

HOW TO REQUEST A QUALIFIED MEDICAL EVALUATOR
IN A REPRESENTED CASE
(Attachment to Form 106)

Use QME Form 106 only in cases in which the injured employee is represented by an attorney. To request a panel of three QMEs in a represented case, the parties first must have attempted to agree on an Agreed Medical Evaluator to resolve a disputed issue as provided by Labor Code Section 4062.2. Once ten (10) days have passed from the date of the first written proposal to use an AME that names one or more physicians, either party may request a panel on QME Form 106. Complete form 106, specify the specialty requested, attach a copy of the first written AME proposal, and send your request by first class U.S. mail to the DWC – Medical Unit address on the bottom of the form. You must serve a copy of your panel request on the other party. If the panel request form is not fully completed, it will be returned.

Completing the form:

“Request Date”: Write the date you sign this form.

“Requesting Party”: Check the box that describes the person or party with the legal right to request a panel who is signing the form at the bottom.

Answer the questions, about whether any part of the claim has been accepted, whether the claim has been denied; and about attaching a copy of the earliest written AME offer that identifies a disputed issue and names one or more physicians to be the AME.

Selecting the reason for requesting a QME panel:

Select “§ 4060 (compensability exam)” if the claims administrator advises within ninety (90) days of receipt of the claim form that a QME report is needed to determine whether to accept the claim; or if there is a dispute over the treating physician’s opinion that the claimed injury was not caused by work. If the claims administrator has accepted any part of the claim, such as accepting one body part or injury, select a different reason (Lab. Code § 4060(a).) If the ninety (90) day period has passed since the claim form was received, a request from a claims administrator or employer for a QME panel for this reason will not be filled until the conditions in section 30(d)(4) of Title 8 of the California Code of Regulations have been satisfied.

Select “§ 4061 (permanent impairment or disability dispute)” if there is a dispute about temporary or permanent impairment or disability, or you disagree over the amount or percentage of permanent impairment or permanent disability.

Select “§ 4062 (injured employee only - medical treatment or UR dispute or other 4062 reason)” if treatment has been denied, delayed or modified by a utilization review physician or the claims administrator; or if there is a dispute over the amount or frequency or type of treatment that the injured employee needs now or will need in the future. Select this reason also if the dispute is about ‘permanent and stationary’ status. The claims administrator may not select this after treatment has been denied, delayed or modified in utilization review.

Select “§ 4062 (claims administrator only – other non-treatment, non-UR reason under § 4062)” whenever the claims administrator, or if none the employer, objects to some other medical determination or issue under Labor Code § 4062. The requesting claims administrator must state the reason on the line provided. Examples may include medical determinations on new and further disability, medical eligibility for vocational rehabilitation, the permanent and stationary date, MPN continuity of care or transfer of care, that a new body part needing treatment is causally connected to the claimed injury.

If the injured employee is covered for medical treatment by an MPN and the parties disagree over the MPN physician's diagnosis or treatment, you do not need a QME. The parties must follow the MPN second opinion process set out in Labor Code section 4614.3 and section 9767.7 of Title 8 of the California Code of Regulations.

Select “§§ 4061 and 4062” if currently there are disputes about both permanent disability and medical determinations.

Selecting the medical specialty:

Enter the 3 letter code from the reverse side of QME Form 106 for the medical specialty requested. If known, also state the medical specialty of the treating physician and the specialty preferred by the opposing party. If you are requesting a specialty that is different than the medical specialty of the primary treating physician, it is strongly recommended that you submit additional, relevant medical documentation in support of the requested specialty and an explanation of the reasons you believe the specialty being selected is more appropriate for review by the Medical Director of DWC. Such additional medical documentation may include, but is not limited to, copies of the most recent primary treating physician's progress report (DWC Form PR-2), the Doctor's First Report of Occupational Injury or Illness (Form DLSR 5021), a consulting physician's report, etc. . It is not necessary to send copies of all medical records in the case. (See sections 31.1 and 31.5 of Title 8 of the California Code of Regulations.)

The DWC-MU uses a random selection program to assign three QMEs to the panel. If there are too few QMEs of the specialty requested in the geographic area of the injured worker's residence, the system will pick QMEs from other geographic areas and the employer is responsible for paying for necessary travel costs incurred. The non-requesting party will receive a copy of the panel letter when it is issued. If the Medical Unit does not issue a panel within thirty (30) calendar days of receiving the request in a represented case, either party may seek an order from a Workers' Compensation Administrative Law Judge to obtain a QME panel.

The AME or QME selection process in represented cases:

Upon receipt of the QME panel list, the parties in a represented case are required to confer and attempt to agree on an Agreed Panel QME from the panel list provided. (See, Labor Code section 4062.2(c).) If the parties have not agreed on an Agreed Panel QME by the 10th day after the panel is issued, each party may then strike one name from the panel. The remaining QME shall serve as the medical evaluator. If a represented party fails to exercise the right to strike a name from the panel within three business days of gaining the right to do so, the other party may select any QME who remains on the panel to serve as the medical evaluator. (Labor Code §4062.2(c)).

Requests returned for additional information and replacement evaluators:

If a QME panel was previously issued for this injured worker and there is insufficient information on the form 106 to process the request, the request will be returned by the Medical Unit with a request for necessary information. The time periods for selecting an Agreed Panel QME and for striking QME names are tolled during this period. (See, 8 Cal. Code Regs. §§ 30(c), 31.5)

Scheduling the evaluation appointment:

The represented employee is responsible for arranging the appointment for the examination. Upon his or her failure to inform the employer/insurer of the appointment within 10 business days after the medical evaluator has been selected, the employer/insurer may arrange the appointment and notify the employee of the arrangements.

How long will it take to have the examination and to get the QME's report?

If the QME selected is unable to schedule the exam within 60 calendar days of the initial call, the party with the legal right to schedule may either waive the 60 day limit, as long as an appointment within 90 days of the initial scheduling call is

available, or request a replacement QME. If no appointment is available within 90 days of the initial request, either party may request a replacement QME or QME panel. You are entitled to an evaluation report within 30 calendar days of the commencement of the exam by an Agreed Panel QME or QME. At times, an AME or QME may request the Medical Director to extend the deadline for completing the report (for example if the evaluator has not received test results or a consulting physician's report or for legal 'good cause'). The evaluator must notify the DWC-Medical Unit and you of the request for approval of an extension of time to complete the report. You will be notified of the decision. If the evaluator selected cannot complete the report within 30 days or the extension of time approved by the Medical Director, the parties may agree in writing (on QME Form 113 or 116) to wait until the physician can complete the report, or either party may request a replacement panel of QMEs. If this occurs, you must go through the selection process again.

Obtaining a QME in a different specialty:

As provided in section 31.7(b) of Title 8 of the California Code of Regulations, parties in a represented case may obtain an additional QME panel in a different specialty under certain circumstances. All such requests for an additional QME panel must be written and submitted with supporting information or documentation showing how the conditions in § 31.7 are being met.

Other questions?

For questions about the QME process, please call the DWC-MU at 1-800-794-6900. For questions about the workers' compensation claim dispute resolution process, call an Information and Assistance officer at the Division of Workers' Compensation office listed in your phone book, or look on our website at <http://www.dir.ca.gov/dwc>.