

# DEPARTMENT OF LABOR AND EMPLOYMENT

## Division of Workers' Compensation

7 CCR 1101-3

### WORKERS' COMPENSATION RULES OF PROCEDURE

#### Rule 11 Division Independent Medical Examination

These rules apply to parties and physicians participating in the workers' compensation IME program pursuant to the authority of the Workers' Compensation Act.

##### 11-1 QUALIFICATIONS

A physician who seeks appointment to the Division's medical review panel for the purpose of performing IME's under the authority of the Workers' Compensation Act, Title 8, Articles 40 through 47 of the Colorado Revised Statutes, shall make application and meet the following qualifications:

- (A) Be licensed by the Board of Dental Examiners, the Board of Chiropractic Examiners, the Colorado Podiatry Board, the Board of Medical Examiners and board certified (or board eligible) by the American Board of Medical Specialties or the American Osteopathic Association or another organization acceptable to the Division;
- (B) For determination of maximum medical improvement (MMI), have attained at least Level I accreditation and have 384 hours per year of direct patient care (excluding medical/legal evaluation); and
- (C) For purposes of determining permanent impairment have attained Level II accreditation and either have 384 hours per year of direct patient care (excluding medical/legal evaluation) or demonstrated additional competency in the field of disability evaluation through certification by the American Board of Independent Medical Examiners or the American Academy of Disability Evaluation Physicians.
- (D) Shall have a license which is current, active and unrestricted.
- (E) A physician who has agreed to perform an IME as a result of negotiation and agreement by the parties, and who has not applied for appointment to the Division's IME panel, is not required to complete the application for appointment to the IME panel as set forth in section 11-2. However, such physician shall comply with all other qualifications and procedures governing the conduct of IME proceedings as established by this rule.

##### 11-2 APPOINTMENT PROCEDURES

The physician shall complete the Division application form, certify to and, upon approval of the application, comply with the following:

- (A) Unless otherwise approved by both parties, or the Division, the physician shall conduct an IME no earlier than 35 calendar days, nor later than 50 calendar days from the telephone call requesting an appointment;
- (B) Within 20 calendar days of the examination submit the original report with all attachments to the Division and a copy to all parties;

- (C) Decline a request to conduct an IME only on the basis of good cause shown, as determined by the Director;
- (D) Comply with the Workers' Compensation Rules of Procedure;
- (E) Conduct an IME pursuant to this section in an objective and impartial manner;
- (F) Not refer any IME claimant to another physician for treatment or testing unless an essential test is required pursuant to section 11-4(A) of this rule;
- (G) Not become the treating physician for the IME claimant, unless approved by the Director, ordered by an administrative law judge, or by both parties by written agreement;
- (H) Not evaluate an IME claimant if the appearance of or an actual conflict of interest exists; a conflict of interest includes, but is not limited to, instances where the physician or someone in the physician's office has treated the claimant. Further, a conflict may be presumed to exist when the IME physician and a physician that previously treated the claimant has a relationship which involves a direct or substantial financial interest. The following guidelines are to assist in determination of conflict or the appearance of a conflict:
  - (1) direct or substantial financial interest is a substantial interest which is a business ownership interest, a creditor interest in an insolvent business, employment or prospective employment for which negotiations have begun, ownership interest in real or personal property, debtor interest or being an officer or director in a business.
  - (2) The relationship should be determined at the time the IME is being requested. Relationships in existence before or after the review will have no bearing, unless a direct and substantial interest is present at the time of the IME.
  - (3) Being members of the same professional association, society or medical group, sharing office space or having practiced together in the past are not the types of relationships that will be considered a conflict or the appearance of a conflict, absent the present existence of a direct or substantial financial interest.
- (I) Not employ invasive diagnostic procedures unless approved as provided in 11-4 (A), below;
- (J) Not substitute any other physician as the designated IME physician without written permission of the director;
- (K) In order to assure fair and unbiased IME's, not engage in communication regarding the IME with any person other than Division staff, except under the following circumstances: the claimant during the IME examination, the requesting party when setting the appointment, by approval of the Director, both party written agreement, an order by an administrative law judge, by deposition or subpoena as approved by an administrative law judge;
- (L) No later than 30 calendar days after the cancellation of an examination, refund to the paying party part or all of the fee paid by that party as may be required by these rules or by the Director.
- (M) For each IME case assigned, address the following issues and make findings if relevant: maximum medical improvement, permanent impairment, and apportionment of

impairment. Also consider any issues presented on the "Application for IME" or as directed by an administrative law judge. If the IME is requested pursuant to §8-42-107(8)(b)(ii)(a-d), C.R.S., the requesting party shall clearly note such on the IME application form.

