

Title: Benefits Administration - Healthcare Services
Subject: Medical Review Panels
Effective Date: January 1, 2006

POLICY PURPOSE

This policy explains when and how a Medical Review Panel (MRP) may be convened as provided by *The Workers Compensation Act* (the Act). It clarifies the rights of the worker and employer, and the authority and responsibilities of the Workers Compensation Board (WCB).

A. POLICY

a. WCB's reference to MRP:

1. When a medical matter arises about which the WCB or panel of the Appeal Commission desires a further medical opinion, the matter may be referred to an MRP.

b. Worker's reference to MRP:

1. When the opinion of a medical officer of the WCB on a medical matter differs from the opinion expressed in a written certificate by a physician selected by the worker, the matter will be referred to an MRP upon written request by the worker. An "opinion" is a full statement of the facts and reasons supporting a medical conclusion.
2. A differing opinion on the medical matter must affect entitlement to compensation or medical aid benefits.
3. A written request from a worker for an MRP must be received by the WCB before a decision on the same issue is made by the Appeal Commission.
4. If the MRP is requested by a worker, the worker may follow the WCB's reconsideration and appeal processes in order to address a dispute, such as the WCB's failure to convene an MRP, the medical discipline of the panel, or the form and content of the questions.
5. A WCB employee or Appeal Commission panel will frame the questions to be asked of an MRP. These questions will be sent to the worker involved. If a dispute regarding the form or content of the questions arises, efforts will be made to resolve any concerns. Further dispute about the form and content of the questions will follow the WCB's reconsideration and appeal processes.

c. *Employer's reference to MRP:*

1. On written request by the employer, when the WCB determines that a real and substantial medical matter is in dispute and that it may affect the worker's entitlement to compensation, the WCB may refer the matter to an MRP. The employer's request for an MRP must be in writing and must provide a statement of facts and reasons for convening an MRP.
2. A written request from an employer for an MRP must be received by the WCB before a decision on the same issue is made by the Appeal Commission.
3. If the MRP is requested by an employer, the employer may follow the WCB's reconsideration and appeal processes in order to address a dispute, such as the real and substantial grounds for the MRP, the medical discipline of the panel, or the form and content of the questions.
4. A WCB employee or Appeal Commission panel will frame the questions to be asked of an MRP. These questions will be sent to the worker and employer involved. If a dispute regarding the form or content of the questions arises, efforts will be made to resolve any concerns. Further dispute about the form and content of the questions will follow the WCB's reconsideration and appeal processes.

d. *Composition of an MRP:*

1. An MRP is composed of a chair (or alternate chair) appointed by the Minister Responsible for *The Workers Compensation Act* and two physicians selected from a list provided by the College of Physicians and Surgeons of Manitoba as specially skilled in the medical matter to be considered by an MRP.
2. The special discipline of the medical matter to be considered by an MRP is determined by the WCB.
3. Any physician who has examined or treated the worker, examines workers on behalf of the employer, or has acted as a consultant in the treatment of the worker shall be considered ineligible to sit on an MRP.
4. The worker and employer at the time of the injury will have the opportunity to select a physician to sit on an MRP from a list of eligible physicians provided by the WCB.
5. The WCB will select a physician(s) to sit on an MRP if the worker or employer has not made a selection within 15 days.
6. The WCB will select the physician in the employer's stead when:
 - a) the worker is self-employed;
 - b) the worker is a family member of the employer;
 - c) the worker is a partner in, or a member of, the firm that is the employer; or
 - d) the employer ceases to carry on business in the industry in which the injury occurred.

7. Members of an MRP will be paid remuneration for sitting on the MRP, and any travelling or out-of-pocket expenses incurred by him or her in performing his or her duties on the MRP. Reasonable remuneration will also be paid to consultants or guests whose participation is invited by the MRP.
 8. The chair must invite any physician selected by the worker who has given an opinion expressed in a written certificate under subsection 67(4) of the Act to attend the MRP. The chair may invite any other health-care providers that the chair considers appropriate to attend the MRP. The chair may order any medical examinations or tests the chair deems appropriate.
 9. The MRP may examine the worker and may consult with any health-care provider that the panel considers appropriate. The Panel's decision as to these matters is final and conclusive.
 10. During an examination or meeting, an MRP involves a "patient-centered clinical method" in which the injured worker is repeatedly encouraged to present and clarify his or her medical history. Workers are given the opportunity to express opinions and to ask questions. It is important that the injured worker has the opportunity to say all that is necessary and that all of his or her opinions and questions regarding the medical matters before the MRP have been acknowledged or answered.
 11. Once an MRP has convened and until its findings are determined, an MRP establishes its own rules of procedure, without interference from the WCB.
 12. Once an MRP has concluded, it shall prepare a full report on its findings and its opinion to the WCB.
 13. The WCB shall provide a copy of the MRP report to the worker concerned and to the worker's physician who gave the certificate which initiated the MRP.
 14. Further distribution of copies of the report of an MRP shall be subject to the policy concerning access to medical reports in effect on the date of the report.
 15. The report of an MRP shall be considered by the appropriate adjudicative body in conjunction with all other information relevant to the matter under consideration before a decision is rendered.
- e. *Clarification of MRP reports:***
1. If, in the opinion of the WCB, an MRP's report is so unclear that the WCB is unable to gain a fair and reasonable understanding of an MRP's opinion, the WCB may, within one year of the date of the MRP's report, request clarification from the MRP before rendering a decision. Any clarification provided by the MRP shall be distributed in the same manner as the original report.
 2. Decisions affecting compensation or entitlement made with consideration to an MRP report are subject to the regular appeal process. A decision by the WCB regarding whether clarification is necessary is not a decision affecting compensation or benefits.

3. All members of the original MRP must be party to any clarification provided by the MRP at the request of the WCB.
4. If considered necessary by the WCB to reach a decision on a claim, the WCB may convene a new MRP under subsection 67(3) of the Act at any time, including circumstances where clarification is not available.

B. REFERENCES

The Workers Compensation Act, sections 67, 60.91
Policy 42.10.70.20, *Convening a Medical Review Panel*

History:

1. Board Order 226/83, approved December 8, 1983, established a process for referring claims to an independent Medical Review Panel.
2. Board Directives dated February 8, 1984, established procedures for convening Neurosis (Psychiatric) Review Panels and Medical Review Panels.
3. Board Order 247/87, approved December 7, 1987, confirmed that objective medical evidence was not required to support a request for a Medical Review Panel.
4. Board Order 165/88 approved October 3, 1988, regarding clarification of Medical Review Panel reports.
5. Policy 42.10.70.10 Medical Review Panels, approved by the Board of Directors on November 26, 1991, by Board Order 23/91, to be effective September 3, 1991. Board Orders 226/83, 247/87, and 165/88 and Board Directives dated February 8, 1984, regarding Neurosis (Psychiatric) Review Panels and Medical Review Panels rescinded.
6. Policy 42.10.70.20, *Convening a Medical Review Panel*, established by Board Order 26/94 to clarify the conditions under which an MRP will be convened.
7. Policy 42.10.70, *Medical Review Panels*, amended to allow the WCB to seek clarification from an MRP in certain circumstances by Board Order 10/98 on March 30, 1998, effective for decisions on or after March 30, 1998.
8. Policy amended to correct references to subsections in *The Workers Compensation Act* by Board Order 36/01 on December 21, 2001.
9. Administrative Guidelines have been deleted.
10. Policy 42.70.10 approved by Board Order No. 38/05 on October 26, 2005. The revised policy is effective January 1, 2006.
11. Minor formatting and wording changes were made to the policy, June 27, 2012.