

Now, the number of records reviewed for ML 101 to be considered in excess should be 400/3, or about 133 pages. This is because an orthopedic provider can scan the records. A mental health provider must read the records. Moreover, depositions, witness statement, personnel records, etc are much more important for mental health evaluators than orthopedists and take much more time.

The rate of an excess page should be 6 dollars (2X3). An orthopedic specialist can probably scan 125 pages an hour for the equivalent of 250 dollars an hour. That is about 48 seconds per page. A mental health provider cannot review 125 pages an hour. A mental health provider, who is actually reading the records, can do relatively easy records at a fast rate of 41.67 pages per hour (125/3). So to become equitable with the orthopedic doctor, instead of paying 2 dollars per page, mental health providers should be paid 6 dollars per page. Please notice I did not use 330 dollars an hour for this paragraph. So if a mental health provider is given a 100 pages of records and it takes the provider 2.4 hours to review, that would come up to be 600 dollars under the new rules. That is still less than what the orthopedic evaluators will be making on an hourly basis.

This factoring of 3 should apply to all the other codes.

To help address the other issues, the insurance company should provide a count of the total number of pages of records provided in a cover letter so doctors or their staff don't need to count. If there is a significant discrepancy, the doctor can let the parties know and charge accordingly. It will be up to the parties not to give the doctor duplicates so the doctor does not have to waste time reading duplicates to find out if they are duplicates. If the parties give duplicates, they need to be counted as regular records.

Also, in regard to supplemental reports, ML103, the parties should make clear whether they are requesting a paid or unpaid supplemental with he reason why. This will allow the doctors to be able to challenge this. This also eliminates the DWC from getting involved and helps to avoid the situation of underground regulations that the DWC recently engaged in. The DWC also needs to stop talking about discipline in the billing codes or other areas. It treats doctors as children. QMEs are highly sophisticated evaluators. Try picking up the phone and working things out in a professional manner.

Also, make ML100 permanent and at a rate of the ML code divided by 2. For example, if it is an ML 101 evaluation, then 1650/2=825. If a follow up, then 1100/2=550. This is a better reflection using the proposed codes but I note that in reality, 550 is not enough.

Also, pay the rate for actual time preparing and doing a deposition. 2 hours is not enough if you are a mental health provider. If you are adequately prepared, it will take you, at the very least, 2X3, or 6 hours. That is reality as many depositions take significantly more time to prepare.

This is probably the best way to make everything equitable among providers under your proposed rules. It is not fair to have mental health evaluators work at a much lower rate than orthopedic providers, who have easier evaluations, on average. This would also help keep the DWC away from billing issues.

Stacey Hoyt, Ph.D. August 7, 2019
Clinical Psychologist

I am a QME in the state of California. This used to be the majority of my practice. I enjoyed performing the evaluations and frankly, am quite good at it. I have moved my practice to QME being only a fraction of my work as it is almost impossible to get paid and the work is very complex. These changes to the fee schedule are extreme and in my opinion will result in fewer and fewer qualified examiners who are ethical in their work. One cannot comprehend the level of detail that is required to perform and write an evaluation. The compensation as it stands is fair. To reduce it would for myself make it impossible. I hope you will take this into consideration.
The Workers Compensation system is challenging at best. To minimize the compensation further simply makes not sense. If monies are needed, turn to the insurance companies. They have clearly made a livelihood of manipulating the current regulations to suit their interests at the expense of the clients and system we seek to assist. Professionals are not the villains here.

Robert Meth, MD August 7, 2019

The new fee schedule does not adequately reimburse us for office overhead and the time spent in preparing these reports. You need to have physician input before making your final fee schedule.

John Kayvanfar, MD August 7, 2019

It looks like the answer is clear – need to follow Nevada example, otherwise this is discrimination against California physicians.

Douglas Drucker, Ph.D. QME August 7, 2019

The proposed changes represent a significant reduction of paid time for QMEs like myself. I would reconsider my status as a QME if these changes are set into law. I am estimating a dramatic loss of QMEs if these rate reductions are set into place. Given that the fee schedule has not increased in many years, rate reductions represent an insult to existing QME doctors. In my opinion this could set the system back many years as many existing QMEs would likely not desire to participate any longer and new QME participation would diminish as well. I respectfully request a reconsideration of the fee schedule, with reasonable increase in fees, which has been proposed.

Fernando J. Gutierrez, EdD, JD August 7, 2019

These fees are being cut by 2/3+ for FORENSIC work. If the fees are reduced I will stop being a QME. It is time to stop devaluing the work that psychologists do.

Ken Karras August 7, 2019

The proposed fee changes are proposing inadequate compensation for time and effort spent to perform QME's. I ask the there be a base rate of $2000 per exam, $5.50 per page reviewed. Re-exams base rate be $1300 and supplements be $800. Also that there be an annual cost of living increase. That there be a no show fee of $800 for cancellations that are less than 10 days in advance and $1000 for no shows.

Ali R. Berenji, MD, QME August 7, 2019

I like to cast my views regarding how we can make appropriate contribution to the WC system by more efficient QME report to qualify for an appropriate fee.

In past two year, I have made all the efforts that humanly possible to reduce my fees, to cut costs, so the system can continue to function. I have always striven to produce a quality report that can solve disputed issues, to educate the patient, parties, and judges about the medical facts, so they can avoid unnecessary elongation and delay to resolve the issues quickly, I am confident this approach will cut cost to the system in general.

The issue of making a quality report that can be considered "substantial medical evidence "whether we like it or not cost the Dr. time and energy, experienced staff, sufficient work space all these items costs more and more every day (over head costs), but the Dr. getting paid less and less. **I feel the quality report that solve issues should be paid extra.**

The new proposal may be sufficient for simple cases that involves with one body region but for sure discourage the Drs, who are to deal with complex. It is a well known fact that now a days the cases we see are more and more complex than ever. The reason for this fact is obvious, the cases have not received timely care, as a results problem with one body region turn into multiple problematical body regions. For example I have seen cases that were originally involved with one body region (for example) a case with the knee derangement (torn meniscus), but since there was no timely agreement and authorization for a needed arthroscopy, the case developed secondary gait problem that affected the low back. There are many many examples like the case I described.

In such cases, after years of neglect they suddenly want clarification from the QME (not just for one body region,) but for all multiple body regions. I feel in the situation when there is multiple body regions, the parties should divide the body regions and send the patient for one or two body region at one visit. In that case the new changes (reducing fees) may be justified.

I feel 400 pages is not workable acceptable, but the 100 pages could be more reasonable. The new proposal is mute about complex cases with involvement of multiple body regions. In such complex cases we need to keep the items like face to face, medical record review, medical research needs, and apportionment. These are needed for a quality report.

There are complex cases that even experienced QME like myself have difficulty to put them in a right medical order (despite a sufficient face to face, record review, medical research, and correct apportionment), particularly with reference to prognosis and future impairment, imagine the judges with good legal knowledge but a serious need to be given appropriate specialty description to help them solve the issues in question.

Good report reduce the costs to the system. Insurances. Attorneys do not mind to pay few more dollars for a good resolving report.

Joshua Kirz, PhD August 7, 2019

Well, here we are again and these new proposals are only marginally better than the last set. These still reflect significant (in some cases massive) cuts in reimbursement for many of us. I remain curious that *this* is the issue the DWC chooses to spend time on just when the system is facing such a shortage of QMEs. Cutting pay when we need more doctors? Interesting choice of incentives.

And interesting timing. Cutting pay just when AB1832 had been proposed to finally increase pay that had been unchanged since 2006? Hmm.

I understand the underlying rationale for a flat rate system: simplicity, standardization, prevent overbilling. But the downside is immense.

What distinguishes one case from another? Complexity and time. The current system (which clearly needs a cost of living increase, a la AB1832) recognizes this.

I have seen basic orthopedic ML102s that probably took the doctor 4 hours all told. How can you equate this to a complex toxic exposure case for an internist or PTSD case in psych, both of which can take over 20 hours, depending on the circumstances?

The internist doesn't even get the extra modifier that the psych gets, and the psych's modifier doesn't come close to accounting for all the hours spent. Plus, there are plenty of extremely complex orthopedic cases, where the proposed rates will be woefully inadequate.

One size fits all makes no sense. Some cases are 102s, others are 104s. A case that takes 4 hours shouldn't pay the same as a case that takes 20+ hours.

Further, one does not need to be a psychologist to understand reinforcement (rewards and punishments). The current system emphasizes quality; the proposed new system emphasizes quantity.

The current system rewards obtaining a detailed history from the IW, carefully reviewing medical records, and writing a detailed and persuasive report. The new system will punish these behaviors. One the doctor reaches a certain number of hours on the case, he or she will begin working for free, and they simply won't do it.

That means injured workers get short-shrifted with inadequate evaluations, inadequate review of records, and reports that will leave everyone dissatisfied (with increased litigation costs). The only way the doctor can make it up is on volume - quantity over quality. The DWC needs to consider if this is what they want to reinforce.

Ultimately, if the DWC doesn't trust their QMEs (the few that remain), they need to beef up their Enforcement Unit. I am all for punishing bad behavior, be it from doctors, adjusters, UR/IMR, or anyone else in the system. The educational models for QMEs were a start (although flawed in content). Additional training could be mandated prior to barring QMEs from the system.

