



ADVISORY NO. 513

TOPIC: DWC to Resume Ordering RME and DD Examinations

On March 25, 2020, the Division of Workers' Compensation ceased ordering designated doctor and required medical exams and began holding requests for such as exams. [Commissioner's Bulletin No. B-0010-20](#). The agency also suspended required medical exams, designated doctor exams, and any referral exams that had already been ordered. Any such RME, DD, or referral exams ordered and scheduled on or before March 25, 2020, were suspended and the Division advised that those exams should not occur until further notice from DWC.

On June 4, 2020 Commissioner of Workers' Compensation Cassie Brown issued [Commissioner's Bulletin No. B-0030-20](#) setting out a plan to resume designated doctor and required medical exams. The exams will be phased in by date and issue type. Examinations on some issues are still suspended.

On June 15, 2020, doctors with DD or maximum medical improvement (MMI) and impairment rating (IR) certifications and referral doctors may resume scheduling and conducting DD examinations and RMEs previously ordered by DWC. Since work search requirements remain suspended under Commissioner's Bulletin # B-0012-20, doctors should not perform any portions of the examination or reports related to the injured employee's ability to return to work or disability as a direct result of the compensable injury. DWC will allow these examination issues to resume at a later date. DWC will issue new orders removing these issues from exams previously ordered but not yet completed.

On June 22, 2020, DWC will resume processing requests for DD examinations and RMEs except for the issues of return to work or disability as a direct result of the compensable injury. DWC will only order approved pending DD examination requests for the issues of MMI, IR, extent of injury, or other similar issues. Approved pending RME requests will only be ordered for the evaluation of a DD determination for the issues of MMI, IR, extent of injury, other similar issues, or requests to assess the appropriateness of health care. System participants should not resend

requests, since duplicates will only delay processing.

Our department is available to help facilitate new examination requests. Inquiries about our services can be made to DDR@fol.com.

Which Exams Will be Given Priority?

The Division is placing priority on examinations initiated via Presiding Officer's Directive, as these claims often have active hearings that are pending results from the DD before moving forward on the issues.

The Division indicates that DWC-22 and DWC-32 requests will be responded to in the order in which they were filed with the Division. For this reason carriers should submit their DWC-32 or DWC-22 requests promptly to secure an earlier spot in the queue.

When will Examinations Actually Start Taking Place?

Starting June 15, 2020 doctors who have received orders from the Division can immediately begin rescheduling. It is possible that some of those exams may take place as early as the date the bulletin allows. Our office is closely monitoring exams with existing orders to ensure that they are rescheduled ASAP.

Beginning June 22, 2020, DWC will resume processing requests for DD examinations and RME examinations on certain issues.

On RMEs, we anticipate that the Division may, in the near future, issue new OA22a forms, which will rescind the prior order and allow rescheduling of the exam for a date within 30 days of the new order or if necessary, up to 65 days from the date of the order.

What Issues May Be Addressed by a DD or RME?

At the present time, DWC will only process or order approved pending DD examination requests for the issues of MMI, IR, extent of injury, other similar issues, or requests to assess the appropriateness of health care.

Since work search requirements remain suspended under Commissioner's Bulletin No. B-0012-20, the Division will not permit doctors to perform any portions of the examination or reports related to the injured employee's ability to return to work or disability as a direct result of the compensable injury. The Agency is expected to allow these examination issues to resume at a later date. The Division plans to issue new orders removing these issues from exams previously ordered but not yet completed.

What should you do on your Files?

Consider carefully any request where you are seeking an opinion for RTW or disability.

If the issues to be addressed include MMI/IR or extent, you may opt to postpone your

request for RTW/disability and only request an exam that will result in the Division ordering an examination.

Do not resend requests, since duplicates will only delay processing.

How Will Exams be Handled in Light of COVID-19?

The Division has strongly encouraged doctors and injured employees to follow the recommendations of the Texas Department of State Health Services and the Centers for Disease Control and Prevention on infection control, specifically for COVID-19. These recommendations provide guidelines and information for health care providers on providing safe and sanitary conditions, using personal protective equipment, social distancing management, and screening procedures. Doctors must also comply with the requirements of their respective licensing boards. Some of that guidance is described below.

Guidance from Texas Medical Association

The Texas Medical Association has carefully reviewed the Governor's Executive Orders related to COVID-19 and, on April 22, 2020, [published a whitepaper](#) describing the relationship between the Governor's executive orders and the emergency rules issued by the Texas Medical Board that relate to non-urgent surgeries and procedures.

The whitepaper notes that, in the Board's interpretation, "a 'procedure' does not include physical examinations, non-invasive diagnostic tests, the performing of lab tests, or obtaining specimens to perform laboratory tests" and medical acts such as a history, physical exam, non-invasive diagnostics, or lab tests" are not prohibited by the executive orders because they are not "procedures."

The TMA whitepaper contains a section entitled "Decision Analysis" to help physicians make practice decisions based on TMB's interpretation of the Governor's executive orders. In that decision tree, the question is asked whether the medical act is a surgery or procedure. The analysis states that if the provider is performing another medical act, such as a history, physical exam, non-invasive diagnostics, or lab test, the physician may proceed with the medical act.

Guidance from Texas Board of Chiropractic Examiners

The Texas Board of Chiropractic Examiners issued an [update for chiropractors](#) on April 29, 2020 in which it advised that after having engaged in communications with the

Governor's office, licensed chiropractors are "permitted to provide wellness care to

patients as of May 1, 2020, with the understanding that they should continue to adhere to safety and prevention best practices specified in the most current advice from the Centers for Disease Control."

We are pleased to assist you or to answer any questions regarding this development.