### 11-3 REQUESTS FOR AN IME:

#### (A) Application Process:

- (1) Either party that disputes the determination of MMI or impairment made by an authorized treating physician in a workers' compensation case may apply for an IME.
- (2) Requirement to Negotiate: Prior to Division intervention, the parties must attempt to negotiate the selection of a physician to conduct the IME. Parties that have agreed upon a physician to conduct the IME shall schedule the appointment pursuant to section 11-2(A) of this rule and shall notify the Division on the IME application form. If despite the good faith efforts of the parties, an agreement that was reached fails, either party may apply to the Division for the selection of an IME physician, using the form required under 11-3(B), below, within 30 days of such failure.
- (3) The requesting party shall submit an application for an IME according to 11-3(B), below. If the parties did not agree on the physician, the insurer shall notify the Division and the other party on a prescribed form regarding the failed negotiation within 30 calendar days of their failure to agree. The party disputing the determinations of the authorized treating physician, and seeking review of those determinations ("requesting party") shall file an application for IME within 30 days of the date of the failure to agree upon an IME physician.
- (4) Insurers are not designated the requesting party simply due to their obligation to submit the documents referenced above. The requesting party is the party disputing the determinations of the authorized treating physician and seeking review of those determinations. The requesting party must complete the application for IME.
- (5) The parties may agree to limit the issues addressed in an IME exam. Such agreement shall be in writing, signed by both parties, and provided to the IME unit no later than five (5) days prior to the IME appointment date. An opinion from an IME examiner concerning MMI, impairment or apportionment in a case in which the parties agreed to limit such issue, is not entitled to any weight before an administrative law judge.

#### (B) Form Required: The prescribed form, "Application for a Division Independent Medical Examination" shall be used in all cases to request an IME. The Division requires that the party requesting the IME designate:

- (1) The preferred geographic location for the IME examination;
- (2) The body part(s) or medical conditions to be evaluated, including whether mental impairment shall be evaluated;
- (3) Other physicians that have previously evaluated, treated, or are currently treating the claimant.

The requesting party shall certify that all parties and the Division have been sent the application form at the same time by the same means. Only the Division application form or a materially substantial equivalent duplication approved by the Division is acceptable.

- (C) IME Physician Selection: If the parties are unable to agree upon a physician to conduct the IME, the Division will select via a revolving selection process a panel of three qualified physicians from its list of qualified physicians, from which one physician shall be designated to perform the IME. To obtain a pool of qualified physicians from which the Division shall make the selection of the three physician panel, the Division shall consider to the extent possible the criteria identified in the application for IME as set forth in section 11-3(B) of this rule. The Division will correlate the body parts or medical conditions on the IME application with the appropriate medical treatment guideline on the table designated in section 11-12. The three-physician panel will be comprised of physicians based on their accreditation to perform impairment ratings on the body part(s) and/or medical conditions designated by the requesting party on the IME application. At the time a physician applies to join the IME panel of physicians, he/she shall designate the body parts or medical conditions that he/she is willing and able to evaluate. Physicians electing not to perform impairment ratings on certain body parts or conditions shall not be included in any three-doctor panel where those body parts or conditions are listed on the IME application pursuant to section 11-3(B)(2).
- (D) The Division will apply the same selection process for designation of the three-physician panel for injuries or conditions for which no Division medical treatment guideline exists.
- (E) All potential candidate names will be kept confidential until the selection of the three physician panel is made. The Division will notify the parties in writing by mail or fax of the names and the medical specialties of the three physician panel within ten calendar days after receipt of the application. The physician names and related information will be listed on a form generated and provided by the Division.
- (F) Requests for Summary Disclosure:
- (1) Within five (5) business days of issuance of the three-physician list by the Division, a party may request the physicians on the list provide a summary disclosure concerning any business, financial, employment or advisory relationship with the insurer, self-insured employer or the claimant. Such request shall be submitted, in writing, to the Division IME Unit with a copy to the other party. If a request is submitted, the requirement to strike a name from the list as described in paragraph (G) below shall be held in abeyance until the disclosure process is completed.
- (a) No requests for any other information regarding a physician's business, financial, employment or advisory relationships shall be granted under this rule.
- (b) The parties may use the information provided on the summary disclosure forms to assist in the decision to strike a physician from the list as described in paragraph (G) below. The information shall not be used as a basis for the Division to remove a physician from the three-physician panel.
- (2) In response to requests for summary disclosure concerning relationships with the insurer or self-insured employer, the physicians shall submit a completed Form WC 179 to the Division IME Unit within seven (7) business days of notice from the Division.
- (a) A physician may choose to pre-submit a disclosure Form WC 179 to the Division IME Unit to be kept on file. If the form is on file the physician shall

update the form within thirty (30) days of a material change and at least once a year.

