California Workers' Compensation Institute

Research Update

Increased Medical-Legal Costs and Current QME Supply - Impact of the 2021 Medical-Legal Fee Schedule

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Executive Summary

The April 2021 implementation of a new Medical-Legal Fee Schedule (MLFS) for the California workers' compensation system resulted in wholesale changes in the pricing of medical-legal services. Complexity and time-based payments that had been in place since 2006 were replaced with flat fees with additional payments for the review of records exceeding specific page thresholds. In adopting the new MLFS, the California Division of Workers' Compensation (DWC) had targeted a 25 percent increase in reimbursement levels to adequately compensate medical-legal evaluators.

This evaluation uses updated data on medical-legal services through October 2023 and valued as of December 2023 to measure the impact of the new fee schedule. Significant findings include:

- The average payment for a comprehensive medical-legal examination has increased by 52 percent over the amount paid under the prior fee schedule – significantly more than expected when the schedule was adopted. Average payments for supplemental reports have increased 29 percent.
- Almost 75 percent of the increase in the average payment for a comprehensive evaluation is due to the per-page reimbursement for record review beyond the initial 200 pages included in the flat fee price.
- The number of QMEs in 2023 was 6 percent higher than the 2019 pre-pandemic baseline. Panel assignments increased by 3 percent during the same time period, offsetting half of that gain.

Introduction

Medical-legal evaluations are used to resolve medical disputes that arise in workers' compensation claims.[1] Physicians who are certified by the DWC as Qualified Medical Evaluators (QMEs) are deemed qualified to provide medical opinions related to claim issues including causation, permanent and stationary (P&S) status,[2] work status, as well as any associated permanent impairment, apportionment, work restrictions, or need for future medical care.[3]

The payment schedule established in the 2006 MLFS remained in effect until the implementation of the new MLFS on April 1, 2021. Two primary factors justified the need to update the fees included in the MLFS regulations:

- The fees had not been updated in more than 15 years, which was associated with the decline in the number of QMEs available for medical-legal evaluations;[4] and
- The disputes that arose over the interpretation of the complexity factors that were used to assign the level of service for comprehensive evaluations in the 2006 fee schedule.[5,6]

The structure and payment methodology introduced in the 2021 MLFS is substantially different from the complexity-based structure and methodology of the prior fee schedule. A full description of the changes in medical-legal report codes and fees is provided in Appendix A.

Objectives

The primary objectives of this study are to:

- Extend prior measurements on the effect of the 2021 fee schedule on reimbursements for medical-legal evaluations and reports by comparing payments made under the new fee schedule to payments made prior to the changes.
- Analyze evaluation and report patterns, especially as they relate to supplemental reports.
- Assess changes in the supply of QMEs and the number of QME panel requests.

[1] The 2012 workers' compensation reform bill (SB 863) removed disputes over medical treatment requests from the medical-legal process, establishing an Independent Medical Review process to handle such disputes.
[2] "Permanent & Stationary" is a California workers' compensation term of art used to describe maximum medical improvement (MMI): the state where an individual's condition is unlikely to improve with further treatment.
[3] Title 8, California Code of Regulations §9793(e).
[4] Auditor of the State of California. *Department of Industrial Relations: Its Failure to Adequately Administer the Qualified Medical Evaluator Process May Delay Injured Workers' Access to Benefits.* November 2019. https://www.bsa.ca.gov/reports/2019-102/index.html
[5] *Dr. Timothy C. Howard, et al. v. California Department of Industrial Relations, et al*
[6] DWC. *Initial Statement of Reasons Subject Matter of Regulations: Workers' Compensation – Medical-Legal Fee Schedule. Title 8, California Code of Regulations Sections 9793, 9794 & 9795*. Oct 2020. https://www.dir.ca.gov/dwc/DWCPropRegs/2020/Medical-Legal-Fee-Schedule/Med-Legal-Fee-Schedule.html

Data and Methods

This study is based on medical-legal payment data from CWCI's Industry Research Information System (IRIS) database for evaluations and reports with dates of service from January 2015 through October 2023, valued as of December 2023.[7] The data on registered QMEs and QME panel assignments by specialty was provided by the DWC for calendar years 2019 to 2023.

Results

Exhibit 1 shows the percentage of claims that had at least one medical-legal service for accident years 2015 through 2022, as well as the average number of days between the injury date and the first date of service for medical-legal services that occurred within a year of the injury. Because the date of injury for cumulative trauma (CT) claims is often contested[8] and may precede the filing of a claim by a significant period of time,[9] the average number of days from the claims administrator notification to the first medical-legal service is also provided.

Exhibit 1: Percent with Medical-Legal Services & Days to Service by Accident Year

Year	Has ML	Average Days DOI to ML	Avg Days from Claims Admin Notice to ML
2015	15.6%	238	209
2016	15.1%	230	202
2017	14.4%	233	206
2018	14.2%	234	206
2019	14.0%	234	206
2020	14.7%	238	205
2021	12.4%	237	206
2022	9.0%	232	200

Comparing the combined average number of days from the injury date to the first medical-legal service to the combined average number of days from the claims administrator notification to the first medical-legal service indicates a difference of about 30 days, a result that was fairly consistent across all accident years.

Supplemental evaluation reports are submitted after a report for a comprehensive or follow-up evaluation has been completed and new information becomes available that must be included in the QME's or AME's[10] analysis.

[7] Evaluators may not submit a bill on the date of service, and claims administrators have 60 days from receipt of the bill to render payment. Additional time is required for claims organizations to submit payment data to CWCI for inclusion in the IRIS database.

[8] Labor Code §5412 defines the date of injury assigned to a CT injury as "…that date upon which the employee first suffered disability therefrom and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by his present or prior employment."

[9] David, R., Bullis, R, and Hayes, S. Cumulative Trauma and litigated claims in the California Workers' Compensation System. *CWCI Research Note*. March 2024.

