

Designated Doctor Case-Based Webinar Module 1

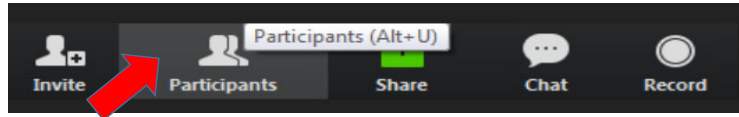
Maximum Medical Improvement (MMI)

Disclaimer

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Housekeeping

At the bottom of your screen, click to turn on the participant list:



Ensure your name (not phone # or initials) is shown on the Participant List for CME and attendance purposes. If not, do the following to rename:

Hover over your current sign in and two boxes appear

Click on the Rename box

Type in your first and last name

Make sure your name shows correctly in the Participant list.

Asking questions

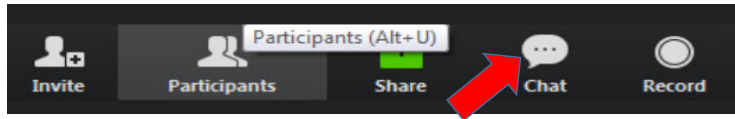
Please mute your phone/VOIP audio connection

All attendees will be muted during the presentation and submit questions via Chat

Attendees may be unmuted at the request of the monitor or instructor for clarification or further discussion

Asking questions

You will find the Chat feature to the right of the participants list.



As the instructor goes through the course they will ask for questions via chat at the end of a case, or after a concept has been explained.

You may type your questions into Chat. The Chat monitor may answer your question in Chat, or have the instructor answer the question verbally.

Learning Objectives

Review some basic MMI concepts

Apply cases to determine when an IE:

**Has not reached MMI and why
(including consideration of Appendix D
from ODG)**

Reached MMI prior to DD exam and why

**Reached MMI on the date of Statutory
MMI and why**

**Reached MMI on the date of the DD
exam and why**

Maximum Medical Improvement seems to be the concept that DD's have the most difficulty with, on the test and in DD reports.

It is important to remember the definition of MMI, do a thorough assessment of the records, and apply the ODG; including Appendix D.

Maximum Medical Improvement (MMI) Concepts

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These initial comments are covered under SLIDES 1 – 10 of the Certifying Course pre-recorded presentation (MMI and ODG).

Please refer to the cases in the Certifying course and REVIEW the GRAPHIC slides – 19, 34, 43, 52 to conceptualize the potential scenarios you will encounter as a DD.

Maximum Medical Improvement

Earlier of:

Clinical MMI - The *earliest* date after which, based on reasonable medical probability, further material recovery from or lasting improvement to an injury can no longer reasonably be anticipated; or

Statutory MMI (*listed on DWC Form-032*) - 104 weeks from date on which income benefits begin to accrue. May be extended by DWC due to spinal surgery (28 TAC §126.11 and Texas Labor Code §408.104).

Maximum Medical Improvement

- Use DWC definition of MMI, **not** definition from *AMA Guides*
- Change of impairment of more than 3% in the next year
- Texas Labor Code and DWC Rules prevail over *AMA Guides*
- Be aware of Appeals Panel Decisions (APD) that temper the Guides

Practical Considerations

- MMI determined by thorough review of **medical records** and DD exam
- Case specific details are applied to the ODG.
- **IR for compensable injury must be based on injured employee's condition on MMI date considering medical record and certifying exam. (Rule 130.1)**

Appendix D outlines that there may be EXCEPTIONS to the ODG recommendations. [SEE SLIDES 81 and 82 in Cert Course presentation]

Consider on a case-by-case basis with the evidence in the records (co-morbidities, complications, unforeseen sequelae etc.) or

OTHER EBM that is available outside the ODG that would support your opinion.

At times, you will point to the fact that although the IE had all ODG recommended treatment, they were documented as OBJECTIVELY improving (not just VAS), and there was anticipation of further material recovery, then MMI could be delayed.

Also: 1. Performing HEP and advancing ADLs, 2. nerve healing.

Practical Considerations

- If a treating doctor makes a diagnosis or recommends a specific treatment, you as the DD must apply a forensic analysis to determine if that is reasonable and would meet the definition of MMI.
- Consider whether additional treatment (per ODG, including Appendix D) may reasonably be anticipated to result in further material recovery or lasting improvement

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Appendix D outlines that there may be EXCEPTIONS to the ODG recommendations. [SEE SLIDES 81 and 82 in Cert Course presentation]

Consider on a case-by-case basis with the evidence in the records (comorbidities, complications, unforeseen sequelae etc.) or

OTHER EBM that is available outside the ODG that would support your opinion.

