



Washington State Department of  
Labor & Industries



**Welcome to:**

# *IME Rules*

# Spring Cleaning



- 1 Declutter before cleaning
- 2 Go mild
- 3 Read the label
- 4 Ventilation is your friend
- 5 Consider a mask
- 6 Glove up
- 7 Get a mop
- 8 Avoid wet floors
- 9 Safely store cleaning products
- 10 Stay safe on step stools
- 11 Lift with caution
- 12 Stay hydrated

# IME Rules Update Recap

- RCW 51.36.070 (ESSB 6440), the Independent Medical Examination (IME) legislation that passed in 2020.
- This legislation identified specific reasons when an IME can be requested by L&I or a Self-Insured Employer (SIE) or their Third Party Administrator (TPA).
- It also introduced telemedicine as an option to reduce the burden on workers who are required to travel for the appointment.

# Highlights

- When can an IME be requested?
- Definition of reasonably convenient location.  
“RCL Tool”
- Definition of Case Progress and guidance to when can be requested.
- Disputes and Department actions when received.

# IME Medical Examination (IME) Rules

- Case Progress
- Disputes
- Appeals Rules
- Adoption of rules filed March 22, 2022
- Published by Code Reviser April 6, 2022
- Effective April 22, 2022

# RCW 51.36.070

Outlines what an IME can be scheduled for:

- To make a decision regarding allowance or reopening
- To resolve a new medical issue.
- To resolve an appeal.
- Case progress
- To evaluate PPD or work restrictions

IMEs must be in a reasonably convenient location.

# WAC 296-23-302

Definition added for Case Progress examination:

“An examination requested for an accepted condition because: (a) A proper and necessary treatment plan, per the definition of "proper and necessary" found in WAC 296-20-01002, is not in place; or(b) The treatment plan has stalled or been completed without resulting in objective or functional improvement for physical conditions, or clinically.”

# WAC 296-23-308

## **Scheduling case progress examinations.**

There are two thresholds that must be met in order for a case progress IME to be appropriate:

- 120 days after receipt of the claim or last case progress IME.
- Vague and/or lack of explanation from the AP regarding status of the treatment plan or refer to a consultation.



# WAC 296-23-309

## How many examinations may be requested?

One examination:

- Prior to an order allowing or denying a new claim.
- For an impairment rating
- To adjudicate any application to reopen a claim.
- After any new medical issue is contended

Additional examinations per case progress rules and to resolve appeals.

# WAC 296-23-401

## Can an examination be scheduled after receipt of an appeal to the BIIA?

- Following receipt of an appeal by any party, the department may reassume and schedule, or may order the SIE/TPA to schedule an exam.
- The SIE/TPA may also schedule an exam regarding an appeal if a request has been approved by the department.

# WAC 296-23-403

## **Independent medical examinations – department data reporting.**

- The department will regularly provide independent medical examination data to interested parties that includes emerging trends.
- As much as possible, the data should include, and differentiate, between examinations for claims insured by the department and those covered by self-insured employers.

# WAC 296-15-440

## **What will the department consider when resolving a dispute to a scheduled IME in a self-insured claim?**

- The IME Assignment Letter.
  - Was it sent to the worker 28 days in advance?
- When a written dispute is filed.
- If the dispute presents a factual case.

# The Assignment Letter

It includes:

- One of the reasons outlined by RCW 51.36.070 for the examination.
- RCL language
- If worker plans not to attend, they must give 5 business days notice language.
- Failure to fully cooperate language.
- Dispute right.

# IME Disputes and Timeliness

- The department can make a decision up to the day before an IME to direct the SIE/TPA to cancel/postpone.
- A phone call will be made if this is the case.
- A message may be left.

# Scenario A

- Ms. Worker was injured on 2/5/22 when she was walking and slipped on ice, sustaining a concussion, right shoulder sprain and SLAP tear.
- AP recommended Psych treatment for depression and anxiety related to the injury.
- Psychiatric IME scheduled 2/26/23.
- Dispute received 2/10/23 stating she has not been allowed to follow the treatment recommendations of her AP.

# Scenario B

- A worker filed a claim on 9/15/22 for an occupational disease due to repetitive strain of his neck and upper back, which was allowed.
- TPA requested a consult from AP on 11/10/22.
- IME sent for scheduling on 12/28/22 and was to take place on 2/1/23.
- AP responded on 1/2/23.
- Dispute received 1/12/23 state a referral to Ortho was placed by AP.



# Questions