[10] An Agreed Medical Evaluator (AME) is a physician who the defense and applicant agree may provide the med-legal evaluation. Unlike QMEs, AMEs are not chosen from a randomly selected panel of DWC-certified physicians.

Exhibit 2A shows the percentage of exams that had a supplemental report within 90, 180, 270, and 365 days from the exam date under the old and new fee schedules. At 1-year, 30.2 percent of exams had at least one supplemental report under the old fee schedule compared to 28.6 percent under the new fee schedule. The share was lower under the new fee schedule for all four development periods.

Exhibit 2A. Percentage of Exams with a Supplemental Report by Days from Exam

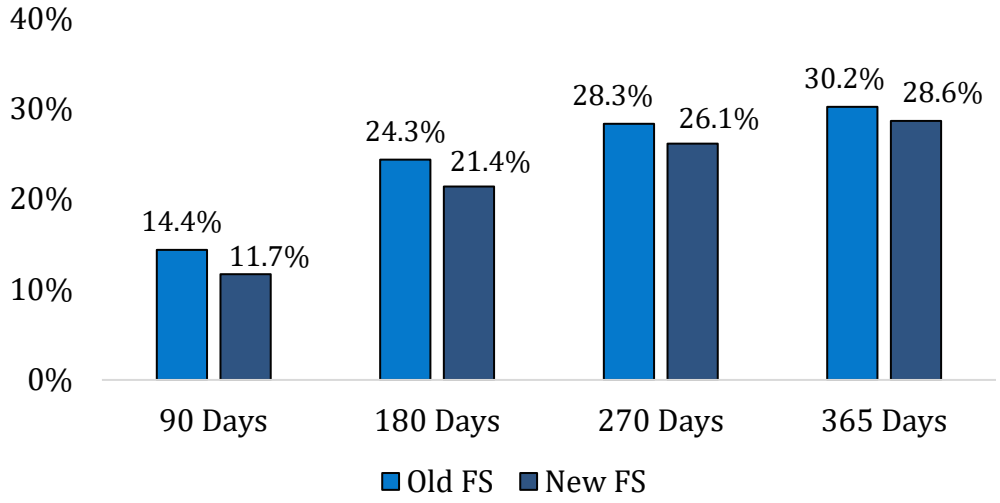


Exhibit 2B shows the percentage of exams with more than 1 supplemental report. The share at 1 year dropped from 7.6 percent to 6.1 percent with the transition to the new fee schedule.

Exhibit 2B. Percentage of Exams with Multiple Supplemental Reports by Days from Exam

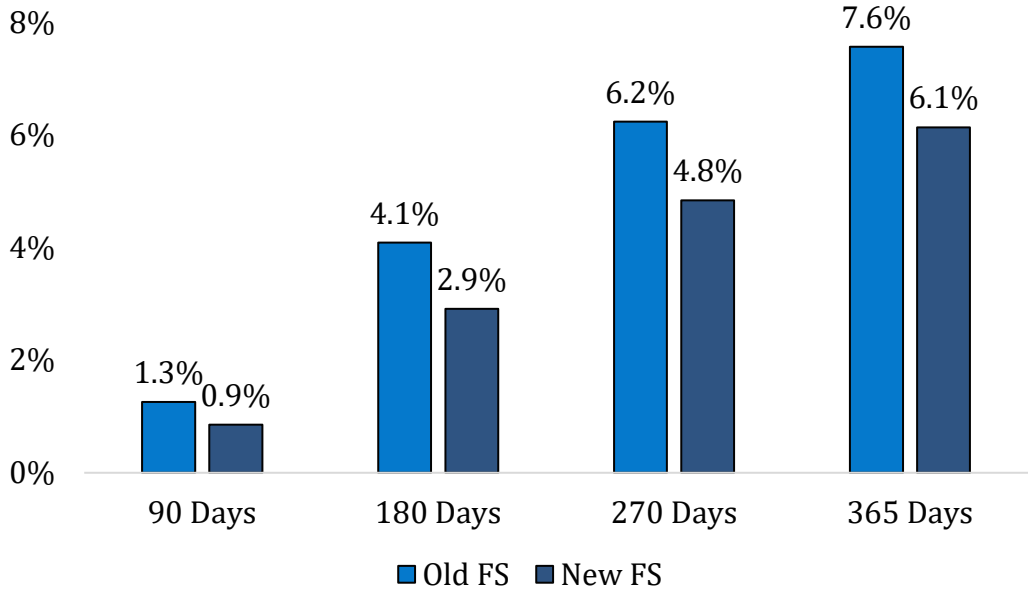


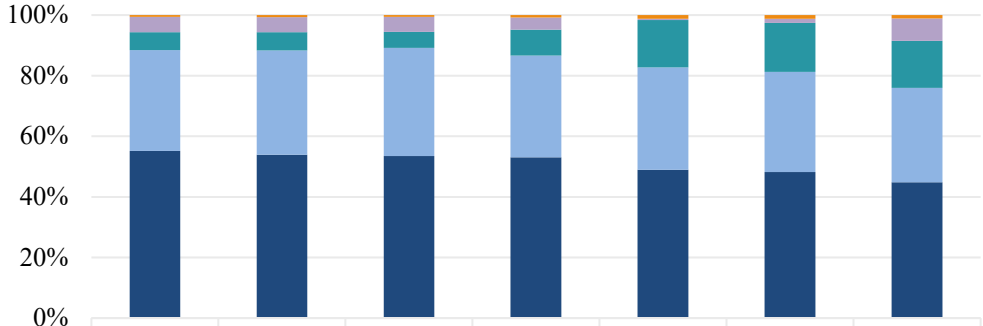
Exhibit 3 shows the average number of days from the preceding exam to the supplemental report by development period. The results are consistent between the old and new fee schedules.

