



Keeping You Up-to-Date with the Industrial Commission's Medical Services • Winter 2019

## STREAMLINING REFERRAL QUESTIONS MAKES EVIDENCE MORE RELIABLE

### Referral Letter Changes Now in Effect

Medical Services has spent the past year evaluating our Permanent Total Disability (PTD) independent medical examination (IME) report requirements, addressing recent changes and new case law. We have begun updating our materials to reflect these modifications. Specifically, we revised our referral letter to promote clarity with regard to requirements associated with maximum medical improvement (MMI) status, whole person impairment, and work capacity opinions. Medical Service's goal is for these opinions to provide medically credible and legally reliable evidence to assist the Commission in evaluating an injured worker's application for PTD.

Previously, two separate sets of questions were generated depending on whether the Commission had determined that the injured worker had attained MMI. At times, these two separately formatted letters created confusion, thus our decision to streamline to one referral question across the board.

All referral letters will now request our specialists to provide an opinion on whether the injured worker being examined has reached MMI status. As stated by the Ohio Supreme Court, "Maximum Medical Improvement is a treatment plateau (static or well stabilized) where no fundamental or physiological change can be expected within reasonable probability, in spite of continuing medical or rehabilitative procedures. An injured worker may require supportive treatment to maintain this level of function."

The injured worker, by way of their application for PTD, has attested to the fact that they are permanently and totally disabled. The injured worker's physician of record and/or legal counsel has provided evidence in support of the PTD application that presents the injured worker as having reached MMI.

Although rare, circumstances do exist where the injured worker would present as not at MMI. This concept is based around the premise the injured worker has had a "new and changed" circumstance at the time of the

examination where either:

- The current treatment regimen is showing acute substantial improvement over a short period of time, or
- A temporary worsening of an allowed condition has occurred with the expectation the injured worker would return to baseline within a reasonable period of time.



Examples:

- Recent medication change (still in flux)
- Recent surgical intervention to restore to baseline
- Recent change or addition of Mental Health Intervention (new medication or therapy)

If a specialist determines that an injured worker is not at MMI for any of the allowed conditions, referral letter item #2 (opinion on whole person impairment) and item #3 (opinion of work capacity) should not be answered.

If a specialist opines that an injured worker is at MMI, referral letter items #2 and #3 MUST be completed. Whole Person Impairment rating should be supported by rationale and calculations should be documented, using the appropriate AMA Guide for the specialty. For work capacity opinions, the Commission is not looking for a discussion on whether or not the injured worker can return to a prior job or vocation, but rather how the allowed condition(s) affect the injured worker's capacity for work of any kind.

### Examples of Declaration to Follow

#### Declare Injured Worker MMI

**Example One:** Based on my examination and medical record review, the injured worker has reached a plateau, receiving the full benefit of services with no further expectation of a significant change. Therefore, the injured worker is at MMI.

**Example Two:** Yes, the injured worker has reached MMI status. Since the injury 5 years ago, the injured worker has experienced symptoms of the allowed psychological condition that have been addressed through psychotropic medication and intermittent counseling ending 6 months ago. At this time, the injured worker reports functional impairments have remained the same over the last 12 months and continued treatment would be maintenance care only. Therefore, the injured worker is at MMI due to the psychological conditions.

#### Declare Injured Worker NOT MMI

**Example One:** Based on my examination and medical record review, the injured worker is currently not at MMI as there is a new and changed circumstance. A temporary worsening of the injured worker's status has occurred due to a recent medication change. This change will likely stabilize in the next 6 – 12 months with the belief that there will be a substantial improvement in a short period of time.

**Example Two:** Based on my examination and medical record review, the injured worker is currently not at MMI for the allowed conditions associated with the right shoulder. The injured worker had total shoulder replacement 4 weeks ago and is currently attending post-surgical physical therapy. I believe the injured worker's status at the time of my examination is temporary and the current regime of physical therapy will create a substantial improvement over the next 3 months.

## Continuing Education Questions

1. Currently, there are two separate sets of questions generated in our referral letters.
  - a. True
  - b. False
  
2. MMI is a treatment plateau that is static and well stabilized.
  - a. True
  - b. False
  
3. The work capacity opinion of your IME report is based on previous employment and/or occupation.
  - a. True
  - b. False
  
4. If a specialist determines an injured worker is not at MMI, referral letter items #2 and #3 must still be completed.
  - a. True
  - b. False

1. B 2. A 3. B 4. B

Answers: