

# BULLETIN

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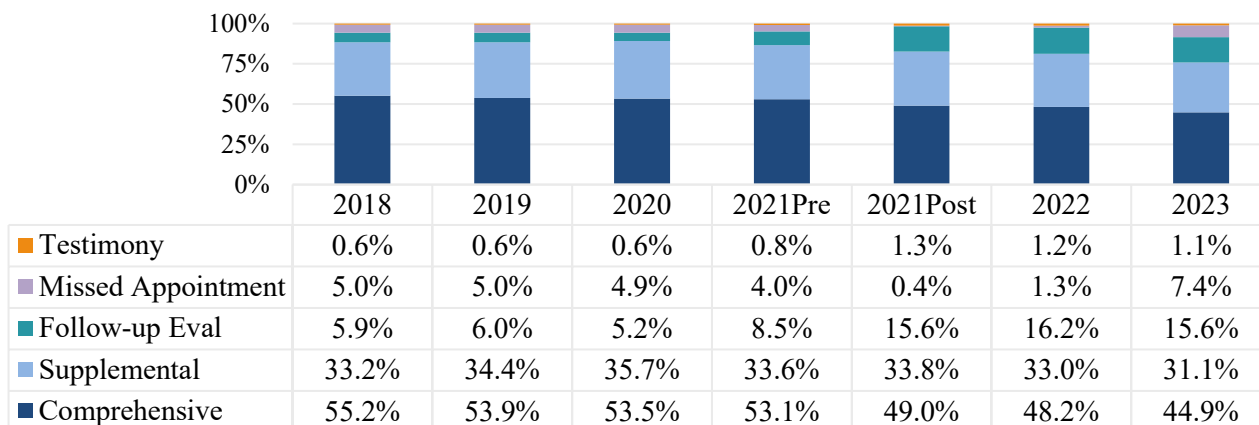
Payments for medical-legal services under the new Med-Legal Fee Schedule (MLFS) that took effect in April 2021 exceed the 25 percent increase anticipated by the Division of Workers' Compensation (DWC) when it adopted the schedule, as the average payment for a comprehensive exam has risen 52 percent, primarily due to the per-page fees for record review that are paid on top of flat fees for med-legal services, according to a new CWCI analysis. In addition, 2023 saw a 6 percent increase in the number of Qualified Medical Evaluators (QMEs) compared with pre-pandemic levels.

The updated MLFS made fundamental changes to the payment formulas for med-legal services used to resolve medical disputes in California work injury claims. The old 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 physicians are paid a single flat fee, with additional payments of \$3 per page for record review exceeding 200 pages (MLPRR). Additional fees are also provided for evaluations involving an Agreed Medical Evaluator (AME), certain medical specialists, or an interpreter. One of the DWC's goals in revising the schedule was to adequately compensate med-legal evaluators and to attract and retain enough Qualified Medical Evaluators (QMEs) to meet the needs of injured workers seeking medical-legal evaluations.

CWCI's study updates a preliminary analysis from 2021 by using payment data for med-legal evaluations and reports with dates of service from January 2015 through October 2023, valued as of December 2023, to compare the utilization and reimbursement of med-legal services rendered before and after the new schedule's April 2021 effective date. The study notes changes in evaluation and report patterns and payments, especially in regard to supplemental reports. In addition, the study uses DWC data from 2019 to 2023 to track the number of registered QMEs and the number of QME panel assignments by specialty.

