

Chester J. Culver, Governor
Patty Judge, Lt. Governor
Elisabeth Buck, Director

Division of Workers' Compensation
Christopher J. Godfrey,
Workers' Compensation Commissioner



May 8, 2008

Dear .

As I am certain that you are aware, the Iowa Division of Workers' Compensation has amended our agency's Rule 2.4 in response to the publication of the most recent AMA Guides. Notice of the amendment provides that a Task Force shall be set up to study the new edition of the guides and make a series of recommendations for its use. I am writing to ask you to serve on The Iowa Workers' Compensation Commissioner Task Force regarding the AMA Guides to the Evaluation of Permanent Impairment, Sixth Edition. You have been invited to assist in this Task Force due to your knowledge of the Iowa Workers' Compensation system and the medical issues relative to the charges of the Task Force. This Task Force will meet for an initial period of 2 days at 1000 E. Grand Avenue, Des Moines, Iowa to study the scope of the Task Force and to address the matters set forth below. Additional meetings, research, and other tasks may require additional time requirements. Your service will be on a voluntary basis. If you are unable to serve, I would ask that you contact me at your earliest convenience so that I can secure an alternate participant. Deputy Workers' Compensation Commissioner Helenjean Walleser will moderate the Task Force and work with all participants to issue a final report. I propose the Task Force commence its first meeting on May 29-30, 2008. If you would like to participate, but due to scheduling difficulties cannot meet on those dates, please contact my office for re-scheduling. The Task Force will need to be quite flexible due to the schedules of all other participants. Below you will find an explanation of the objectives, structure, and timeline for this important work.

The Objectives of the Task Force:

Rule 2.4 of the Iowa Division of Workers Compensation makes the AMA Guides to the Evaluation of Permanent Impairment a guide for determining permanent partial impairment. Rule 2.4 does not mandate the use of any particular edition of the AMA guide. The fifth edition of the AMA guides were published in 2002. The fifth edition of the guides have been used since that time as the most common basis by which medical experts rate the extent of permanent functional impairment, following that time when an injured worker reaches maximum medical improvement.

Recently the AMA Guides, sixth edition were published. The guides themselves acknowledge a paradigm shift in rating permanent impairment. The sixth edition does not provide support for either the necessity of a new paradigm, nor do the authors explain a rationale for why the new paradigm is better.



The sixth edition authors have acknowledged several errors in their text since publication. There has been a threat of legal action by chiropractors which has necessitated an amended version of the sixth edition to correct their professions' exclusion. There has been legislative and administrative action in several states to specifically preclude the use of the sixth edition. Other states were locked into previous editions of the guides and have never accepted the fifth edition, let alone the sixth edition. Most troubling, there is both a void of any peer review of the new paradigm and its use of questionnaires or an explanation of the "consensus" used in placing numbers on impairment.

Iowa has a self-effectuating system for payment of workers' compensation benefits. The vast majority of injuries are compensated by employers and insurance carriers who pay benefits based upon a rating of impairment by a treating or evaluating physician. Those employers and insurance carriers must know which means of calculating impairment ratings are legitimate means. This particular reason has led the state of Vermont to specifically – by rule – preclude the use of the sixth edition of the guides for compensating injured workers until a study determines that "the sixth edition will not have a significantly detrimental impact on injured workers entitled to permanent disability benefits." See, Order of J. Stephen Monahan, Director of Vermont Division of Labor (March 14, 2008). Iowans are equally deserving of a study of the sixth edition of the guides prior to their adoption or use in our workers' compensation system. For that reason an emergency rule has been submitted to amend our agency rule 2.4 to make voluntary disability payments utilizing the fifth edition of the guides prima facie evidence of compliance with the Iowa Workers' Compensation Act. The amended rule 2.4 will not specifically preclude the use of other guides as evidence of proper payment of benefits.

It is the objective of this task force to provide an overview and review of the sixth edition of the guides. The overview should comment on the new paradigm utilized in the sixth edition so a determination can be made as to whether there is a defined change in the extent of impairment when comparing the sixth edition to prior editions of the guide as well as compared to other impairment rating resources.

The following shall be addressed in the review by the task force:

- 1 - Provide an analysis of the new paradigm for rating impairment contained in the sixth edition as compared to the prior editions of the guides as well as other rating guides. Identify advantages and disadvantages of the new paradigm.
- 2- Document errors or areas of concern contained in the sixth edition of the AMA Guides.
- 3- Outline an analysis that can be used to determine whether there is a significant impact on impairment ratings when using the sixth edition of the Guides as compared to prior editions of the Guides – most specifically the fifth edition. If possible, provide an analysis of the impact on ratings and corresponding benefit payments.
- 4- Provide a recommendation on whether the sixth edition of the Guides should be used, whether parts of the sixth editions should be used, or what other impairment guides

May 8, 2008

Page 3

should be used in evaluating permanent impairment. Provide a further recommendation as to whether Iowa should create its own "Iowa Guide" for assigning impairment in Workers' Compensation claims – and if so recommended, outline what process and timeline would be necessary to create the new "Iowa Guide."

5- Report back on other considerations that the task force finds compelling.

The Structure:

The task force will be comprised of two medical professionals who frequently practice in the Iowa Workers' Compensation system, two "claimant" and two "defendant" attorneys who frequently practice before the Division of Workers' Compensation, two past Deputy Workers' Compensation Commissioners, and one moderator who shall be a member of the Commissioner's current staff. The members of the task force will be invited at the discretion of the Commissioner. Notification of the meetings will be made public and the meetings will be open to the public. However, public comment will be limited to the discretion of the moderator.

The Timeline:

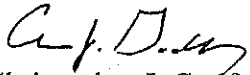
A report from the task force shall be submitted to the Iowa Workers' Compensation Commissioner on or before August 1, 2008. Additional work by the task force will be allowed after August 1, 2008, at the discretion of the Commissioner.

Conclusion:

At your earliest convenience, please contact Sharon Ortega at 515/281-8335 to confirm your participation in the Task Force. If you are willing to participate, but unable to meet on the proposed dates this month, please notify Sharon of your availability and she will coordinate alternate dates for all participants. If you are unwilling or unable to participate, please recommend to Sharon an alternate participant.

Thank you for your attention to this request and I look forward to starting this exciting project within our agency.

Sincerely,



Christopher J. Godfrey

Iowa Workers' Compensation Commissioner

CJG/so