

FINAL BILL REPORT

ESSB 6440

C 213 L 20
Synopsis as Enacted

Brief Description: Concerning industrial insurance medical examinations.

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

Senate Committee on Labor & Commerce
House Committee on Labor & Workplace Standards
House Committee on Appropriations

Background: Any worker who is entitled to receive or is claiming any workers' compensation benefits, if requested by the Department of Labor and Industries (L&I) or the self-insurer, must submit to a medical examination, at a time and place reasonably convenient for the worker. If the worker refuses to submit to the medical exam, or obstructs the exam, or refuses or obstructs evaluation or exam for the purpose of vocational rehabilitation, L&I or the self-insurer, upon L&I's approval, with notice to the worker may suspend any further action on any claim so long as such refusal, obstruction, noncooperation, or practice continues and reduce, suspend, or deny any compensation for such period. However, L&I or the self-insurer may not suspend such action if a worker has good cause for refusing to submit to or to obstruct any exam, evaluation, treatment, or practice.

Whenever the director or the self-insurer deems it necessary in order to resolve any medical issue, a worker shall submit to examination by a physician or physicians selected by the director, with the rendition of a report to the person ordering the examination.

A worker's traveling expenses incurred to attend the exam must be repaid out of the accident fund or by the self-insurer. If the required medical exam causes the worker to be absent from work without pay, the worker must be paid the worker's usual wages for the time lost from work while attending the medical exam from the L&I accident fund or the self-insurer.

L&I or the self-insurer must provide the physician performing an exam with all relevant medical records from the worker's claim file. The L&I director, in the director's discretion, may charge the cost of the exam, including the worker's reasonable expenses, to the self-insurer or to the medical aid fund.

Summary: Independent Medical Exams. A worker must submit to an examination by a physician selected by L&I (IME) whenever L&I or the self-insurer deems it necessary to: (1)

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make a decision on 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. A new medical issue means a medical issue not covered by a previous medical examination requested by L&I or the self-insurer such as an issue regarding medical causation, medical treatment, work restrictions, or evaluating permanent partial disability.

L&I may not assess a no-show fee against the worker if the worker gives at least five business days' notice of the worker's intent not to attend the IME. The exam must be at a place reasonably convenient to the injured worker, which means at a place where residents in the injured worker's community would normally travel to seek medical care for the same specialty as the examiner, or use telemedicine if L&I determines telemedicine is appropriate for the IME. L&I must address in rule how to accommodate the worker if no approved medical examiner in the specialty needed is available in that community.

L&I must adopt rules, policies, and processes governing the use of telemedicine for IMEs. It may include a pilot project. Consideration should be given to all available research regarding the use of telemedicine for IMEs.

Any IME report must also be given to the worker and the attending physician, in addition to the person ordering the report.

Examination means a physical or mental examination by a medical care provider licensed to practice medicine, osteopathy, podiatry, chiropractic, dentistry, or psychiatry at the request of L&I, the self-insurer, or by order of the board of industrial insurance appeals.

Work Group. An IME work group is established with members as follows:

- two members from the House of Representatives, one member appointed by the speaker of the House of Representatives from each of the two largest caucuses;
- two members from the Senate, one appointed by the president of the Senate from each of the two largest caucuses;
- one business representative representing employers participating in the state fund;
- one business representative representing employers who are self-insurers;
- two labor representatives;
- a representative of an association representing both physicians who perform IMEs and panel companies; and
- one attorney who represents injured workers.

The representatives are appointed by L&I.

The work group must develop strategies for reducing the number of medical examinations per claim while considering claim duration and medical complexity and for improving access to medical records, including records and reports created during or pursuant to the IME; consider whether L&I should do all the IME scheduling, the circumstances for which examiners should be randomly selected or specified, and worker's rights, including attendance, specialist consultants, recordings, distance and location of exams; recommend changes to improve the efficiency of the IME process; and identify barriers to increasing the supply of in-state IME physicians.

L&I must report its findings and recommendations to the Legislature by December 31, 2020.

Votes on Final Passage:

Senate	45	2	
House	97	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 11, 2020
January 1, 2021 (Sections 1 through 3)