

ADVISORY NO. 316
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TOPIC: CHANGES TO THE PROCESS FOR REQUESTING RME

Please review the attached TWCC Advisory 2002-01 regarding changes to the process for requesting a required medical examination. Please contact our office if you have questions regarding this change in the TWCC's RME process.

Advisory 2002-01

Changes to Process for Requesting a Required Medical Examination- New TWCC-22 - Required Medical Examination Notice or Request for Order

House Bill 2600 (HB-2600) passed by the 77th Texas Legislature made changes to the way the Required Medical Examinations (RMEs) are requested and assigned when there is a question relating to the appropriateness of care, similar issues, or after a Designated Doctor's examination. To implement these changes, the Commission made amendments to rules 126.5 through 126.7, which govern issues relating to appropriateness of care and similar issues and has developed a new [TWCC-22 <../forms/pdf/twcc22.pdf>](http://www.twcc22.com/forms/pdf/twcc22.pdf) - Required Medical Examination Notice or Request for Order for a carrier selected doctor (which is attached). The statutory/rule changes are effective for requests for a Required Medical Examination made on or after January 1, 2002. Use of the new form is mandatory as of February 1, 2002.

Key Legislative/Rules Changes or Clarifications:

- An examination by a carrier-selected doctor to evaluate Maximum Medical Improvement and or Impairment Rating, can only be requested and performed subsequent to an evaluation from a Designated Doctor for the same issues.
- The carrier's first request for a RME that is not related to MMI and/or Impairment can be made at any time after the date of the injury; a subsequent examination may be requested once every 180 days. For dates of injury on or after September 1, 1997, the Commission may approve additional RMEs, but no more than three RMEs before the expiration of 180 days.
- A doctor performing an RME on or after September 1, 2003 must be on the Commission's Approved Doctor List (ADL) and if the purpose is to evaluate MMI and/or IR, must be authorized to assign IR.
- An agreement between the parties for an RME has the same effect as the Commission's order only if the carrier has a right for the examination under §126.5. Also, an agreement for an examination to which the carrier is not entitled, does not have the effect of an order and the carrier is thus not entitled to suspend benefits if the employee fails to attend the examination.

- To simplify dispute resolution, if the RME doctor disagrees with the Designated Doctor, the RME doctor is required to explain why the Designated Doctor's opinion regarding MMI was incorrect or is no longer valid.
- Clarified the employee's duty to contact the RME doctor's office to reschedule an examination. This clarification was necessary because employees often found that RME doctors would refuse to reschedule the examination. The RME doctor's refusal to reschedule an examination allowed the carrier to suspend benefits and made it hard for the employee to get benefits reinitiated.
- Provides conditions under which a carrier may not suspend TIBs. The intent is to ensure that carriers do not have RME doctors evaluate employees for MMI and/or impairment prior to a Designated Doctor examination for the same purpose.
- The RME is now to be held within 30 days of the date the carrier receives the approved commission order but still provide for 10 days notice to the injured employee. Carriers are encouraged to set their appointments prior to submitting their request to the Commission to make it easier to meet these timeframes.

A copy of the notice of intent and the RME doctor's report will be forwarded to the Designated Doctor to evaluate when the RME doctor disagrees with the Designated Doctor's opinion. The carrier is allowed to act based upon either the treating or Designated Doctor's agreement with the RME doctor's opinion.

Changes to TWCC-22 to implement statutory/rules changes and other process improvements:

- The new TWCC-22 now includes requests for a carrier-selected doctor to evaluate MMI and/or Impairment after a Designated Doctor's evaluation.
- There is space to identify the date the request was sent to the employee and the employee's representative, which helps track dates.
- There is space to identify the date of the Designated Doctor's examination.
- The new form has space to identify the type of examination requested by the carrier.
- The place to identify MMI/IR determination outside expertise of other RME doctor has been removed, as it no longer applies as one of the exceptions (reasons) for an examination before the expiration of 180 days.

- The language regarding the carrier's certification has been modified to include the potential consequences regarding misrepresentation of a workers' compensation claim.

Complete text of the statutory and rules changes as well as electronic copies of the new [TWCC-22 <../forms/pdf/twcc22.pdf>](http://www.twcc.state.tx.us/forms/pdf/twcc22.pdf) are available on the Commission's web site at www.twcc.state.tx.us <<http://www.twcc.state.tx.us>>.

Signed this 15th day of January, 2002

Richard F. Reynolds, Executive Director

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