
**Labor & Workplace Standards
Committee**

ESSB 6440

Brief Description: Concerning industrial insurance medical examinations.

Sponsors: Senate Committee on Labor & Commerce (originally sponsored by Senators Stanford, Hunt, Keiser, McCoy, Das and Conway).

Brief Summary of Engrossed Substitute Bill

- Limits the circumstances under which an injured worker must submit to a medical exam requested by the Department of Labor and Industries or a self-insurer under the Industrial Insurance Act.
- Makes other changes to provisions governing independent medical exams.
- Establishes a work group to develop strategies and consider issues regarding independent medical exams.

Hearing Date: 2/24/20

Staff: Trudes Tango (786-7384).

Background:

Independent Medical Examinations.

Under the state's industrial insurance laws, employers must insure through the State Fund administered by the Department of Labor and Industries (Department) or may self-insure if qualified. Whenever the Director of the Department or the self-insured employer deems it necessary to resolve a medical issue, a worker must submit to an examination by a physician or physicians selected by the Director. This examination is often referred to as an independent medical examination (IME). For example, an IME may be requested to rate a permanent impairment or determine a diagnosis. A rendition of a report must be provided to the person ordering the IME.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The worker must submit to an IME, at a time and place reasonably convenient for the worker. If the worker refuses to submit to, or obstructs, the IME, the Department or the self-insurer may suspend any further action on any claim so long as the refusal, obstruction, or noncooperation continues and may reduce, suspend, or deny any compensation during that period. However, the Department or the self-insurer may not take such action if the worker has good cause for refusing to submit to or to obstruct any exam, evaluation, treatment, or practice.

Summary of Bill:

Independent Medical Examinations.

A worker must submit to an IME if the Department or self-insurer deems it necessary to: (1) make a decision regarding claim allowance or reopening; (2) resolve a new medical issue, an appeal, or case progress; or (3) evaluate the worker's permanent disability or work restriction. "New medical issue" is defined as a medical issue not covered by a previous medical exam requested by the Department or self-insurer such as an issue regarding medical causation, medical treatment, work restrictions, or evaluating permanent partial disability.

The Department or a self-insurer may not assess a no-show fee against a worker if the worker gives at least five business days' notice of the worker's intent not to attend the IME.

Using telemedicine is an alternative to having the IME be at a place reasonably convenient to the worker. "Reasonably convenient" is defined as a place where residents in the injured worker's community would normally travel to seek medical care for the same specialty as the examiner.

In addition to the person ordering the IME, the attending physician and the worker must also receive a rendition of a report of the IME.

"Examination" is defined as a physical or mental examination by a medical care provider licensed to practice medicine, osteopathy, podiatry, chiropractic, dentistry, or psychiatry at the request of the Department or self-insured employer or by order of the Board of Industrial Insurance Appeals.

Work Group.

An IME work group is established within the Department, consisting of the following members:

- two members of the House of Representatives from each of the largest caucuses, appointed by the Speaker of the House;
- two members of the Senate from each of the largest caucuses, appointed by the President of the Senate;
- one representative for state-fund employers;
- one representative for self-insured employers;
- two labor representatives;
- one representative of both an association representing physicians who perform IMEs and the panel companies that work with them; and
- one attorney who represents injured workers.

The work group must:

- develop strategies for reducing the number of IMEs per claim while considering claim duration and medical complexity;

- develop strategies for improving access to medical records;
- consider whether the Department should do all IME scheduling;
- consider the circumstances for which examiners should be randomly selected or specified;
- consider workers' rights in the IME process;
- recommend changes to improve the efficiency of the IME process; and
- identify barriers to increasing the supply of in-state physicians willing to do IMEs.

The Department must report its findings and recommendations to the Legislature by December 11, 2020.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February, 20, 2020.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.