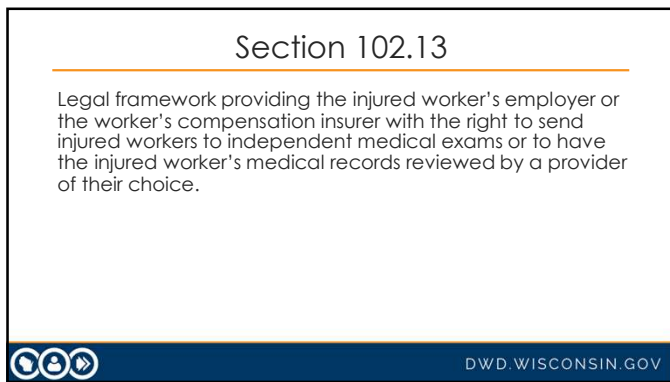
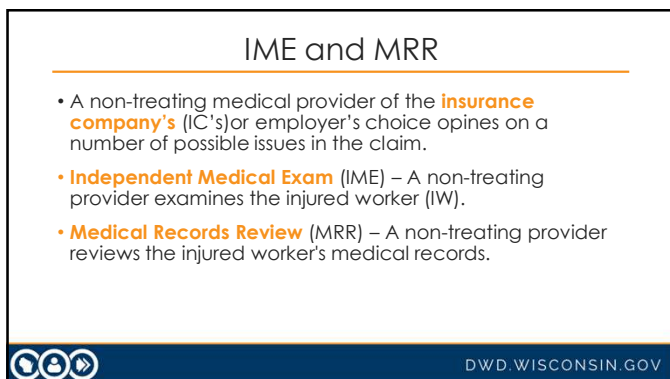


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Who Is Qualified to Examine an Injured Worker?

According to Section 102.13

- Physicians
- Chiropractors
- Psychologists
- Podiatrists
- Dentists*
- Physician assistants*
- Advanced practice registered nurses*



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Independent Medical Exam Timing

- You may arrange for an **IME** at **ANY** time during the life of the claim.
- Common points:
 - Denying the claim
 - Questioning the length or type of treatment
 - Challenging the treating doctor's PPD rating



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The Independent Medical Exam Letter

The Independent Medical Exam letter must include:

- **Proposed** date, time, place of exam, and area of specialty of the IME provider
- Procedure for **changing** the proposed date, time, and place of exam
- IW's right to receive the IME report as soon as the insurance carrier receives it



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The Independent Medical Exam letter

The Independent Medical Exam letter must also include:

- The **Injured Worker's** (IW) right to have their provider present
- IW's right to have a translator present
- IW's right to have an observer of their choice present
 - The observer may not interfere with the exam or ask questions.
 - The IW does not have to notify anyone ahead of time if an observer is coming to the exam.



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Expenses

All expenses for the IME must be paid to the IW **ahead** of time.

- Transportation
- Wage loss (full wage amount, not the TTD rate)
- Meals or hotel rooms at state rate if necessary



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What If the Injured Worker Refuses to Go?

The Insurance Carrier CANNOT simply stop benefits.

Contact DWD WC and send copies of IME letters and proof of pre-payment of expenses. An **Administrative Law Judge** (ALJ) will review and, if appropriate, write a letter to compel the IW to attend.

Factors the ALJ will consider:

- Reasonableness of the injured worker's excuse
- Distance to exam
- Were ALL rules followed in the exam letter to the injured worker?



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IMEs and Claim Closure

An Independent Medical Exam or a Medical Records Review provider's opinion **CANNOT** close a claim.



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Definitions

- A **treating** provider must opine End of Healing and address **Permanent Partial Disability** (PPD) to close a claim.
- An IME doctor cannot, by definition, be a treating provider.
- Therefore, the IME doctor's opinion cannot close a claim.



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An IME May Opine There Is No Claim

If the IME doctor opines that **no work injury** occurred **or** if an FMR is not necessary, per 80.02(2)(e)(4) Wis. Admin. Code, **and** the **insurance company** (IC) submits a position letter adopting IME's position, **then** DWD WC can close the claim in our database.



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How Much Is Denied?

When an IME opines that the IW is at **End of Healing** (EOH) and there is no PPD, it is **NOT** the same as saying the claim is denied.

The claim is only denied **after** the date of end of healing.

If three (3) weeks or less of temporary disability was paid, it may be possible to close without a final medical report from the treating doctor.



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Mistake of Fact

If the IC has made payments covering a period of time after the IME opines end of healing, the IC can claim the payments were made by Mistake of Fact.

Example

DOI: 1/1/21

TTD paid from 1/2/21 to 4/1/21

IME sets EOH for 3/15/21

Only TTD from 3/15/21 to 4/1/21 is mistake of fact.