Exhibit 3: Days from Exam to Supplemental Report by Development Period (Days from Exam)

Period	Average Days			Percent with 1st Supp Report within 45 Days of Exam		
	Old Fee Schedule	New Fee Schedule	PPT Diff	Old Fee Schedule	New Fee Schedule	PPT Diff
90 Days	57.4	55.9	-1.5	40.5%	41.0%	0.5%
180 Days	105.4	105.6	0.2	23.9%	22.2%	-1.7%
270 Days	144.3	144.7	0.4	20.6%	18.4%	-2.2%
365 Days	176.3	180.8	4.5	19.3%	16.9%	-2.4%

As in prior CWCI studies examining medical-legal services,[11,12] this study compares the mix of medical-legal services based on the year in which the services occurred. Exhibit 4 shows the distribution of services for each calendar year, combining the 2006 MLFS codes for basic (ML102), complex (ML103) and extraordinary (ML104) into the comprehensive category (ML201) defined under the 2021 MLFS. While the distribution of services was stable between 2018 and 2020, the distribution shifted between 2021 and 2023.[13]

Exhibit 4: Service Volume Distribution by Service Year



	2018	2019	2020	2021Pre	2021Post	2022	2023
Testimony	0.6%	0.6%	0.6%	0.8%	1.3%	1.2%	1.1%
Missed Appointment	5.0%	5.0%	4.9%	4.0%	0.4%	1.3%	7.4%
Follow-up Eval	5.9%	6.0%	5.2%	8.5%	15.6%	16.2%	15.6%
Supplemental	33.2%	34.4%	35.7%	33.6%	33.8%	33.0%	31.1%
Comprehensive	55.2%	53.9%	53.5%	53.1%	49.0%	48.2%	44.9%

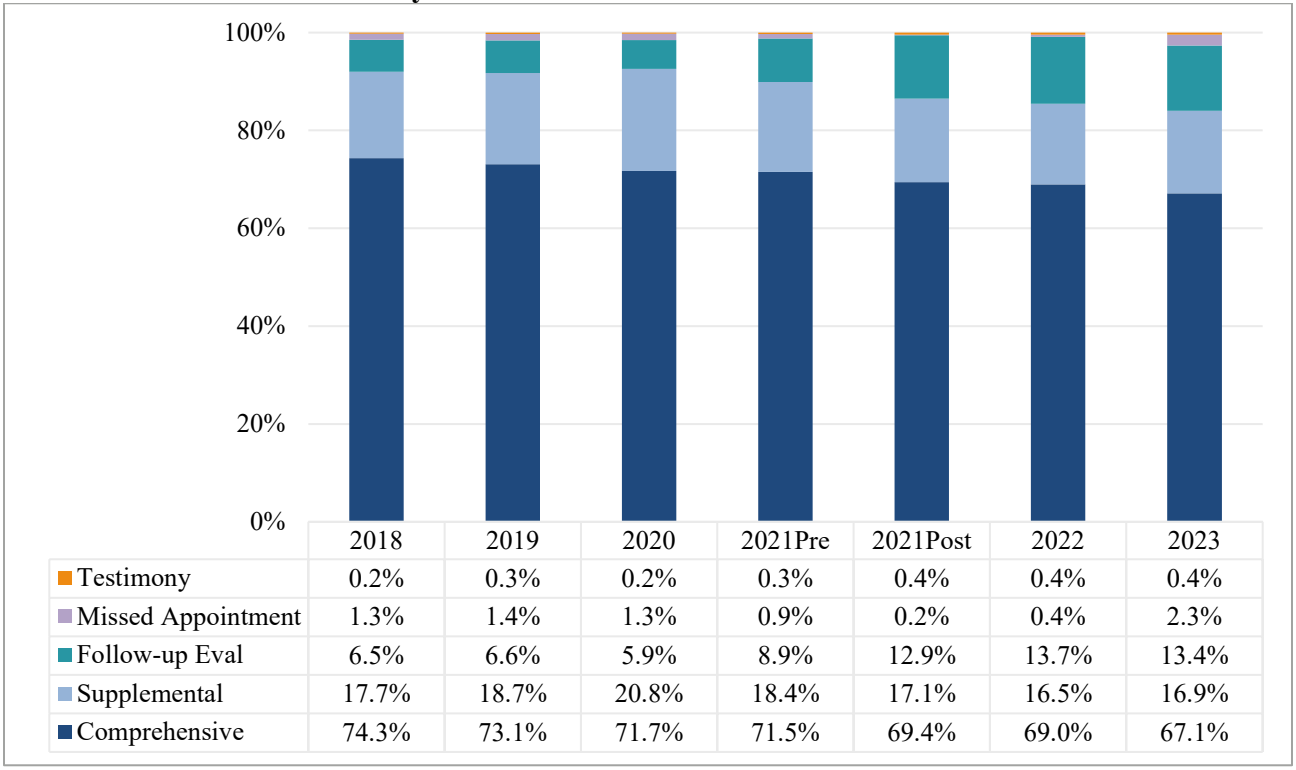
Exhibit 4 shows a significant increase in the share of services for follow-up evaluations following implementation of the new fee schedule. This is not surprising since under the prior

[11] Jones, S.L. The Changing Nature and Cost of the Medical-Legal Process in California Workers' Compensation. *CWCI Research Note.* February 2016.
[12] Jones, S.L. Changes in the QME Population and Medical-Legal Trends in California Workers' Compensation. *CWCI Research Update.* February 2018.
[13] Note that services provided during the first three months of 2021 were billed and paid under the 2006 MLFS.

fee schedule, the follow-up evaluation code was used for 9 months after the corresponding comprehensive exam. Under the new fee schedule, the follow-up evaluation code is used for 18 months after the preceding examination. Missed appointments accounted for 4 to 5 percent of the medical-legal services before the fee schedule change as the prior fee schedule allowed claims administrators to make voluntary payments for missed appointments, although there was no fixed fee. Under the new fee schedule, providers can bill at a rate of $503.75 per missed appointment. During the first 2 years under the new fee schedule, the volume of missed appointment payments fell significantly below prior levels, perhaps due to slow adoption within provider billing practices, but in 2023, missed appointment services rose to 7.4 percent of all medical-legal services.

