



MMI 2.0: The Reboot

In April 2010, we published an issue of *MediScene* regarding evaluation of maximum medical improvement (MMI). It was developed through the collaboration of the Legal Services and Medical Services divisions at the Industrial Commission. It has been copied and sent to specialist examiners to provide guidance regarding the question of MMI more often than any other *MediScene* issue, on any topic. We've attached the April 2010 issue for your reference. It is packed with useful information, and we suggest you review it.

This year, we've decided to update that issue.

This update will address how question #1 (*"Has the Injured Worker reached maximum medical improvement with regard to the allowed condition(s)?"*) is best approached, from two perspectives. First, we'll discuss the essential components of a rationale which could be considered congruent with the legal definition of MMI. Next, we will discuss under which circumstances an Injured Worker (IW) can be considered to be "not MMI"; "at MMI"; or "no longer MMI".

What is the legal definition of MMI? Ohio Administrative Code 4121-3-32 states: " 'Maximum medical improvement' is a treatment plateau (static or well-stabilized) at which no fundamental functional or physiological change can be expected within reasonable medical probability in spite of continuing medical or rehabilitative procedures. An injured worker may need supportive treatment to maintain this level of function."

Creating a congruent rationale: This definition of MMI is pretty straight forward. It first requires an IW be at a treatment plateau with the current treatment regimen. The other requirement is no fundamental functional or physiologic change can be expected. Simply put, a rationale supporting an opinion of MMI needs to contain these two essential components to be congruent with the definition of MMI found in OAC 4121-3-32. This opinion requires a clinical determination made by the examining specialist, within a reasonable degree of medical probability.

What is a current treatment regimen? This regimen is the ongoing treatment being provided at the time of the examination. The specialist examiner should not consider hypothetical regimens, such as a declined or denied treatment, or an anticipated or potential treatment which has not even been requested nor approved. An opinion which relies on an IW's physician's (or examining physician's) suggestion of a new or renewed treatment could or would generate improvement does not support a medical opinion of "not MMI". For example, a rationale such as "the IW is not at MMI because they will benefit from or need an additional test or treatment" in the future alone does not support an opinion an IW is not at MMI.

Similarly, a rationale justifying an opinion an IW is at MMI which relies on the type, duration, or quality of past treatment is not adequate to answer the question in a way congruent with the legal definition of MMI. For instance, rationale stating "the IW is at MMI because they've had 'the right' treatment, 'enough' treatment, or 'appropriate' treatment" misses the mark because the factors cited really have nothing to do with the definition of MMI.

On the other hand, evidence of worsening of the allowed condition(s), accompanied by a prognosis that the worsening is temporary, may be adequate justification for a medical opinion of "not MMI". Examples include the rare case in which an IW arrives at the evaluation after having recently undergone surgery for an allowed condition(s) and is still recovering, or the IW who has recently started a medication or other treatment which has resulted in a significant clinical change.

What's new since April 2010? The April 2010 issue of *MediScene* addresses some of the challenges in question #1 very effectively, and we again suggest you review it in conjunction with this update. However, it does so more from the perspective of assuming an opinion of "not MMI" arises from a situation where the IW has experienced a temporary worsening of the allowed condition(s). What if- at the time of the evaluation- the IW is found to be fundamentally improving with the current treatment?

What about fundamental improvement? Recently, we've received questions regarding clinical scenarios in which the IW was considered to be at a plateau, but then- prior to the evaluation- had initiated a new type of treatment which resulted in improvement in their condition, and that improvement was still ongoing at the time of the examination. We have also seen cases in which the IW- prior to the examination- had initiated treatment for a recently allowed psychological condition, and was continuing to experience fundamental functional improvement at the time of the examination.

In both of these examples, it would be reasonable to consider the IW "no longer at MMI", because the IW's allowed condition(s) was found clinically to be ascending to a new plateau, i.e., fundamental functional or physiological change was expected with the current treatment regimen.