Finally, if the DWC insists (obviously wrongly in my opinion) on flat rates, the rates will have to be quite a bit higher to prevent further attrition of QMEs.

From what I can tell, orthopedic cases involve a mix of simple and complex cases. Perhaps a rate that is "in the middle" balances these out.

In psych, I have not seen a simple case since SB863. While there were plenty of complex compensable consequence cases in the past, there were also some simple ones. Those are gone.

Psych claims may be down 80-90% since SB863, but the ones that are left are incredibly complex and time-consuming (eg, violent act, catastrophic injury, harassment, severe trauma, etc.). I only see a few cases per month, but they are virtually all now complex, lengthy endeavors.

The proposed base rate and psych modifier does not come close to accounting for the time spent in these cases. The current proposal would amount to approximately a 50% cut in pay for the average evaluation and quite a bit more for the average supplemental. A similar cut in pay would apply to my orthopedic and IM colleagues performing complex ML104-type evaluations.

The ML-102-type evaluators will come out ok in the new system, but the ML-104-type evaluators will have limited choices:

1. Leave the system, aggravating the lack of QMEs (especially those that are in demand, who would be the most likely to leave for more remunerative options outside of WC)
2. Work for free once one is about half-way through the case
3. Or simply make it up on volume and perform shoddy work

I could add many additional comments about the various flaws in the proposal, but I am sure my colleagues will cover them.

Ivan Greenspan, MD August 7, 2019

Please be aware that this represents an unfair burden on the doctors who have put in the extra time and study to be the best in their field. Recognize that this will push the most trained physicians out of the medical legal field and diminish the quality of medical legal examinations. It is absurd to expect doctors to read 400 pages for free. 400 pages of medical records can require hours of detailed examination in order to provide an objective analysis. Reducing the compensation to zero will inevitably compel doctors to quickly skim records instead of performing the deep analysis which is currently performed. These changes to the medical legal fee schedule appear to be made by uninformed individuals who never performed a medical legal examination.

Adam Brooks, MD August 7, 2019

I am a QME in Northern California. The proposed changes to the fee schedule are unacceptable to me. They will harm my ability to service the population of injured workers both as a QME and as an orthopedic surgeon who treats many injured workers. Basing the California fee schedule on the Nevada fee schedule may seem reasonable, but this proposal is a bastardized version of the Nevada schedule. In a state with a significantly higher cost of living, it makes no sense to pay LESS than Nevada. Also, the lack of compensation for record review until 400 pages is patently absurd. Other problems with the proposed fee schedule includes uncompensated supplementary reports, and the inability to charge for no-show appointments. This proposal is clearly influenced by and skewed in favor of the insurance companies, and will be a detriment to doctors and more importantly the injured workers in California.

Hose Kim, MD August 7, 2019
Orthopedic Surgery

Based on the information, I would be okay with the Nevada fee schedule.

Also, records, even if reviewed before, have to be reviewed again in cases of a supplemental report or a re-eval. No way one could remember all that info from the records reviewed months or sometimes years ago.

Mark Wolkenhauer, Psy.D, QME August 7, 2019

The proposed changes to the QME medical legal fee schedule are going in the wrong direction. Rather than getting a long overdue COLA, the new fee structure would mean simpler billing, but less compensation.

As a psychology QME, it is particularly frustrating that the proposed rate would be lower than those of Nevada's fee schedule. We should be compensated for missed appointments and our minimum flat fee should be at least comparable with that of Nevada's fee schedule. Other details such as being responsible for the medical records and having to justify supplemental reports, are also in favor of the insurance carriers.

Many of my colleagues have already left the QME practice because of the significant amount of work compared to the compensation. These proposed changes make things worse, not better. The QME cases are almost always complex and require thoughtful judgments affecting injured workers and employers.

I strongly oppose any reduction in compensation for these evaluations, even if it is done under the guise of simplifying billing (which of course I support). Please reconsider these rates. Otherwise it is inevitable that many more practitioners will be leaving the QME ranks, leaving only those who are content to do high-volume, low quality reports.

Robert L. Weinmann, MD, QME August 7, 2019

There needs to be reconsideration of supplemental reporting:

-- $275 is inadequate

-- I personally did one myself last night. It took about 4 hours and I was keeping it short.

-- the arbitrary designation of 400 pages for allowable review shows only that whoever drafted that portion didn't understand what these reports involve.

-- sometimes records are photocopied on both sides and sometimes the reverse side has nothing to do with what's on the other side of the page.

-- doctors' offices should not be obliged to count pages unless the doctor's office wants to dispute the page count made by the referral source

-- the draft doesn't mention multiple requests from lawyers for supplementals when they're disputing each other

-- the entire designation of 400 pages in all categories is arbitrary, unilateral, and reckless. It should be redone -- time-based is better, e.g., sometimes short questions do in fact require long answers.

-- lately we've noticed an increase in crates containing several hundreds of pages

---

Andrew Levine, Ph.D., ABPP, QME August 7, 2019

I am relatively new as a QME. I have enjoyed the work thus far, as the compensation is fair and the public service aspect is satisfying. However, the proposed changes will make it unfeasible for me to justify continuing this work. The stagnant fees have already led a large number of psychologists to discontinue QME work. The current proposed changes will only hasten this exodus. This could leave the DWC network vastly understaffed, leading to more systemic problems and unforeseen costs. Please reconsider the proposed changes.

Chuck Allen August 7, 2019

The proposed fee schedule would work out.

Anonymous August 7, 2019

Office overhead has risen sharply in the recent past. Employees expect/demand pay raises. Computerized medical records are extremely time consuming. QME fees barely cover overhead. Unfortunately, insufficient reimbursement will cause our providers and staff to leave the workers' compensation system.

Marc Wilkerson, MD August 7, 2019

I am not happy with this proposal.

Summary of the proposed changes:

- ***Complete Overhaul of the Fee Schedule:*** Complexity factors and hourly rates have been abolished in favor of a "Nevada-style" fee schedule. Under the new fee structure, a flat fee is paid for initial evaluations ($1,650 non-psych, $2,475 psych), follow-up evaluations ($1,100 non-psych, $1,650 psych), supplemental evaluations ($275 for all specialties) PLUS a variable fee for pages of medical records reviewed in excess of the first 400 pages ($2/page starting with page 401 for all specialties)
- ***DWC Says Your Time is Less Valuable than a Nevada Doctor's Time:*** While DWC adopted the *structure* of the Nevada state IME fee schedule, DWC inexplicably proposed much lower *fees* than those found in the Nevada schedule. Additionally, DWC wants you to review 400 pages before you get compensated for record review. Nevada thinks 50 pages is more reasonable. Below is an apples-to-apples comparison:

	Nevada Fee Schedule	**California DWC Proposal**
Minimum Flat Fee	$1,735.53	$1,650
Pages Included in Flat Fee	50	400
Reimbursement per page	$4.34 (starting on page 51)	$2 (starting on page 401)
Organization of medical records in chronological order per page	$0.95	$0
Failed appointment fee	$650.82	$0
Evaluation of each body part in excess of the first 2	$325.41/body part	$0

Medical records required to be sent in an organized manner to doctor?	Yes	No
Cover letter required to specify number of pages sent to doctor?	Yes	No
Definition of "Missed appointment?"	Yes	No

Link to the Nevada Fee Schedule (found on page 6):
http://dir.nv.gov/uploadedFiles/dirnvgov/content/WCS/MedicalDocs/2019%20MFS.pdf

- ***Missed Appointments, You Still Get Nothing:*** The current fee schedule states that no compensation is "necessarily owed" to a provider for a missed appointment. DWC's change to this policy does not fix this. DWC proposes to cap what QMEs can charge at $550. But carriers still don't have to pay you anything.
- ***Medical Research Goes Uncompensated:*** You will no longer be reimbursed for time spent performing medical research.
- ***You are Responsible for Keeping Track of All the Medical Records, Not the Insurance Carriers:*** For re-evaluations or supplemental reports, you can only bill for medical records that you have not previously reviewed. What happens if either of the parties sends you records you've previously reviewed? You have to keep track of that. You don't get paid for the records you previously reviewed. And no, you don't get paid for the administrative hassle of figuring it out.
- ***New Creative Way to Discipline QMEs:*** Under the proposed changes, there are circumstances in which you would be obligated to provide supplemental reports for free. If you decline to do so then the "Administrative Director or his or her designee" will have grounds to discipline you. In contrast, there are no new rules to hold insurance carriers accountable for anything.

- ***Cost of Living Increase – Denied!:*** Last week saw the DWC release a proposed fee schedule for copy service providers. That fee schedule featured a reasonable cost of living increase on an annual basis. No such luck for QMEs in this proposal. This glaring omission guarantees that the QME fee schedule will remain an ongoing issue for years to come.
- ***QME Crisis***: If you are reading this, chances are that you are one of the few remaining QMEs in the system. The number of QMEs continues to plummet to all-time lows while the demand for their services is at an all-time high. We had hopes that a new fee schedule would compensate you reasonably (or at least as much as a doctor in Nevada!). It is important that you make yourself heard and tell DWC how these changes will affect your participation in the QME program.