Exhibit 5 shows the change in the distribution of total payments for each type of medical-legal service and reflects the change in the mix of services both before and after the new MLFS took effect.

Exhibit 5: Paid Distribution by Service Year



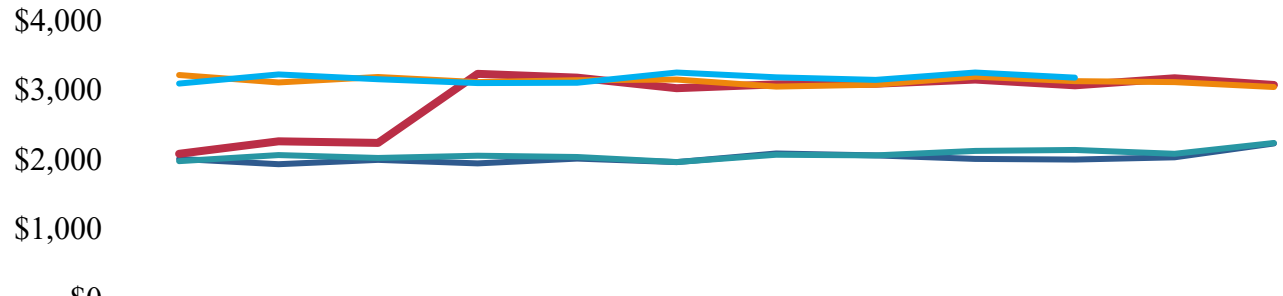
	2018	2019	2020	2021Pre	2021Post	2022	2023
Testimony	0.2%	0.3%	0.2%	0.3%	0.4%	0.4%	0.4%
Missed Appointment	1.3%	1.4%	1.3%	0.9%	0.2%	0.4%	2.3%
Follow-up Eval	6.5%	6.6%	5.9%	8.9%	12.9%	13.7%	13.4%
Supplemental	17.7%	18.7%	20.8%	18.4%	17.1%	16.5%	16.9%
Comprehensive	74.3%	73.1%	71.7%	71.5%	69.4%	69.0%	67.1%

The sharp increase in the utilization of follow-up evaluations that was seen in Exhibit 4 is also reflected in the increased share of payments for these services, as follow-up services grew from 8.9 percent of the medical-legal payments in the first quarter of 2021 (the last three months under the 2006 medical-legal fee schedule) to 12.9 percent in the last nine months of 2021. Payments for follow-up evaluations subsequently increased to 13.7 percent of total medical-legal payments in 2022, then edged down slightly to 13.4 percent in 2023.

Focusing on the payment amounts, the authors also calculated and compared the average payments for comprehensive evaluations on a month-by-month basis (Exhibit 6). The averages for the pre-April 2021 services were weighted to account for variable payments based on complexity (ML102, ML103, ML104). The post-April 2021 comprehensive evaluations were comprised of the total costs associated with the evaluation, including any per-page record review payment (MLPRR). The total costs for all calculated averages included fee multipliers (i.e., interpreter services required, service by an AME, psychiatrist, psychologist, or a toxicology examination).[14]

Exhibit 6 shows the average amounts that were paid each month from January 2019 through March 2021 for comprehensive medical-legal evaluations. The average amount paid during the last 27 months under the 2006 fee schedule (January 2019 through March 2021) was $2,065, while the average amount paid during the first 31 months under the new schedule (April 2021 through October 2023) was $3,139. That translates to a 52.0 percent increase in just over 2-1/2 years under the new MLFS compared to the final 2-1/4 years under the 2006 schedule.

Exhibit 6: Average Paid by Month for Comprehensive Evaluations (ML102, ML103, ML104, ML201)



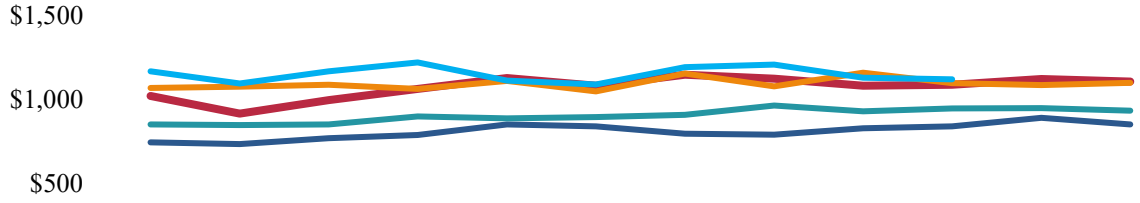
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	$2,015	$1,938	$2,000	$1,948	$2,021	$1,969	$2,092	$2,064	$2,014	$2,006	$2,039	$2,237
2020	$1,983	$2,068	$2,027	$2,060	$2,040	$1,969	$2,072	$2,066	$2,128	$2,144	$2,090	$2,244
2021	$2,088	$2,270	$2,247	$3,240	$3,183	$3,034	$3,089	$3,096	$3,159	$3,076	$3,175	$3,078
2022	$3,223	$3,118	$3,193	$3,121	$3,148	$3,158	$3,058	$3,085	$3,199	$3,135	$3,122	$3,050
2023	$3,100	$3,231	$3,161	$3,107	$3,110	$3,259	$3,191	$3,153	$3,259	$3,187		

Fees for supplemental reports that were previously time-based ($62.50 for each 15-minute increment) are now reimbursed at a flat fee of $650, plus any per-page add-on for record review exceeding 50 pages under the new fee schedule. Whereas the data in Exhibit 6 shows there was an immediate increase in the average payment for comprehensive evaluations in April 2021, the increase in the average payments for supplemental reports was more gradual, which likely resulted from a differing implementation parameter for this service as the new payment structure did not apply to supplemental reports requested prior to April 2021, even if the report was issued on or after April 1, 2021.

[14] The 2021 MLFS retained the 10% multiplier for use of an interpreter during an examination, increased the multiplier for an AME from 25% to 35%, and created new multipliers for psychologists and psychiatrists (100%), and specialists performing toxicology evaluations (50%). These multipliers apply to the flat fee only.