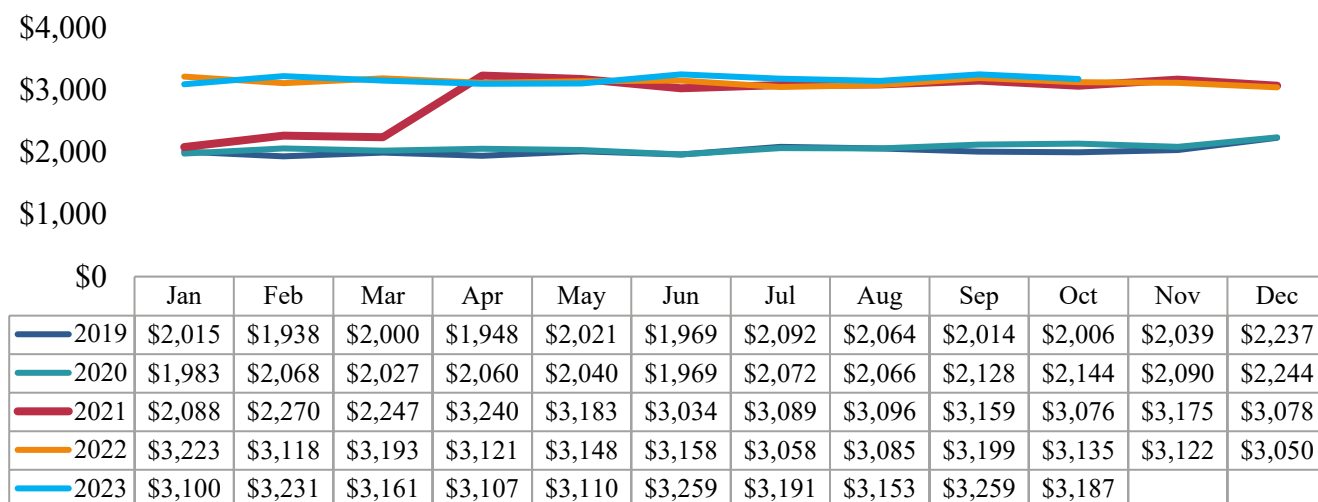
Reviewing the mix of med-legal services based on the year in which the service occurred, the study found little change prior to the adoption of the new schedule, but between April 2021 and 2023 the data showed a big shift in the use of follow-up exams, which makes sense as the new MLFS calls for the follow-up evaluation code to be used for 18 months after the preceding comprehensive exam, vs. 9 months under the old schedule. Meanwhile, comprehensive evaluations, which ranged between 53.1 percent and 55.2 percent of the med-legal services under the old schedule, ranged between 44.9 percent and 49.0 percent of med-legal services after the new schedule took effect, and supplemental reports went from 33.2 percent to 35.7 percent of the med-legal services to 31.1 percent to 33.8 percent under the new schedule.

**Distribution of Med-Legal Services by Service Year Before and After the 2021 MLFS Implementation**



The authors calculated and compared the average payments for comprehensive evaluations on a month-by-month basis. The averages for pre-April 2021 evaluations were weighted to account for variable payments based on complexity (ML102, ML103, ML104). To calculate the average amount paid for the post-April 2021 comprehensive evaluations, the authors included the total costs associated with the evaluation, including any per-page record review add-on (MLPRR). The total payments for all calculated averages included fee multipliers (i.e., interpreter services required, service by an AME, psychiatrist, psychologist, or a toxicology examination). The results showed that the average amount paid prior to the implementation of the new MLFS (January 2019 through March 2021) was \$2,065, while the average amount paid after the new schedule took effect (April 2021 through October 2023) was \$3,139 – a 52.0 percent increase between the pre- and post- fee schedule adoption periods.

### Average Paid by Month for Comprehensive Evaluations (ML102, ML103, ML104, ML201)



Among comprehensive evaluations, the new per-page record review fee added an average of \$1,817 and a median of \$777 to the flat fee payment for the 43.3 percent of the evaluations that had more than 200 pages reviewed. The average excess page charge accounted for nearly three quarters of the increase in comprehensive evaluation payments under the new schedule. Beyond the 52.0 percent increase in the average reimbursement for comprehensive evaluations, the comparison of payments before and after the new schedule took effect also noted a 29 percent increase in the average payment for supplemental reports. Other findings from the study:

- Additional charges for excess record page review were found on 24.9 percent of the follow-up evaluations and 30.8 percent of the supplemental reports. Excess page review added an average of \$1,338 to the flat fee for follow-up evaluations and \$1,335 to the flat fee for supplemental reports.
- The number of certified QMEs has grown by 5.9 percent from 2,561 in 2019 to 2,712 in 2023. That improvement, however, has been offset somewhat by a 2.9 percent increase in the number of panel assignments over the same period, so the net gain has been about 3 percent.
- Physicians specializing in orthopedic surgery provided 44 percent of the med-legal services in 2023, followed by chiropractors who provided 11 percent of the services.

CWCI has published its study in a Research Update Report, “Increased Medical-Legal Costs and Current QME Supply – Impact of the 2021 Medical-Legal Fee Schedule.” The report is available to CWCI members and subscribers who log on to the Research section at [www.cwci.org](http://www.cwci.org). Others may purchase the report from CWCI’s online store, [here](#).

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