| **ASSIGNMENT OF QME EVALUATION PROCEDURES** | **RULEMAKING COMMENTS****15 DAY COMMENT PERIOD** | **NAME OF****PERSON/****AFFILIATION** | **RESPONSE** | **ACTION** |
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| QME Form 31.5 | Commenter objects to the change allowing 90 days to schedule a QME evaluation instead of the current 60 days. Commenter opines that this is a bad idea as it affects the well-being of injured workers so that the Division doesn’t have to fill replacement panels and that current law already incentives defendants to deny claims, medical treatment and benefits. | William Calderon, Esq.November 22, 2022Written Comment | The Administrative Director disagrees. This amendment is necessary to increase the availability of physicians and reduce replacement panels that causes delays in the system.  | None. |
| QME Form 31.5 | Commenter states that there is no need to extend the current 60 days to 90 days as 60 days is plenty of time to schedule a QME evaluation. | Adam Orszag, MDNovember 26, 2022Written Comment | The Administrative Director disagrees. This amendment is necessary to increase the availability of physicians and reduce replacement panels that causes delays in the system. | None. |
| QME Form 31.5 | Commenter opposes extending the time frame from 90 to 120 days to schedule a QME evaluation. Commenter states that if there is a dispute regarding an injured worker’s entitlement to temporary disability or treatment, or when their claim is denied in its entirety, forcing an injured worker to wait up to 120 days for an evaluation and another 30 days to receive the report is unfair and creates hardship for them. | Dennis Popalardo, Jr.Partner, Boxer LawNovember 21, 2022Written Comment | The Administrative Director disagrees. This amendment is necessary to increase the availability of physicians and reduce replacement panels that causes delays in the system. | None.  |
| QME Form 31.5 | Commenter opines that the permanent extension of the timeframes to obtain a panel QME examination is not in the best interest of the applicant, defendant or the state of California for the following reasons:1. For any denied claim, the extension of time to obtain a compensability examination under Labor Codesection 4060 puts additional strain on the injured worker who may be out of work and not entitled to anytemporary indemnity benefits or medical treatment.* While such an injured worker may be entitled to State Disability benefits, relying on the State to provide indemnity benefits is not ideal and only adds a frictional cost which is borne by *all* State citizens rather than the parties to the claim.
* The same concept holds true for medical care. An injured worker may either get none (if they have no insurance) for a longer period of time, or a private insurance company may bear the burden of medical treatment expenses.

2. If a claim is accepted, the Defendant may be required to pay temporary disability benefits longer than necessary - certainly longer than under the pre-Covid timeframes.3. In commenter’s experience under the current Emergency Regulations, the QMEs tend to provide exam dates that are close to the 90-day mark knowing that the party scheduling the exam is likely to waive their right to areplacement panel by agreeing to allow the examination up to 90 days after the appointment request.* As this is a unilateral right, if the Defendant in a denied claim chooses to exercise this option, it either puts additional strain on an injured worker who is not receiving any benefits or adds to the time that EDD may be paying State Disability (per 1 above).
* Conversely, an Applicant may exercise this option to try to extend a period of temporary total disability paid for by the Defendant.
 | Scott Ashby, Esq. Dietz, Gilmore & Chazen – San DiegoNovember 22, 2022Written Comment | The Administrative Director disagrees. This amendment is necessary to increase the availability of physicians and reduce replacement panels that causes delays in the system. | None.  |
| QME Form 31.5QME Form 108 | Commenter states that the Division’s proposed modification to Form 31.5 and Form 108 would change the right to request a replacement QME panel to when the panel cannot schedule an examination within 90-120 days versus the current 60-90 days. Commenter is uncertain whether the proposed extensions of the panel deadlines are necessary. Commenter opinions that the newly extended deadlines for QME panels will unnecessarily delay the resolution of claims and carriers will not be able to close claims in a timely manner. Commenter opines that the prompt and appropriate resolution of the outstanding medical issues in a claim is critical to an efficient workers’ compensation system and benefits all stakeholders. | Steven A. BennettVice PresidentWC Programs & CounselAmerican Property Casualty Insurance Association (APCIA)December 6, 2022Written Comment | The Administrative Director disagrees. This amendment is necessary to increase the availability of physicians and reduce replacement panels that causes delays in the system. | None.  |