(b) The Division IME Unit shall provide the completed forms to all parties.

(c) If a physician has not provided the required form to be kept on file and fails to provide the required form in a timely manner, the physician shall be removed from the three-physician list and a substitute physician selected by the Division IME Unit. The substitute physician shall be notified of the request for a summary disclosure and the same seven (7) business day time period described in paragraph (2) above shall apply.

(3) In response to requests for summary disclosure concerning relationships with a claimant who is a party to the claim, the physicians shall submit a completed Form WC 180 to the Division IME Unit within seven (7) business days of notice from the Division.

(a) The Division notice will include the name of the claimant and a blank copy of Form WC 180.

(b) The Division IME Unit shall provide the completed forms to all parties.

(c) If a physician fails to provide the required form in a timely manner, the physician shall be removed from the three-physician list and a substitute physician selected by the Division IME Unit. The substitute physician shall be notified of the request for a summary disclosure and the same seven (7) business day time period described in paragraph (3) above shall apply.

(4) Nothing in this section prohibits an insurer, self-insured employer or a claimant from disclosing any business, employment, financial or advisory relationship they may have with any or all of the physicians on the list.

(5) Physicians who are "agreed-upon" to perform Division IMEs pursuant to the Notice & Proposal Process described in section 8-42-107.2(3)(a), are not required to comply with the provisions in this section (F).

(G) If no request for a summary disclosure as set out in paragraph (F) above is made, within seven (7) business days of issuance of the three-physician list by the Division the requesting party shall strike one name and inform the other party and the Division. If a request for a summary disclosure as set out in paragraph (F) above is made, within five (5) business days of the Division's issuance to the parties of the WC 179 and/or the WC 180 forms by the Division IME Unit, the requesting party shall strike one name and inform the other party and the Division. Within five (5) business days of receiving that information from the requesting party, the other party shall strike one of the two remaining physicians and inform the Division's IME Unit, with confirmation to the requesting party, of the name of the remaining physician. That information shall be provided to the Division via fax or telephone. The parties may exchange information under this rule via fax, e-mail or telephone.

Where no summary disclosure forms have been requested of the physicians, and if the Division is not notified of the selected physician within fifteen (15) business days of the date the Division issued the three-physician panel the Division shall randomly select one name from the three-physician list. If physicians' summary disclosure forms have been requested, and the Division is not notified of the selected physician within ten (10) business days from the date the Division provides the disclosure forms to the parties, the Division shall randomly select one name from the three-physician panel. If one party fails

to timely strike a physician from the list, the other party shall notify the Division and at the same time provide to the Division the name of the physician that party wishes to strike. In that situation the Division will randomly select one name from the remaining two physicians. The Division shall confirm to the parties by telephone and/or in writing the name of the selected physician.

If the selected physician declines or is unable to perform the IME, the Division shall provide one replacement name to the original list of three physicians, and present that revised list to the parties where each shall strike one name according to the procedures set forth in this section. Additionally, if a physician is removed from the three-physician panel for any reason other than having been struck by one of the parties, the Division will issue one replacement name using the same criteria and process set forth in section 11-3(C), above.

- (H) When a physician is selected from the three-physician panel to perform the IME, the Division will remove his/her name from the revolving list of physicians for a period of time so that he/she is not available for assignment to another three-physician panel. This period of time may be adjusted by the Division as necessary to balance the mandate to reduce over utilization of individual physicians, yet ensure that an adequate pool of physicians is available in each geographic area. This procedure shall not preclude the parties from agreeing-upon such physicians to perform division IMEs.
- (I) Appointment Date: The date of the examination shall be set in accordance with section 11-2(A). The requesting party shall call the IME physician within five (5) business days after providing and/or receiving notice of the final IME physician selection to schedule the examination, and shall immediately notify the Division and the opposing party by telephone, and confirm in writing, the date and time of the examination. Absent good cause as determined by the Director or an administrative law judge, failure to make the appointment and advise all parties within five (5) business days permits the opposing party, after notifying the Division of such failure, to either schedule the IME appointment or to request cancellation of the IME.
- (J) Submission of Medical Records: The insurer shall concurrently provide to the IME physician and all other parties, a complete copy of all medical records in their possession pertaining to the subject injury, postmarked or hand-delivered no fewer than fourteen (14) calendar days prior to the IME examination. If the insurer or its representative fails to timely submit medical records to the designated IME physician, the claimant may request the Division cancel the IME; or the claimant may submit all medical records he/she has available no later than ten (10) calendar days prior to the IME examination; or as otherwise arranged by the Division with the IME physician. This rule does not prohibit the rescheduling of the IME. The defaulting party may supplement the records pursuant to section 11-3(L).
- (K) Form/Content of Medical Records Package: Pertinent medical records shall include all medical reports and medical records reflecting the diagnosis and treatment of the claimant's work-related injury, and shall include available medical records regarding relevant pre-existing condition(s) or work-related injury(ies). The medical file shall be two-hole punched at the top center of each page and clipped at the top with paper fasteners. A dated cover sheet shall be included listing the claimant's name, IME physician's name, date and time of the appointment, and the workers' compensation number. The medical file shall be in chronological order and tabbed by year. It shall include a written summary of medical providers with the range of dates of treatment. Medical records not meeting these requirements shall be resubmitted to the IME physician and all other parties in the correct format within three (3) business days of notification by the Division. Failure to timely and properly resubmit such records may result in cancellation of the IME by the Director, at the cost of the submitting party.

