



THE QME PROCESS REVEALED: Getting your QME panel request filled by the Medical Unit

PRESENTED BY

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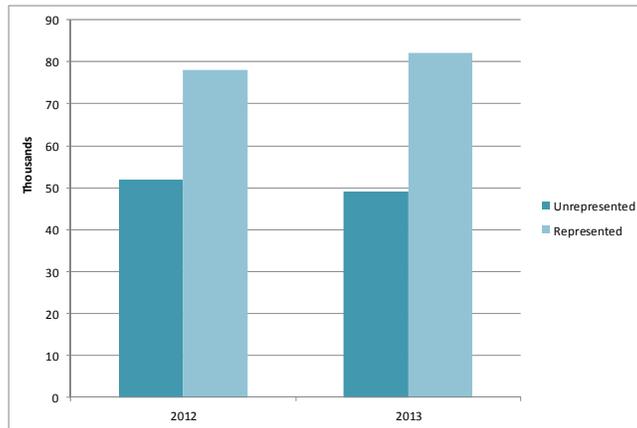
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QME Panel Production Update

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QME panels received annually



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Improvements

- Clear communication
- Priority resubmissions
- Eliminating backlog
- Electronic solution
- Resources on the DWC website

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What to think about before you file?

- Do I have a dispute that can be resolved by a QME?
- Some “disputes” cannot be resolved by a QME evaluation.
- *Current* medical treatment disputes. (*Lab. Code 4062(c).*)
- Whether medical treatment should be provided in the Medical Provider Network. (*Knight*)
- The reasonableness of *past* medical treatment? (*Lab. Code? 4062.*)



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What is the substantive issue that needs resolution?

- Is this an AOE/COE dispute?
- Did the primary treating physician find the injured worker P&S or MMI?
- If the injured worker is not P&S or MMI, what finding of the primary treating physician am I disputing?



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Basis for requesting QME panels: Labor Code 4060, 4061, 4062

- Labor Code 4060: Disputes over compensability of a claimed injury
- Labor Code 4061: Disputes over permanent disability and the need for future medical care
- Labor Code 4062: Disputes over medical issues not covered by Labor Code 4060 or 4061 and not subject to Labor Code 4610



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How Do I Get a 4060 Panel Filled?



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Getting your QME panel request filled by the Medical Unit

- Labor Code 4060
 - This section shall apply to disputes over the compensability of any injury. ***This section shall not apply where injury to any part or parts of the body is accepted as compensable by the employer.***
 - If a medical evaluation is required to determine compensability at any time after the filing of the claim form



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Labor Code section 4060 disputes

- Unrepresented Cases

“the employer shall provide the employee with notice either that **the employer requests a comprehensive medical evaluation to determine compensability or that the employer has not accepted liability and the employee may request a comprehensive medical evaluation to determine compensability.** Either party may request a comprehensive medical evaluation to determine compensability. The evaluation shall be obtained only by the procedure provided in Section 4062.1.” (Labor Code section 4060(d).)



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Getting your QME panel request filled by the Medical Unit

- Represented cases -Labor Code 4060
 - If a medical evaluation is required to determine compensability at any time after the filing of the claim form, and the employee is represented by an attorney, a medical evaluation to determine compensability shall be obtained only by the procedure provided in Section 4062.2.

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Labor Code section 4060-Unrepresented

- Complete the form 105
- Rule 30 requires the parties to “attach a request a for an examination to determine the compensability under Labor Code section 4060.” (Cal. Code of Regs. tit. 8, 30(a)(1).)
- Denial letters may be attached to the request.

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Labor Code section 4060-represented

- Complete the form 106 accurately, including the proof of service. Make sure you:
 - 1) Designate a specialty for the QME panel requested
 - 2) State the specialty preferred by the opposing party, if known and;
 - 3) State the specialty of the treating physician
- Attach the “request letter” (Cal. Code of Regs. tit. 8, 30(b)(1).)

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How do I get a 4061 or 4062 panel filled?

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Getting your QME panel request filled

- Both Labor Code section 4061 and 4062 require there be an objection to medical determination made by a primary treating physician.
- Labor Code section 4061 was amended in 2012 to require to require an objection. (*Applies to represented and unrepresented cases.*)
- Labor Code section 4062 has required an objection since 1993.

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Medical Determination

Cal Code of Regs, tit., 8, 9785

- “Medical determination” means, for the purpose of this section, a decision made by the **primary treating physician** regarding any and all medical issues necessary to determine the employee's eligibility for compensation. (Cal Code of Regs, tit., 8, 9785 (a)(4).)

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Primary Treating Physician

Cal Code of Regs, tit., 8, 9785

- The “primary treating physician” is the physician who is primarily responsible for managing the care of an employee, and who has examined the employee at least once for the purpose of rendering or prescribing treatment and has monitored the effect of the treatment thereafter. (Cal Code of Regs, tit., 8, 9785(a)(1).)
- A “secondary physician” is any physician other than the primary treating physician who examines or provides treatment to the employee, but is not primarily responsible for continuing management of the care of the employee. (Cal Code of Regs, tit., 8, 9785(a)(2).)