At times, you will point to the fact that although the IE had all ODG recommended treatment, they were documented as OBJECTIVELY improving (not just VAS), and there was anticipation of further material recovery, then MMI could be delayed.

Also: 1. Performing HEP and advancing ADLs, 2. nerve healing.

The Five Factors of Appendix D -

Documenting / Considering ODG Exceptions

1. Extenuating circumstances
2. Patient co-morbidities
3. Objective signs of functional improvement for treatment conducted
 - ***Work and/or Activities of Daily Living Functions***
 - ***Physical Impairments***, i.e. ROM, muscle flexibility, strength, or endurance deficits, exercise capacity
 - ***Approach to Self-Care and Education***

The Five Factors of Appendix D - *Documenting / Considering ODG Exceptions*

4. Measurable goals and progress points expected from additional treatment
5. Any additional evidence to support medical necessity of medical care at issue, including available evidence from literature that is relevant to medical service at issue

Disability Duration Does Not Equate to MMI

Do not use *Medical Disability Guidelines* for MMI



There is evidence-based medicine that is in the MDG that you may use to support opinions, but DO NOT use the TABLES.

Also, return to work can be a measure of FUNCTION and may factor into MMI, but it cannot be used as a stand-alone reason for MMI.

Statutory MMI

- Statutory MMI date provided on DWC Form-032, if applicable
 - Not applicable for claims with no disability or Temporary Income Benefits (TIBs)
- MMI **cannot** be later than the statutory MMI date
 - However an IE may reach clinical MMI prior to statutory MMI

2nd bullet point is a COMMON error in DD reports and test questions. EVEN IF The claimant is not at CLINICAL MMI, the date cannot exceed the STAT date (with some rare exceptions for spinal surgeries)

Statutory MMI

- For conditions reaching statutory MMI
 - Remember to rate medical condition at statutory MMI date
 - Even if a change in medical condition after statutory MMI date
 - i.e., If there was surgery after statutory MMI, do **not** rate effects of surgery

If your exam is AFTER a procedure, done AFTER STAT MMI, you WOULD NOT use the results of your exam. Your exam would primarily be to obtain other FORENSIC information.

ODG and MMI

- Consider *The Official Disability Guidelines* (ODG) procedure summary and Appendix D to see whether additional treatment will in all reasonable medical probability result in further material recovery or lasting improvement
- Current subscription to ODG required of all designated doctors

Once you have the MMI date determined, the IR must be based on the IE's **CONDITION AT MMI**.

You may use the results of your exam **IF** the condition is **THE SAME** as is it was on the MMI date, per the evidence in the records.

BUT YOU MUST EXPLAIN THIS, IF it is the case. Failure to do so may get your report overturned.

Questions About MMI Concepts?



MMI Case 1

- 40-year-old EMT sustained fracture of right distal tibia and fibula 10/11/2023 (statutory MMI 10/19/2025)
- Treated with ORIF
- 21 PT post-op sessions through 2/15/2024
 - Improvement on ankle ROM, strength and ADLs during PT
 - Walking/standing limited
 - 1.5 cm right calf atrophy
 - Strength 4-/5 in ankle DF and PF muscles
 - Dorsiflexion 0° and Plantarflexion 20°

MMI Case 1

- 2/18/2024 Ortho Follow-up Visit (4 months after DOI)
 - IE had difficulty walking due to ankle pain and limited ROM
 - fracture healed
- 3/1/2024 Request Additional 6 PT Visits
 - utilization review
 - “completed ODG recommended PT”
 - request denied by insurance carrier

Is fracture healing the point of MMI? Not if there are residual sequelae of MMI that are anticipated to improve.

MMI Case 1

- Continued home and gym exercise program
- 3/18/2024 Functional Capacity Evaluation (FCE)
 - Deficits in ability to lift from floor level, ascend and descend stairs and climb ladders
 - Unable to complete a treadmill test of cardiovascular fitness due to ankle pain and weakness
 - Multiple parameters for validity showed maximal and consistent effort
 - Medium physical demand category (lifting, push/pull)

The PDL for an EMT is Heavy. There are deficits in the essential job demands. He is also reasonably young at age 40.

