

BULLETIN

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Initial data on the utilization and cost of California workers' compensation medical-legal services under the revised Medical-Legal Fee Schedule (MLFS) that took effect in April indicate that the increase in med-legal payments has exceeded the 25% increase that was anticipated by the Division of Workers' Compensation (DWC).

The updated MLFS made fundamental changes to the payment formulas for med-legal evaluations and report services. The prior schedule, which had been unchanged since 2006, provided flat fee payments for "basic" (ML102) and "complex" (ML103) comprehensive evaluations, and time-based payments for evaluations involving "extraordinary circumstances" (ML104). The new schedule replaced these three levels of service with a single code (ML201), for which forensic physicians are paid a single, flat fee, with additional payments of \$3 per page for record reviews exceeding 200 pages (MLPRR), and time-based payments allowed for sub rosa video reviews (ML205). Additional fees are also provided for evaluations involving an Agreed Medical Evaluator (AME), certain medical specialists, or an interpreter.

CWCI has tracked med-legal payments for over a decade and following the adoption of the revised MLFS that research continued with an initial review of preliminary data from the first 60 days of med-legal services covered by the new schedule. Table 1 shows the distribution of comprehensive med-legal services and payments for April and May of 2021.

Table 1: Mix of Comprehensive M-L Services and Payments Under the New MLFS (April and May 2021)

Service	Percent Services	Avg Paid	Median Paid	Maximum Paid
ML201	56.7%	\$2,257.60	\$2,015.00	\$6,515.00
ML201/MLPRR/ML205	43.3%	\$4,951.36	\$3,497.50	\$43,222.00
Combined	100.0%	\$3,419.19	\$2,216.50	\$43,222.00

The breakdown of this preliminary med-legal data shows that 56.7% of the comprehensive med-legal services were billed under ML201 alone, while 43.3% included the ML201 plus at least one additional code for more extensive record reviews and/or video review. The median payment for an ML201 alone was \$2,015, though the average payment was 12.0% higher (\$2,257.60) due to additional payments allowed in cases involving AMEs, qualifying specialists, or interpreters, which in one instance resulted in an ML201 payment of \$6,515. The median payment for an ML201 plus an MLPRR and/or ML205, was \$3,497.50, but the average payment of \$4,951.36 was 41.6% above the median as these evaluations include more variables that can impact the fees, as evidenced by the maximum reimbursement of \$43,222 that was paid for this type of evaluation. Overall, the median payment for all comprehensive med-legal evaluations under the new MLFS was \$2,216.50, while the average payment was \$3,419.19, or 54.3% higher than the median.

In contrast, under the old schedule, providers received a flat fee of \$625 for an ML102 evaluation and \$937.50 for an ML103, with a 10% bump in the fee if an interpreter was required or a 25% bump if an AME provided the evaluation. Table 2 shows the distribution of comprehensive med-legal services (ML102, ML103, and ML104) rendered in 2020, the last year under the 2006 MLFS, and the change in the average amounts paid for those services under the new MLFS.

Table 2: Mix of Comprehensive M-L Services Under the Old MLFS & Change in Payments Under the New MLFS

Service	Percent Services	Avg Paid	2021 (ML201) Avg Paid	Percent Change
ML102 (Basic)	40.9%	\$681.14	\$2,257.60	231.4%
ML103 (Complex)	18.4%	\$1,032.05	\$2,257.60	118.8%
ML104 (Extraordinary)	40.7%	\$3,876.57	\$4,951.36	27.7%
Combined	100.0%	\$2,046.88	\$3,419.19	67.0%

Combined, the ML102 and ML103 evaluations comprised 59.3% of all comprehensive med-legal services in 2020, while 40.7% fell into the ML104 (extraordinary) category. Comparing the initial results for the revised MLFS in Table 1 to the results under the prior schedule in Table 2 shows that the average payment for basic evaluations previously billed under ML102 more than tripled (+231.4%) and the average payments for complex evaluations previously billed under ML103 more than doubled (+118.8%). For comparison purposes the time-based ML104 payments were compared to the ML201 services that were billed with additional per-page record review or sub rosa video review as a proxy for more complex cases, and the preliminary data indicate a 27.7% increase in the average payment for these services. Looking at the weighted average for all comprehensive med-legal evaluations shows that under the 2006 MLFS these evaluations averaged \$2,046.88, while under the new schedule they averaged \$3,419.19, for an overall increase of 67%.

Table 3 shows the change in the average and median payments for med-legal services provided after an initial comprehensive evaluation. These include follow-up evaluations that involve a subsequent examination of the injured worker (formerly ML101, now ML202), and supplemental evaluations that do not involve an exam, which are typically for reviewing additional records for inclusion in the report (formerly ML106, now ML203). Under the 2006 schedule,

follow-up and supplemental services were time-based and billed in 15-minute increments, but under the new MLFS both have been assigned a flat fee with additional per-page fees for records exceeding a base number for each code: ML202 - \$1,316.25 plus \$3 per page after 200. The preliminary data show that the average payment for a follow-up evaluation increased by 11% to \$1,925.05 under the

new schedule, while the average payment for a supplemental evaluation increased by 17.1% to \$1,073.51. Thus, under the new MLFS, the increases in the average payments for follow-up and supplemental evaluations were significantly below the 67.0% average increase noted for all comprehensive evaluations.

Table 3: Change in Follow-Up & Supplemental M-L Payments Under the New MLFS			
Follow-up Medical-Legal Evaluation (ML101 = ML202)			
	2020	2021	Percent Change
Avg Paid	\$1,734.16	\$1,925.05	11.0%
Median Paid	\$1,312.50	\$1,447.87	10.3%
Supplemental Medical-Legal Evaluations (ML106 = ML203)			
	2020	2021	Percent Change
Avg Paid	\$916.70	\$1,073.51	17.1%
Median Paid	\$500.00	\$650.00	30.0%

As with time-based services in the past, the variability of payments based on the number of pages reviewed will impact medical-legal costs under the new MLFS. Table 4 offers a preliminary look at the average number of pages that exceeded the base number provided in the new schedule, triggering additional per page fees for comprehensive, follow-up and supplemental reports. The average was highest for ML201 comprehensive evaluations, though the quartile data for the ML201, ML202 and ML203 reports indicate tremendous variability across all three types of evaluations, which makes the ultimate impact on med-legal costs highly unpredictable.

Table 4: Average Number of Pages Exceeding the Base Pages by Report Type			
	ML201	ML202	ML203
25 th Percentile	116	137	56
Median	361	375	147
75 th Percentile	928	825	548
Average	811	585	564
Max	13,064	4,674	5,481

These very early results provide a preliminary look at the impact of the recent changes to the MLFS. Thus far, it appears that the increase in payments will exceed DWC's targeted increase of 25%, though the variability introduced by per-page fees and the unknown frequency of supplemental med-legal report (ML203) requests make it difficult to project the impact that the new MLFS will have on costs. CWCI will continue to monitor the utilization and cost of med-legal services and revisit the issue in future research as more developed data become available.

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