Why is "fundamental" important? It is fundamental to (and, in fact, the foundation, or the starting point of) an impairment evaluation to first determine MMI (*AMA Guides, 5th Edition*, section 2.4, page 19). In addition, the legal definition of MMI in Ohio's workers' compensation system includes the phrase "fundamental functional or physiological change". Viewed in this context, the examining specialist must also reflect upon the degree to which the observed change in impairment alters the IW's ability to function when considering the question of MMI (*AMA Guides, 5th Edition*, section 1.2a, page 2-4, and section 2.4, page 19).

MediScene Review Questions

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(Maximum 30 minutes)

MEDISCENE REVIEW QUESTIONS, MARCH 2021 - ISSUE 1

- According to AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, a permanent impairment rating may be performed only after an impairment has reached maximum medical improvement (MMI).
 A. True
 B. False
- For Industrial Commission (IC) Permanent Total Disability (PTD) examinations, the following are essential elements for the examining specialist to report when considering if an injured worker's (IW) allowed condition(s) have reached MMI. Check all that apply:
 A. The IW has had the proper type of treatment for the allowed condition(s).
 B. The IW's allowed conditions are at a clinical plateau with current treatment.
 C. The IW has had an adequate amount of treatment for the allowed condition(s), according to Official Disability Guidelines.
 D. Further fundamental functional or physiological change in the IW's allowed conditions is not expected.
- It is important for the examining specialist in IC PTD examinations to include in the report of their evaluation any potential future treatment(s) which might allow for improvement in the IW's allowed condition(s).
 A. True
 B. False
- According to Ohio Administrative Code 4121-3-32, after an allowed condition has been determined "at MMI", an IW may need supportive treatment of the allowed condition to maintain the current level of function.
 A. True
 B. False
- For IC PTD examinations, appropriate rationale for determining an IW's allowed conditions are "not MMI" might include which of the following? Check all that apply:
 A. The IW just had a surgery for an allowed condition, and is still in a healing process.
 B. The IW started a new medication recently, has experienced a significant clinical change in an allowed condition (worsening or improvement), and has not yet stabilized on the new regimen.
 C. The IW has recently had a new allowance added to their claim, and has recently initiated treatment for that condition.
- According to AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, in the evaluation of MMI, it is important for the examining specialist to consider the extent to which the severity of a condition will affect an IW's activities of daily living.
 A. True
 B. False

*NOTE: This activity is not a certified AMA category 1 activity, and so it cannot be used as credit toward medical board licensure in Ohio. However, it can be used toward the Ohio Industrial Commission requirement for continuing education credit specific to impairment rating, at the time of your five-year application for reappointment to the specialist examiners' panel.

ANSWERS: 1. A; 2. B and D; 3. B; 4. A; 5. A, B and C; 6. A



April 2010

THE IC

Medi Scene

Ohio | Industrial Commission

Keeping You Up-to-Date with the Industrial Commission

Did you Know?

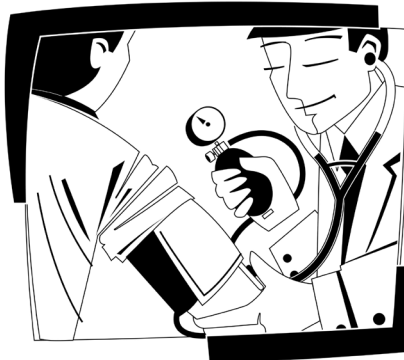
Maximum medical improvement (MMI) is defined as a treatment plateau (static or well stabilized) where no fundamental or physiologic change can be expected within reasonable probability, in spite of continuing medical or rehabilitative procedures. An injured worker may require supportive care to maintain this level of function.

Examining the Issues- Maximum Medical Improvement

This quarter we've done a "one-eighty" with our format and moved the "Did you know?" section to the top. The reason is that this concept of "MMI" not only remains central to the determination of eligibility for Permanent Total Disability (PTD) benefits for injured workers, but also remains (surprisingly) misunderstood by many specialist examiners.