So, IS THERE an anticipation of further improvement?

ALSO, Tib-Fib may be intra-articular and associated with ligament injuries, so be aware of complications that may require more time after fracture healing.

MMI Case 1

- 4/15/2024 DD Exam
 - Right ankle ROM
 - Plantar flexion 20° Dorsiflexion 0°
 - Right hindfoot ROM
 - Inversion 8° Eversion 5°
 - Antalgic gait with shortened stance and push-off, but reports improvement in ability
 - 1.25 cm right calf atrophy
 - 4/5 strength of ankle plantar flexion and eversion
 - Can demonstrate HEP

MMI Case 1

- Is injured employee at MMI?
- If no, why not?
- If yes, when?

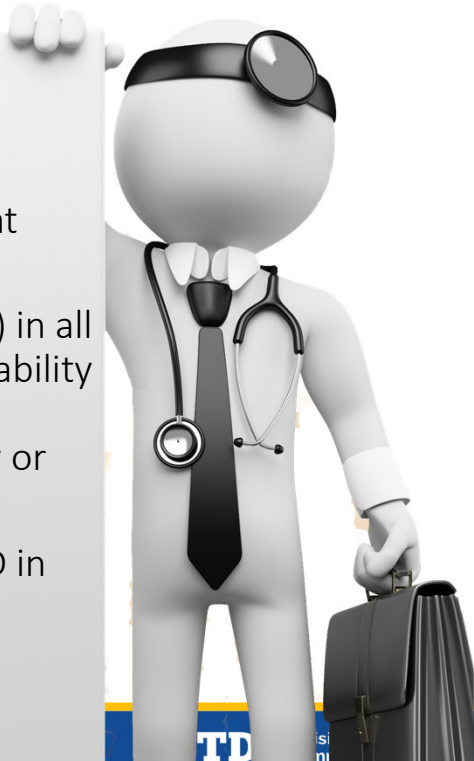


Has MMI been reached; if so, on what date?

- A. Not at MMI
- B. MMI 2/15/2024 - completion of post-operative PT
- C. MMI 3/18/2024 - FCE date
- D. MMI 4/15/2024 - day of DD examination