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Verify What the IME Opinion Covers

Many IMEs are specialists and only give opinions on the areas of their expertise.

- An ortho may defer to a neurologist for the nerve injury.
- A neurologist may defer to a psychologist for a PTSD opinion.
- Know what body parts are addressed.



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When 0% PPD Isn't 0%

Sometimes when the IME opines that there is no PPD rating, you will get a worksheet from us informing you that there **is** PPD.

The rating comes from the **examination evidence** in the **IME doctor's report**.

If the doctor's opinion doesn't meet requirements in the state statutes, we will revise the rating.



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Repeat IME

Expectation based on long practice that subsequent exams of the same injury/condition will be by the same IME provider

If the original IME provider can't do the second exam, please provide us with your rationale for the change.



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Timing: The 30/90 Rule

- To challenge a treating provider's rating **without needing to pay** until you get the IME report, within 30 days of receiving the treating provider's rating, you must arrange the IME appointment and send the injured worker the **letter** about the IME.
- The report from the IME doctor must be in your hands and you must provide a position letter **within 90 days** of scheduling the appointment (**not** the day the appointment happens).
- If both deadlines are met, you can wait to pay PPD.



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IME Outside the 30/90 Rule

- If either deadline is missed, you must pay the due and accrued PPD based upon the treating doctor's rating until you have the IME in hand to tell you something different.
- PPD begins to accrue during all periods when the injured worker is not receiving temporary disability.
- The 30 days start when you owe PPD. If there is a statutory minimum (stat min) for a surgery, the 30 days start on the day of the surgery.



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Example 1: Bob's Injury

- **Injury:** Broken humerus
- **DOI:** 2/14/24
- **TTD:** from 2/15/24 to 3/15/24 – then back to light duty at full pay
- **FMR:** 8/15/24 – rating 85% at the shoulder
- **IC:** receives rating 8/17/24

If an IME is set up and a letter is in the mail to Bob by 9/12/24, **and** you get and act on the IME report before 11/14, you do not have to pay before receiving the IME report, even if the IME agrees with the 85%.



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Bob's Injury Continued

- If the letter telling Bob about the IME exam goes out 9/16/24, Bob is immediately owed all the PPD from the treating doctor's final medical report that has accrued from 3/16/24 (when TTD stopped) to the present. The payments must then continue until there is an IME in hand with a different opinion.



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Example 2: Linda's Injury

- **Injury:** Torn ACL
 - **DOI:** 2/14/24
 - **TTD:** 2/15/24 to 2/29/24
 - **RTW:** on light duty at same pay from 3/1/24 to 3/14/24.
 - **Surgery:** 3/15/24 – ACL repair
 - **TTD:** 3/15/24 to 3/30/24 – then return to light duty at full pay.
 - **IC:** receives the FMR 3/15/25 with a rating of 25%
 - **IC:** arranges for IME and sends notice to Linda by **4/1/25**.
- How much does the IC owe?



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Linda's Injury Continued

- IC did not challenge the ACL repair, which carries a 10% stat min rating, in time. To challenge the stat min, the IME would need to be set up within 30 days of surgery.
- The IC **did** challenge the additional 15% in time.
- Stat min for ACL is 42.5 weeks.
- Benefits accrued from 3/1/24 to 3/14/24 and from 3/31/24 to 3/15/25. Total of 52 weeks.



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Linda's Injury Continued

- If the stat min 42.5 weeks has been paid and you are within the 30/90 rule deadlines, you don't have to pay on the additional 15% until you receive the **IME** report.
- If IC missed the deadlines and notified Linda more than 30 days after receiving the FMR or received the report more than 90 days after the **IME** appointment was set, the IC owes any PPD that has accrued and must continue paying PPD until they have the IME opinion in hand.



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The Risk of Waiting for the IME

What if you miss the 30-day deadline and decide to wait for the IME report to start paying?

- If the IME report supports **all** or **any** of the PPD, the amount that is due and accrued when you do start paying will be subject to the 10% late penalty.

Advice

If you **know** you are conceding to **some** of the PPD, do not wait to pay it.



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Position Letters

- We will **not assume** you are choosing to follow the IME's opinion.
- If there is no position letter, we will average the ratings given by the IME and the treating provider.
- Send us ALL reports and addenda by the IME doctor.
- If you are **following** the opinion of a MRR report, you must provide a copy of the report to the department **and** to the injured worker.



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Denial Letters

You must send a **formal letter mailed to the injured worker.**

- Denials should not be made by phone, email, or text message.
- The denial letter is the tool the injured worker uses to access other insurance benefits.

Send a letter to the claimant and a copy to us.

- Be clear about **what** is being denied.
- Be clear about **why** it is being denied.
- Be clear about the date the denial starts.



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Denials

- Be sure **the denial letter** includes information about the injured worker's appeal rights and the department's contact information.



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Questions?

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