



# Quick for Designated Reference Guide Doctors

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## when conducting a Designated Doctor Exam

The Texas Department of Insurance, Division of Workers' Compensation's (TDI-DWC) medical treatment guideline is the *Official Disability Guidelines – Treatment in Workers' Comp*, excluding the return to work pathways, (ODG) [137.100]. Health care provided in accordance with the TDI-DWC treatment guidelines is presumed reasonable. The TDI-DWC disability duration guideline is *The Medical Disability Advisor, Workplace Guidelines for Disability Duration*, excluding all sections and tables relating to rehabilitation, (MDA) [137.10]. These guidelines should be used for the evaluation of expected or average return to work time frames. Workers' Compensation Health Care Networks may adopt different treatment and disability duration guidelines. If reference to such treatment and disability duration guidelines is appropriate, and the Designated Doctor does not follow the TDI-DWC guidelines, the Designated Doctor should provide an explanation with references to the guidelines. Designated doctors should render opinions based on a reasonable medical probability.

When performing an examination, a designated doctor should consider the following information in order to properly address any of the following issues. The sections below correspond to the "Reason For Request" section of DWC Form-032, *Request for Designated Doctor*.

### A. Maximum Medical Improvement (MMI)

- MMI is defined in part as the earliest date after which, based on reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer be reasonably anticipated [401.011(30)(A)].
- The date of MMI may not be prospective or conditional, but it may be before the date of the certifying exam [130.1(b)(4)(C)].
- Do not conduct an IR exam if you find the injured employee is not at MMI. Designated Doctors cannot be paid for IR exams for an injured employee that is not at MMI.

#### When documenting the exam:

- If the determination is that the injured employee has not reached MMI, give the reasons you believe the injured employee has not reached MMI [130.6(b)(1)]. These reasons should be either consistent with the ODG or sufficient rationale should be provided why the ODG does not apply.

- If there was a prior certification of an MMI date by an authorized doctor and you find that the injured employee either was not at MMI or reached MMI on a different date, provide an explanation with clinical documentation to support your MMI date [130.6(b)(2)].

## B. Impairment Rating (IR)

- The IR is based on the injured employee's condition as of the MMI date or the statutory MMI date, which ever is the earliest [130.1(c)(3)]. The statutory MMI date is 104 weeks after the 8th day of disability.
- Impairment is any anatomic or functional abnormality or loss existing after MMI which results from a compensable injury and is reasonably presumed to be permanent [401.011(23)].
- The appropriate edition of the AMA Guides for certifying examinations on or after October 15, 2001, is the fourth edition (1st, 2nd, 3rd, or 4th printing, including corrections and changes as issued by the AMA prior to May 16, 2000) [130.1(c)(2)(B)(i)]. If you are addressing an injury in which the first certifying examination was made before October 15, 2001, the appropriate edition of the AMA Guides is the third edition [130.1(c)(2)(B)(ii)].
- If you were asked to address MMI in addition to IR and determine that the injured employee has not reached MMI at this time, you should not assign an IR [130.6(b)(4)]. Also, do not conduct an IR exam if you find the injured employee is not at MMI. Designated Doctors cannot be paid for IR exams for an injured employee that is not at MMI.

### When documenting the exam:

- An IR is the percentage of permanent impairment of the whole body resulting from a compensable injury [401.011(24)]. Assign a whole body IR for the entire compensable injury. Also, rate all parts of the compensable injury and give a 0% IR for parts with no permanent impairment.
- Include a description and explanation of clinical findings related to each impairment and describe how the findings relate to the criteria in the AMA Guides [130.1(c)(3)(D)].
- If you are asked to address an IR in addition to an extent of injury dispute, provide multiple certifications that take into account the various interpretations of the extent of injuries [130.6(b)(5)].

## C. Extent of Injury

- An extent of injury question arises when there is a dispute as to whether the claimed compensable injury or established compensable injury includes additional body parts or injury conditions.
- An injury means damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm. The term includes an occupational disease [401.011(26)].
- An aggravation of a pre-existing condition is included in the compensable injury. An aggravation is an enhancement, acceleration, or worsening of the underlying condition.

- Further harm caused by medical care for the compensable injury is part of the compensable injury.
- If a condition arises out of or naturally results from the compensable injury, it extends to and is included in the compensable injury.

**When documenting the exam:**

- Include in your report the claimed compensable injury or established compensable injury as identified by the information provided by the requestor or other parties. That information should also describe the incident(s) that were a cause of the injury.
- For the extent of injury question, explain whether the work incident that was a cause of the injury was also a cause of the additional injury or condition, or whether the additional injury or condition was a natural progression of the injury.

## D. Disability a Direct Result of the Injury

- Disability is an economic concept which means the inability because of a compensable injury to obtain and retain employment at wages equivalent to the pre-injury wage [401.011(16)].
- Direct result may be established by evidence that an injured employee sustained an injury with lasting effects and could not reasonably perform the pre-injury employment.
- The compensable or claimed injury need only be a cause of disability.

**When documenting the exam:**

- Include in your report the claimed compensable injury or established compensable injury as identified by the information provided by the requestor or other parties. From this information determine and state in your report what the compensable or claimed injury is. Base your direct result determination on your determination of the claimed compensable injury or established compensable injury.
- Explain how the employee's inability to perform the pre-injury employment is or is not a direct result of the compensable injury.

## E. Return to Work

**When documenting the exam:**

- Explain whether the injured employee can return to any form of employment, and if so, identify any restrictions.
- When applicable reference the MDA in determining the injured employee's capacity to return to work and explain how the MDA was used in making the determination.
- If it is determined that the employee can return to work, with or without restrictions, file a *Work Status Report* (DWC Form-73) within seven days of the

exam [126.7(o)].

- If you change the injured employee's work status, provide an explanation on the change in the employee's condition to support the change in work status. Also, file a *Work Status Report* (DWC Form-73) within seven days of the exam [126.7(o)].

## F. Return to Work for Supplemental Income Benefits

### **When documenting the exam:**

- For the dates covered by the parties, if the injured employee was unable to perform any type of work in any capacity, specifically explain in your report how the injury causes a total inability to work.
- For the dates covered by the request, if the injured employee has any ability to work, describe what the injured employee can do and complete a *Work Status Report* (DWC Form-73).

## G. Other Similar Issues

- When the compensability of the injury has been denied or disputed, determine if there is an injury resulting from the claimed incident.
- An injury means damage or harm to the physical structure of the body and a disease or infection naturally resulting from the damage or harm. The term includes an occupational disease [401.011(26)].

This reference guide refers to Texas Labor Code §401.011 (*General Definitions*), and 28 Texas Administrative Code §§126.7 (Designated Doctor Examinations: Requests and General Procedures), 130.1 (Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment), 130.6 (Designated Doctor Examinations for Maximum Medical Improvement and/or Impairment Rating), 137.10 (Return to Work Guidelines) and 137.100 (Treatment Guidelines).