Correct answer is A: Not at MMI



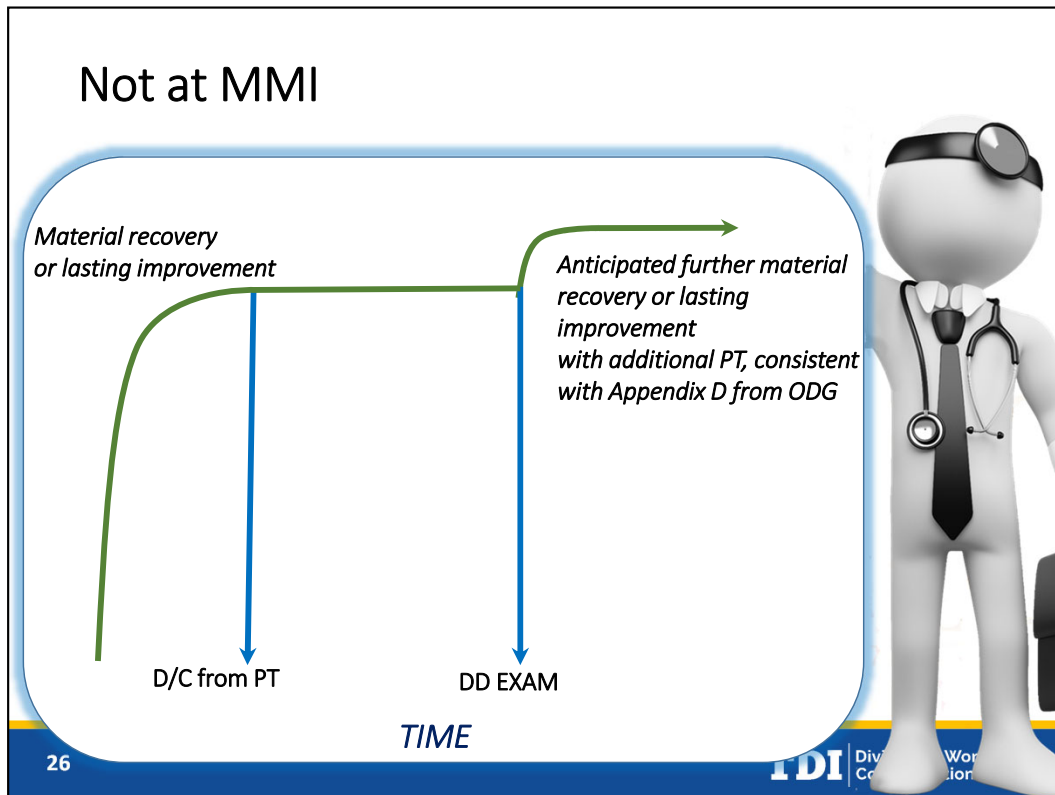
MMI Case 1

- Injured employee is not at MMI
- Additional treatment (PT) in all reasonable medical probability is anticipated to result in further material recovery or lasting improvement
- Supported by Appendix D in ODG

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Any thoughts that this IE should be at MMI? WHY? Let's talk it out.



Let's change the facts of the case. If there were increased areas with pain not in a temporal relationship to DOI.

If there were an increase in pain behaviors remote from the DOI.

If there were Non-compliance with treatment (or refused treatment) was there any anticipation of further material recovery?

Would you have a different opinion?

Questions About MMI Case 1?



MMI Case 2

- 38 year old male carpenter with acute low back and left posterior thigh pain after lifting and carrying box of screws at work on 6/15/2023
- PCP treatment
 - 2 different NSAIDs
 - 6 visits of PT
 - No improvement in symptoms or activity tolerance
 - Released to return to work with restrictions; however, employer unable to accommodate restricted duty work

MMI Case 2

- 7/15/2023 Plain Film X-ray (1 month after DOI)
 - moderate spondylosis at L4/L5
- 8/1/2023 Lumbar MRI (6 weeks after DOI)
 - 7 mm posterolateral left L5/S1 herniated nucleus pulposus (HNP) displacing the left S1 nerve root
- 10/15/2023 (4 months after the DOI)
Translaminar lumbar epidural steroid injection (ESI) at L5/S1 without significant improvement

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What does ODG say about translaminar vs., Transforaminal. Not as effective! Especially at L5S1.

The steroid MAY NOT reach the affected nerve root and therefore NOT be effective in reducing radicular pain.

What does ODG say about ESIs in general?

Must have consistent / objective evidence of RADICULOPATHY clinically.

Must correlate with the imaging (side and level) – so KNOW your anatomy!

You would want to see deflection / compression / displacement of the nerve root. Contact with the thecal sac is not enough in lumbar area.

MMI Case 2

- 12/15/2023 Left L5/S1 hemilaminotomy with discectomy
 - partial relief of lower extremity symptoms
- 1/15/2024 Restarted PT After surgery
- 2/28/2024 Completed 18 PT Visits
 - PT discharge summary illegible

WHAT DOES ODG say about lam / disc for CLINICAL RADICULAOPHTHY?
How do you define traumatic CLINICAL RADICULOPATHY?

MMI Case 2

- 3/1/2024 Surgeon Follow-up Exam
 - Intermittent back pain
 - SLR produced LBP without neural tension signs
 - Lumbar flexion fingertips to mid shin and slightly decreased lumbar extension. BOTH result in increased LBP

SLR is considered “positive” IF there are actual dural tension signs. Low back pain with SLR is NOT a dural tension sign.

Know how to tease this out with physical exam tests. Crossed SLR (low sensitivity but high specificity).

Does supine match seated? Consistent with gait?

MMI Case 2

- 3/1/2024 Surgeon Follow-up Exam (continued)
 - Left medial hamstring DTR decreased (did not comment on the right)
 - Decreased sensation left lateral foot
 - Decreased left Achilles DTR
 - No calf or thigh measurements

WHAT is this neurologic exam consistent with? Is it consistent with the imaging?

MMI Case 2

- 3/5/2024 surgeon orders repeat Lumbar MRI Scan With Contrast
 - Post-operative changes without any evidence of recurrent or residual disk herniation
- 3/12/2024 Surgeon Follow-up
 - IE does not want to pursue additional interventional pain management procedures

Was this repeat scan necessary? Would it have changed any anticipation of further recovery?

Not uncommon to have some evidence of scar tissue on post-op scans.

Not unusual to have mild distal sensory and motor changes with operated and non-operated radiculopathy.

IF claimant defers treatment, Is there any anticipation of further material recovery?

