

## **General FAQs**

### **Who is the ‘entity scheduling the examination’ as cited in RCW 51.36.070?**

The entity scheduling the examination is the IME provider, also referred to as the IME examiner, IME panel and IME firm. Contact information for the IME provider can be found on the appointment/assignment letter sent to the worker notifying them of the time, date, location, etc. of the examination.

### **If the department or self-insured employer requests a copy of the recording, where and in what format should it be submitted?**

The department has not established the format at this time and will update the FAQ and external webpages once this information is known.

### **Can a fee be charged and the examination be stopped if the worker begins to record the exam without proper notice and refuses to discontinue the recording?**

If a worker begins to record the exam without proper notice, the IME provider may request that they stop recording. If the worker refuses, the IME provider has the right to terminate the exam and the worker may be subject to a fee for the canceled examination and this may be considered non-cooperative behavior.

### **Can the examination be stopped if the recording is interfering with the exam? And what are the consequences if this happens?**

If the recording process is interfering with the exam, the IME provider can request that the equipment be moved to a non-interfering area or removed from the exam room. If the worker refuses, the IME provider has the right to terminate the exam and the worker may be subject to a fee for the canceled examination. Refusal to move the equipment may be considered non-cooperative behavior.

### **What is the definition of “material alteration” of a recording?**

A material alteration is any change (addition or deletion) of the recording that changes the outcome of the actions in the examination, or changes an entitlement to benefits.

### **When does the ability to record an IME start? In waiting room? Exam room?**

Recording should begin after the IME provider enters the exam room, and acknowledgement that a recording will begin has occurred. It should end when the IME provider indicates the exam has concluded and exits the exam room.

## **Does an interpreter providing services at an IME need to give consent to being recorded?**

The interpreter should be informed by the IME provider about the worker's intent to record the examination. It is crucial to notify the interpreter as soon as possible that the exam will be recorded. If the interpreter requests not to be recorded, the IME provider must arrange for another interpreter for the examination.

## **Workers**

### **What kind of recordings can workers perform at Independent Medical Examinations (IMEs)?**

A worker can record the audio, video, or both during an IME ordered under RCW 51.36.070 or by the Board of Industrial Insurance Appeals (BIIA).

### **How does a worker give notice that they intend to record the IME?**

A worker or their representative must call the scheduled IME provider indicated on the appointment/assignment letter no later than seven calendar days before the date of the examination. If the worker wants confirmation, they can ask the firm for an email address or ask for an email confirmation of their call.

### **If the worker brings a companion to the IME, can that person record the IME?**

Yes. The only restriction is that the recording equipment cannot interfere with the examination and the worker may not hold the recording equipment while the examination is occurring.

### **What if the worker doesn't give seven days-notice of their intention to record the IME?**

Per RCW 51.36.070, the worker or their representative must provide notice to the IME provider of intent to record no less than seven calendar days before the date of the examination. If timely notification is not provided, the examination may not be recorded, without the approval of the IME provider.

### **What if the worker wants to record the IME but gives less than seven days-notice and the IME provider does not agree to waive the seven days-notice? Will the IME be rescheduled?**

If a worker notifies an IME provider less than seven calendar days prior to the examination and the IME provider does not agree to waive the notice requirement, the provider should refer the worker to the department, or self-insurer. The department, or self-insured claim manager should inform the worker that the examination cannot be rescheduled and the worker must attend the previously-scheduled examination. Failure to attend the previously-scheduled IME could represent non-cooperative behavior.

### **Is a worker allowed to record any other exams besides an IME?**

Substitute House Bill (SHB) 1068 limits recordings to IMEs ordered under RCW 51.36.070 or by the Board of Industrial Insurance Appeals (BIIA).

### **What will happen if a worker alters a recording?**

Benefits received as a result of any material alteration of the recording by the worker or done on the worker's behalf may be subject to repayment pursuant to RCW 51.32.240.

### **What if the worker fails to provide the department or self-insurer a copy of the recording?**

If a worker submits a dispute about the IME to the department or the self-insurer but fails to submit the recording when asked to do so, the department or self-insurer may resolve the dispute with the available information.

### **Can a worker refuse to be recorded by an IME provider?**

The worker has the right to ask not to be recorded and the IME provider must comply. This does not negate the worker's right to record the examination.

### **Can a worker record a telemedicine IME?**

Yes. The worker must notify the IME provider of their intent to record no less than seven calendar days before the date of the examination.

## **IME Providers**

### **Can IME providers record IMEs as well?**

SHB 1068 does not address the IME provider's ability to record IMEs. Therefore, Washington's laws requiring consent by two parties for recording applies to an IME provider's recording. The IME provider may record the IME if there is express consent from the worker. If the worker declines to give consent, the provider cannot record the IME and this does not negate the worker's right to record the IME, as long as they have provided the required notice.

### **What does an IME provider need to document if a worker calls to report that they intend to record an IME?**

The IME provider should capture the worker's name and claim number along with the date and time of call. If the exam is recorded, include that detail in the IME report.

### **Can an IME provider refuse to be recorded by a worker, if given seven days-notice?**

Yes. An IME provider has the right to refuse to be recorded. The examination will be scheduled with a provider willing to be recorded.

## **Self-Insured**

### **How does a self-insurer request a fee for a canceled exam if a worker refuses to discontinue a recording and the examination is terminated?**

Such behavior may be considered obstruction under RCW 51.36.070 and the self-insurer should follow the standard process described in Policy 13.07, "Worker Cancels or Fails to Appear for an Independent Medical Examination."

## **Questions?**

For State Fund Claims: Please contact the Claims Operations Manager at: [\*\*Nancy.Adams@lni.wa.gov\*\*](mailto:Nancy.Adams@lni.wa.gov)

For Self-Insurance: Please contact the SI training team at: [\*\*SITrainerQuestions@lni.wa.gov\*\*](mailto:SITrainerQuestions@lni.wa.gov)