Exhibit 7 shows the gradual increase in the average payment for a supplemental report began as soon as the new MLFS took effect in April 2021. The average payment for a supplemental report in the first 31 months under the new MLFS was $1,116, up 29 percent from the average paid for supplemental reports in the last 27 months under the prior fee schedule.

Exhibit 7: Average Paid Supplemental Reports by Service Month (ML106 and ML203)



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	$746	$736	$771	$790	$853	$842	$797	$792	$830	$841	$892	$853
2020	$852	$849	$853	$901	$888	$896	$910	$965	$931	$948	$949	$935
2021	$1,022	$917	$997	$1,063	$1,129	$1,082	$1,148	$1,124	$1,083	$1,088	$1,122	$1,108
2022	$1,070	$1,077	$1,088	$1,064	$1,112	$1,049	$1,155	$1,079	$1,160	$1,097	$1,086	$1,100
2023	$1,168	$1,096	$1,168	$1,221	$1,114	$1,090	$1,193	$1,208	$1,130	$1,121		

The average payments for the comprehensive evaluations and the supplemental reports under the new schedule are also influenced by the add-on fee for the review of records that were submitted by the parties. Exhibit 8 provides findings on the share of services requiring record review in excess of the number of pages included in the flat fee amounts (200 pages for comprehensive and follow-up exams, 50 pages for supplemental reports). Follow-up evaluations had the lowest percentage of per-page add-on fees (24.9 percent), while 30.8 percent of the supplemental reports had additional per-page review fees, and 43.3 percent of comprehensive evaluation services had record review payments.

Exhibit 8: Percentage of Services with Excess Page Review

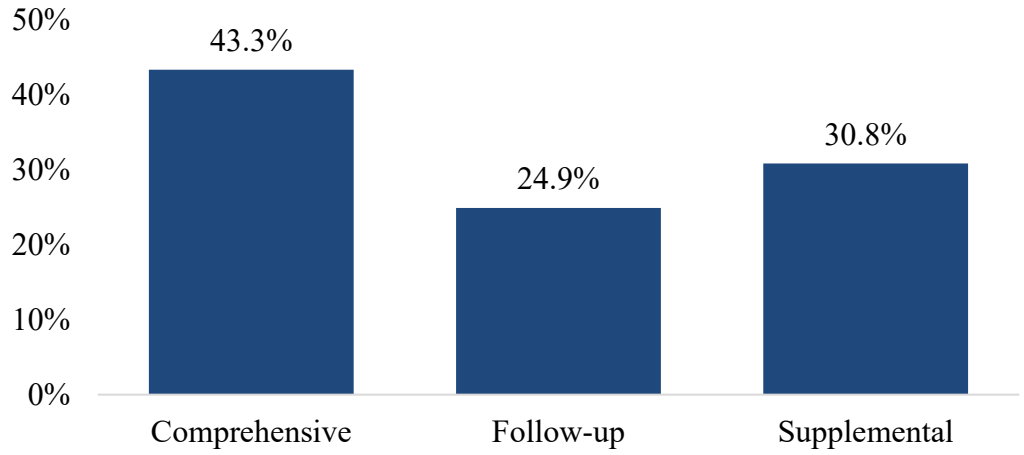


Exhibit 9: Pages and Payments per Service for Exams or Reports with Excess Page Review						
Service Type	Median Pages	Avg Pages	Max Pages	Median Paid	Avg Paid	Max Paid
Comprehensive	259	606	21,600	$777	$1,817	$64,800
Follow-up	201	446	9,019	$603	$1,338	$27,057
Supplemental	154	445	25,067	$462	$1,335	$75,201

In reports with record review payments, the data reveals wide variations in the number of pages reviewed for each service type. The median number of excess pages associated with comprehensive evaluations with per-page charges was 259, with an average page count of 606 pages, ranging from one page to 21,600 pages. The median add-on fee of $777, combined with a flat fee of $2,015, yields a value of $2,792 when more than 200 pages were reviewed. Within the sample, the highest amount paid for per-page record review associated with a comprehensive evaluation was $64,800. Overall, the average excess page charge for comprehensive reports accounts for nearly three quarters of the 52 percent increase from the prior fee schedule.

Per-page review of excess records associated with supplemental reports showed even greater variability with a median of 154 pages, an average of 445 pages, and the highest number of pages of any record review in the study sample (25,067), which resulted in an additional payment of $75,201.

Claim Characteristics for Calendar Year 2023 Medical-Legal Services

To better understand the claims that include medical-legal services, the authors examined a subset of claims that had medical-legal service dates from January through October of 2023. More than 37 percent of the 2023 services were performed for open claims from accident years 2020 and prior.

Exhibit 10: Claims with Medical-Legal Service During 2023 by Accident Year	
AY	Pct Claims
2023[15]	9.2%
2022	28.8%
2021	24.6%
2020	14.2%
2019	8.6%
2018	5.0%
2017	3.1%
2016	1.9%
2000-2015	4.6%

[15] Medical service data for 2023 covers service dates from January through October. The share of full-year 2023 services for the 2023 accident year was estimated by evaluating the number of services performed from November 2022 through October 2023 for dates of injury during the same period.

Provider Characteristics for Calendar Year 2023 Medical Legal Services

The number of evaluating physicians involved in a claim is correlated to the medical condition, as well as the length of time the claim has been open. Exhibit 11 summarizes the average number of medical-legal evaluation providers and the number and cost of medical-legal services for injuries with a medical-legal service in 2023.

As claims age, the number of medical-legal services provided often increases. Among the claims with medical-legal services in 2023, older claims (from AY 2000 through 2014) averaged 8.5 medical-legal service codes over the life of the claim, with as many as 51 medical-legal codes noted on a single claim. With increased services, the total amount paid per claim for medical-legal services also increased. In AY 2023, total medical-legal payments per claim averaged $2,421 compared to an average of $12,395 for AY 2015 claims. Although most of the claims had a single medical-legal provider reporting, there were claims that had multiple providers reporting, with up to four medical-legal providers on AY 2023 claims and 12 medical-legal providers on claims from AY 2014 and prior accident years.

