**DWC – Proposed QME Emergency Regulation in Response to COVID-19 Pandemic**

**§ 46.3** **Emergency Regulation Regarding Medical-Legal Evaluations in Response to continued COVID-19 Pandemic**

(a) During the period that this emergency regulation is in effect, a QME, AME, or other medical-legal evaluation may be performed in the circumstance where the physician and the injured worker are not in the same physical space or site during the evaluation. The evaluation shall be performed by way of telehealth through the use of electronic means of creating a virtual meeting between the physician and the injured worker.

1. A QME or AME may complete a medical-legal evaluation through telehealth when a hands on physical examination is not necessary and all of the following conditions are met:
2. There is a medical issue in dispute which involves whether or not the injury is AOE/COE (Arising Out of Employment / Course of Employment), or the physician is asked to address the termination of an injured worker’s indemnity benefit payments or address a dispute regarding work restrictions; and
3. There is agreement in writing to the telehealth evaluation by the injured worker, the carrier or employer, and the QME. Agreement to the telehealth evaluation cannot be unreasonably denied. If a party to the action believes that agreement to the telehealth evaluation has been unreasonably denied under this section, they may file an objection with the Worker’s Compensation Appeals Board, along with a Declaration of Readiness to Proceed to set the matter for a hearing;
4. The telehealth evaluation conducted by means of a virtual meeting is consistent with appropriate and ethical medical practices, as determined by the QME and the relevant medical licensing board; and
5. The QME attests in writing that the evaluation does not require an in person physical exam.
6. For purposes of evaluations pursuant to subdivision (a) of this emergency regulation, telehealth means remote visits via video-conferencing, video-calling, or such similar technology that allows each party to see and converse with the other via a video and audio connection. The evaluation must be conducted with the same standard of care as an in person visit and must comply with all relevant state and federal privacy laws.

(b) During the time this regulation is in effect, section 34(b) of title 8 of the California Code of Regulations is suspended and the following is effective:

1. The QME shall schedule an appointment for the first comprehensive medical-legal evaluation which shall be conducted at a medical office listed on the panel selection form or any office listed with the Medical Director provided there is agreement by the parties. Any subsequent evaluation appointments may be performed at another medical office of the selected QME if it is listed with the Medical Director and is within a reasonable geographic distance from the injured worker’s residence.
2. For purposes of QME telehealth evaluations conducted under this regulation, the medical office listed on the panel selection form for the QME shall be deemed the site of the telehealth evaluation. For all other telehealth evaluations conducted under this regulation, the medical office of the physician that is within a reasonable geographic distance from the injured worker’s residence shall be deemed the site of the telehealth evaluation.

Note: Authority cited: Sections 133, 139.2, 4627, 5307.3, 5307.6, 4061 and 4062.