



State of Vermont
Department of Labor
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MEMORANDUM

To: Workers' Compensation Specialists 1s and 2s

From: J. Stephen Monahan

Date: Wednesday, August 5, 2020

Subject: Determining medical and impairment during and after COVID

Recently Specialist 2 Julie Mercier posed a question on TEAMS and evidently my short response created some confusion. I am issuing this Memorandum to clarify my response.

Ms. Mercier asked that I clarify the following:

During the pandemic:

1. Can Maximum Medical Improvement (MMI) be determined based solely on a Medical Records Review (MMR)?
2. Can MMI be determined based on a Tele-Medicine visit?
3. May a Permanent Impairment Rating be obtained based solely on a Medical Records Review?
4. May a Permanent Impairment Rating be obtained based on a Tele-Medicine visit?

After the pandemic:

1. Can MMI be determined via a MRR?
2. Can MMI be determined vial TeleMed?

Response:

During the pandemic:

1. Can Maximum Medical Improvement be determined based solely on a medical records review (MMR)?

RESPONSE: *No.*

2. Can MMI be determined based on a Tele-Medicine visit?

RESPONSE: *Yes, possibly, if the Tele-Medicine visit is visual and all relevant medical records are reviewed.*



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3. May a Permanent Impairment Rating be obtained based solely on a Medical Records Review?

RESPONSE: *NO. The AMA Guides 5th edition requires in-person evaluation.*

4. May a Permanent Impairment Rating be obtained based on a Tele-Medicine visit?

RESPONSE: *NO. The AMA Guides 5th edition requires in-person evaluation.*

After the pandemic: (Please note that this response is based on my current projection of what the post-pandemic factual and legal landscape will be and is subject to change based on actual developments.)

1. Can MMI be determined based solely on a MRR?

RESPONSE: *Possibly, but the opinion would have less weight than an opinion obtained after an actual visit with an appropriate health care provider.*

2. Can MMI be determined based on a Tele-Medicine visit?

RESPONSE: *Yes, possibly, if the Tele-Medicine visit is visual and all relevant medical records are reviewed.*

3. May a Permanent Impairment Rating be obtained based solely on a Medical Records Review?

RESPONSE: *NO. The AMA Guides 5th edition requires in-person evaluation.*

4. May a Permanent Impairment Rating be obtained based on a Tele-Medicine visit?

RESPONSE: *Possibly. Although the AMA Guides 5th edition requires an in-person evaluation in some circumstances a visual tele-medicine visit may permit the provider to take the measurements and observations required by the AMA Guides. The provider's opinion must explain it complied with the provisions of the AMA Guides.*

SEPARATE ISSUE RAISED IN DISCUSSION WITH THE SPECIALISTS REGARDING APPORTIONMENT

When considering whether to credit the indemnity owed for a current impairment rating by amounts owed for an earlier impairment rating the earlier impairment rating indemnity must have actually been paid to the claimant AND the current rating must be for essentially the same body part. To the best of my knowledge this has been the policy since we started permitting apportionment. If one of you is aware of a case to the contrary please bring it to my attention.