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Getting your QME panel request filled

- If the employee disputes a medical determination made by the primary treating physician, including a determination that the employee should be released from care, the dispute shall be resolved under the applicable procedures set forth at Labor Code sections 4061 and 4062. (Cal Code of Regs, tit., 8, 9785 (b)(3).)
- If the claims administrator disputes a medical determination made by the primary treating physician, the dispute shall be resolved under the applicable procedures set forth at Labor Code sections 4610, 4061 and 4062. (Cal Code of Regs, tit., 8, 9785(b)(4).)

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Labor Code section 4061 Disputes

- Unrepresented Cases
- If either the **employee or employer objects to a medical determination made by the treating physician concerning the existence or extent of permanent impairment and limitations or the need for future medical care**, and if the employee is not represented by an attorney, the employer shall immediately provide the employee with a form prescribed by the medical director with which to request assignment of a panel of three qualified medical evaluators. (Lab. Code 4061(c).)

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Labor Code section 4061 disputes

- Represented cases
 - **If either the employee or employer objects to a medical determination made by the treating physician concerning the existence or extent of permanent impairment and limitations or the need for future medical care**, and the employee is represented by an attorney, a medical evaluation to determine permanent disability shall be obtained as provided in Section 4062.2. (Lab. Code 4061(b).)

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Getting your QME panel request filled

- If there is not a medical report from the PTP that contains a determination concerning the existence of permanent disability and/or whether the injured worker needs future medical care then you don't have a dispute about PD under Labor Code section 4061.

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Labor Code section 4062 disputes

- If either the employee or employer objects **to a medical determination made by the treating physician** concerning any medical issues not covered by Section 4060 or 4061 and not subject to Section 4610, **the objecting party** shall notify the other party **in writing of the objection within 20 days of receipt of the report** if the employee is represented by an attorney or within **30 days** of receipt of the report if the employee is not represented by an attorney. **These time limits may be extended for good cause or by mutual agreement.** (Lab. Code 4062 (a).)

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Labor Code section 4062.1

- Unrepresented cases
- File the form 105
- attach a written objection indicating the identity of the primary treating physician, the date of the primary treating physician's report that is the subject of the objection and a description of the medical determination that requires a comprehensive medical-legal report to resolve, ...; and
- designate a specialty for the QME panel requested. (Cal. Code of Regs. 30 (a).)

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Labor Code section 4062.1

- The employer may not submit the form unless the employee has not submitted the form within 10 days after the employer has furnished the form to the employee and requested the employee to submit the form. The party submitting the request form shall designate the specialty of the physicians that will be assigned to the panel.

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Labor Code section 4062.2

- Complete the form 106 accurately, including the proof of Service. Make sure you:
- designate a specialty for the QME panel requested
- state the specialty preferred by the opposing party, if known and
- state the specialty of the treating physician.
- Attach the a written objection letter indicating the identity of the primary treating physician, the date of the report, and a description of the medical dispute. (*Cal. Code of Regs., tit. 8, section 30(b).*)



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Timeliness of request

When can the Represented QME Panel Request be submitted to the Medical Unit?

- Parties must wait 10 days after written objection to a medical dispute pursuant to one of the sections (Labor Code 4061 and 4062)
- An additional 5 days for mailing is required (*Messele v. Pitco Foods, Inc. (76 CCC 956)*)



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QUESTIONS ?



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Tips to shorten wait time

RESUBMISSIONS

- Attach rejection letter as cover page when resubmitting corrected QME panel request – include copy of original form to streamline
- Additional resources: QME forms in DWC website at: <http://www.dir.ca.gov/dwc/forms.html#QMEForms>



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REPLACEMENT PANELS

- Replacement panels – section 31.5 of title 8
- Form is now mandatory
- Object to preserve your rights
- Executive Medical Director has discretion to replace all or part of the panel

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Additional Panel Requests

- Additional panel requests – section 31.7 of title 8
- Changed in the emergency regulation phase.
- Pushes the parties to discuss the need for the additional panel and the specialty required.
- Eliminated the ability of a QME to request a consult to complete their evaluation.
- If the parties cannot agree about need or specialty to resolve the dispute, take it to the appeals board.

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HELPFUL TIPS

- Be simple
- Be clear
- Be direct

“The applicant, Foghorn Leghorn©, requests a QME to determine the compensability of this claim.”

“Acme Insurance company objects to the finding of no permanent disability made by the PTP, Wile E. Coyote©, in his report of August 3, 2013.”



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HELPFUL TIPS

- Accuracy on the panel is important.
- Know the difference between Labor Code section 4061 (PD) and Labor Code section 4062 (nature and extent cases)
- If the issue of the compensability of a body part arises in UR, say that in the objection letter to the opposing counsel.



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