Vladimir Lipovestsky, MD, QME August 7, 2019

As a QME for the last 9 years I am writing about the proposed revision to the Medical Legal Fee Schedule.

It is clear that the DWC has entirely ignored the public comments made by those who attended the meetings with the DWC about revision of the medical fee schedule. The wage has not increased since 2006 and now the plan is to reduce it further. Let's not pretend that just because the fee is flat, it does not mean that the time required will be any less.

It has been obvious that the object of undercover regulations that required court action to stop, the plan to allow postponement of payment by carriers of ML fees until case resolution, and now the new fee schedule, is the same: to wipe out the QME system that allows access to neutral assessment for the injured worker.

The State of California presently compensates psychiatrists at $200-250/hour with NO OVERHEAD and with benefits for work with prisoners. Injured workers clearly do not warrant that kind of consideration. Obviously the market compensates psychiatrists at higher rates.

With that in mind, the expectation that 10 hours is sufficient to produce a thoughtful comprehensive report in psychiatry, including a record review of 400 pages is ludicrous. The

smallest amount of hours that a comprehensive report has taken for me is 12 hours. An average is between 16-24.

With additional pages to review compensated at $2 per page leaves me with a mandatory 125 pages per hour; otherwise I will be making a charitable contribution to DWC. If that is required, please acquire tax-exampt status an provide the QME with the necessary documentation for tax write off. I could probably keep up that pace for an hour, but when I have 400 pages to review it is likely to fall to 50 per hour very quickly. If I have 3000 pages to review (or 11000 pages to review in one case), it is just not worth the trouble, which is obviously the DWC intent.

If the complaint is that the reports are inferior anyway, then set a higher bar for acquiring QME status and compensate accordingly. That's not going to happen because the DWC does not actually care about the quality of the reports. If it did, this would have been done decades ago. It would not be a great shock if in response to markedly reduced pay, physicians will leave the QME system in droves, further reducing an already low number. This must not only be anticipated by the DWC, but deemed a desirable result.

Jaime Rotnofsky, PhD, CRC, CP, QME August 7, 2019

Additionally, I want to add that the amount proposed for payment for no show appointments is insufficient and should be. At least $750, QME evaluations in psychology are typically 3 hours, plus a charge for record review time at min. current hourly rate $250 per hour.

Payment for appointments needs to be written in policy as mandated to be paid by insurance company; otherwise they will not pay and the QME has the burden to ensure payment. I personally have gone in front of a judge two times to obtain payment for no show appointments; which is time consuming for everyone.

Ken Karras August 7, 2019

The WCAB Medical Unit proposes revamping the QME fee schedule. Performing these exams takes a lot of training, skill, good judgment and time. They are difficult and must be performed in a timely and accurate fashion. Much responsibility and onus is placed on the examiner. Because of the time and effort required to perform these exams the numbers of QME's continues to fall. On would think that the fee schedule would increase as a result, but this exact opposite is occurring. California and its leadership need to ask why the current proposals which decreases compensation are occurring. Remember QMEs have not seen an increase in their pay for many years.

It looks as if the WCAB has chosen to follow the Nevada system and choose a flat fee where their is no difference in the fee schedule based on difficulty of the case. While this makes little sense the shocking part is that the base fees to be paid are substantially lower and the compensation for each page reviewed is lower also. This makes little sense. Furthermore supplemental reports are paid little and in many cases not at all. No show fees are also not required to be paid. I have to travel hours in some cases to render and exam.

If the patient "no shows" or the case is settled a day before the scheduled exam I suffer substantially. Compensation is appropriate. Furthermore, I should be payed for all pages reviewed not have to throw in for free hundreds of reviewed pages that take hours to look at. This new fee schedule is unfair and does no offer a fair wage for the work performed. Compensating someone $2 per page is nonsense! The powers that be should be ashamed. I ask that these rates be thrown out and significantly raised. I ask that there be a raise in all areas of the QME system allowing for increased overall compensation so that providers can actually have an increase in their wages which would reflect inflation and the increased overall demands of this system.

David W. Baum, MD August 7, 2019

I am one of the few remaining QME doctors in a system with increasing demand.

The proposed changes would effectively eliminate the QME system. We would be paid a relatively small amount for evaluation requiring evaluation of multiple issues and body parts. My specialty (internal medicine) requires extensive research for ie, cancer and pesticide cases, which would not be reimbursed. Again, the time demand for some of these reports would exceed any potential compensation. Perhaps most importantly, the proprosal would attact few new applicants, meaning that the QMEs would continue to die off by deatha and attritiion, leaving the system with few doctors.

Ronald Ward August 7, 2019

I have review the proposed changes in the QME Compensation Fee Schedule for the State of California.1) This document, if adopted, will further gut the existing system of injured worker medical-legal evaluation and compensation. As written it will most likely result in further loss of QMEs. The document clearly reflects a pay reduction in most categories. ML Report types vary significantly in their complexity and do not fit into a Flat fee schedule. Elimination of ascending ML report types does not recognize the difference of case complexity. This does not make sense to those supplying the services. Making all cases the same does not fly. 2) Who came up with 400

pages+ as the trigger point for billing medical record review? The number of pages received does not correlate well, in some specialties, with pertinent information. There may be more information regarding case in fifty pages or less than 2000 pages. This may well result in no medical record review for large numbers of cases. Some cases require two hours or more just to sort out and arrange the pertinent records before documenting anything. This section must be reconsidered in terms of the quality of reports which the DWC wishes to receive. 3) If left to the discretion of insurer, missed appointments and no-shows will not be compensated. This in an insult. It does not take into consideration the amount of time spent scheduling and coordinating appointments, office space time, wasted physician/support staff time. Some applicants decide not to show up for a variety of personal reasons. There must be applicant accountability. 4) ENT cases can involve multiple head and organ systems. 5) Medical record review time is not solely a factor of number of pages received, but rather the pertinence of the records to the issues at hand. Medical record review and documentation is necessary for time lines. history of past injury/awards, causation factors, apportionment, etc. Attorneys need and request this material for plaintiffs and defense purposes. (This may result in more AME cases, which will put poorer citizens at a disadvantage). The idea of setting such a high threshold for compensation of medical record review is not defensible, it is abuse of those who are certified to perform the evaluations. 6) It would be helpful to have an exact page count for medical records sent for review. This would be the responsibility of the sender. 7) Compared with QMEs in Nevada, QMEs in California would be compensated significantly less for more professional time.7) Medical Literature Search, if not compensated, would most likely cease to be included in reports. This would be a huge loss. This would not be advantageous for the plaintiff or the defense. Current supportive articles are frequently indicated for case argument, substantiation, and resolution. Attorneys frequently request academic back-up. 8) Presently if a party sends a request for medical record review, this must be performed whether or not these are the same as those previously received or entirely new information. This all takes time. And must be compensated. 9) If there are outliers who are gaming the system or submitting inappropriate bills, these individuals should be indentifed, have hearings, and appropriate action taken depending on the findings. Punishing the entire QME community is inappropriate. There is no collective guilt. 10) It would be indicated to have an annual COLA raise for QME based on the inflation rate 11) The proposed changes in the QME compensation system is most likely result in higher attrition rates, fewer new QMEs, and longer delays for case resolution.

Mechel Henry, MD August 7, 2019

Thank you for reconsidering fee reimbursement for Medical legal reports. I have been in private practice since 2004 and a QME since 2005. I believe the best thing to do is begin with the end in mind. The assembly bill, AB1832, which proposed a pay increase after none in over a decade, made sense and I support this. The new Complete Overhaul of the Fee Schedule based on a Nevada style reimbursement is a pay CUT, which makes no sense.

1. **What is the goal/expected outcome for these changes?**

My hope is: transparency and fair reimbursement for work done, with fewer rules for everyone to worry about enforcing. A reimbursement which is simple and attracts good physicians to do the needed work, and takes into consideration many factors to help physicians continue to do this work. For insurance companies to get value/quality reports by excellent physicians, for what they are paying for.

Why is this my hope? First, we have not been given a pay raise since 2006, and ALL of my costs have gone up. To have a deposition, always done in my office, I am paid about half what the defense attorney is paid. This seems unreasonable.

For the parties drafting these changes, ask yourself: how am I paid? How often do I get a raise? How is my retirement funded? What do I expect to get in return for showing up for and doing my work well? What do I think it takes to be a physician/keep my board certifications current, and do this ML work while maintaining a private practice?

Please remember, most physicians doing ML work are in private practice. Physicians full time at Kaiser, state institutions and academics, don't do tend to ML work for workers compensation. Right now there is a physician shortage, with 5% or fewer physicians in private practice. Of this percentage in private practice, only 0.5% are female.

The physicians in private practice remaining have many external factors to consider: rent (which only goes up, esp in HCOL areas such as Bay Area and LA), staff, benefits, web site and form management, retirement savings, supplies, transcription, computers and paperwork/scanning requirements, additional CMEs to be a QME, keeping up board certification every 10 years (typical cost $2800 for test, not including time off work to study) to name a few. And there are fewer and fewer physicians in private practice and willing to do ML work for workers compensation. Several of my colleagues have already not renewed their QME licenses.