Penalties otherwise available under these rules and the Act may be determined by the Director.

Medical bills, adjustor notes, surveillance tapes, admissions, denials, vocational rehabilitation reports, non-treating case manager records or commentaries to the IME physician shall not be submitted without written agreement of all parties, order of an administrative law judge, or prior permission of the Division.

- (L) Submission of Supplemental Medical Records: Supplemental medical records shall be prepared according to section 11-3(K), above, and may be mailed or hand-delivered by any party concurrently to the IME physician and all other parties no later than seven (7) calendar days prior to the IME examination.
- (M) Depositions: Medical depositions may be submitted as part of the medical records package only by written agreement of all parties or pursuant to an order issued by the director or an administrative law judge. The IME physician shall be reimbursed for time spent reviewing medical depositions at the rate set forth in Rule 18, Testimony Fees. The party submitting the medical deposition shall be responsible for payment of the additional fees.
- (N) Interpreter: The claimant shall be responsible for notifying the insurer of the necessity for a language interpreter, a minimum of fourteen (14) calendar days before the examination. The paying party shall be responsible for arranging for the services of and paying for such language interpreter. The language interpreter shall be impartial and independent, and have no professional or personal affiliation with any party to the claim or the IME physician.
- (O) IME Proceedings Held in Abeyance: If a party files a motion involving a pending IME proceeding, the moving party shall provide a copy of the motion directly to the Division's IME Unit. The IME proceeding shall be held in abeyance until the Division IME Unit is notified of the disposition as provided in this rule. When the motion is disposed of by written order or other means, the moving party shall provide a copy of the order or other dispositive document to the Division's IME Unit

11-4 PAYMENTS/FEEES: UNLESS THE PARTY REQUESTING THE IME IS DETERMINED INDIGENT PURSUANT TO SECTION 11-11 OF THIS RULE, THE FOLLOWING SHALL APPLY TO PAYMENTS AND FEEES:

- (A) The physician performing the IME shall receive from the requesting party a fee of \$675 at least 10 calendar days prior to the scheduled examination. If the fee is not timely received the fee for the IME shall be \$775. If the record review is unusually extensive or complex or involves multiple body parts and requires longer than an hour for review, the physician shall contact the Division and request additional payment. This request should be made no later than three calendar days prior to the IME examination. The Division will transmit the request to the requesting party. If the requesting party declines to pay, the IME physician shall complete the IME process to the best of his/her ability without expending the additional time on record review. If additional file review charges are approved, the physician shall bill at the rate set forth in Rule 18-6(G)(3). The same process described in this paragraph shall apply with regard to any clinical or diagnostic testing requested by physicians performing IMEs.

It is expected that a test essential under the AMA Guides, 3rd Edition (revised) or the Level II accreditation curriculum for an impairment rating to be rendered will have been performed prior to the IME. Routine tests necessary for a complete IME should be performed as part of the IME with no additional cost. If an essential test is non-routine or requires special facilities or equipment, and such test was not previously performed, or

was previously performed but the findings are not usable at the time of the IME, the physician performing the IME shall notify the Division, who will notify the parties. Unless extraordinary circumstances exist that result in an ALJ issuing a ruling to the contrary, the physician performing the IME will either perform the essential test or refer out the essential test for completion, and the insurer shall be responsible for paying for the essential test.

