

Medical Evaluation Timeline

No evaluator shall schedule appointments to the extent that any injured worker will be required to wait for more than one hour at the evaluator's office prior to being seen for the previously agreed upon appointment time for an evaluation. An injured worker who is not seen by the evaluator **within one hour** may terminate the exam and request a replacement evaluator from the Administrative Director. No party shall be liable for the terminated exam. 41(h)

Whenever an appointment for a comprehensive medical evaluation is made with a QME, the QME shall complete an appointment notification form by submitting the form in Section 110 (QME Appointment Notification Form)(See, 8 Cal. Code Regs. § 110). The completed form shall be postmarked or sent by facsimile to the employee and the claims administrator, or if none the employer, **within 5 business days** of the date the appointment was made. 34(a)

An Agreed Medical Evaluator or Qualified Medical Evaluator who knows, or should know, that he or she has a disqualifying **conflict of interest** with any person or entity listed in subdivision 41.5(c), that also is involved in the specific workers' compensation claim identified to the evaluator, shall send written notification to the injured worker and the claims administrator, or if none the employer, or their respective attorneys if any, **within five (5) business days** of the evaluator becoming aware of the conflict. 41.5(f)

Any injured worker or claims administrator or if none the employer, including his or her attorney respectively, who knows of, or becomes aware of, a potential disqualifying **conflict of interest**, as defined under this section, with a specific evaluator selected to perform a comprehensive medical/legal examination and report or a follow up examination and report, shall notify the selected evaluator in writing at the earliest opportunity and no later than **within five (5) business days** of becoming aware of the potential conflict, to enable the evaluator to determine whether the disqualifying conflict exists. 41.5(g)

Whenever an Agreed or Qualified Medical Evaluator notifies the parties that a disqualifying **conflict of interest** exists, and even if it arises after the evaluator has performed an initial or follow up comprehensive medical-legal evaluation, the parties shall use the following procedures. 41.6(a)

An evaluator shall proceed with any scheduled evaluation involving a physical examination or supplemental report in the case, unless either the evaluator declines to proceed due to disqualifying himself or herself pursuant to section 41.5(e) of Title 8 of the California Code of Regulations or unless, pursuant to this section, the injured worker or the claims administrator is entitled to a replacement QME. 41.6(b)

Within five (5) business days of receipt of the evaluator's notice of conflict: 41.6(c)

If the injured worker is not represented by an attorney, the parties shall obtain a new evaluator by following the procedure provided under section 31.5 of Title 8 of the California Code of Regulations and a replacement QME, or when necessary replacement QME panel, shall be issued. 41.6(1)

An evaluator, whether an AME, Agreed Panel QME or QME, shall not cancel a scheduled appointment **less than six (6) business days** prior to the appointment date, except for good cause. Whenever an evaluator cancels a scheduled appointment, the evaluator shall advise the parties in writing of the reason for the cancellation. The Appeals Board shall retain jurisdiction to resolve disputes among the parties regarding whether an appointment cancellation pursuant to this subdivision was for good cause. The Administrative Director shall retain jurisdiction to take appropriate disciplinary action against any Agreed Panel QME or QME for violations of this section. 34(d)

Refrain from cancelling a QME examination **less than six (6) business days** from the date the exam is scheduled without good cause and without providing a new examination date **within thirty (30) calendar days** of the date of cancellation. 41(8)

When the employee is not represented by an attorney, the unrepresented employee shall, **within ten (10) days** of having been furnished with the form, select a QME from the panel list, contact the QME to schedule an appointment and inform the claims administrator of the QME selection and the appointment. 31.3(a)

If, within ten (10) days of the issuance of a QME panel, the unrepresented employee fails to select a QME from the QME panel or fails to schedule an appointment with the selected QME, the claims administrator may schedule an appointment with a panel QME only as provided in Labor Code section 4062.1(c), and shall notify the employee of the appointment as provided in that section. 31.3(c)

Whenever the employee is represented by an attorney and the parties have completed the conferring and striking processes described in Labor Code section 4062.2(c), the represented employee shall schedule the appointment with the physician selected from the QME panel. If the represented employee fails to do so **within ten (10) business days** of the date a QME is selected from the panel, the claims administrator or administrator's attorney may arrange the appointment and notify the employee and employee's attorney. 31.3(d)