For civil cases, physicians simply set their own fee schedule and it is based on several factors. Workers compensation should take this into consideration for reimbursement as well.

So we have to ask another question:

2. How to calculate what physicians who do QME/AME ML work are worth?

There are ways to quantify this and figure it out.

1. do a cost study in the USA for ML work. Not just workers comp, but IME and independent work and see what people are getting paid based on specialty and location.
2. Have a modifier increase for geographic locations with higher overhead: Bay Area, LA, especially.
3. Have a modifier to increase pay based on years of post undergrad training, including residency. For example, a chiropractor goes to school 3 years. An MD/DO physician goes to medical school for 4 years, but then does 3-10+ years as an intern/resident. So years of graduate and post graduate education should be factored in, as each year of additional training brings a higher level of expertise to work.
4. Have a modifier to increase pay for years of experience as a QME, up to 20 max. The reason for this is in the past, most physicians were board certified for life. For most physicians currently 50 and older now, this is no longer the case. So there should be a pay increase for those who have to recertify their boards every 10 years.
5. Have a modifier to increase pay for each board certification. For example, 3 boards should equal a higher pay than 1, because that physician brings more knowledge base in more areas to the report.

How to monitor these modifiers? When a phsyician reapplies for QME status, the modifiers are assigned and education, etc verified (which is already done). Each physician gets a code assigned to be used on all reports for that year. The insurance carriers get a copy of this aproved modifier code with each bill, and it's posted or easy to verify on the DWC site or somewhere. This way, the insurance company knows Dr. XYZ has code 1224, which is a xx% increase in the base reimbursement.

Other modifiers -94, -93, etc can still be used by everyone, on top of the base codes. Billing software would automatically send this proof of modifiers with each bill sent electronically.

Do away entirely with the requirements for ML102, 103, 104. Just pay an hourly rate, with the assigned modifiers. And please pay for no shows. I have been attacked several times by brain injured patients (called security to escort them out) and could not examine them to do a report. There is no ML billing "code" for this. I asked the adjuster to pay a no show fee since I could not do a meaningful report, and they refused to pay anything. Ask yourself, "would I do this work if I weren't at least paid a minimal fee for a no show or appointment which I had to cancel for my safety?"

Another question:

3. What should go into a report?

That changes every year or two and is more than causation/apportionment, so it makes no sense to reimburse based on current factors we know if you want a fee schedule which will last. There was no Almaraz/Guzman before, no Kite and rating by analogy, and for some cases, impairment

ratings take a vast amount of time. The report should simply answer/address the pertinent questions/issues at the time it is written. To be a QME you have passed a test showing you understand this and you are required to take additional CMEs quite regularly. This should be enough proof you know what to put into the report. A report should also include a response to the cover letters from the parties, but the standard needed is obvious and to be a QME you have proven you know this. Completion of forms, etc, would just be part of time factor. Not a set rate, as some forms take longer to complete than others, and this way there is no incentive to NOT complete a report with all factors, but if a supplemental is needed, it would just be done.

For example, if a QME sees someone and there are no records, they can just bill for the face time and send a report with exam findings, and then say they need the records to complete the rest of the report if that is the case. Insurance adjusters often fail to send records, and it puts the physician in a bind, as they want to review records to bill and ML103 or ML104, but if they were just paid to do what they could, reports would be done sooner and adjusters might send the records like they are supposed to, so ML evaluators can do their job.

And medical research is something you have to do to issue a thorough report, and time just varies. Objective medical evidence, analyzing results of diagnostic testing, medical literature, and applying the current guidelines takes time. And this must all be explained so the parties can understand the medical significance and objective medical evidence and diagnosti tests (judge, fact finder, adjusters). Use of normative values requires medical literature and references to write a medical legal report.

4. Let's all take some responsibility.

There needs to be more responsibility on the carriers part to ensure things are done so the ML evaluator can do their job. Send records and cover letters in advance, respond to emails/calls, pay on time for work done, etc.

Time for scheduling and completing an eval/report should be based on the complexity of the case and amount of records, rather than saying everyone must be seen in 30-90 days, with reports done in 30 days. These can be recommendations but if someone sends me 4500 pages of records, and they send them LATE, how am I supposed to get that done in the now remaining 15 days I have? It's impossible. And I don't want to send an incomplete worthless report, but I also don't want to send a late report. So stop putting QMEs in a dilema constantly.

Loosen up the days before a panel QME needs to be seen. With current rules, we essentially have between 30-60 days to set an appointment. Why? Because the adjuster will not let me schedule in under 30 days, as they say they need time to send letters and records, thus, in actuality I have a 30-60 day window to schedule. So if I am on vacation for 10 of those days (and lets also remember weekends and holidays are not counted), how can I possibly accommodate many QMEs? Saying under 6 months for scheduling is reasonable, but under 60-90 days is just not possible most of the time.

I sincerely hope the DWC and the people making these changes begin with the end in mind. Anything but a pay increase would mean I would discontinue doing QME work, and I suspect I would not be alone.

Mark Kimmel, MD August 7, 2019

I am curious how neuropsychological evaluations are effected by the new fee schedule. Are neuropsychological evaluations considered psychiatric or psychological evaluations.

Cheri Adrian, Ph.D., QME August 7, 2019

Your proposal will make it impossible to do this work in a professional way. Different cases present much different histories and issues which a flat fee totally ignores. And 400 pages of records for free? In psychology, that can be an extra 8 hours of work.

Your proposal ignores the time it takes to do a thorough legally appropriate and defensible evaluation. It ignores the time it takes to do records, do reports, do psychological testing, and ignores all the costs of administrative support, which for me is 40% of the fee paid. I cannot pay my office rent on the fees you propose.

Please reconsider your proposal and base it on the facts of what is necessary for professional work, not on the efforts of the insurance companies. Your job is protect workers. You spend a lot of time making sure that they get their evaluations and reports on time and that the work is ethical and professional. Your proposal would mean that workers will not get the careful and thorough evaluations to which they are entitled.

Emily Ziegler, Psy.D., QME August 7, 2019

I am writing to express my great concern regarding the proposed overhaul of the fee schedule. I am a psychologist and have been a QME since 2011. I also see patients in private practice and two of my largest carriers (Cigna and TriWest) currently reimburse between $185-200 for a 50 minute therapy appointment. Often, the interview and psychological testing for an initial comprehensive evaluation takes between 6-8 hours. After the appointment, I still have to score and interpret testing as well as produce a report that is typically between 20-30 pages. In a straight-forward,

"young" case, my hourly investment is typically around 20 hours. At $2,475, that means I would be paid $123.75 and hour, which is a pay DECREASE of nearly 50%. It is even worse when I factor in the cost of a transcriptionist, office staff, and overhead. It would not be financially feasible for me to continue to function as a QME with the proposed flat-rate. To be frank, this proposal is an insult to my training and expertise. Perhaps no one has had the misfortune of hiring an electrician or plumber recently but, in the Southern California area, finding a skill tradesperson for less than $85 for a house call is impossible. Here, the DWC suggests that reasonable payment for highly trained and experienced doctors is only slightly higher. This rate is more appropriate for an unlicensed intern than a license professional with years of experience. Clearly, this proposal is purely at the benefit of the insurance companies with no disregard for injured workers, the doctors working in the system, or a system already impacted by an inadequate number of QME's. In summary, this proposal is disastrous.

John H. Welborn, MD, QME August 7, 2019

I do not think california QMEs shoud be paid less than QMEs in Nevada when our expenses are much higher including rent and labor.

Gary Lewkovich, DC, QME, Chiropractic Orthopedist August 7, 2019

Why should California QMEs be paid any less than those in Nevada providing the same service? Low reimbursement and the enormous amount of time often required to do a fair job in reviewing applicant cases is killing the system. The number of QMEs in California is dropping and some specialties are have few or no QMEs in a region. There is no mystery as to why this is occurring.

It is time to be fair and treat all QMEs like real doctors.

J. Stuart Meisner, PhD August 7, 2019
Clinical Psychologist

I strongly oppose a flat fee rather than per hour schedule. Especially in claims of injury to the psyche there is a vast difference in complexity. I know this from doing thousands of conscientious medical legal evaluations in the workers compensation system for 34 years. This fee structure will result in simplistic evaluation based upon a few dramatic facts and will also enable gross

exaggerators to slip through. Important facts and nuances will go unintegrated. The evaluation process will become a sham.

Gerald S. Besses August 7, 2019

As an Internal Medicine evaluator, it is unreasonable to expect me to be fully knowledgeable in all fields. Research must be compensated when it is needed.

Also, I will not do uncompensated secretarial work organizing med records chronologically, and I frequently find it necessary to review records that I reviewed in the past, and will not accept being uncompensated for that time.

Complex cases of more than one system must be compensated at a higher rate.

Possibly, this schedule will set things up to decrease the number of QMEs?

Joseph Antony Matan, Orthopedic QME August 7, 2019

I have seen the proposed new fee schedule, based on the Nevada model, but significantly lower.

Please do not adopt this fee schedule for California.

Jonathan Berkowitz, MD, QME August 7, 2019

As a newly minted QME doctor, I am dismayed to see the proposed changes to the fee schedule. I will list my concerns below, and I hope that they can be taken into consideration.

