IC Medi Scene

Keeping You Up-to-Date with the Industrial Commission's Medical Services • October 2016

IC IME vs. BWC IME

Why is the Ohio Industrial Commission independent medical examination (IME) report different from the Ohio Bureau of Workers' Compensation IME report?

The BWC IMEs opine on a variety of issues related to diagnosis, treatment, testing, temporary total, return to work issues, just to name a few.

Essentially, the Ohio Industrial Commission (IC) is the adjudicatory branch of Ohio's workers' compensation system and provides, "timely, impartial resolution of workers' compensation appeals." It is important for us to emphasize that we are a separate, independent entity from our sister agency, the Ohio Bureau of Workers' Compensation (BWC). The IC offices are located in Akron, Columbus, Cleveland, Cincinnati, Cambridge, Dayton, Lima, Logan, Toledo, Portsmouth and Youngstown. Columbus is the state headquarters.

The IC is responsible for providing a forum for fair and impartial claims resolution, conducting hearings on disputed claims, adjudicating claims involving an employer's violation of specific safety requirements (VSSR) and determining eligibility for permanent total disability (PTD) benefits.

The IC panel of physicians, psychologists and psychiatrists was established to assist in the PTD process. The specialist is requested to provide a current, timely and impartial exam of the PTD applicant. Special training and a standard format are necessary to produce a credible and legal medical report for the hearing process.

The PTD IME addresses all the injured worker's claims and allowances not just one claim or one allowance. The report includes the account of the injury for the allowed conditions, a medical and surgical/psychological history, and a thorough examination of the injured worker. An essential part of the evaluation is the determination of maximum medical improvement (MMI). Some claims have already been determined to be at MMI by the physician of record (POR), the BWC, or the IC. Specialists must provide whole person impairment (WPI) percentage based on the allowed conditions in the claim that they were asked to evaluate. Specialists also determine if the injured worker's functional impairment (physical or mental and behavioral) restrict them from performing any type of remunerative employment.

The documents required in our specialist packets are specific to meet PTD requirements. Specialist packets are available to the provider before and during the examination period and are found in each injured worker's electronic medical record listed as document type "specpac" through the specialist's ICON access. All parties to the claim have access to review the specialist packets as well.

Although the specialists have complete access to the entire medical record, we hope that the specialist packets provide a great starting point in developing an understanding of the injured worker's allowed conditions and a timeline of his/her claim activities.

Specialists are not to consider age, education or previous work experience in their opinions. Permanent total disability is the purview of the IC hearing officer after considering all the medical evidence, case law, statutes, and vocational assessments for final PTD determination.

What happens at ground zero?

1. The IC must comply with the PTD rule, Ohio Administrative Code 4121-3- 34.
2. A PTD application is properly filed by an injured worker or representative with supporting medical.
3. Upon receipt, the application is captured and converted into an electronic workflow and the acknowledgement letter is sent to all parties.
4. PTD claims are worked first in, first out (FIFO) and some claims may be expedited by necessity for the injured worker.
5. The claims examiner reviews all claim documents to determine the allowances/orders, initiates the hearing folder, reviews all medical documents to assemble the specialist packet(s), writes the statement of facts (SOF), creates the medical examination worksheet (MEWS), selects the best specialist types to evaluate the injured worker for the allowed conditions in the claim, and selects the correct PTD question(s) according to the MMI status for the allowances.
6. Employers shall be provided intent periods after the acknowledgement letter is received to obtain examinations and submit evidence supporting their view for hearing. Extension periods may also be requested and approved.
7. Once the Employer's evidence is received, the IC examinations are scheduled and we provide a two week advance notice for the injured worker to make transportation arrangements or reschedule the date of the appointment due to a conflict.

8. Specialist providers review all medical claim documents through their secure private ICON access and submits an electronic draft report by uploading.

9. Specialist providers' access to claim documents is only available during a short window of time (examination scheduled through the report published period).

10. Report processors review all medical reports submitted for format, objectivity, impartiality, syntax, spelling, discussion, opinion, and rationale supporting the three questions asked, along with the all-important statement, "I have reviewed all the records provided to me by the Industrial Commission."