MMI Case 2

- 4/15/2024 Designated Doctor Exam
- Chief complaint low back pain and left leg pain/weakness
- Normal gait
- Lumbar range of motion
 - flexion to 50° (sacral value of 40°)
 - lumbar extension at 20°
 - both with increased left lower back pain

MMI Case 2

- 4/15/2024 Designated Doctor Exam
 - Left straight leg raise (SLR) 44 degrees limited by left low back pain
 - pain further increased with ankle plantar flexion, without dorsiflexion aggravation
 - Right SLR 65 degrees limited by hamstring tightness
 - Left Achilles DTR decreased
 - Numbness to pinprick over left lateral foot
 - Left ankle plantar flexion 4+/5

Is this a true SLR or dural tension sign? RESIDUAL SIGNS of CLINICAL RADICULOPATHY?

Is there any anticipation of further material recovery? Condition is the same as 03/01/23.

MMI Case 2

- Is injured employee at MMI?
- If no, why not?
- If yes, when?



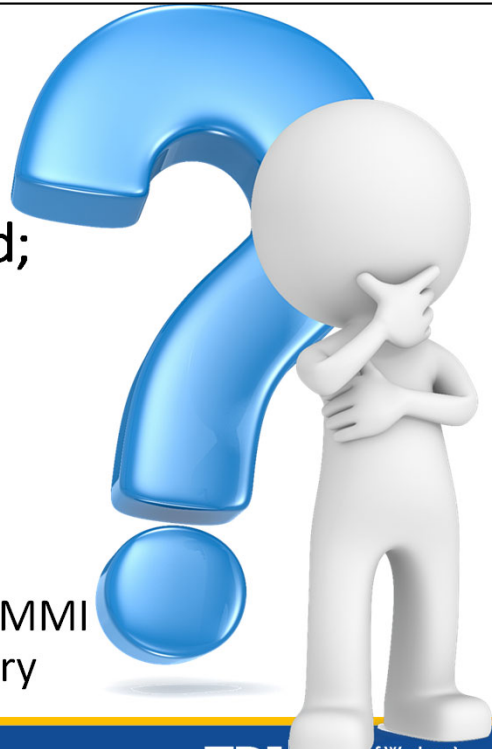
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PRESENTER: Ask attendees to enter their answers in chat - Yes or No, and why (while on this slide)

Has MMI been reached;
if so, on what date?

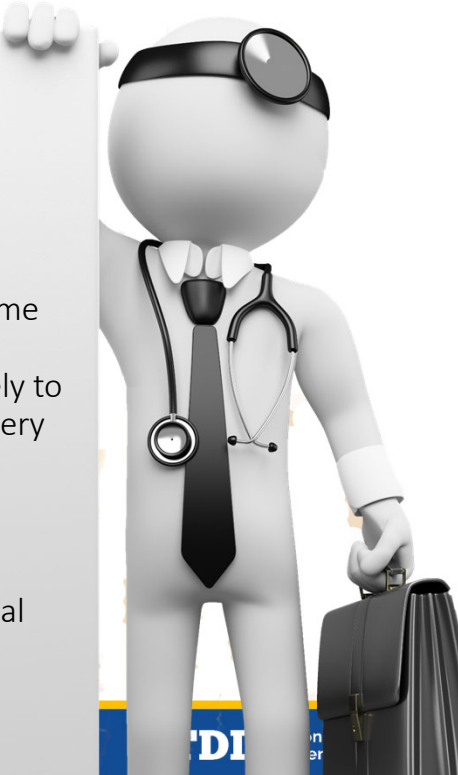
- A. Not at MMI
- B. 3/1/2024
- C. 4/15/2024
- D. IE will reach statutory MMI
at 104 weeks post injury