Exhibit 11: Provider Characteristics for Claims with ML Service During 2023

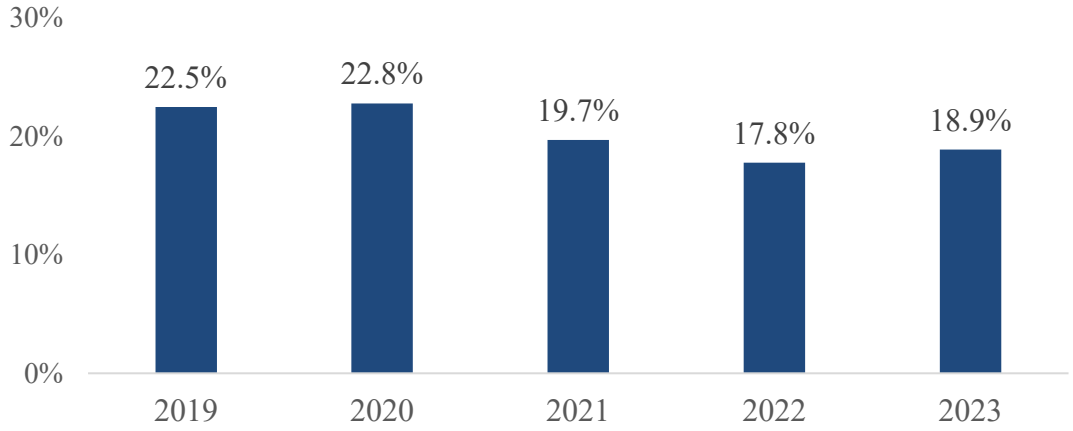
AY	Avg # of Providers	Max # of Providers	Avg ML Code Count	Max ML Code Count	Avg Total ML Paid	Max Total ML Paid
2023[16]	1.1	4	1.2	5	2,421	12,896
2022	1.1	6	1.6	9	2,794	16,859
2021	1.2	9	2.3	16	3,679	29,132
2020	1.5	8	3.2	24	4,960	49,082
2019	1.7	8	4.1	25	6,256	70,437
2018	1.9	10	4.9	30	7,742	81,448
2017	2.0	9	5.8	49	8,829	50,767
2016	2.2	10	6.5	53	10,168	97,275
2015	2.6	9	7.8	24	12,395	54,432
’00 - ‘14	2.9	12	8.5	51	16,144	174,570

[16] Medical service data for 2023 covers service dates from January through October 2023. The values for the 2023 accident year were estimated by evaluating services performed between November 2022 to October 2023 for dates of injury during the same period.

Agreed Medical Evaluators[17]

Although some QMEs are engaged to perform agreed medical evaluations, there are some physicians who are engaged as AMEs who are not certified as QMEs. Labor Code §4062.2(a) allows for the use of an AME in cases where the injured worker is represented by an attorney. Providing evaluations in the role of an AME may also be considered in the QME application process.[18] The use of AMEs varies by claims administrator and provider specialty. However, the use of AMEs for chiropractic medical-legal services is rare. Exhibit 12 shows AMEs accounted for 18.9 percent of comprehensive medical-legal evaluations in 2023; an increase from 2022, but 3.9 percentage points lower than the high point of 22.8 percent in 2020.

Exhibit 12: Percent of AME Medical-Legal Evaluations: 2019 - 2023



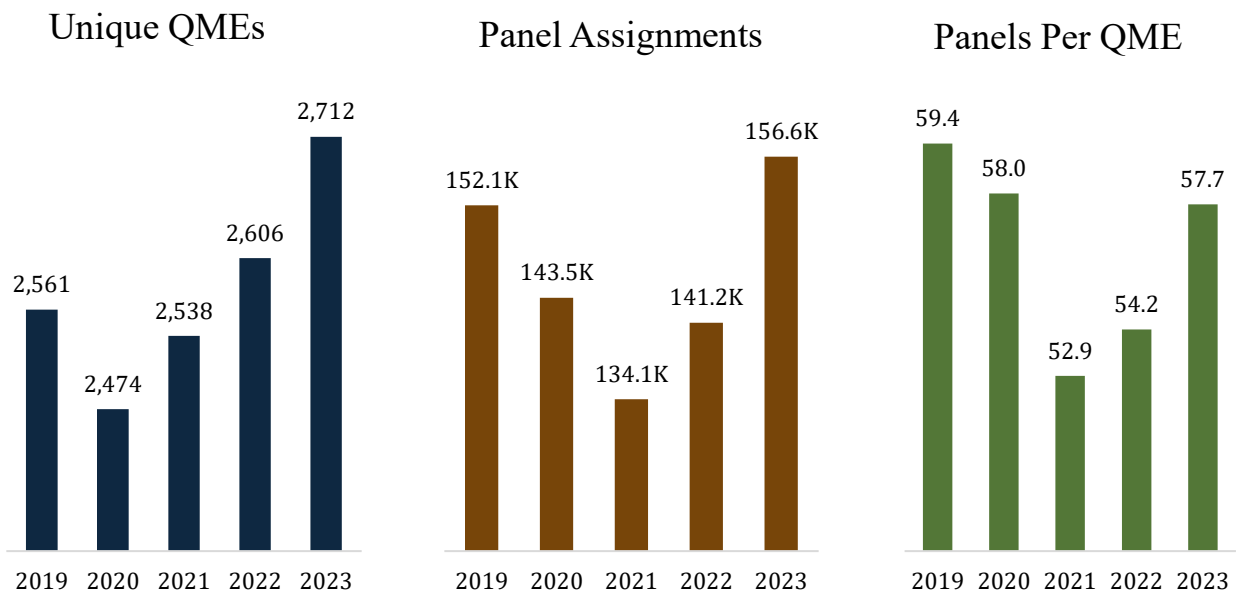
[17] AME data was compiled from CWCI's Industry Research Information System (IRIS), a proprietary transactional database of insured and self-insured policies and their associated claims. Version 2023Q4 contains detailed data on nearly 8.3 million California workers' compensation claims.
[18] Title 8, California Code of Regulations §11(e)(2)

Qualified Medical Evaluators and Panel Assignments

One of the DWC's goals in increasing the MLFS reimbursement levels for QMEs and AMEs was to attract new physicians, thereby increasing the number of evaluators available for QME panel assignments. QME panels are assigned based on the provider's specialty and a provider may qualify for assignments for multiple specialties. The number of active QMEs independent of specialty by calendar year is shown in Exhibit 13 along with the total number of QME provider panel assignments, and the number of panel assignments per QME.