"How could this be?" you ask. "I've dealt with MMI for years not only as a treating doctor, but also as an expert examiner!" We'll try to break this down into some basic elements that might clarify the concept as it relates to PTD examinations. Consider the following:

level previously declared MMI will not justify a new recognition of TTD. The standard that must be shown is that there is a worsening of the allowed conditions accompanied by a prognosis that the worsening is only temporary.



1. The injured worker, by way of their application for PTD, has attested to the fact that he is permanently and totally disabled. He believes that he is at MMI.
2. The injured worker's physician of record and legal counsel have provided evidence in support of the PTD application. Each of them believes that the injured worker has reached MMI.
3. In many cases, the injured worker has already been found to have reached MMI by prior hearing order in the claim file.
4. MMI does not mean that the injured worker will not be allowed further treatment. As stated in the definition above, they may require maintenance treatment, for instance medication, physician visits, or counseling.
5. If there is a "new and changed circumstance," then the injured worker may go back to a temporarily disabled status. An example of this may be the request, approval, and performance of a new surgery for failed hardware that is allowing the injured worker to function at a higher level. Unless there is a worsening of the allowed condition, a mere prospect of improvement beyond a

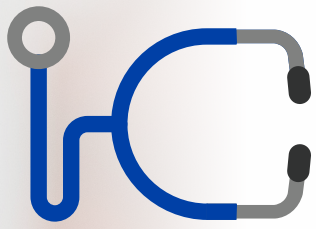
6. A "treatment plateau," in this definition, refers to a plateau with the current treatment regimen. It is not meant to refer to a hypothetical situation where a declined or denied treatment could be rendered. It is not meant to apply to a hypothetical situation where treatment has not even been requested nor approved. The fact that an injured worker's physician or examining physician suggests that new or renewed treatment could generate improvement does not mean that TTD compensation may resume, unless there is a worsening of the allowed condition accompanied by a prognosis that the worsening is only temporary. Here are some examples:

- a. If an injured worker is scheduled for surgery next month, then they remain maximally improved at least until the time of that surgery, and may in fact remain so after the surgery. An examiner cannot speculate what they might be like after the surgery. The same could be said of a course of physical therapy, psychotherapy, or a medication change.

- b. On the other hand, if an injured worker applies for PTD, then has a procedure or treatment, and then presents for examination, this could represent a new and changed circumstance at the time of the examination, and they might then be determined not at MMI as they recover. Even this would depend on whether there has been a worsening of the allowed condition accompanied by a prognosis that the worsening is only temporary and the change is actually resulting in further improvement. This situation occurs in a PTD claim very rarely.

- c. If an injured worker has had a condition or treatment denied, if they have declined a proposed treatment, or if they and their physician for whatever reason have elected not to pursue a treatment, then the examiner should consider that the injured worker remains at MMI based on the current regimen. These denied or declined treatments, or treatments not pursued for whatever reason might include medications, surgery, psychotherapy, or physical therapy.

In summary, it is apparent that the circumstance in which an injured worker would present for a specialist examination for PTD benefits and not be considered at MMI would be rare. The role of the specialist examiner in PTD examinations is to consider if the injured worker remains at MMI with the current treatment regimen, rather than to propose or advocate for additional treatment. Specialist examiners should avoid opining that the allowed conditions are no longer at MMI, when that opinion is based on speculation of possible future treatment, which has not been performed, approved, or in some instances, requested.



Having a Leg to Stand On: Mental and Behavioral Health Impairment Assessment

Old Joke: Why does a flamingo stand on only one leg? Because if he picked up the other, he'd fall down!

No Joke: What's so special about a three-legged stool? While not as sturdy or stable as tables and chairs with four legs, they do have a unique characteristic - they don't wobble.

That's right. We all know there's nothing more annoying than trying to enjoy a cup of coffee at the local diner on a wobbly four-legged table. Why don't their three-legged kin wobble? It's a matter of Newtonian mechanics, and has to do with the definition of a geometric plane. A plane is a flat surface which extends infinitely in all directions. Given any three non-collinear points – such as the tips of the legs of a three-legged stool – there is exactly one plane through them. No matter how uneven a surface, the stool will find its own plane, and will not wobble. Now that's special.