- (B) An IME examination may be canceled only by the requesting party, or the Division, no later than three (3) business days prior to the examination. The non-canceling party may contact the Division to determine whether the IME may be rescheduled. If the IME is not timely canceled or the claimant fails to keep the IME appointment, or the medical records are not submitted in a timely manner, the IME physician shall be entitled to retain \$250.00 from the total fee when the IME was requested by the defaulting party. If the fee has not yet been paid, or the party responsible for untimely cancellation is not the requesting party, the physician shall be entitled to collect from the defaulting party a \$250.00 cancellation/penalty fee. The insurer may be entitled to offset the cancellation fee against any future permanent or temporary benefits if the claimant fails to appear for the IME examination without good cause as determined by the Director or an administrative law judge.
- (C) Services rendered by an IME physician shall conclude upon acceptance by the Division of the final IME report. An IME report is final for the purpose of this section 11-4(C) of this rule, when it includes the requested determination regarding MMI and/or final impairment rating worksheets. A party who seeks the presence of an IME physician as a witness at a proceeding for any purpose, by subpoena or otherwise, shall be responsible for payment to the IME physician pursuant to Rule 18, Testimony Fees.

#### 11-5 MULTIPLE IMPAIRMENT RATING IMES

Only one IME impairment rating per case shall be administered by the Division's IME Section, pursuant to §8-42-107 (8), C.R.S., unless otherwise directed by written agreement of the parties, by order of an administrative law judge or the Director, or by request of the originally designated impairment rating IME physician.

#### 11-6 COMMUNICATION WITH AN IME PHYSICIAN

- (A) During the IME process, there shall be no communication allowed between the parties and the IME physician unless approved by the Director, or an administrative law judge. Any violation may result in cancellation of the IME.
- (B) After acceptance by the Division of the final report, no communication with the IME physician shall be allowed by any party or their representative except under the following circumstances: approval by the Director, both party written agreement, an order by an administrative law judge, by deposition or subpoena as approved by an administrative law judge. The parties shall provide the Division IME section with copies of any correspondence permitted under this section with the IME physician. See section 11-4(D) for fee information.

#### 11-7 IME FOLLOW-UP

Sections of this Rule 11 apply to follow-up procedures, as appropriate. If a Level II IME physician determines a claimant has not reached MMI and recommends further treatment a follow-up IME examination shall to the extent possible be scheduled with the original IME physician. The party requesting the follow-up appointment shall provide written notification on a Division prescribed



form or a substantially similar form of such request to the Division's IME section, with a copy to the other party.

A return visit for range of motion validation shall be considered a part of the initial IME. Absent agreement by both parties or an order from an administrative law judge, any additional fees required for repeat range of motion shall be paid by the party that requested the IME.

A new IME physician may be selected only if agreed upon by both parties. The parties shall have reached prior agreement on who shall pay the \$675.00 to the new IME physician prior to the patient visit. Payment shall be made in accordance with the procedures set forth in section 11-4. Upon good cause shown, an administrative law judge may also order a new physician and designate which party shall pay the examination fee.

Absent both party agreement or an order from an administrative law judge, the party requesting the follow-up shall pay any additional examination expense according to the Relative Value for Physicians Fee Schedule, incorporated by reference in Rule 18, set forth in the RVP's Evaluation & Management Section.

99241 Follow-up for repeat Range of Motion measurements.

99242 Follow-up evaluation is within six months of the original evaluation.

99243 Follow-up for evaluation on cases that are older than six months and less than one year from the original evaluation.

Follow-up for evaluation on cases older than one year from the original evaluation. These follow-ups may be charged at the full fee of \$675.00. Charges described above are allowed due to the need for additional history-taking. Any additional pertinent medical records may be submitted prior to the follow-up appointment in accordance with sections 11-3(I) and (J).

#### 11-8 REMOVAL OF A PHYSICIAN FROM THE MEDICAL REVIEW PANEL:

Complaints regarding an IME physician may be submitted to the Director or to the Medical Director. Upon request of the IME physician, or whenever the Director determines it is appropriate, a physician may be made temporarily inactive and not included in the revolving selection process. The Director, in consultation with the Medical Director, may permanently remove a physician from the medical review panel on the following grounds:

- (1) A misrepresentation on the application for appointment to the panel;
- (2) Refusal and/or substantial failure to comply or two or more incidents of failure to comply with the provisions of these Workers' Compensation Rules of Procedure and any statutes relevant to physicians;
- (3) Loss of Level I and/or Level II accreditation; or
- (4) Any other reason for good cause as determined by the Director. After six months from the date of removal, a physician may apply to the director for reinstatement on the panel. The decision to return the physician to the panel is in the sole discretion of the Director.