The number of QMEs dropped in the first year of the pandemic as did the number of QME panel assignments. The supply of QMEs in 2021 returned to just under 2019 levels and then increased further in 2022 and 2023 reaching 6 percent more than the pre-pandemic baseline. Panel assignments also dropped in 2020 and remained low through 2022 with an upsurge in 2023 that limited the overall improvement of panels to QMEs to 3 percent. However, the panel to QME ratio for the most requested specialty, Orthopedic Surgery, improved by a full 12 percent in 2023 versus the 2019 baseline (Exhibit 17).

Exhibit 13: Count of Unique QMEs, Panel Assignments and Panels per QME



Panel Assignments and QMEs by Specialty

Exhibit 14 shows the number of panel assignments in 2023 by specialty. Orthopedic Surgery was the most requested specialty by far, followed by Chiropractic, Psychiatry, and Pain Medicine / Anesthesiology. These top 4 specialties made up more than 2/3 of the 2023 panel assignments.

Exhibit 14: Number and Distribution of QME Panel Assignments by Specialty (2023)

Specialty	Assignments	Share
Orthopedic Surgery	68,209	44%
Chiropractic	17,514	11%
Psychiatry	11,398	7%
Pain Medicine/Anesthesiology	9,567	6%
Spine	6,004	4%
Internal Medicine	5,617	4%
Psychology	5,554	4%
Neurology	5,535	4%
Hand	5,313	3%
Physical Medicine & Rehab	5,128	3%
Other	16,713	11%
Total	**156,552**	**100%**

Exhibit 15 shows the number of 2019 through 2023 panel assignments by specialty and notes the change in the number of assignments and the percent change over that five-year span. The specialties in the list were sorted based on the number of QME assignments in 2023. The number of panel assignments for Orthopedic Surgery, which declined during the pandemic, returned to just above 2019 levels in 2023. Chiropractic panel assignments registered the biggest increase, increasing steadily each year and nearly doubling between 2019 and 2023.

Exhibit 15: Number of Panels by Specialty Sorted by 2023 Volume

Specialty	2019	2020	2021	2022	2023	2023 vs 2019	% change 2023 vs 2019
Orthopedic Surgery	67,312	66,422	58,946	60,710	68,209	897	1%
Chiropractic	8,956	10,181	11,629	13,993	17,514	8,558	96%
Psychiatry	6,902	6,474	6,885	9,200	11,398	4,496	65%
Pain Med/Anesthesiology	13,448	10,164	8,111	8,272	9,567	-3,881	-29%
Spine	10,168	8,875	7,085	6,248	6,004	-4,164	-41%
Internal Medicine	5,797	5,436	6,197	6,186	5,617	-180	-3%
Psychology	4,247	4,173	4,077	4,738	5,554	1,307	31%
Neurology	4,783	4,307	4,648	5,239	5,535	752	16%
Hand	7,705	6,627	5,582	5,216	5,313	-2,392	-31%
Physical Medicine & Rehab	8,009	6,406	5,657	5,161	5,128	-2,881	-36%
Other	14,775	14,451	15,324	16,276	16,713	1,938	13%

Exhibit 16 shows the number of active QMEs by specialty for 2019 through 2023 and the change from 2019 to 2023. The specialties in the list were sorted based on the number of QMEs in 2023. The number of QMEs increased by double digits for Orthopedic Surgery, Spine, Internal Medicine, Pain Medicine / Anesthesiology, Physical Medicine & Rehab, and Neurology. Chiropractic and Psychiatry had slight declines, while the number of QMEs specializing in Psychology fell 10 percent.

Exhibit 16: Number of QMEs by Specialty Sorted by 2023 Volume*

Specialty	2019	2020	2021	2022	2023	2023 vs 2019	% change 2023 vs 2019
Orthopedic Surgery	520	506	525	550	596	76	15%
Chiropractic	595	582	578	587	590	-5	-1%
Spine	376	366	372	387	419	43	11%
Psychology	440	429	415	397	395	-45	-10%
Psychiatry	197	183	188	189	191	-6	-3%
Internal Medicine	152	150	155	175	188	36	24%
Pain Medicine/Anesthesiology	107	99	124	138	153	46	43%
Physical Medicine & Rehab	117	108	119	130	143	26	22%
Hand	124	118	122	124	127	3	2%
Neurology	76	78	81	81	86	10	13%
Other	512	496	533	561	569	57	11%

* QMEs registered with multiple specialties are counted more than once

Exhibit 17 shows the QME availability relative to the number of panel requests by specialty. In 2023, Orthopedic Surgery, with 114 panels per QME, had the least availability, but the ratio did improve by 12 percent from 2019 to 2023. Chiropractic had the highest percent increase in the ratio of panels per QME from 2019 through 2023 but remained one of the specialties with the lowest ratio at 30 for 2023.

