

**Vermont Department of Labor**

Workers' Compensation and Safety Division
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Memorandum

TO: Workers' Compensation Practitioners

**FROM: J. Stephen Monahan, Director
Workers' Compensation & Safety Division**

DATE: May 7, 2015

SUBJECT Independent Medical Examination, 2 hour driving limitation, what must be demonstrated to exceed the 2 hour limit

Effective June 24, 2014, 21 V.S.A. § 655 was amended to limit the distance an injured employee would be required to travel from home to an examination by a medical provider paid for by the employer or its insurance carrier. See No. 199 (Adj. Sess.), § 62, eff. June 24, 2014.

The relevant portion of amended sec. 655 reads:

After an injury and during the period of disability, if so requested by his or her employer, or ordered by the Commissioner, the employee shall submit to examination, at reasonable times and within a two-hour driving radius of the residence of the injured employee, by a duly licensed physician or surgeon designated and paid by the employer. The Commissioner may in his or her discretion permit an examination outside the two-hour driving radius if it is necessary to obtain the services of a provider who specializes in the evaluation and treatment specific to the nature and extent of the employee's injury.

(Emphasis added).

Practical Application of the Statutory change

1. Insurers should strive to schedule IME's within a two-hour driving radius of the residence whenever possible. In some instances it may be easier to have the IME provider travel closer to the claimant and examine the claimant in a facility within the 2 hour driving radius.



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2. If it is not possible to schedule an IME within a two-hour driving radius of the residence, the insurer should discuss with the claimant the scheduling of an IME outside of the 2 hour driving radius. If the claimant agrees to travel the additional distance, the insurer may schedule the IME without obtaining specific permission from the Commissioner (authorized representative). It is the insurer's responsibility to document the agreement with the claimant. The agreement should reflect that claimant was advised of the 2 hour limitation, provided an explanation as to why an IME further away was needed, and that the claimant agrees to travel the additional distance. Inducements to obtain agreement should also be set out (e.g. arranging for taxi or other transportation, payment of meals, or hotel stays etc.).

3. If the claimant does not agree to travel the additional distance to an IME, the insurer may nonetheless petition the Commissioner (authorized representative) for permission to have the claimant examined at an IME location more than 2 hours from the claimant's residence. The insurer must demonstrate:

- a. services of an appropriate independent medical examination provider are not available within a 2 hour driving distance; and,
- b. services of an independent provider who specializes in the evaluation and treatment of claimant's specific injury, or the extent of injury are necessary.
- c. any steps that will be taken to lessen the burden of travel on the claimant.