1. While I applaud the initiative to simplify initial evaluation fees into one fee, the fee is too low. If you look at Nevada, their physicians receive 1735 for a new evaluation, and the cost of running an office is considerably lower.

2. 400 pages of record review are included in the initial evaluation fee. That is an absurdly high amount of pages that take a long time to review and organize, and should not be included in the evaluation fee. Adding record review fees starting at over 50 pages makes more sense.

3. Reimbursement per pages over 400 is very low, half of what Nevada physicians get paid, and which they get paid starting on page 51

4. There is no reimbursement for organizing the medical records, this is a necessity because it is a time consuming process that takes away time that we could be spending with patients.

5. No failed appointment fee- this is necessary out of respect to our time and lost revenue

6. Medical research is uncompensated- this is a backward step.

7. There is no cost of living increase- this will open the door to continued issues every year that the reimbursement does not rise with inflation.

These proposed changes are a step in the right direction. I think that a more realistic change would look like this:

1. Recognizing the increased expenses of operating a business here in California, the initial evaluation fee should be one fee, and be at least 2000 dollars.

2. Any record review time spent over one hour should be reimbursed at a reasonable hourly fee.

3. There should be a costs of living increase

4. There should be a failed appointment fee of at least 600 dollars, out of respect for our time

5. Medical research is an important component of good report writing, and needs to remain compensable.

Thank you for your attention, and I hope that this feedback is given some consideration.

Juan August 7, 2019

I've been a QME since 2001.

The proposed changes are severe.

I will no longer be able to provide my services if those changes come into effect. Most commonly, the cases I am asked to address are very complex. I provide very conscientious opinions and bill

according to my efforts. I will not be able provide a quality service with those changes. Furthermore, any lower quality of service would break my oath as physician.
Finally, the proposed fees do not concord with a code of respect for WORK. The fees are inconsistent with the value of our work as physicians.

The changes would be disastrous.

James O'Brien, MD August 7, 2019

I will focus on what I consider to be the two major issues as others will doubtlessly dig into the details:

The fees for no-shows are too low and subject to abuse by insurance companies. No-shows and last-minute cancellations are devastating to a clinical practice. Time set aside for psychiatric medical-legal examinations is typically four hours. There is no reason that this should be at the same rate as a cancelled orthopedic appointment or shorter evaluation since three or four times the amount of time is set aside. 550 dollars does not come close to compensating for losing a half a day of clinic patients or other work. It also does not compensate for records reviewed in advance of the appointment, as this can take hours. In many instances, per diem rental costs are 200-300 dollars so half of that fee is lost in sunk costs. Cancels, no-shows, and last minute reschedules are the bane of QME work and the reason a lot of people just decide to quit. No one can run a practice that way.

A ten percent cost of living increase is grossly inadequate and there is no torturing of California inflation statistic that can honestly claim only 10 percent inflation since 2005. A more realistic figure (excluding housing which has doubled or tripled) would be at least 50%. Even the meager COLA adjustments given to CalPers retirees at the lowest level, 2 percent, would yield a compounded 30% increase since 2005. To offer QMEs a third of that is insulting and completely divorced from the empirical reality of the cost of living and practicing in California.

Please consider fair compensation for no-shows and an honest and fair COLA adjustment in the payment schedule.

On the plus side, I do like the elimination of complexity factors, which is basically unrelated to the actual effort and time put into the work product.

There are other issues that I have including 400 pages of record review not paid for vs. 50 in Nevada but I chose to focus on the most problematic issues first.

Zachary D. Torry, MD August 7, 2019
Adult and Forensic Psychiastrist

I have reviewed the proposed changes and am very concerned. As a psychiatric QME, I usually spend ***in excess of 18-20 hours*** evaluating applicants (*a 4 hour evaluation*), reviewing all medical and legal records (commonly over 400 pages), and preparing a comprehensive QME report that adheres to the guidelines. The proposed changes to the QME would drastically reduce value of my time. As a result, it would not be financially possible for me to continue as a Psychiatric QME. The fee structure for the ML 104 based on hourly rates are crucial to my ability to continue providing quality QMEs.

Moreover, it is not uncommon that an applicant fails to attend his or her appointment, meaning that I have a 4 hour window of lost time without my expenses even covered. The Missed Visit fees are very crucial for my survival.

I implore you to re-think these proposed changes and to understand that the ability of many QMEs to continue would be jeopardized.

David Polushkin, MD August 7, 2019

I would like to vote against the proposed changes to the QME fee schedule. I am a dentist. On average I spent about an hour driving to the locations to perform the QME, then spend another 2 hours with the examinee, and then spend on average 8-10 hours reviewing the records and editing the report. My average charge is about $3000, which I always thought was a little too low for the time spent. The proposed flat fee of $1625 will make it absolutely financially prohibitive for me to continue performing QME evaluations.

Anne C. Welty, MD August 7, 2019

I am writing to express my concern that proposed fees for psychiatric evaluations for psychiatric complaints means that injured workers are not being appropriately valued and considered for their psychiatric injuries.

Please reconsider the QME psychiatric fee structure.

David L. Chittenden, MD August 7, 2019

I have just finished reading the proposed fee schedule changes for QMEs. I do not believe that the change are fair and reasonable to we docs who try our best to provide you, the insurance companies and the attorneys with fair, prompt, and reasonable reports.

The changes appear to me to almost be punitive and regressive in nature. If anything you should increase the rates for all levels of reports. It seems to me that in your attempt to simplify and control the QME process you are only going to punish many of us who try to do our best with sometimes very complicated cases.

Please revisit these proposed changes and listen to those of us who are working to provide you good information and fair reports

---

Rob Ruth, MD August 7, 2019

As a busy hand surgeon with a clinical private practice, I typically perform 2 QME evaluations per week. I am disappointed to learn of the proposed fee schedule changes for QME evaluations in California. I feel it is critical to provide QME physicians with organized medical records with a cover letter delineating the medical records provided for review, and to provide compensation for missed QME appointments. As a surgeon, if I reserve a 30 minute slot on my patient appointment calendar, and that patient does not show for their QME appointment, that is a significant cost I incur, since I am still compensating my staff during that interval.

To continue to provide quality QME services, we deserve to be compensated appropriately, otherwise the shortage of QME physicians in California will continue to worsen.

Irina Ganelis August 7, 2019

I'm writing because under new QME Fee Schedule Proposed Changes I won't be able to provide my professional services due to unfair compensation.

Thank you for your respectful review of this important issue.

Harry Goldberg, PhD, QME August 7, 2019

I support the proposed change in fee schedules. As costs have gone up over the years, the fees have remained the same. As a QME psychologist, I strongly support the change in schedules in order to make renumeration compatible with other areas of my field. In that manner, quality QMEs will continue to be motivated to retain work in this field.

Jamie Rotnofsky August 7, 2019
QME in Psychology

I am writing to oppose the proposed new fee schedule. The current QME fee schedule has not been adjusted for cost of living or increases in many years. QMEs are already underpaid and the system is designed to support the insurance companies who consistently either dont pay, decrease payment without legitimate reasons, or delay payment and do not pay interest and penalties.

Due to the numerous difficulties in getting paid, combined with a low reimbursement rate, many QMEs have already left the field and very few specialist choose this type of work due to the above.

The new proposed fee schedule actually will decrease the amount of payment substantially especially for psychiatrists and psychologists. It is clear that whomever made the proposal has no clue as to the number of hours it takes for a psychologist to conduct evaluations, testing, review of records, document records received, highlight relevant medical records, document testing, compare testing, mental status eval, comprehensive history taking, documented information from evaluation, processing information, and responding to questions and conclusions, recommendations for treatment etc.....

If this fee schedule is accepted it is clear that many QMEs will leave the field which would devastate the Workers Compensation system.

QMEs simply will not accept a decrease in fees. We have not had a pay increase in decades and now instead of being appropriately compensated this proposal suggests a decrease in fees ranging from 30-50%. Simply put, this is not acceptable and I like many others will no longer be part of this system.

It's already difficult to get paid as the insurance companies have no regulations that discipline them, and it takes 6 months to one year to get paid. Why would any QME continue to participate in a system that does not support QMEs and now continue for less money?

I strongly oppose the proposed fee schedule and hope that those in charge will review again and develop a more appropriate and adequate fee schedule to avoid a mass exodus of QMEs from the system.

John Parke, PsyD August 7, 2019
Mindhealth

I am aware you are considering changing the QME fee schedule to a flat rate of $2475 for psych evals. I very much enjoy doing QME evaluations. I like being a helpful and clear part of the process to the courts. At present, I am considering reducing my QME offices as they are slightly less lucrative than some of my other work. When factoring in commute time, proof reading and administrative time for scheduling and filling out the DEU 101 forms- mailing them and so on- it is not such a great rate of pay. Especially when the carrier can just reduce your pay by $850 and there is not much I can do about it. (Happens all the time.)

