



March 8, 2017

Senate Workforce Committee
Oregon Legislature

RE: SAIF Corporation Testimony on SB 780

SAIF Corporation thanks you for the opportunity to provide information about Independent Medical Exams (IMEs) in Oregon's workers' compensation system.

Oregon's workers' compensation system has achieved an equilibrium over the past twenty years. In this system, Oregon injured workers select their attending physician to see them through their claim. In an effort to provide for a balance, Oregon law allows insurers to select an independent medical provider. In 2016, SAIF received 41,930 claims. Of those nearly 42,000 claims, 33,797 accepted, and only 5,949 IMEs were performed.

Insurance companies schedule IMEs to assist claims adjusters to evaluate medical aspects of a claim (this may include determining the appropriateness of a recommended treatment; evaluation of the worker's ability to return to work, or performing a closing examination), obtain an accurate 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.

IMEs are paid for by the insurer, they are expensive both in costs and administrative time. SAIF is judicious in deciding to send a worker for an independent medical exam. SAIF adjusters take special care when scheduling an IME. Prior to scheduling an IME appointment, adjusters contact the IME provider to discuss the exam's purpose; they communicate with the injured worker to discuss:

- exam's purpose,
- any scheduling conflicts, potential travel concerns or transportation needs the worker may have;
- address any other worker concerns such as a gender preference for the physician, fear of driving in a metropolitan area, child care needs 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.

Adjusters select the IME provider from medical providers certified by WCD. All IME providers are bound by the same rules of impartiality as outlined in a WCD booklet called *Guide to Providing Independent Medical Exams* explaining provider responsibilities. When selecting an IME provider, adjusters look for providers who show a demonstrated experience evaluating the body part involved (an orthopedist who specializes in knees would not be a good selection for a claim involving a shoulder), a history of 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 and

willingness to complete the IME within the remaining time for a decision to be made in a timely manner.

SAIF adjusters also look for IME providers who are impartial evaluators, physicians who render opinions supported by the examination of the worker, and a review of the medical record and available diagnostics information, and experts in specific specialty and body part and/or system.

SAIF's concerns with random selection of IME providers by WCD focus interference with an adjuster's relationship with the injured worker, as well as well the adjuster's ability to take specific injured worker requests into account when scheduling the appointment.

Additionally, this random selection of IME providers by WCD may delay compensability decisions and treatment:

- o nearly forty-six percent of SAIF's scheduled IMEs (from 2014 through 2016 dates of injury) were scheduled to determine compensability of an injury or occupational disease.
- o when initial compensability is at issue IME companies work with insurers to insure the selected provider can conduct the exam and report the results in time to make a timely compensability decision. IMEs from 2011 through 2014, 55% of these exams resulted in acceptance of the claim.
- o treatment may be delayed if a worker's physician delays curative treatment until a formal claim decision is made; treatment delays may affect the injured worker's recover.

Random selection may also eliminate the attending physician's 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.

Finally, random selection may reduce the best use of physician's particular knowledge and skills. Some IME physicians are more skilled at addressing pre-existing conditions or compensability issues and others are more skilled at providing closure measurements.

Legislation similar to SB 780 was considered by this committee and the Management Labor Advisory Committee (MLAC) during the 2015 legislative session. Responding to the issues raised by that bill (SB 702), MLAC constituted a subcommittee to review IMEs in the Oregon Workers' Compensation system. SAIF participated in the six subcommittee meetings that considered IMEs in Oregon's Workers' Compensation system. After consulting with the Workers' Compensation Division's Medical Advisory Committee, MLAC adopted the subcommittee's report making recommendations to WCD as well as identifying possible statutory improvements for the worker requested medical exam. As always, SAIF continues to support MLAC recommendations.

Thank you for the opportunity to provide testimony on this legislation.

Sincerely,

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