#### 11-9 IMMUNITY

Members of the medical review panel and any person acting as a consultant, witness, or complainant shall be immune from liability in any civil action brought against said person for acts

occurring while the person was acting as a panel member, consultant, witness, or complainant, respectively, if such person was acting in good faith within the scope of the respective capacity, made a reasonable effort to obtain the facts of the matter as to which action was taken, and acted in the reasonable belief that the action taken by such person was warranted by the facts. Such grant of immunity from liability is necessary to ensure that the purposes of the IME provisions are met and participating physicians can exercise their professional knowledge, skills and judgment.

#### 11-10 DISPUTES

Disputes concerning the division IME process that arise in individual cases that cannot be resolved by agreement of the parties, may be taken to an administrative law judge for resolution.

#### 11-11 INDIGENT CLAIMANT

- (A) When a claimant applying for an IME pursuant to section 11-3(A) of this Rule asserts indigence, this process shall be followed:
- (1) At the same time the "Notice and Proposal to Select an Independent Medical Examiner" form is submitted, the claimant may also indicate on the form whether indigence is asserted.
  - (2) Within twenty (20) days following submission of the Notice and Proposal to Select an Independent Medical Examiner and statement asserting indigence, the claimant wishing to assert indigent status shall file an "Application for Indigent Determination (IME)" form at the Office of Administrative Courts, and provide a copy to the other parties. A blank Application for Indigent Determination (IME) form may be obtained at the Division of Workers' Compensation Customer Service Unit, at the IME unit, on the Division's website, or at the Office of Administrative Courts.
  - (3) The IME process will not be held in abeyance during the pendency of indigent application except that an IME physician will not be selected by the Division until a determination is made as to whether the claimant is indigent.
  - (4) Within eight (8) days after the date of mailing of the Application for Indigent Determination (IME) form, any other party to the claim may file a response at the Office of Administrative Courts. Any such response shall state with specificity the grounds for objection.
  - (5) Within twenty (20) days after the Application for Indigent Determination (IME) is filed, an administrative law judge shall issue an order based on the written submissions determining whether or not the claimant is indigent for purposes of paying for the IME. A hearing will be held only if the administrative law judge determines that one is necessary because a timely submitted response raises genuine issues of disputed material fact that must be resolved. In the event no response is filed but an administrative law judge determines there is a lack of sufficient information in the Application for Indigent Determination (IME), the administrative law judge may hold a hearing to obtain additional information. Any such hearing shall be held as expeditiously as possible, and if a hearing is held a determination must be issued within thirty (30) days of the date of filing of the Application for Indigent Determination (IME).

- (6) The determination regarding indigence shall be based on the claimant's financial status as of the date the Application for Indigent Determination (IME) is filed. In making the determination on the Application for Indigent Determination (IME), the ALJ shall apply the following standard. A person shall be found to be indigent only if income is at or below the eligibility guidelines with liquid assets of \$1,500 or less; or, income is up to 25% above the eligibility guidelines, liquid assets equal \$1,500 or less, and the claimant's monthly expenses equal or exceed monthly income; or, if "extraordinary circumstances" exist which merit a determination of indigence. The following definitions shall apply in making the determination:

#### Income Eligibility Guidelines

Family size	Monthly income guidelines*	Monthly income guideline plus 25%	Yearly income guideline*	Yearly income guideline plus 25%
1	\$1,128	\$1,410	\$13,538	\$16,922
2	\$1,518	\$1,897	\$18,213	\$22,766
3	\$1,907	\$2,384	\$22,888	\$28,609
4	\$2,297	\$2,871	\$27,563	\$34,453
5	\$2,686	\$3,358	\$32,238	\$40,297
6	\$3,076	\$3,845	\$36,913	\$46,141
7	\$3,466	\$4,332	\$41,588	\$51,984
8	\$3,855	\$4,819	\$46,263	\$57,828

\*For family units with more than eight members, add \$390 per month for "monthly income" or \$4,675 per year for "yearly income" for each additional family member.

- (a) Income is gross income from all members of the household who contribute monetarily to the common support of the household.
- (b) Liquid assets include cash on hand or in accounts, stocks, bonds, certificates of deposit, equity and personal property or investments which could readily be converted into cash without jeopardizing the applicant's ability to maintain home and employment. "Liquid assets" exclude any equity in any vehicle which the injured worker or his/her family must use for essential transportation unless the ALJ makes an affirmative finding of fact that the worker is credit worthy, can borrow against the equity in this vehicle, and can afford to pay back a loan without compromising his/her needs for food, clothing, shelter, and transportation.