If you reduce to a flat fee, I may be stuck reading 10-15 hours of records with basically no increased compensation. This reduction would motivate me to reduce my now current 8 QME locations, some as far afield as Tracy, CA, to 1 location- my home office. Why?- They would not be worth doing at that flat rate. I'd do some because I enjoy the rigor and the contribution. I may consider dropping them entirely. It just would not be worth the time on 35-40% of the QMEs I do. I get a lot of good faith personnel cases, and these are horrible to interview and write up. The injury description is usually a labyrinth of minute events which need to be documented, weighed, and measured into percentages. I takes an incredible amount of time and for $2475, I'd just pass. If I spend 14 hours on a QME, this would net out to $175 per hour - minus travel time, travel expense. Medicare pays $147.82 per hour with no travel no more paper work and a few session notes scribbled during the session, and much less liability stress, no attorneys squabbling, barking and deposing, - you get my point. A 60 minute session via work comp (90837) pays about $191.00. Why not just do those?

I think a flat fee would be ok- but it should be a bit higher and it should have a standard page limit on the medical record with an option to bump up for an added fee.

Benita Helmlinger, PhD August 7, 2019

I have been a psych QME for 20+ years and just heard about the proposed change in fees for medical legal evaluations.

I'll make this short and sweet.

If you pass this proposed cut in fees, I will no longer perform any more medical legal evaluations -- for obvious reasons.

I hope you reconsider this proposal.

Jeffrey Sherman, DC, QME August 7, 2019

It is imperative that the DWC does not implement the proposed changes to the QME fee schedule. The present workers compensation system is failing. Carriers are taking remarkable advantage of the UR system and bogging down the system essentially bringing any treatment request to a stand still. Even simple NSAIDs are being sent to UR. The only recourse at this point is for competent QME evaluations when disputes exist. Particularly as it relates to issues of causation, apportionment and impairment. We need competent QME doctors to rely upon.

I hope you would agree that Doctors performing these necessary QME evaluations must be fairly compensated to their time and expertise. Changing the fee schedule as proposed will only serve to cripple the QME system by causing many competent QME doctors to leave the system. This does not help any party. The proposed changes are in stark contrast to the fee schedule for QME's in Nevada which is remarkable.

Moreover QME doctors should be fairly compensated and the proposed changes are unfair and serve to once again favor the carriers, rather than those who actually provide care and services to injured workers.

I am respectfully requesting that these proposed changes be denied.

John W. Johnson, PhD, QME August 7, 2019

As a relatively new QME, I am very concerned and disappointed about the proposed changes to the DWC fee schedule. In a time when increased benefits are being doled out by California to those who aren't even legal citizens, this feels like a punishment to those of us who are trying to help curb the insidious problems of mental health crises across the state. It makes no sense to cut the fees so drastically in a time when there is already a dearth of providers. I would strongly reconsider the benefit of continuing with this line of work should the changes go into effect as proposed. As someone who is currently an employee of the state and having to fight for every

small increase in pay for more expected work product, while benefits for others seem to be given without discretion or forethought (for example the recent dismissal of 58 million for medical doctors who agree to provide more Medi-Cal services while psychologists got no consideration at all for the provision of much needed help) my hope for equity is quickly shrinking. Should these changes go into effect, it is only assumed that a significant decrease in the quality of reports will follow. I urge you to reconsider this absurd policy change in lieu of losing the few providers of quality that remain.

Thank you for your consideration of this matter and may logic accompany you in your future decision making.

Timur Durrani, MD August 7, 2019

I have reviewed the proposed fee schedule and I am concerned this will decrease participation in the QME system. Issues I see as concerning:

There does not seem to be an adjustment for inflation. Flat fees are applied to complex cases (Toxicology specifically)

I encourage the DWC to find a fee schedule that allows for billing based on complexity of a case. Otherwise, if cases are not reimbursed appropriately, it will de-incentivize providers to participate in the QME system.

Steve Isono August 7, 2019

Simply stated, it is obvious that the DWC and the Applicant Attorneys do not care about the Orthopedic QME's and AME's. Yet they want quality reports in complex cases which are now the majority of the cases given the changes that were put into place with Schwarzenegger and Brown.

The physicians do not have any true and substantial method to advocate nor do they want the physicians to have any power for this purpose.

I have been a QME for over 30 years and now only perform AME's. Over these years, the laws have continued to decrease reimbursement with increased reporting requirements. Complexity of cases have increased. Time is the only "measurable" yardstick that the DWC has relatively acknowledged.

This new proposal is ridiculous. Should this pass, I will stop performing evaluations. Period.

The DWC will get their wish by saving money as evaluations will be taken over by QME mills—low quality and high volume. But the DWC and Attorneys don't really care as their purpose is to settle cases—not obtain the proper treatment or an unbiased opinion of an injury for an injured worker.

If this is the path that the DWC is proposing and the Attorneys, both Defense and Applicant, are not willing to "go to bat for the QME's and AME's", then let the system implode and then the Defense and Applicant Attorneys will out of a job as well.

James T. Platto, MPH DC QME August 7, 2019

As an approved educational provider for the DWC-Medical Unit, I have been inundated with e-mails from QMEs in all disciplines reacting negatively to the proposed new med-legal fee schedule.

The lack of guaranteed payment for missed appointments & late cancelations, inadequate compensation for record reviews, inability to be paid for necessary research time, the absence of ability to charge for report writing generation time which becomes a significant factor in complex cases, and an actual reduction of payments for psych evaluators compared to the current fee schedule…all of these factors have failed to meet and make up for the inadequacies of the current fee schedule. This is glaringly obvious when this proposed fee scheduled is compared to, for example, the QME payment system in Nevada. And glaringly obvious is the failure to adequately increase payments…at a minimum…to reflect the absence of 'cost of living' increases which have been absent in the QME payment system for the last 12 years.

If the e-mails I am receiving from QMEs are any indication, the DWC will continue to experience a matriculation of QMEs out of the system, further serving to slow down the ever growing dispute resolution system in California.

If the DWC expects the quantity and quality of the QME system to keep up with demand, it needs to seriously re-think the existing fee schedule proposal and place a greater emphasis upon the insurance industry's obligation to pay for the quality of work required in this very complex system of forensic medical analysis.

And while the DWC specifically requested through its e-mail to me that I submit my version of a proposed fee schedule, (which I did over six months ago), the DWC has never had the courtesy to contact me or to include me in its deliberations. Had it done so, (along with others), many of these problems could have been avoided.

Anonymous August 7, 2019

It is quite unreasonable and distressing that we increasing daily cost of practice, the DWC is planning to cut the payments. This will cause, as you have mentioned, further decrease in numbers of WC medical providers in California.

I strongly oppose these changes in California future payment plans comparing with better payments in Nevada and support further actions to oppose these changes.

Robert B. Gerber DDS, FACD August 7, 2019
Clinical Associate Professor
Ostrow School of Dentistry of USC
Staff member, Cedars Sinai Medical Center Colonel,
California State Guard State Dental Officer

Please be advised that after reviewing the proposed new fee schedule it is my impression that DWC has no appreciation for doctors time spent in examination and report writing. I object to the new proposed schedule and hope there will be responsible increases in compensation for professional time spent.

Linda Nakell, PhD August 7, 2019
Qualified Medical Evaluator – Report Writing

I have been a psychological QME for the past 11 years, and if the proposed fee schedule is passed, I will not continue to do this work. I spend about 10-15 hours writing most reports. With medical records to review, it can take more time. I also have to pay for office support to write these reports, and if the proposed fee schedule is accepted, it will not be worth my time to evaluate workers. A flat fee will promote shoddy work, and in my opinion this is unethical. This is a serious disservice to the injured and traumatized workers who need out services so badly.

We need an increase in our pay scale, which has not changed since I started doing this work, not a severe decrease.

Michelle Conover, Ph.D, QME August 7, 2019
Neuropsychologist/Brain and Behavior Specialist

I was sent an email about a new QME fee schedule proposed. If these changes were to occur the amount of time spent when you're doing a psych eval would not be reflective of a flat rate suggested. I can see docs reducing the quality of the evaluation to be able to make a decent hourly rate so I foresee a lot of rushed work, reduced tools used such as those that monitor validity to show if the injured worker is putting in good effort or malingering, which would allow people who are not honest about their injury to take advantage and take away resources from those who really need them.

They have already done away from allowing us to be categorized in our reflective specialty (neuropsychology vs psychology), which has diluted the system because people don't understand the vast differences between these two groups and how important it is to assign cases to the right person. So more apt to misdiagnose and to overlook certain patterns of behavior, which increases the likelihood of paying out benefits to those who are, for instance somatic vs head trauma.

I don't depend on QME work alone. I have a very diverse practice, which I would encourage everyone to establish so that you're not dependent on any one stream of income. The new doctoral students that I train do not seem to be interested in going further to obtain their QME license because they see first hand the difficulties of reimbursement and the ignored calls and letters, etc.

So, it doesn't seem to be worth the pain and hassle anymore which is unfortunate because I do have a lot of people telling me how appreciative they are to be able to sit with a doc who cares and is taking the time to make sure they are properly evaluated. Regardless, I will always choose people over policy since us psychs are of service. I just hope the people who make decisions that affect everyone see the forest for the trees.

Elizabeth Preston Cisneros August 7, 2019

As a QME psychologist, I am appalled at the proposed fee schedule changes. If these pass, I will ask to be removed from the QME panel immediately. It is already incredibly difficult to get paid for my work. I currently have several workers comp payers who are nine months past due in paying me what is owed. If the rate now goes down, it is far more financially appropriate to stick

with regular clinical practice because Medicare rates will be better and I know I'll be paid in a timely manner.