11. Medical Services (Chief Medical Advisor, Peer Review Coordinator, and Deputy Director) review reports that have been questioned for medicolegal issues as well as reports by new provisional specialists for training and quality purposes.

12. Timeliness is required! Specialist providers are required to submit their draft reports within ten business days from the date of their examination. If you are going to be late, please contact Medical Services (see below).

13. Specialist provider's fee bills are submitted to BWC for payment when the final report is published on ICON. BWC will not process fee bills over one year of age so please review your payments received on a regular basis and contact Medical Services if no payment has been received or for a discrepancy.

14. Completed claims are forwarded to the Hearing Administration.

Common revisions, clarifications or addendums are requested for:

- Failure to complete forms. Occupational Activity Assessment (OAA) form for mental and behavioral, Physical Strength Rating (PSR) form for musculoskeletal, and Residual Functional Assessment (RFA) form for specialists such as ENT, DDS or Ophth are often left incomplete or do not match the report.

- Poor formatting issues. These formatting issues lead to confusion at hearing or with the parties to the claim. They are often resolved with addendum requests.

- Unanswered questions or inadequate rationale. Answer the complete question asked in the referral letter. Opinions should be based on objective evidence such as factors affecting ADLs, impairment functionality, examination findings, and your many years of medical experience evaluating similar individuals. Opinions should not be based solely on the injured worker's testimony or subjective evidence.

- Lack of objectivity. Specialist reports often lack objectivity and proper rationale for ability to perform any type of remunerative employment. The rationale should be based on the functional limitations from only the allowed conditions in the claim that you were asked to evaluate.

- Omission of pertinent evidence. Allowed conditions are often omitted during examinations or in the whole person impairment (WPI) rating calculations. It is important that the examination clearly shows objective information recorded for all body parts/regions associated with the injured worker's allowed conditions. When answering the WPI question, please focus on addressing every allowed condition individually or grouped by body region whether it ranges from 0% impairment or maximal impairment according to the *AMA Guides*.

- Opinions swayed by co-morbidities not allowed in the claim. It is easy to include non-allowed conditions in your overall opinion especially when these conditions may be supplying the majority of the injured worker's impairments. However, it is essential to keep non-allowed condition impairments separate from allowed condition impairments. If non-allowed conditions are referenced in the discussion or narrative portion of the IME, please note that these conditions will not be included in the opinion when answering the final three questions.

- Omission of record review attestation. Absence of a statement such as "I have reviewed all the medical records provided to me by the Ohio Industrial Commission," leaves an open opportunity for the examination and report to be questioned, resulting in addendums and depositions for the specialist provider.

- Treatment recommendations. Specialist providers should not provide treatment recommendations in their opinions. Specialist providers should remember that "Ongoing need for treatment /counseling is not interrupted by a PTD grant or denial."

- MMI issues. Upon the submission of the PTD application, the injured worker attests to being MMI. Specialists need to provide a new and changed circumstance with expectation to return to baseline in order to declare that the injured worker is not at MMI. This should be directly stated in the rationale with an expectation for determining that the injured worker is not at MMI.

Did You Know?

When Employers submit medical evidence, Medical Services will be placing the reports directly in front of the Permanent Total Disability application in the specialist packet. We are trying to eliminate multiple specialist packets that physicians are required to review. If you have other suggestions to improve IMEs, please contact Medical Services – Dr. John McGrail, Chief Medical Advisor, at john.mcgrail@ic.ohio.gov or Sara Castle, Peer Review Coordinator, at sara.castle@ic.ohio.gov.

Continuing education review questions: October 2016 *MediScene*

1. PTD determination is the purview of the BWC?

   ____ True

   ____ False

2. There is no difference between BWC and IC exams?

   ____ True

   ____ False

3. IWs are contacted by the IC to apply for PTD?

   ____ True

   ____ False

4. Examiners are advised to consider comorbid non-allowed conditions in determining W.P.I.?

   ____ True

   ____ False

5. There is no distinction between the duties of the IC and BWC?

   ____ True

   ____ False

(Answers: 1. F; 2. F; 3. F; 4. F; 5. F)