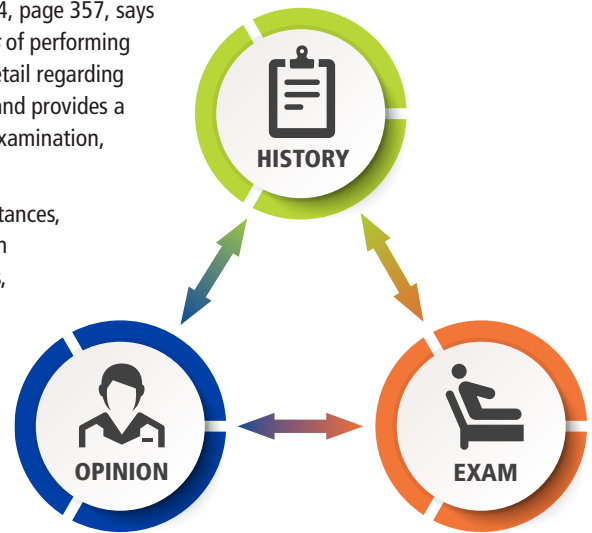
Mental and behavioral health impairment assessments can also get wobbly if they don't contain three well-defined, non-collinear points of reference: 1) what you hear (or read): the history; 2) what you see: the examination, and; 3) what you think: your opinion.

This sounds simple, but like Newtonian mechanics – which, by the way, describes the relationship between forces causing motion of objects within a frame of reference, then causing motion – it requires skill, knowledge, and experience to create a solid and accurate assessment. To pull this off, expert examiners need to be careful not to blur the lines between these three points.

AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Chapter 14, page 357, says "Unlike the other chapters in the Guides, this chapter focuses more on the process of performing a mental and behavioral impairment assessment." The chapter goes into some detail regarding assessing the nature and degree of impairment due to psychological conditions, and provides a report format which relies on various components of three legs: the history, the examination, and the opinion.

An effective report will describe the Injured Worker's past history, current circumstances, and response to past treatment. The report will then include a detailed description of the examination findings, such as general observations, responses to questions, behaviors, cognition, mental status, and test results. This description should "paint a picture" for the reader, *separate and distinct from the history*. Finally, a reliable report will include the specialist's expert, unequivocal assessment and opinions regarding clinical stability (maximum medical improvement), degree of impairment due to the allowed condition(s), residual mental and behavioral functional capacity – and how these will likely impact work activities- as the third data point.

Build your report on these three legs so it won't have a wobble!



All in the Family: Policy Reminder Concerning Examination Observers

Industrial Commission (IC) policy states:

"Specialists may allow Injured Workers to have a relative present during the examination. The relative must quietly observe, avoid interference with the examination and cooperate with the specialist. The specialist may ask the relative for additional information if needed. Legal representatives may not be present at or during examinations."

Feedback from Injured Workers (IW) indicates some examining specialists have refused observers citing IC policy or HIPPA concerns, when in fact, IC policy leaves the decision to have a family member present to the examining specialists' discretion. "Legal representatives" (above) refers to an attorney who is representing the IW in the workers' compensation claim or that attorney's staff.

As an independent examining specialist, if you choose not to have a family member present during the examination, we ask you to please explain your reasoning to the IW and family in an accurate, thoughtful, respectful, and professional manner.

To view the IC policy, visit ic.ohio.gov, [Medical Specialists' Resources](#), [IC Medical Examination Manual](#), page 10.

Please send any questions regarding this policy to medical.services@ic.ohio.gov.