Whenever the Medical Director is notified by a party seeking an appointment with a Qualified Medical Evaluator, or otherwise becomes aware, that the QME is not available and not responding to calls or mail at a location listed for the QME, a certified letter will be sent to the QME by the Medical Director regarding his/her unavailability. If the Medical Director does not receive a response **within fifteen (15) days** of the date the certified letter is mailed, then the QME will be made unavailable at that location. The time a QME is placed on unavailable status pursuant to this subdivision shall count toward the **ninety (90) day** limit in subdivision 33(a) of Title 8 of the California Code of Regulations. 33(g)

The referring QME shall file the comprehensive medical–legal report within the time periods specified in section 38 of Title 8 of the California Code of Regulations. In the event a consulting physician’s report has not been received, or will not be received, in time to comply with the time periods, the referring QME shall serve the comprehensive medical-legal report timely, and upon receipt of the consulting physician’s report, the referring evaluator shall, **within fifteen (15) calendar days** of receipt of the consulting report, issue a supplemental report that incorporates the consulting physician’s report by reference, and comments on whether and how the findings in the consulting report change the referring evaluator’s opinions. 32(f)

A letter outlining the issues that the evaluator is requested to address in the evaluation, which shall be served on the opposing party **no less than 20 days** in advance of the evaluation.35(a)(3)

At least twenty (20) days before the information is to be provided to the evaluator, the party providing such medical and non-medical reports and information shall serve it on the opposing party. Mental health records that are subject to the protections of Health and Safety Code section 123115(b) shall not be served directly on the injured employee, but may be provided to a designated health care provider as provided in section 123115(b)(2), and the injured employee shall be notified in writing of this option for each such record to be provided to the evaluator. In both unrepresented and represented cases the claims administrator shall attach a log to the front of the records and information being sent to the opposing party that identifies each record or other information to be sent to the evaluator and lists each item in the order it is attached to or appears on the log. In a represented case, the injured worker’s attorney shall do the same for any records or other information to be sent to the evaluator directly from the attorney’s office, if any. The claims administrator, or if none the employer, shall include a cover letter or other document when providing such information to the employee which shall clearly and conspicuously include the following language: "Please look carefully at the enclosed information. It may be used by the doctor who is evaluating your medical condition as it relates to your workers' compensation claim. If you do not want the doctor to see this information, you must let me know **within 10 days.**" 35(c)

If the opposing party **objects within 10 days** to any non-medical records or information proposed to be sent to an evaluator, those records and that information shall not be provided to the evaluator unless so ordered by a Workers’ Compensation Administrative Law Judge. 35(d)

In the event that the unrepresented employee schedules an appointment **within 20 days** of receipt of the panel, the employer or if none, the claims administrator **shall not be required to comply with the 20 day time frame** for sending medical information in subsection (c) provided, however, that the unrepresented employee is served all non-medical information in subdivision (c) **20 days prior** to the information being served on the QME so the employee has an opportunity to object to any non-medical information. 35(h)

In the event the Medical Director is **unable to issue** a QME panel in a represented case **within thirty (30) calendar days** of receiving the request, either party may seek an order from a Workers’ Compensation Administrative Law Judge that a QME panel be issued.

Any such order shall specify the specialty of the QME panel or the party to be designated to select the specialty. 31.1(c)

The time frame for an initial or a follow-up comprehensive medical-legal evaluations **report to be prepared and submitted shall not exceed thirty (30) days** after the QME, Agreed Panel QME or AME has seen the employee or otherwise commenced the comprehensive medical-legal evaluation procedure. If an evaluator fails to prepare and serve the initial or follow-up comprehensive medical-legal evaluation report **within thirty (30) days** and the evaluator has failed to obtain approval from the Medical Director for an extension of time pursuant to this section, the employee or the employer may request a QME replacement pursuant to section 31.5 of Title 8 of the California Code of Regulations. 38(a)

All requests by an evaluator for **extensions of time** shall be made on form 112 (QME/AME Time Frame Extension Request) (See, 8 Cal. Code Regs. § 112). If the evaluation will not be completed on the original due date, the evaluator may request an extension from the Medical Director, **not to exceed an additional 30 days**. An extension of the time for completing the report shall be approved, as follows: 38(b)