- (c) Expenses for nonessential items such as cable television, club memberships, entertainment, dining out, alcohol, cigarettes, etc. shall not be included.
  - (d) "Extraordinary circumstances" are deemed to be those which cause extraordinary financial hardship by depriving the claimant of the ability to provide for basic necessities that cannot be deferred, such as food, shelter, clothing, utilities, and medical costs not covered by insurance.
- (7) The administrative law judge shall provide the determination regarding indigence in writing to all the parties. The determination shall include discussion sufficient to explain the basis of determination.

(B) Payment for the IME

- (1) If an Administrative Law Judge determines that the claimant is not indigent, the claimant shall be responsible for payment of the IME. The process for selection of the physician and completion of the IME shall be as set forth in this rule.
- (2) If an Administrative Law Judge determines that the claimant is indigent, the insurer shall advance payment for the cost of the IME. Such a payment must be made to the doctor no later than ten (10) days prior to the date of the scheduled IME appointment. The insurer shall also pay for any additional costs as identified in sections 11-4(B), 11-4(C), and 11-7 of this Rule.
- (3) The IME will proceed as set forth in section 11-3 of this Rule. The claimant shall be considered the requesting party.
- (4) After a final order is issued, a final admission of liability is uncontested, or the parties have settled the case on a full and final basis, claimant shall reimburse the cost of the IME to the insurer or employer who paid initially. The obligation to reimburse the cost does not arise until a final order or order approving the settlement is issued. Any reimbursement shall be taken as an offset against permanent indemnity benefits.

**11-12 TABLE OF DIAGNOSES OR MEDICAL CONDITIONS – INDEPENDENT MEDICAL EXAMINATIONS PROGRAM**

**Medical Treatment Guidelines – List of Specified Diagnoses or Conditions**

<b>Guideline</b>	<b>Conditions</b>	<b>Body Part or System</b>	<b>Accreditation Units</b>	<b>Specialty</b>
Lower Extremity	Ankle Sprain/Fracture	Ankle	Lower Extremity	Fully Accredited Specialists (Level II)  Limited-Accredited Specialists:  Orthopedics  Neurology/Neurosurgery  Plastic Surgery  Rheumatology
	Talar fracture			
	Calcaneal fractures			
	Midfoot (Lisfranc's) Fracture Dislocation			
	Metatarsal-Phalangeal, Tarsal-Metatarsal, and Interphalangeal Joint Arthropathy			
	Pilon Fracture			
	Puncture wounds of the foot			
	Achilles Tendon Injury/Rupture			
	Ankle Osteoarthropathy			
	Ankle or Subtalar Joint Dislocation			
	Heel Spur Syndrome/Plantar Fasciitis	Foot		
	Tarsal Tunnel Syndrome			
	Neuroma			
	Knee – Chondral Defects			

Guideline	Conditions	Body Part or System	Accreditation Units	Specialty
	Aggravated Osteoarthritis	Knee		
	Anterior Cruciate Ligament Injury			
	Posterior Cruciate Injuries			
	Meniscus Injury			
	Patellar Subluxation			
	Retropatellar Pain Syndrome			
	Tendonitis/Tenosynovitis			
	Bursitis of the Lower Extremity			
	Hip fracture	Hip		
	Acetabulum Fracture			
	Hamstring Tendon Rupture			
	Hip Dislocation			
	Trochanteric Fracture	Hip, leg, pelvis		
	Femur Fracture	Leg		
	Tibia Fracture			
		Pelvis		

Guideline	Conditions	Body Part or System	Accreditation Units	Specialty
	Pelvic Fracture	Leg Pelvis	Spine Lower Extremity	Fully Accredited Specialists (Level II)  Limited-Accredited Specialists: Orthopedics Neurology/Neurosurgery Plastic Surgery Rheumatology
Cervical Spine Injury	<u>Incomplete Spinal Cord Injury Syndrome:</u> Anterior Cord Syndrome Brown-Sequard Syndrome Central Cord Syndrome Posterior Cord Syndrome <hr/> Soft Tissue Injury, Quebec Classification, Grades I-IV <hr/> Disc Herniation	Cervical Spine	Neuro/Spine	Fully Accredited Specialists (Level II)  Limited-Accredited Specialists: Orthopedics Neurology/Neurosurgery Plastic Surgery Rheumatology

Guideline	Conditions	Body Part or System	Accreditation Units	Specialty
Low Back Pain	No diagnoses other than Low Back Pain given.	Lumbar Spine	Spine	<p>Fully Accredited Specialists (Level II)</p> <p>Limited-Accredited Specialists:</p> <p>Orthopedics</p> <p>Neurology/Neurosurgery</p> <p>Plastic Surgery</p> <p>Rheumatology</p>
Traumatic Brain Injury	Mild TBI (MTBI)	Head	Neuro	<p>Fully Accredited Specialists (Level II)</p> <p>Limited-Accredited Specialists:</p> <p>Neurology/Neurosurgery</p> <p>Psychiatry</p>
	Moderate-Severe TBI	Skull Brain		
Cumulative Trauma	DeQuervain's Tenosynovitis			Fully Accredited