I often spend 20 or more hours on a complicated case involving complex histories where I have to tease out pre-existing psych disorders, multiple contributors to their presentation, and apportion out multiple factors. These proposed changes will only encourage insurers and attorneys to not provide all the medical records that we need to make an informed decision. They will also encourage QMEs to do the most cursory of revaluations and to spend as little time on them as possible to make it worth their while. I take pride that I provide my QME evaluations with a high quality psychological evaluation, just as I do in my private practice. These proposed changes will leave your QME roster with only the people who are happy to do a shoddy job. I will not participate in providing low quality work and will instead stop participating as a QME.

Ramon Jimenez August 7, 2019
Past President
California Orthopaedic & Western Orthopaedic Association

The proposed changes seem arbitrary and inadequate. I carry about 30 evaluations per month. I do not plan to increase my workload. I do expect to get paid fairly for the work provided. I do not overcharge. In not, I will decrease my workload. I know that fewer physicians will become QMEs.

1. The proposed flat fee should be $1800.00
2. Medical record review should be paid after 100 pages – thereafter at $1.00 per page
3. Failed appointment fee $600.00
4. CL should specify number of pages sent for review
5. Evaluation of each body part in excess of first two -- $300.00
6. Definition of missed appointment
7. 93 should be paid at 1.35x
8. True medical research should be compensated at $500.00 per hour

I believe that my ideas expressed above are fair, equitable and not egregious.

California DWC needs to step up or they will face a QME crisis. The majority of QMEs at this time are greater than 70 years old – they will quit and not be replaced.

Pavel Moldavskiy August 7, 2019

The proposed change in Fee schedule is concerning. The fee schedule is adopted from the Nevada fee schedule, however, the reimbursement is much lower. The base reimbursement is lower, and the reimbursement for record review starts after page 400 instead of page 50 in Nevada. On top of that, physicians in Nevada get more than double per page review starting at page 51.

This is completely counterintuitive as Nevada has lower cost of living when comparing major cities in California to Nevada. Is our time, energy, and work less valuable than that of Nevadas' physicians?

Furthermore, Workers' Compensation insurance carriers have been having been collecting record high earnings, while the physicians who are valuable to the entire process see a decline in their reimbursement.

The predicted outcome of the proposed change in the fee schedule will be damaging to the QME process. I believe it will drive more and more physicians away from being a QME. As the older physicians who have been doing QMEs for a long time retire, new physicians will not be interested to devote their time to learn the process and spend time outside their clinical practice doing such reports.

I can say for myself, such a change would likely force me to give up this medical legal work. I do this on Saturdays apart from my clinical practice. I take time away from my family to contribute to the fairness of the Workers' Compensation process. I would like to be fairly compensated for these actions. I anticipate more QMEs feel the same way.

P. Farjoodi MD August 7, 2019
Orthopaedic Spine Surgery
Coastline Orthopaedic Associates

This proposed fee schedule is an insult to California’s QME. As you are more than aware, there is a shortage of QMEs already in this state. Implementing this fee schedule will significantly deter new physicians from becoming QMEs and will push current ones out of the system.
If this proposed fee schedule is based on Nevada’s, then it most certainly needs to at least meet those same payments and requirements i.e. payment per page of medical record review starting at 50 instead of 400! And payment for missed appointments etc. California is a higher cost of living state, with MUCH higher workers comp premium and we have state income tax. How does it make sense to take a service in need and short supply and ask to cut reimbursement when the insurance company is making more money in this state?

This is an absurd proposal. If the proposal at least matched Nevada then it could be negotiated appropriately. The current proposal is insulting and meant to harm our states QME population.

David M. Reiss, MD, Psychiatrist August 7, 2019

The proposed fee schedule will encourage fraud and is itself fraud.

QME fees have been frozen for unconscionably long. The proposed "increase" will only benefit those who do superficial, inadequate, essentially fraudulent work - putting little or no effort and documenting random or predetermined conclusions in complex cases.

QME/AMEs who write thoughtful, considered, clinically accurate reports including and well-explained opinions in complex cases will be penalized - receiving less compensation than we do currently - and the same amount as "schlock-docs" who do cursory, inadequate work.

Once again, under the guise of addressing one area of true fraud (we know the docs who write and invoice unreasonably long reports with unnecessarily padded record reviews), changes to get rid of a few "bad apples" would result in a degradation of the whole system, the flight of quality doctors who would no longer be able to afford to function and will not be co-dependent to an unethical system - and even more inadequate care for injured workers.

This is not a "rate increase." It is a bonus to scammers and a disingenuous insult to every honest QME.

Anne C. Welty, MD August 7, 2019

I am greatly disappointed by the reimbursement inequity between psychiatric and medical examinations. **I thought that there was <u>parity</u> between mental and physical health!**
These fees suggested do not even cover the costs that I incur to just perform these examinations.

This proposed fee schedule for psychiatric examinations will result in even more psychiatric QME evaluators to leave the system, abandoning California workers from the mental health attention they deserve for their industrial injury.

I hope further attention will be made to correct this oversight - the current proposed fee schedule reflects clear inequity and prejudice towards the worker with industrial injuries with psychiatric symptoms.

Reina Archuletz, CPC, CPCO, CPC-1
Eval-Docs, Inc.

August 6, 2019

I have serious concerns about the proposed fee schedule as I believe it will actually decrease the reimbursement to the QME evaluators which is not the desired outcome.

Please see my concerns along with my recommendations below:

1. ML100. The statement "*This code is designed for communication purposes only. It does not imply that compensation is necessarily owed."* must be removed as this will only lead to unnecessary litigation. If it does not imply compensation then the provider has no grounds to file for IBR so a Petition for non-IBR issues must be filed.

My recommendation: In order for the provider to submit a bill for a "missed appointment", the criteria per *Regulation 34(h).* must be met. If the appointment is cancelled untimely or the applicant misses his appointment or the claims adjuster forgets to schedule the interpreter then the evaluator may charge for a missed appointment.

Consider changing the code to ML110 to differentiate the new ML codes from the old ML codes.

2. ML101 and ML102. *Comprehensive Medical-Legal Evaluation* . Initial and follow up evaluations. The fee includes review of 400 pages of medical records.
If you do the math, this will actually reimburse providers at an average of $200 per hour. EXAMPLE:

If a provider spends one hour with the applicant, four hours in the review of records (average of 100 pages per hour) and spends 2 - 3 hours in the dictation, reviewing the draft, reviewing diagnostic images such measuring x-rays, etc., the provider will spend a minimum of 7 to 8 hours in the evaluation. If the physician finds the applicant at MMI and he has to provide a rating then more time may be necessary. How about if the doctor has to spend 3 or more hours with the applicant due to multiple injuries to multiple body parts? Under the proposed fee schedule, this flat rate would be detrimental to the physician.

My Recommendation: Revise for these evaluations to only include the first 100 pages of medical records. This will ensure the payers will be more careful in sending only relevant information and hopefully reduce the amount of duplicate records sent to the physicians.

Consider changing this code to ML111 and ML112 to avoid confusion between the new (proposed) and old fee schedule.

3. ML103: Supplemental Reports. Fees will not be allowed under this section for supplemental reports following the physician's review of: (1) information which was available in the physician's office for review or was included in the medical record provided to the physician prior to preparing the initial or follow-up comprehensive medical-legal report; or (2) addressing an issue that was requested by a party to the action to be addressed in either an initial or any follow-up comprehensive medical-legal examination

Regarding (1): Consider clarifying that the medical records must have been received per Reg 35 (i) within 10 days from the date of the evaluation. Otherwise, the physician shall issue a supplemental report to address issues presented to the physician.

Regarding (2) This again is a BIG pay cut for the providers. The parties may request for the evaluator to address x, y and z in their advocacy letter at the time of the initial or re-evaluation exam; but, what if the provider is only able to address some but not all of the issues? Example: The advocacy letter asks the physician to address apportionment but the physician is pending medical records so he cannot address apportionment. Under the proposed fee schedule, the evaluator will not get paid for the supplemental report to address the pending issue since it was requested at the time of the initial evaluation. I assure you the advocacy letters will include all issues to be addressed by the evaluator so the physicians can kiss payment for supplemental reports goodbye under this proposed schedule.

My recommendation: Reimbursable supplemental reports should only be issued at the request of the parties. The physician should wait twenty days prior to responding to a request for a supplemental report to allow time for objection. Any records sent to the provider shall be accompanied by a request from the parties.

Consider changing this code to ML113 to avoid confusion between the new (proposed) and the old fee schedule.

4. ML104: Medical Testimony. Please include first hour of deposition and one hour of preparation time to be paid prior to but no later than before the start of the deposition. This again will avoid litigation.

Consider revising the code to ML114 to avoid confusion between the new (Proposed) and the old fee schedule.

5. I believe you should have a provision for evaluations that require four or more hours of face to face time with the applicant to be paid at $2,500.

Jamie Rotnofsky, PhD, CRC, CP, QME August 6, 2019

After reviewing the proposed QME schedule I am quite concerned regarding the negative financial impact on both QME psychiatrists and psychologists.