When the evaluator has not received test results or the report of a consulting physician, necessary to address all disputed medical issues in time to meet the initial 30-day deadline, an extension **of up to thirty (30) days** shall be granted. 38(b)(1)

The time frame for **supplemental reports shall be no more than sixty (60) days** from the date of a written or electronically transmitted request to the physician by a party. The request for a supplemental report shall be accompanied by any new medical records that were unavailable to the evaluator at the time of the original evaluation and which were properly served on the opposing party as required by Labor Code section 4062.3. An **extension of the sixty (60) day time** frame for completing the supplemental report, of **no more than thirty (30) days**, may be agreed to by the parties without the need to request an extension from the Medical Director. 38(h)

An Agreed Panel QME or a QME who cancels a scheduled appointment shall reschedule the appointment to a date **within thirty (30) calendar days** of the date of cancellation. The re-scheduled appointment date may **not be more than sixty (60) calendar days** from the date of the initial request for an appointment, unless the parties agree in writing to accept the date beyond the sixty (60) day limit. 34(e)

An Agreed Medical Evaluator who cancels a scheduled appointment shall reschedule the appointment **within sixty (60) calendar days** of the date of the cancellation, unless the parties agree in writing to accept an appointment date **no more than thirty (30) calendar days beyond the sixty (60) day limit**. 34(f)

If a party with the legal right to schedule an appointment with a QME is unable to obtain an appointment with a selected QME within **sixty (60) days** of the date of the appointment request, that party may waive the right to a replacement in order to accept an appointment **no more than ninety (90) days** after the date of the party's initial appointment request. When the selected QME is unable to schedule the evaluation **within ninety (90) days** of the date of that party's initial appointment request, either party may report the unavailability of the QME and the Medical Director shall issue a

replacement pursuant to section 31.5 of Title 8 of the California Code of Regulations upon request, unless both parties agree in writing to **waive the ninety (90) day time limit** for scheduling the initial evaluation. 33(e)

A replacement QME to a panel, or at the discretion of the Medical Director a replacement of an entire panel of QMEs, shall be selected at random by the Medical Director and provided upon request whenever any of the following occurs: 31.5(a)

A QME on the panel issued does not practice in the specialty requested by the party holding the legal right to request the panel. 31.5(b)

A QME on the panel issued cannot schedule an examination for the employee **within sixty (60) days** of the initial request for an appointment, or if the 60 day scheduling limit has been waived pursuant to section 33(e) of Title 8 of the California Code of Regulations, the QME cannot schedule the examination **within ninety (90) days** of the date of the initial request for an appointment. 31.5(c)

After a claim form has been filed, the claims administrator, or if none the employer, may request a panel of Qualified Medical Evaluators only as provided in Labor Code section 4060, to determine whether to accept or reject a claim **within the ninety (90) day** period for rejecting liability in Labor Code section 5402(b), and only after providing evidence of compliance with Labor Code Section 4062.1 or 4062.2. 30(d)(1)

After the ninety (90) day period specified in Labor Code section 5402(b) for denying liability has expired, a request from the claims administrator, or if none from the employer, for a QME panel to determine compensability shall only be issued upon presentation of a finding and decision issued by a Workers' Compensation Administrative Law Judge that the presumption in section 5402(b) has been rebutted and an order that a QME panel should be issued to determine compensability. 30(d)(4)

Unless the Appeals Board or a Workers' Compensation Administrative Law Judge orders otherwise or the parties agree otherwise, whenever a party is legally entitled to depose the evaluator, the evaluator shall make himself or herself available for **deposition within at least one hundred twenty (120) days** of the notice of deposition and, upon the request of the unrepresented injured worker and whenever consistent with Labor Code section 5710, the deposition shall be held at the location at which the evaluation examination was performed, or at a facility or office chosen by the deposing party that is not more than 20 miles from the location of the evaluation examination. 35.5(f)

All QMEs shall retain a copy of all comprehensive medical-legal reports completed by the QME for a period of **five years** from the date of each evaluation report. A QME may satisfy this requirement by retaining only an electronic copy of the report, as long as the electronic copy retained is a true and correct copy of the original, showing the QME signature that was served on the parties. 39.5(a)