<b>Guideline</b>	<b>Conditions</b>	<b>Body Part or System</b>	<b>Accreditation Units</b>	<b>Specialty</b>
Disorder	Extensor Tendinous Disorders	Arm	Upper Extremity	Specialists (Level II)  Limited-Accredited Specialists:  Neurology/Neurosurgery  Orthopedics  Hand Surgery  Plastic Surgery  Rheumatology
	Flexor Tendinous Disorders			
	Lateral Epicondylitis			
	Medial Epicondylitis			
	Cubital tunnel syndrome			
	Hand-Arm Vibration Syndrome			
	Guyon Canal (Tunnel) Syndrome			
	Pronator Syndrome			
	Radial Tunnel Syndrome			
	Elbow Musculoskeletal Disorders (Epicondylitis)			
	Wrist Tendonitis, including DeQuervain's Tenosynovitis	Wrist		
	Trigger Finger	Hand, finger		
	Upper Extremity Tendonitis or bursitis	Elbow, shoulder		
	Chronic Pain Disorder	Chronic Pain		

Guideline	Conditions	Body Part or System	Accreditation Units	Specialty
Reflex Sympathetic Dystrophy/Complex Regional Pain Syndrome	CRPS-I (RSD), Stages 1-3 CRPS-II (Causalgia)	Neurologic system; also match specialty to body part, e.g., upper/lower extremity	Neuro; also check to see if the initial injury requires rating	<b>All except:</b> Pulmonology Otolaryngology (ENT) Ophthalmology Cardiology
Occupational Carpal Tunnel Syndrome	Carpal Tunnel Syndrome	Hand Wrist	Upper Extremity	Fully Accredited Specialists (Level II)  Limited-Accredited Specialists: Neurology/Neurosurgery Orthopedics Hand Surgery Plastic Surgery Rheumatology

Guideline	Conditions	Body Part or System	Accreditation Units	Specialty
Thoracic Outlet Syndrome	Definite Thoracic Outlet Syndrome Probable Thoracic Outlet Syndrome Possible Thoracic Outlet Syndrome	Thoracic spine Thoracic nerves	Neuro	Fully Accredited Specialists (Level II)  Limited-Accredited Specialists: Neurology/Neurosurgery Cardiothoracic Surgery Orthopedics
Shoulder	Acromioclavicular Joint Sprains/Dislocations Adhesive Capsulation/Frozen Shoulder Disorders Bicipital Tendon Disorders Brachio Plexus Injuries Bursitis of the Shoulder Impingement Syndrome Rotator Cuff Tear Rotator Cuff Tendinitis Shoulder Fractures Shoulder Instability	Shoulder	Upper Extremity (Spine if cervical spine involvement)	Fully Accredited Specialists (Level II)  Limited-Accredited Specialists: Neurology/Neurosurgery Orthopedics Plastic Surgery Rheumatology

## Other Conditions

Condition	Specialty	Body Part or System
Dermatological	Fully Accredited Specialists (Level II); Limited-Accredited Specialist: Dermatology	Skin
Ophthalmic	Fully Accredited Specialists (Level II); Limited-Accredited Specialist: Ophthalmology	Eye, visual system
Ear, Nose & Throat deformities	Fully Accredited Specialists (Level II) Limited-Accredited Specialists: Allergist, Otolaryngology, Plastic surgery	Ear, nose & throat; deformities
Hearing or vestibular problems	Fully Accredited Specialists (Level II) Limited-Accredited Specialist: Otolaryngology	Ear, middle ear

Cardiac	Fully Accredited Specialists (Level II)  Limited-Accredited Specialist: Cardiac Surgery	Heart, cardiopulmonary system
Allergies (not isolated to skin or lungs)	Fully Accredited Specialists (Level II)  Limited-Accredited Specialists: Allergist, Otolaryngology	Sinus
Pulmonary	Fully Accredited Specialists (Level II)  Limited-Accredited Specialists: Allergist, Pulmonology	Lungs, cardiopulmonary system
Hernia	Fully Accredited Specialists (Level II)	Gastrointestinal
Surgery	Go to specific condition and choose surgical specialty accordingly	N/A
Mental/ Psychological Disorders	Fully Accredited Specialists (Level II)  Limited-Accredited Specialists:  Psychiatry, Neurology/Neurosurgery	Mental/Behavioral

