

CALIFORNIA CODE OF REGULATIONS, TITLE 8
DIVISION 1. DEPARTMENT OF INDUSTRIAL RELATIONS
CHAPTER 1. DIVISION OF WORKERS' COMPENSATION
QUALIFIED MEDICAL EVALUATOR REGULATIONS
ARTICLE 3. ASSIGNMENT OF QUALIFIED MEDICAL EVALUATORS, EVALUATION
PROCEDURE

§ 30. QME Panel Requests

(a) Unrepresented cases. Whenever an ~~injured worker~~ employee is not represented by an attorney and either the employee or the claims administrator requests a QME panel pursuant to Labor Code section 4062.1, the request shall be submitted on the Request for Qualified Medical Evaluator Form (Unrepresented Employee), QME Form 105, the form in section 105. ~~(Request for QME Panel under Labor Code Section 4062.1)(See, 8 Cal. Code Regs. § 105).~~ The party requesting a QME panel shall:

1) ~~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, or attach a request for an examination to determine compensability for disputes covered by Labor Code section 4060; and~~

For disputes covered by Labor Code section 4060, the requesting party shall attach the claims administrator's notice that the claim was denied or a copy of the claims administrator's request for an examination to determine compensability to the QME Form 105;

2) ~~designate a specialty for the QME panel requested. For disputes covered by Labor Code section 4061 or 4062, if the requesting party is the claims administrator, the claims administrator shall 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, to the QME Form 105.~~

3) The claims administrator (or if none the employer) shall provide QME Form 105 to the unrepresented employee pursuant to Labor Code section 4060, 4061, and 4062, by means of personal delivery or by first class or certified mailing.

4) ~~In the event a request~~ If the form is incomplete, or improperly completed, so that a QME panel selection cannot ~~properly~~ be made, the request form shall be returned to the requesting party with an explanation of why the QME panel selection could not be made. The Medical Director ~~also~~ may delay issuing a ~~new~~ QME panel, ~~if necessary,~~ until the Medical Director receives additional ~~reasonable~~ information requested from a party or both parties, needed to resolve the panel request. ~~Reasonable information as used in this subdivision includes but is not~~

limited to whether a QME panel previously issued to the injured worker was used.

(b) Represented cases. Effective October 1, 2015, requests for an initial QME panel in a represented case, for all cases with a date of injury on or after January 1, 2005, shall be submitted electronically utilizing the Division of Workers' Compensation internet site at www.dwc.ca.gov. The Medical Unit will not accept or process panel requests on the QME Form 106 postmarked after September 3, 2015, except as to those cases with dates of injury prior to January 1, 2005 and for all other where represented parties agree on the form in section 106 to obtain a panel of Qualified Medical Evaluators pursuant to the process in Labor Code section 4062.2. (~~Request for a QME Panel under Labor Code Section 4062.2~~)(~~See, 8 Cal. Code Regs. § 106~~).

(1) The party requesting a QME panel online shall:

A (1)) Identify the following elements in the appropriate sections:

Panel Request Information Section

- Date of Injury
- Claim Number
- Requesting Party
- Reason QME Panel is being Requested
- Dispute type
- Name of primary treating physician
- Date of report being objected to
- Date of objection communication
- Specialty of treating physician
- QME Specialty Requested
- Opposing Party's QME Specialty Preferred (if known)

Employee Information Section

- Employee First Name
- Employee Middle Name
- Employee Last Name
- Mailing Address
- City
- Zip Code
- State

Applicant's Attorney Information Section

- First Name
- Last Name
- Address
- City
- State Zip

- Phone Number
- Electronic Adjudication Management System (EAMS) Uniform Assigned Names (UAN)
- Firm Name

Employee and Claims Administrator Information Section

- Employer Name
- Claims Administrator First Name
- Claims Administrator Last Name
- Claims Administrator Company Name
- Address
- City
- State
- Zip
- Phone Number
- Electronic Adjudication Management System (EAMS) Uniform Assigned Names (UAN)

Defense Attorney Information Section

- First name
- Last name
- Defense Attorney Firm Name
- Address/P.O. Box
- City
- State Zip
- Phone Number
- EAMS UAN Number

~~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, or attach a request for an examination to determine the compensability under Labor Code section 4060;~~