As a psychologist the proposed fees would decrease the current payment tremendously. It is clear from the new information that the time it takes for a QME in psych to evaluate and write a report was underestimated greatly.

A more adequate and feasible fee schedule needs to be considered.

James. T. Platto, MPH DC QME August 6, 2019

After sending in my initial comments, I inadvertently left out one important item.

There is nothing in the proposed fee schedule regarding 'Report Preparation Time'.

There are often case evaluated by the QME which require significant and often excessive time to actually generate/write the QME report. Depending upon the case, (e.g., multiple body parts, complicated impairment, complicated apportionment with multiple employers, and other complex issues), it can take many hours to actually generate/write the report.

There should be some provision under both the proposed ML101 and ML102 for significant/excessive report generation time.

James T. Platto, MPH DC QME August 6, 2019

The proposed new med-legal fee schedule, while adequate in most cases, has two significant flaws which require correction.

1. ML100 for 'missed appointments' at $550 should be *mandatory* and not discretionary on the part of the claims administrator. A QME must respond to all requests for appoints and has no control over 'no shows'/'missed appointment' and 'late cancelations' in less than 6 business days, both of which are violation of Regulation 34(h). The result is a dual loss of income for the QME who blocks out significant time from seeing private patients to accommodate the QME appointment. If the ML100 fee is not paid, then the QME must invest more time away from their

practice to pursue either a Petition with the WCAB or the IBR process. Again, ML100 payments should be *mandatory*.

2. Under the proposed schedule for psychologists & psychiatrists, QME psych evaluators will end up getting paid less than under the current med-legal fee schedule. Psych evaluations are typically more complex and require more time than a non-psych med-legal evaluation. And while I am not a psych evaluator myself, I am an approved QME educational provider and after e-mailing the DWC's proposed med-legal fee schedule out to all QMEs on my e-mail list, I received numerous replies from psychologists psychiatrists who realized that they will now get paid less under the proposed fee schedule than under the current fee schedule for these very complex and time consuming psych evaluations.

This needs to be corrected and I would strongly urge the DWC to pay close attention to the public comments it will be receiving from QME psych evaluators regarding this inequity and their proposals for re-thinking a more appropriate level of payment for such psych evaluations.

David L. Flood, MD, QME August 6, 2019

I am a Qualified Medical Evaluator. I reviewed these regulations and generally feel that these would be fair and much easier to deal with than trying to figure out what counts as a complexity factor, etc. Also, the fees for ML102 and ML103 were clearly too low to be sustainable given the time spent on doing those reports. My average ML102 takes over 4 hours inclusive of all the time I spend on each report and ML102 exams average 6 hours. I believe the fee proposed will result in more acceptable compensation for those two reports. The additional time for ML104 usually is from excessive records. I believe the additional compensation per page with make a reasonable adjustment.

I also believe the increase in compensation for medicolegal testimony is reasonable even if it is still below standard testimony rates in nonindustrial cases.

On the other hand, I do not think the standard fee for supplemental reports is adequate as I usually spend two hours on these reports including reading the original report, formulating a response, dictating my response and editing. I believe those should be reimbursed at $500. I also believe the request for the supplemental should be clearly marked if the request is based on a deficiency in the original report so that we know that upfront rather than fighting over that issue later when our billed is denied. If the request letter is not clearly flagged, I believe the supplemental report should be paid.

Finally, I would suggest that the cover letters from attorneys be standardized somewhat. The usual demands could be a boilerplate with appropriate requests under current law. For example, I still

receive requests for subjective and objective factors of disability which have not been pertinent for many years. They also contain incorrect descriptions of apportionment that are outdated under current law. A standardized segment would include the applicable code Labor Codes with an interpretation that DWC considers correct for purposes of our reporting. I would like to see the attorneys provide a background section describing the claim, the claim status and also to clearly identify the specific issues in the case we are asked to report on. For example, that might be causation, impairment levels, and or apportionment as those are the main issues we are supposed to deal with.

Yehuda Gertel August 6, 2019

The DWC's second attempt to curb the costs of QME and AME evaluations is understandable.

What is not clear is whether the policy makers actually considered how these regulations would play itself out in real time if this draft was successful.

As a psych QME and needing to synthesize the facts gleaned from a protracted narrative interview, often copious and detailed psychological testing, inches of medical records, personnel records, seamlessly and coherently blended into a conclusive and medically substantial written opinion and with the full knowledge that a loose end, exaggerated symptom, intra-report inconsistency, overlooked factor (whether wholly material or not) departure from standard of practice, or bias toward a particular view will get fired on by one or both parties in an effort to assassinate one's credibility and disqualify the report… and all within the 30 day countdown… requires a significant time investment usually of 15-20 hours. These hours are reimbursed making the whole ordeal equitable.

These new regulations changes all of that. Hours upon hours of work become non-reimbursable.

Here is my best guess as to what would follow:

Rather than subject themselves, their credibility and their license to risk that is not being reimbursed adequately the vast majority of quality QMEs would bail altogether.

The majority pool of remaining doctors would be those doctors who already practice systematized delegation of report production to lower-level clerical staff, thus able to maintain profitability.

Shoddy boiler-plate reports would be issued, attorneys from both sides would happily cut these reports and their authors into pieces in deposition and correspondences, reports would be invalidated, replacement panels would be issued, more boiler plate reports, more depos, more delays, more legal costs, more workers backlogging the system instead of moving out, with no end possible to this cycle.

I suspect as well that per the CA Supreme Court/Valdez and Labor Code § 4064 we could also expect an uptake of AA-procured reports which would be far more persuasive versus a shoddy boiler plate, and ultimately lead to higher costs for the IC.

Clearly the orchestrated collapse of one of the only remaining functional segments of the CA workers compensation system is surely not what the DWC wants. Sadly, if the DWC brings these amendments to fruition it is evident that this would be the result.

Alfred Roven August 6, 2019

1. ML 101 &1650 (looks like a previous ML 102 or 103). The increased fee of $1650 requires far more work than the increase in remuneration provides. This is true in the requirement of 400 pages being inclusive. Think about the deposition transcript that is copied 4 pages per page reviewed. What if it is double sided. What if the print is 10 point or smaller? What about trying to read illegible script? What about taking into consideration putting the medical and timeline pieces together in a form that can be understood by the reader, which sometimes requires several re-writes. Or rewriting again when some ordered tests come in just before one is going to send the report?

2. ML 102 Follow-up Medical Legal Evaluation ($1100). Includes review of 400 pages. Aside from having to count the pages, we must now compare the pages to the previous report/s to see that we are not reviewing them again. What if we need to review them again, to be sure of content, or if something was missed, or if the actual CT scan needs to be re-read as opposed to getting another one? After a certain time (formerly 9 months), one cannot be presumed to recall all of the nuances of the previous exam and report, and so it may require re-reading in detail.

3. ML 103 Supplemental report ($275). If you are not going to allow a fee for reviewing 1) "information which was available in the physician's office for review or was included in the medical record provided to the physician….or 2) addressing a previously requested issue, then don't send the information in the first place. Think about it. If you are an attorney or a Judge and you want to review the file of a person because you aren't sure about something or have not looked at it in 9 months, do you not charge for that time since you have already seen the material once? Or if you are an adjuster, and the timelines in the injury and complaints do not seem to match – do you dismiss it because you have seen the material before and if you review it again, you will not be paid for your time? Would you recommend dismissing the attorney from the bar because s/he tried to bill for her time?

4. There is a certain amount of good faith that would benefit all parties.

5. What happened to late payment fees? Penalty? Interest?

6. Reimbursement at $2.00 per page does not appear to be enough.

7. Having to count the number of pages in records is tedious and extremely time consuming. To have to count every page in records that are 10 cm+ is unreasonable.

8. The proposed fee schedules are not reasonable in price and require much more work for less pay even though it looks like more money in the base pay.

9. Supplemental reports will technically be obsolete as you will not be reimbursed for any report inclusive of testing that was requested during the evaluation.

10. Reports will not be based on time spent rather it would be based on pages of records reviewed.

11. Reports are inclusive of 400 pages of records which is shorting the amount of money to be made as 400 pages could be tedious depending on complexity.

12. In our opinion these proposed changes would make med-legal work almost obsolete because they are paying pennies on the dollar. As it stands today, many med-legal doctors are leaving because of unfair treatment and repayment for their time and work. These fees are not reasonable whatsoever.

In short, you are asking for far more work than you are paying for.

Patrick J. McGahan, MD August 6, 2019
Advanced Orthopaedics and Sports Medicine

The proposed changes look good to me. Thank you for your work.

Hose Kim August 6, 2019

The new MLFS must have a separate reimbursement of records, payable for each page.

Julie Armstrong, MD August 6, 2019

Once again the proposal seeks to have doctors justify why they have to do the complex and difficult work of conducting an independent forensic evaluation.

Laying this burden of proof on the physician will further deter physicians from wanting to participate in the process.

As written, (as I understand it) I will need to make 2 different arguments to the parties before the evaluation, then proceed, only to be paid less than I am currently being paid.

No thanks. I understand, the few spoil it for the many, but ultimately you will keep the hacks and the good ones won't bother.