

## The Importance of an IME Cover Letter

The independent medical evaluation (IME) is an important part of the management of a workers' compensation claim, whether the claim is in litigation or not. Once you have selected your medical expert, you need to determine what information you need to provide to your expert, and what issues you want addressed by the expert. Hence, an IME cover letter is significant. The first part of the cover letter should introduce the doctor to the employee, and provide a reason for why you are seeking the IME. Is this a denied claim in which you are seeking a medical opinion as to whether an injury occurred? If so, provide the doctor with a summary of what the employee alleges happened, as well as the carrier's basis for denying or questioning the validity of the claim. Caution must be taken, however, not to reveal too much of the employer's defense strategy, as the IME cover letter is discoverable and can and will be read by the employee's counsel at the time of the doctor's deposition whether it was written by the claims adjuster, a vendor, or defense counsel. Inflammatory statements about the employee, the employee's medical providers, or the employee's attorney will not be favorably looked upon by the Judge during litigation.

If you are seeking an IME on a claim that has already been accepted, it is crucial that you advise the doctor of the nature of the accepted injury, as well as any alleged injuries or diagnoses not already in the Notice of Compensation Payable. This is important as you do not want to get an IME report that questions or denies the occurrence of the accepted injury, or you will not be successful on any petition to terminate or suspend benefits based on an IME that does not recognize the accepted injury. The case law in Pennsylvania is very clear that a petition for termination must fail, and unreasonable contest counsel fees may be assessed, where the IME doctor does not recognize that the accepted diagnoses (whether by NCP or judicial decision) were caused by the work injury.

The second part of a good IME letter is the history. A succinct, unbiased summary of the medical treatment to date is helpful to the doctor in reviewing the medical history of the claim, and it can be compared easily to the history as provided by the employee. It is helpful to point out to the doctor any discrepancies in the medical records from what the employee alleged in his or her Claim Petition or in his or her testimony, and any information regarding prior or subsequent injuries to the same body part.

The last part of the IME cover letter should include issues to be addressed that are specific to your case. For a Claim Petition, you should be asking the doctor whether an injury occurred, the nature of the injury, the extent of disability and whether the employee has recovered. If you have an accepted claim and there is no litigation, you should be asking the doctor if there is a full recovery, whether treatment to date is reasonable, necessary and related and whether the employee can return to work in a full or modified duty position. If the matter is in litigation on other petitions, such as a claim for disfigurement or specific loss, a review petition to include additional injuries, or a petition to review Utilization Review, specific questions should be tailored to address the specific issues of the petition. If detailed questions are not posed to the doctor, you risk the possibility of the IME report not being sufficient to meet your burden, and you have to spend more money to request an addendum report from the doctor.

Following these tips should assist you in obtaining an IME report that is most useful in defending litigation or reducing your ongoing exposure, without jeopardizing your chances of success in bringing a claim to its conclusion.

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