B 2) Scan and upload the following supporting documentation when prompted: designate a specialty for the QME panel requested;

(1) ~~(a)~~ a written request for an examination to determine compensability for disputes covered by Labor Code section 4060; or

(2) ~~(b)~~ 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, for disputes covered by Labor Code sections 4061 and 4062;

3) state the specialty preferred by the opposing party, if known; and designate a specialty for the QME panel requested;

C 3) Print and serve a paper copy of the online request, the panel list, and a copy of any supporting documentation that was submitted online, upon the opposing party with a proof of service, within 1 (one) working day of generating the QME panel list. state the specialty of the treating physician. Within 10 (ten) days of service of the panel, each party may strike one name from the panel.

~~(c)(1) In the event a request form is incomplete, or improperly completed, so that a QME panel selection cannot properly be generated made, the request form shall be returned to the requesting party with an explanation of why the QME panel selection could not be made. The Medical Director also may delay issuing a new QME panel, if necessary, until the Medical Director receives additional reasonable information requested from a party or both parties, needed to resolve the panel request. Reasonable information as used in this subdivision includes but is not limited to whether a QME panel previously issued to the injured worker was used.~~

2 4) Requests may be made twenty-four hours a day, seven days a week. For determining the timeliness of requests under Labor Code section 4062.2, requests made on Saturday, Sunday or a holiday will be deemed to have been made at 8:00 a.m. on the next business day. Requests made Monday through Friday after 5:00 p.m. and before 12:00 a.m. will be deemed to have been made at 8:00 a.m. on the next business day and requests made between 12:00 a.m. and 8:00 a.m. will be deemed to have been made at 8:00 a.m. ~~on~~ on the same business day.

3 5) Upon submission of the request online, the QME panel selection will be generated automatically. After issuance of a panel, any subsequent request on the same claim whether made on the same day or not, is a duplicate request. In the event of technical difficulties, such that a panel QME selection cannot be generated on-line, the requesting party may contact the Medical Unit and shall reference the error code or message.

(2) c) If after the issuance of a panel it appears to the satisfaction of the Medical Director that the panel was issued by mistake, misrepresentation of fact contained in the forms or document filed in support of the request, or the parties have agreed to resolve their dispute using an AME or by other agreement, the issued panel may be revoked. Notice of the revocation shall be sent to parties listed on the panel request.

(d)(1) 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.

(d)(2) Once the claims administrator, or if none, the employer, has accepted as compensable injury to any body part in the claim, a request for a panel QME may only be filed based on a

dispute arising under Labor Code section 4061 or 4062.

(e) ~~If the form is submitted~~ request is submitted by or on behalf of an employee who does not reside within the state of California, the geographic area of the QME panel selection within the state shall be determined by agreement between the claims administrator, or if none the employer, and the employee. If no agreement can be reached, the geographic area of the QME panel selection shall be determined for an unrepresented employee by the employee's former residence within the state or, if the employee never resided in the state, by the geographic location of the employer's place of business where the employee was employed, and for a represented employee by the office of the employee's attorney.

(f) To compile a panel list of three (3) independent QMEs randomly selected from the specialty designated by the party holding the legal right to request a QME panel, the Medical Director shall exclude from the panel, to the extent feasible, any QME who is listed by another QME as a business partner or as having a shared specified financial interest, as those terms are defined in sections 1 and 29 of Title 8 of the California Code of Regulations.

~~(g) The panel request in a represented case must be sent to the Medical Unit address on the QME Form 106 by means of first class mail delivered by the United States postal service. The Medical Unit will not accept panel requests in represented cases that are delivered in person by a party, the party's attorney, any other person or by other commercial courier or delivery services.~~

~~(h g)~~ The time periods specified in Labor Code sections 4062.1(c) and 4062.2(c), respectively, for selecting an evaluator from a QME panel and for scheduling an appointment, shall be tolled whenever the Medical Director asks a party for additional information needed to resolve the panel request. These time periods shall remain tolled until the date the Medical Director issues either a new QME panel or a decision on the panel request.

Note: Authority cited: Sections 133, 139.2, 4061, 4062 and 5307.3, Labor Code. Reference: Sections 139.2, 4061, 4062, 4062.1, 4062.2, 4062.3, 4064 and 4067, Labor Code.

