

Interpretive Bulletins

Director's Interpretations of Issues Impacting the Colorado Workers' Compensation System

In an effort to provide guidance on the practical applications of the Colorado Workers' Compensation Act, we will be publishing Director's interpretations of statutes and other factors affecting the system, in the form of *Interpretive Bulletins*. The purpose is to provide greater levels of consistency and predictability as to how the Colorado system is intended to operate. While the opinions do not have the force and effect of rule, they are afforded as navigational tools to clarify and simplify processes, create efficiencies, and to reduce litigation.

If you have questions regarding this information or issues you would like to see addressed in future bulletins, please direct your inquiries to Paul Tauriello, Director of the Division of Workers' Compensation, at 633 17th St., Suite 400, Denver, CO 80202, FAX 303.318.8632, or e-mail at paul.tauriello@state.co.us.

HB01-1116

Release Date: June 13, 2001

Revision Date:

House Bill 01-1116 was signed into law on March 11, 2001, and modified Section 8-43-203, C.R.S.—*Notice concerning liability*. Here is an excerpt:

“...[a] case will be automatically closed as to the issues admitted in the final admission if the claimant does not, within thirty days after the date of the final admission, contest the final admission in writing and request a hearing on any disputed issues that are ripe for hearing, including the selection of an independent medical examiner.... HOWEVER, IF AN INDEPENDENT MEDICAL EXAMINATION IS REQUESTED PURSUANT TO SECTION 8-42-107.2, THE REQUEST FOR HEARING ON DISPUTED ISSUES THAT ARE RIPE FOR HEARING NEED NOT BE FILED UNTIL AFTER COMPLETION OF THE DIVISION'S INDEPENDENT MEDICAL EXAMINATION. THE RESPONDENTS SHALL HAVE THIRTY DAYS AFTER THE DATE OF MAILING OF THE REPORT FROM THE DIVISION'S INDEPENDENT MEDICAL EXAMINER TO FILE A REVISED FINAL ADMISSION OR TO FILE AN APPLICATION FOR HEARING. (Caps denote statutory change.)

The legislative intent was to prevent filings of multiple hearing applications by holding the process in abeyance pending completion of an IME on disputed issues of MMI and /or whole person impairment.

In order to further the legislative intent for judicial efficiencies, the statute must be implemented to ensure that only those claims that require adjudication advance to hearing and that undue process constraints are avoided. To do this, process clarification is necessary.

The Division reviews all IME reports issued in accordance with Section 8-42-107(2), C.R.S. If the report contains the required components, and is consistent with the requirements of the Guides, rules and curriculum, the Division issues a statement to the parties that the report has been accepted and may be considered final. A NOTICE OF COMPLETION letter is issued. If a report lacks crucial information

or contains a significant error, an INCOMPLETE NOTICE-IME REPORT letter is sent to the physician and the parties outlining the specific area(s) needing to be addressed.

It is the opinion of this Division that the time frame for responding to the IME results does not begin to run until the Division notifies the parties that the IME report is complete and final. Rule XIV(L)(4)(d), Medical Review Panel-Independent Medical Examination (IME), is consistent with this interpretation and provides that "[s]ervices rendered by an IME physician shall conclude upon acceptance by the Division of the final IME report." Rule IV (N)(6), Admissions of Liability, subsumes this process. The Division's Notice of Completion form now includes a Certificate of Mailing that the parties may use to ascertain the commencement of the 30-day time frame.

As a matter of practice, the Division reviews IME reports against a checklist to ensure:

- 1) All issues on the IME application have been addressed;
- 2) All required worksheets are completed and included with the report;
- 3) Any inconsistencies between narrative report, worksheets and summary sheet are addressed;
- 4) Issues that conflict with AMA Guides, departmental rules and Level II curriculum are addressed;
- 5) The physician has complied with Rule XIX relative to impairment ratings including completion of the Mental Impairment Worksheet, if applicable;
- 6) The physician has complied with Rule XIX relative to apportionment, if applicable;
- 7) Lumbar flexion is invalidated in compliance with Level II Accreditation requirements, if applicable; and
- 8) A Table 53 (spine impairment) rating is rendered in adherence with the required process.

The Division does *not* substitute its judgment for the clinical judgment of the physician nor does it routinely address or evaluate:

- 1) Final impairment rating percentage;
- 2) Whether the physician gave a "correct" diagnosis;
- 3) The physician's determination of work-relatedness; or
- 4) Specific calculations.