Exhibit 17: Ratio of Panels Per QME by Speciality Sorted by 2023 Ratio*

Specialty	2019	2020	2021	2022	2023	2023 vs 2019	% change 2023 vs 2019
Orthopedic Surgery	129	131	112	110	114	-15	-12%
Neurology	63	55	57	65	64	1	2%
Pain Med/Anesthesiology	126	103	65	60	63	-63	-50%
Psychiatry	35	35	37	49	60	25	70%
Hand	62	56	46	42	42	-20	-33%
Physical Medicine & Rehab	68	59	48	40	36	-33	-48%
Chiropractic	15	17	20	24	30	15	97%
Internal Medicine	38	36	40	35	30	-8	-22%
Spine	27	24	19	16	14	-13	-47%
Psychology	10	10	10	12	14	4	46%
Other	29	29	29	29	29	1	2%

* QMEs registered with multiple specialties are counted more than once

While the number of specialists within the QME population must be adequate to meet the needs of injured workers seeking medical-legal evaluations, the location of the specialists is also important.

Exhibit 18: Number of Locations per QME

Specialty	Average	Median	Percent w 10 locations
2023	5.7	6	34.4%
2022	5.3	5	29.0%
2021	5.0	4	25.6%
2020	4.8	3	24.4%
2019	4.7	3	23.6%

SB 863 included a provision that limited the number of locations from which a QME may provide evaluations to 10.[19] Exhibit 18 shows the average and median number of locations per QME by year, as well as the percent of QMEs with the maximum number of 10 locations. These results reveal a continued increase in the percentage of QMEs operating out of multiple locations, with a median of 6 locations per QME in 2023. Multiple locations are sometimes recorded if a physician lists more than one suite at a given street address. These values show the number of locations per QME has increased since previous CWCI research found that the average number of locations in 2012 and 2017 were 3.7 and 3.9 respectively, with median values of 1 in 2012 and 2 in 2017.[20]

Summary

The implementation of the new Medical-Legal Fee Schedule resulted in a sustained and significant increase in average reimbursement for medical-legal services, exceeding the DWC's stated goal of a 25 percent increase.

Comparing the average medical-legal payments during the last 27 months under the old medical-legal fee schedule to the average payments during the first 31 months under the new schedule, this study noted a 52 percent increase in the average reimbursement for comprehensive reports and a 29 percent increase for supplemental reports. Among the comprehensive reports, the primary factor driving the increase was the new per-page record review fee, which added an average of $1,817 and a median of $777 to the flat fee payment for the 43.3 percent of comprehensive evaluations that had more than 200 pages reviewed. This study also found that the average excess page charge for comprehensive reports accounts for nearly three quarters of the 52 percent increase from the prior fee schedule.

The DWC database of certified QMEs shows that the pool of physicians increased by 6 percent from the pre-pandemic baseline of 2019 to 2023, although this increase was partially offset by a 3 percent increase in the number of panel assignments. The most requested specialty, Orthopedic Surgery, improved by 12 percent in 2023, but continues to have a high ratio of panels per QME at 114 in 2023.

[19] Labor Code §139.2(h)(3)

[20] Jones, S.L. Changes in the QME Population and Medical-Legal Trends in California Workers' Compensation. *CWCI Research Update*. February 2018.

The consequence of the significant increase in medical-legal payments under the new schedule is now the subject of some public policy debate within the California workers' compensation system. CWCI will continue to monitor the utilization and cost of medical-legal services under the new MLFS in future research as more developed data becomes available.

Appendix A. Comparison of 2006 MLFS and 2021 MLFS Codes and Fees

The 2021 MLFS replaced varying payments based on three levels of complexity (basic - $625, complex - $937.50, and extraordinary - $250/hour), with a flat fee of $2,015 for comprehensive evaluations involving examination of the injured worker. The level of complexity, which must be factored into payment values under Labor Code §5307.6(a), is no longer addressed by differing code descriptions and varying payments. In lieu of complexity factors, a new fee was created to pay for review of medical records or other documents submitted by the injured worker's attorney, the injured worker for non-litigated claims, or the claims administrator or their attorney. The record review fee for new code MLPRR is $3.00 per page for pages exceeding 200 pages (200 pages are included in the $2,015 flat fee). Table 1 provides a side-by-side comparison of codes and assigned fees for medical-legal services under the 2006 MLFS and the 2021 MLFS.

Table 1: Comparison of 2006 MLFS and 2021 MLFS Codes and Fees

2006 MLFS	2021 MLFS
Missed Appointment	
ML100 - "does not imply compensation is necessarily owed"	ML200 - flat fee of $503.75
Comprehensive Medical-Legal Evaluations (involves face-to-face examination)	
ML102 - flat fee of $625	ML201 - flat fee of $2,015 plus $3.00 per page for records exceeding 200 pages
ML103 - flat fee of $937.50	
ML104 - $62.50/15 minutes ($250/hour)	
Follow-up Medical-Legal Evaluations (involves face-to-face examination)	
ML101 - $62.50/15 minutes	ML202 - flat fee of $1,316.25 plus $3.00 per page for records exceeding 200 pages
Supplemental Evaluation Report (no face-to-face examination)	
ML106 - $62.50/15 minutes	ML203 - flat fee of $650 plus $3.00 per page for records exceeding 50 pages
Medical-Legal Testimony	
ML105 - $62.50/15 minutes ($250/hour)	ML204 - $455/hour
Review of Sub Rosa Recordings	
Not separately paid	ML205 - $325/hour
Per Page Record Review	
Not separately paid	MLPRR - $3.00/page

Since medical-legal reports are intended to provide expert opinions on medical issues to resolve disputes, the quality of the reports and their usefulness for this purpose is foundational. In its November 2019 report the state auditor's office indicated that the quality of reports was in question, and the last analysis by the DWC found that approximately 85 percent of the reports reviewed in 2015/2016 were found to be substandard. In an effort to address deficiencies in reports that result in the submission of supplemental reports the revised MLFS regulations redefined the parameters used to bill for supplemental reports.

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California Workers' Compensation Institute

The California Workers' Compensation Institute, incorporated in 1964, is a private, nonprofit organization of insurers and self-insured employers conducting and communicating research and analyses to improve the California workers' compensation system. Institute members include insurers that collectively write 76 percent of California workers' compensation direct written premium, as well as many of the largest public and private self-insured employers in the state. Additional information about CWCI research and activities is available on the Institute's website (www.cwci.org).

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