



April 17, 2015

Department of Consumer and Business Services
Management Labor Advisory Committee
350 Winter St. NE
Salem, OR 97309-0405

RE: SB 701 testimony by Lisa Wilch, Claims Director at SAIF Corporation

Committee Members,

I have been involved in the Oregon WC system for over 41 years. I have trained and provided examiner certification classes to over 175 claims adjusters. In addition, I have conducted a variety of other training classes, including presentations at the WC Educational Conference and the GOSH Conference. I have been employed as an adjuster, a vocational coordinator, a claims supervisor, and a claims director for SAIF Corporation.

I have additional knowledge in the area of independent medical examinations known as IMEs. During my years at SAIF I evaluated the quality of independent medical examinations, worked to contract with IME Companies, and trained SAIF employees on the implementation of SB 311 passed in 2005.

We schedule IMEs to assist in evaluation of the medical aspect of the claim. The majority of the time, an IME is scheduled to obtain a medical history, review the mechanism of injury, and render an opinion on the relationship of the worker's condition to the on-the-job activities. The IME must be well reasoned and based on medical probability.

Adjusters select IME providers based on a variety of reasons – demonstrated experience with evaluating the body part involved, thorough, well-reasoned, and timely reports, the availability of the physician within a specific time frame in the worker's geographic region, and the ability to complete the IME within the remaining time for a decision to be made in a timely manner. A good IME physician renders opinions in support of accepting some claims while denying others based on the individual claim's facts, the examination of the worker, and a review of the medical record and diagnostics available.

Not many people actually enjoy going to the doctor. Most of us recognize, however, that attending medical exams is an important part of self-care. IMEs are an important part of managing workers' compensation claims as well. As the spouse of an injured worker who was scheduled for three different examinations in conjunction with two shoulder claims – two for compensability and one for claim closure, I know attending these exams can create anxiety for workers. I attended and observed all three examinations with three different IME vendors/physicians/physical therapists. In each of these situations, the IME experiences clarified compensability and treatment for his claims and he returned to physically suitable work.

My husband also had a bilateral carpal tunnel workers' compensation claim that did not involve an IME service, but we selected his attending physician for this condition based on my experience with this physician through independent medical examinations I had scheduled in my own assigned claim load.

SB 701 proposes to insert WCD into the independent medical examiner selection process – transferring responsibility to WCD, instead of the insurer. SAIF is concerned this proposed change may affect the worker in several ways.

First, communication with the worker. At SAIF, we have a communication protocol regarding setting up an IME for an injured worker:

- *Contact prior to scheduling an appointment with the IME provider to discuss the purpose of the appointment and address any scheduling conflicts, potential travel concerns or transportation needs the worker may have*

During this contact with the worker, he or she may express concerns about wanting a male or female physician, a fear of driving in a metropolitan area, the need for child care or other assistance in advance of the appointment, or convey other considerations that would be important for us to know about and consider with scheduling the appointment. As much as possible, we attempt to take specific requests into account in scheduling the appointment. This flexibility may be removed if the IME physician is randomly selected by WCD.

Second, forty-seven percent of SAIF's scheduled IMEs (from 2011 through 2014 dates of injury) were scheduled to determine compensability of an injury or occupational disease. Randomly selected providers may result in a decrease in timely compensability decisions. The addition of another 7-10 days to obtain the IME physician's name from WCD will affect an insurer's ability to make a decision within the statutorily allowed 60 days. When initial compensability is at issue, SAIF works closely with our contracted IME companies to determine what physician can conduct the examination and report the results in time to make a timely compensability decision.

It is important to note, of the initial compensability IMEs from 2011 through 2014, 55% of these exams resulted in acceptance of the claim.

Requiring the Workers' Compensation Division to randomly select physicians to evaluate the worker may directly affect the worker in the following ways:

- Delay treatment if a worker's physician delays curative treatment until a formal claim decision is made; treatment delays may affect the injured worker's recovery.
- Delay IME appointment scheduling and potentially increase rescheduling by eliminating communication with the injured worker prior to scheduling appointment to determine potential conflicts in the worker's schedule.
- Affect the insurer's ability to make a timely decision by adding an additional 7-10 days of scheduling time for WCD to select a random examiner.
- Eliminate worker's request to be evaluated by only a male doctor or a female doctor.
- Eliminate attending physician input on IME provider selection when the IME is scheduled at the request of the worker's attending physician. Attending

physicians frequently have particular IME providers they respect and recommend to evaluate their patient.

- Does not make the best use of the physician's demonstrated skills. Some IME physicians are more skilled at addressing pre-existing conditions or compensability issues and others are more skilled at providing closure measurements.

The delay caused by WCD's selection of a random physician's name may affect policyholders in the following ways:

- Interim benefits may continue for 7-10 days longer on claims that are ultimately denied.
- The delay in the worker's claim decision may delay medically necessary, curative treatment and an ultimate return to the workforce.
- The employer may need to hire a temporary worker to take the place of an injured employee while they are out

WCD would use the same list of authorized IME providers that insurers currently use to select a random IME physician under the language in SB701. All IME providers are bound by the same rules of impartiality as outlined in this booklet: <http://www.cbs.state.or.us/wcd/communications/publications/4913.pdf> (Guide to Providing Independent Medical Exams).

Limiting an insurer's flexibility to select an IME provider will delay compensability and treatment decisions and may affect treatment outcomes if an attending physician waits to proceed with curative care or even surgery until the compensability decision is made.

This testimony was also provided to the Senate Workforce Committee on April 8, 2015. I testified regarding this bill on April 15, 2015.

Sincerely,

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