§30.5 Specialist Designation

The Medical Director shall utilize in the QME panel selection process the type of specialist(s) indicated by the requestor online, the Request for Qualified Medical Evaluator Form 105 or 106 of Title 8 of the California Code of Regulations unless otherwise provided in these

Note: Authority: Sections 133, 139.2 and 5307.3, Labor Code. Reference: Sections 4060, 4061, 4062, 4062.1, 4062.2, 4064 and 4067, Labor Code

§ 31.1. QME Panel Selection Disputes in Represented Cases

~~(a) When the Medical Director receives two or more panel selection forms pursuant to Labor Code section 4062.2 on the same day and the forms designate different physician specialties for~~

~~the QME panel, the Medical Director shall use the following procedures:~~

~~1) If one party requests the same specialty as that of the treating physician, the panel shall be issued in the specialty of the treating physician unless the Medical Director is persuaded by supporting documentation provided by the requestor that explains the medical basis for the requested specialty;~~

~~2) If no party requests a panel in the specialty of the treating physician, the Medical Director shall select a specialty appropriate for the medical issue in dispute and issue a panel in that specialty.~~

~~3) Upon request by the Medical Director, the party requesting the panel shall provide additional medical records to assist the Medical Director in determining the appropriate specialty.~~

~~(b) In the event a party in a represented case wishes to request a QME panel pursuant to Labor Code section 4062.2 in a specialty other than the specialty of the treating physician, the party shall submit with the panel request form any relevant documentation supporting the reason for requesting a different specialty.~~

(a) Disputes regarding the validity of panel requests may shall be resolved by a Workers' Compensation Administrative Law Judge.

(b) Disputes regarding the appropriateness of the specialty designated shall be resolved pursuant to section 31.5(a)(10) of Title 8 of the California Code of Regulations. Either party may appeal the Medical Director's decision as to the appropriateness of the specialty with a Workers' Compensation Administrative Law Judge.

(c) 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.

Note: Authority: Sections 133, 139.2 and 5307.3, Labor Code. Reference: Sections 4060, 4061, 4062, 4062.1, 4062.2, 4064 and 4067, Labor Code

§ 100. The Application for Appointment as Qualified Medical Evaluator Form

[Form 100]

NOTE: Form is available at no charge by downloading from the web at <http://www.dir.ca.gov/dwc/forms.html> or by requesting at 1-800-794-6900.

Note: Authority cited: Sections 53, 133, 139.2 and 5307.3, Labor Code.

§ 104. The Reappointment Application as Qualified Medical Evaluator Form

[Form 104]

NOTE: Form is available at no charge by downloading from the web at <http://www.dir.ca.gov/dwc/forms.html> or by requesting at 1-800-794-6900.

Note: Authority cited: Sections 53, 133, 139.2 and 5307.3, Labor Code.

§ 105. The Request for Qualified Medical Evaluator Panel –Unrepresented Form

[Form 105]

NOTE: Forms are available at no charge by downloading from the web at <http://www.dir.ca.gov/dwc/forms.html> or by requesting at 1-800-794-6900.

Note: Authority cited: Sections 53, 133, 139.2 and 5307.3, Labor Code.

Reference: Sections 139.2, 4060, 4061, 4061.5, 4062, 4062.1, 4062.2, 4064 and 4067, Labor Code

§ 106. The Request for Qualified Medical Evaluator Panel – represented Form – for injuries occurring prior to January 1, 2005

[Form 106]

NOTE: Forms are available at no charge by downloading from the web at <http://www.dir.ca.gov/dwc/forms.html> or by requesting at 1-800-794-6900.

Note: Authority cited: Sections 53, 133, 139.2 and 5307.3, Labor Code.

Reference: Sections 139.2, 4060, 4061, 4062, 4062.1, 4062.2, 4064 and 4067, Labor Code.

§ 109. The Qualified Medical Evaluator Notice of Unavailability Form.

[Form 109]

NOTE: Form is available at no charge by downloading from the web at <http://www.dir.ca.gov/dwc/forms.html> or by requesting at 1-800-794-6900.

Note: Authority cited: Sections 53, 133, 139.2 and 5307.3, Labor Code.