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Date: _____

(Maximum 30 minutes)

MEDISCENE REVIEW QUESTIONS, AUGUST 2021 - ISSUE 2

- Which of Newton's Laws of Motion best explains the phenomenon of it being more difficult to get a large group of friends or family out of the house and to an event on time, than just one or two of you?
 - An object at rest remains at rest, and an object in motion remains in motion at constant speed and in a straight line unless acted on by an unbalanced force.
 - The acceleration of an object depends on the mass of the object and the amount of force applied.
 - Whenever one object exerts a force on another object, the second object exerts an equal and opposite on the first.
- Which of the following are essential, yet distinct components of an IC Mental and Behavioral Health PTD examination?
 - A. The history: what you hear
 - B. The examination: what you see
 - C. The opinion: what you think
 - D. All of the above
- Which of the following statements is true about IC policy regarding examination observers?
 - A. It's a HIPPA violation to have an observer.
 - B. IW's can bring their workers' compensation attorney along to represent them.
 - C. IC policy prohibits a family member to be an observer.
 - D. The examining doctor has discretion regarding allowing the IW to have a relative present- however, this should be communicated to the IW and family in an accurate, thoughtful, respectful, and professional manner.
- Which of the following statements are inappropriate for inclusion in a report of a mental status examination? (Select all which apply.)
 - A. On the delayed recall task, the IW was not able to recall any of the 5 words spontaneously. However, when category cues were offered, he was able to retrieve three words correctly.
 - B. The IW was alert, oriented to person, place, time and purpose. He was able to identify the current date, year, month, and day of the week.
 - C. The IW said he felt depressed more days than not.
 - D. In response to the question, "What would you do if you found a sealed, stamped and addressed envelope on the sidewalk," the IW said, "pick it up and put it in the mail box."
 - E. In response to the proverb, "Don't cry over spilt milk," the IW responded with "don't cry over something that you can't change."
 - F. The IW reported no significant problems related to his use of alcohol. He estimated consuming alcohol one time per week. He explained, "there's a club up the street from me and I sit there and have a drink."
 - G. The IW was unable to accurately reproduce a drawing of a three-dimensional triangle.
 - H. I saw no signs of hallucinations, or indication of violence-related thoughts or issues with impulse control.
 - I. Generally, the IW's intellectual function appeared to be average.
 - J. The IW's insight and judgement appeared slightly impaired.
- For those items identified above which appear inappropriate for mental status examination findings, please indicate what other section of the report they would be better suited for: the history or your opinion.

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ANSWERS: 1. B; 2. D; 3. D; 4. C, F, I and J; 5. History: C and F; Opinion: I and J



"Details make perfection, and perfection is not a detail."

- Leonardo da Vinci (1452-1519, Italian polymath & painter)

Ouch! Just when I thought good was good enough! But what would you expect from the guy who invented the helicopter, parachute, scuba gear, and revolving bridge? And then there was that painting he did (Mona Lisa).

When it comes to listing allowed conditions on your Industrial Commission (IC) Permanent Total Disability (PTD) medical specialist report, we are asking nothing more than Leonardo would have asked of himself- perfection, please.

It is essential to the integrity of your report you list all of the allowed (and disallowed) conditions in the claim(s) at the outset of your report, exactly as they appear on the Medical Examination Worksheet (MEWS), including those outside of your specialty. You should also indicate all allowed conditions you've been asked to evaluate. If you've been assigned a condition which you feel is outside the scope of your practice, please contact us immediately so we can arrange to assign that condition to another specialist.

A common source of error we've found for some examiners is they've gone to the Bureau of Workers' Compensation (BWC) website to obtain claim allowances for the IC PTD report. 😬 For various reasons, these allowances may not be exactly the same as those on the MEWS. Here are instructions and tips to improve your experience with our information system:

To access ICON, click the link: www.ic.ohio.gov or type the URL in the address bar of your browser.

From the home page, after logging in, search for the claim you've been assigned by entering the **Lead Claim Number, SSN**, or the **Injured Worker's First Initial and Last Name**. The first initial and first letter of the last name MUST be capitalized. After entering one of these options click 'Submit'.

Industrial Commission Online Network **IC Provider Home Page**

Test Provider, MD
123 Anywhere St
Columbus, OH 43215
(614) 555-1212

Find a Claim
Find a claim by entering the claim number **OR** the injured worker's Social Security Number **OR** the injured worker's first last name into the appropriate search boxes below.

