

**ADVISORY NO. 88**

---

**TOPIC: CARRIER LETTERS TO DESIGNATED DOCTORS**

We have had some problems with Designating Doctors certifying MMI on the date of the exam. Many times this contradicts another certification of MMI by the claimant's own treating doctor. Very frequently it contradicts the certification of MMI by a reliable RME doctor who has stated a very cogent and reliable basis for determining MMI on this date.

While there may be an occasional doctor who will simply not consider MMI prior to the date of the examination, most physicians will consider evidence of maximum medical improvement prior to the date of the examination. However, this evidence needs to be segregated and called to the doctor's attention by letter.

We recommend that prior to the date of the appointment, the representative handling the claim send a complete copy of the medical records to the doctor by a standard transmittal letter.

As the last paragraph of the transmittal letter, we recommend a specific paragraph requesting the doctor consider the specific statement of maximum medical improvement by the treating doctor, or other certifying doctor, and in the transmittal letter itself, state any particulars of that certification that the doctor should consider. This letter should not be a blatant advocacy, nor should it attempt to "poison" the designated doctor's consideration of all of the facts.

The purpose of this transmittal letter, the segregated report, and the highlighted MMI date is to simply lift up this particular piece of evidence for the doctor to consider along with everything else. We have been told by many doctors that they simply don't have time to go through all of the records. The commission is critical of overt interference with the designated doctor's exam. We think that this is a balancing that would be acceptable to the commission and would certainly be important to carriers.

**MEMORANDUM**

TO: FIRM

FROM: JWL

DATE: 4/21/2015

RE: PROPOSED ADVISORY

---

I telephoned Dr. David Webb and complained about his philosophy in refusing to certify MMI prior to the date of his exam. He states that is not his philosophy. He will consider and has in fact certified MMI prior to his exams (it just has not been on any of my cases).

He did suggest that if there is something strong and important that he should know about, the adjuster should call it to his attention -- thus the attached.

Where he has already certified MMI, he might consider other evidence by a transmittal letter. He will not give a deposition, as I anticipate, he is rather reluctant to even talk to anyone over the phone.