

INDEPENDENT MEDICAL EXAMINATIONS (IMEs) IN LONG TERM DISABILITY (LTD) CASES

Frequently Asked Questions

✚ *What is an IME?*

An IME is *supposed* to be an “independent” medical examination. However, it is anything but “independent”. It is an assessment arranged for and *paid for* by your insurer or disability plan administrator. This means that the insurer or plan administrator *selects* the assessor and *provides* the assessor with all of the information and documentation for the assessment. Insurers generally select assessors who, historically, have provided assessment reports with conclusions that *benefit the insurer*, not the claimant. Many plaintiff lawyers refer to IME assessors as “hired guns” because they are hired by insurers and disability plan administrators and are often used to support insurers’ decisions to deny long term benefits to claimants.

✚ *Do you have to go to an IME?*

Generally, yes. Most if not all long-term disability insurance policies contain provisions that entitle the insurer to have a claimant attend an IME. Failure to attend an IME can cause an insurer to discontinue or deny long term disability benefits. If you want to be sure that your specific LTD policy contains such a provision, you are entitled to ask for a copy of your policy, or alternatively, ask your adjuster to show you where in your policy it states that you must attend an IME assessment upon request by the insurer.

There are limits on IME assessments. For instance, insurers cannot ask you to attend repeated assessments simply because they dislike the opinions of prior assessors they have hired. Insurers also cannot demand that you travel unreasonable distances for assessments, or attend an assessment that takes an unreasonable amount of time to complete if you are unable to do so for medical reasons. In such circumstances you should ask your treating doctor(s) to provide a letter that explains why you require accommodations from the insurer in order to participate in the IME.

Do not tell the insurer that you refuse to attend the IME. Instead, explain (in writing – i.e. via email) to the insurer why you have medical difficulties attending the IME, and have your doctor(s) provide an explanation of your restrictions and limitations, as well as any accommodations they recommend in order for you to undergo the IME.

✚ What should you expect at an IME?

At an IME you can expect to be asked to sign an authorization form allowing the assessor to share their report with your insurer. This is standard and normal. However, read the authorization carefully. Sometimes it contains terms which may offend you or which may raise alarm bells, such as asking you to provide the assessor with authorization to receive all of your medical history with no start or end date, or to share the assessor's final report with anyone other than your insurer.

In terms of the actual assessment, you will likely be asked by the assessor or the assessor's assistant some background information about yourself, your disability, your limitations, pains, complaints, etc. You will find that some assessors are nicer than others. Some are cold and come off as uncaring, yet others appear friendly and attentive. Assessments differ in terms of how long they take and what is asked of you. For instance, some assessments, such as an orthopaedic, physiatry, or neurological assessment could take an hour or less, while psychological, neuro-psychological and psycho-vocational assessments can take hours and sometimes several days. It is important to know which assessment you are asked to attend and to prepare yourself for that assessment (more on that below).

✚ How do you prepare for an IME?

Make sure that you ask your insurance adjuster/case manager the name and speciality of the assessor that will be conducting your assessment. Diarize the date and time of the assessment and do not be late. Dress appropriately (smart casual is fine – i.e. a suit or tuxedo are unnecessary, but do not show up in flip flops and a robe). Bring you a list of your medication as well as a list of any treating doctors/health practitioners that have been and are currently involved in the diagnosis and treatment(s) of your disability. Bring with you any food, drinks or devices you require to be comfortable during the assessment.

✚ 3 things you should do before going to an IME:

First, confirm with your adjuster in writing (via email) that he/she will provide you with a full copy of the assessment report once the insurer receives it from the assessor. This is important because often there are issues with the assessors that insurers select. Sometimes the assessors are not of the right speciality and sometimes the assessors are known to be overly biased against claimants.

Second, advise your treating doctor(s) of the assessment and let them know that you have requested a copy of the assessor's report once it is submitted. In the event that the assessor contradicts the conclusions of your doctor(s), you will need your doctor(s) to provide a rebuttal.

Third, prepare yourself mentally that undergoing the assessment is important for your disability case and be confident that you have nothing to be afraid of because you are legitimately disabled from working and your doctors agree with you. An IME cannot change these facts.

✚ **3 things you should do during an IME:**

First, be truthful with all of your answers to the assessor. Honesty is truly the best policy. Do not overreport your symptoms, pains, limitations and disabilities, but do not underreport them either. Simply give your most honest and truthful answers to the questions asked of you.

Second, do not be confrontational. Remember that the assessor is recording your behavior and reactions to his/her questions, as well as your actual answers to the questions. If you are confrontational or belligerent, that will be reflected in the report submitted by your assessor to the insurance company and it could adversely affect the decision your insurer will be making about your LTD benefits.

Third, bring with you pen and paper and record your experience during the assessment, as well as anything that seems strange or "off". For instance, if the assessor seems disinterested in the information you are providing, or is cutting you off when you answer questions, or forces you to perform certain movements that cause pain after you have complained of the pain, you should record these abnormalities. They are inappropriate and you should keep a contemporaneous record of what happens during your assessment. This information may be important later if your insurer stops your benefits prematurely and you need to start a legal claim against them. You must be vigilant.

✚ **3 things you should do after an IME:**

First, relax. You did it. It is done. Breathe and know that you did not lie; you did not embellish; you were honest, and you did your best. That is all that anyone could expect of you.

Second, follow up with your adjuster and let him/her know if there were any issues during the assessment that you felt were problematic and should be mentioned (i.e. the list of abnormalities you recorded during the assessment.)

Third, ask your adjuster for a copy of the report (again and again and again if you have to, in writing, until you get it). Review the report for any inaccuracies (usually there are inaccuracies). If the conclusions of the assessor contradict those of your doctor(s) then give the report to your doctor(s) and ask your doctor(s) to provide a rebuttal and then submit that rebuttal to the insurer. In many cases insurers rely on IME reports to cut off or deny long term benefits to claimants, unjustly. We help with situations like that all the time. You are not alone, and you are not powerless against your insurance company. You have legal rights, and your insurer must respect those rights or suffer the consequences.

 **Questions? Concerns? Contact us!**

Toll Free: 1-855-821-5900

Email: help@disabilityrights.ca

www.Disabilityrights.ca

or

Post your question and get an answer from one of our disability lawyers at

www.MyDisabilityQuestions.com

FREE CONSULTATIONS

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