Claim Number **OR** SSN **OR** FI* Last Name*

*First initial and first letter of last name must be capitalized (e.g. B Smith).

SUBMIT

Industrial Commission Online Network **Claim Data**

Claim 12344
Data as of 11/13/2014 11:22 AM For help, see our [guide to the appeal](#)

Claim Information
Injury Date: 04/04/2005 [View Claim Documents](#)
Date Claim Filed: 04/04/2005

Injured Worker Information
SSN: 123-45-6789
Test Tester
30 W Spring St
Columbus OH 43215-2216
Franklin County
DOB: 08/22/1975

Injured Worker Representatives
Rep: 11-80
Test Rep****
30 W Spring St
Columbus OH 43215-2216
Phone: (614) 999-9999
Fax: (614) 999-9999

Employer Information
Risk: 3-0
Test Risk
30 W Spring St
Columbus OH 43215-2216

Employer Representatives

Other Representatives

**** denotes docketing rep [What are Docketing Reps?](#)

Motion/Appeal
MOTION
Date Filed: 09/12/2014
Filed by: Injured Worker
Issues:
• Additional Allowance - Test

Motion/Appeal
LSS Motion For Lump Sum Settlement
Date Filed: 03/02/2007
Filed by: Injured Worker
Issues:
• Lump Sum Settlement

C-86 Motion
Date Filed: 08/18/2007
Filed by: Injured Worker
Issues:
• Clarification Of Allowance

[View Claim Documents](#)

This takes you to the "Claim Detail" page. To view relevant documents, click on one of the "View Claim Documents" links. A link is located at the top of the Claim Data page and one at the bottom of the page.

The Claim Folder page allows you to view the documents of the entire claim file. You may ask, "So where do I find the allowances I am supposed to examine?"

In the "Document Description" Column, click on the document link for the **MEDWRKSH**T associated with your specialty. The **Medical Exam Worksheet** specifies the underlined allowed condition(s) in the claim(s) to be address by you.

Claim Allowance(s): SPRAIN OF NECK; SPRAIN BILATERAL HIP AND THIGH; SPRAIN LUMBAR REGION; POST TRAUMATIC CENTRAL CANAL STENOSIS AT L2-L3 AND L4-5; SUBSTANTIAL AGGRAVATION OF PRE-EXISTING DISC HERNIATIONS AT L2-L3 AND L3-L4; DEPRESSIVE PSYCHOSIS - MODERATE.

Remember, it is important you include at the outset of your report all claim allowances exactly as they appear on the Medical Examination Worksheet (see example above). If you would like to learn how to copy and paste these directly to your report, please contact 614-387-3898.

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(Maximum 30 minutes)

MEDISCENE REVIEW QUESTIONS, SEPTEMBER 2021 - ISSUE 3

- According to Boston physician Dr. Mandeep R. Mehra, Lisa Gherardini, the subject of Da Vinci's Mona Lisa, may have suffered from hypothyroidism, based on which of her the physical characteristics:
 A. Yellowing skin
 B. Thinning hair
 C. Swollen hands
 D. Lump on neck
 E. Lopsided smile
 F. All of the above
- Which of the following is the most reliable source of information for allowed conditions in a claim, for the purposes of an Industrial Commission PTD examination:
 A. The IC Medical Examination Worksheet (MEWS)
 B. The BWC website
- Allowed conditions can be "copied and pasted" from the IC website directly to your examination report.
 A. True
 B. False
- Place the following steps in the correct sequence for accessing accurate information regarding claim allowances on the IC website:
A. Scroll to the document list
B. Log into your ICON account
C. Search for claim
D. Click on the document link for MEDWRKSHT
E. Click on link "View Claim Documents"
F. Go to <http://www.ic.ohio.gov>
1. ____
2. ____
3. ____
4. ____
5. ____
6. ____
7. ____

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ANSWERS: 1.F; 2.A; 3.A; 4.F; B, C, E, A, D