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B. 03/01/24



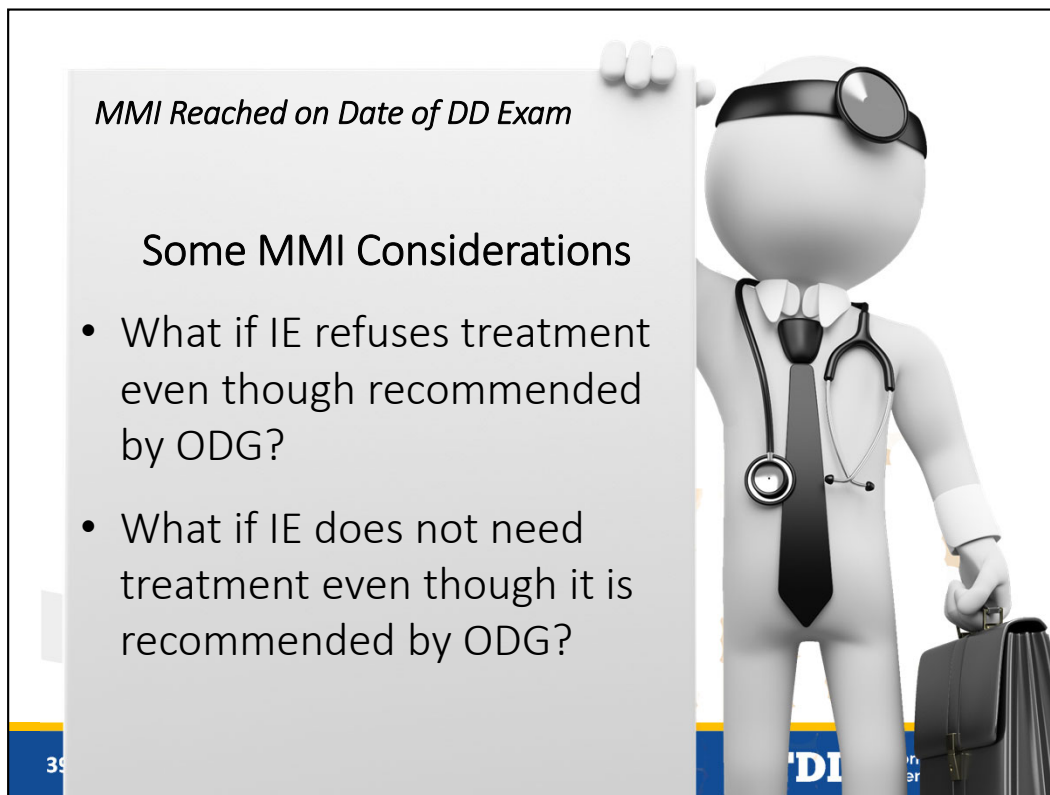
MMI Case 2

- Injured employee is at MMI 3/1/2024
- Additional treatment and/or time after 3/1/24 in all reasonable medical probability are not likely to result in further material recovery from or lasting improvement
- What about repeat MRI scan 3/5/24?
- What about refusal of additional pain management 3/12/24?

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Was the scan anticipated to result in further material recovery? No NEW or worsening symptoms to warrant it.

AGAIN – just because a treating doctor orders it or recommend something does not mean they are not at MMI sooner.



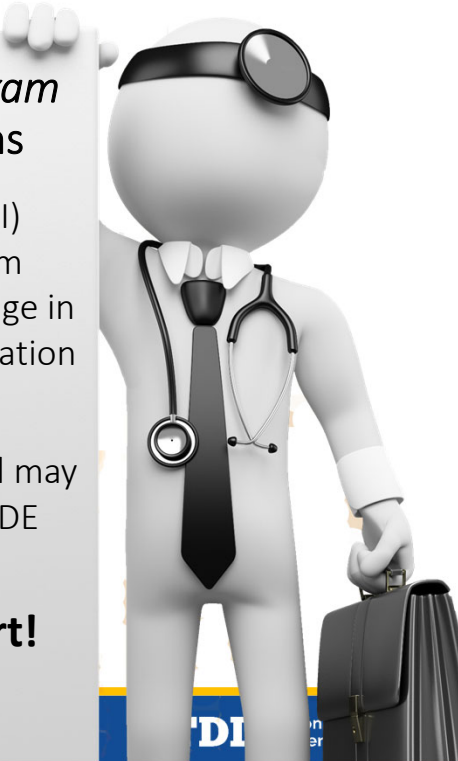
If refuses treatment, how can they be anticipated to improve?

Not ALL IE's need ALL recommended treatment. They often get better without all treatment.

It is over a year from the DOI, will more therapy really change their outcome?

Also, there may be some ODG recommended treatments that would not be anticipated to result in further material recovery,

because there are LATE onset new symptoms, generalized worsened exam without clinical explanation, or other NON- INJURY related factors.



MMI Occurred Before DD Exam
Some MMI Considerations

- IE reaches clinical plateau (MMI) prior to Designated Doctor Exam (DDE) with no intervening change in condition or reasonable expectation of improvement
- If medical condition unchanged may use physical exam findings at DDE for IR on MMI prior

Explain this in your report!

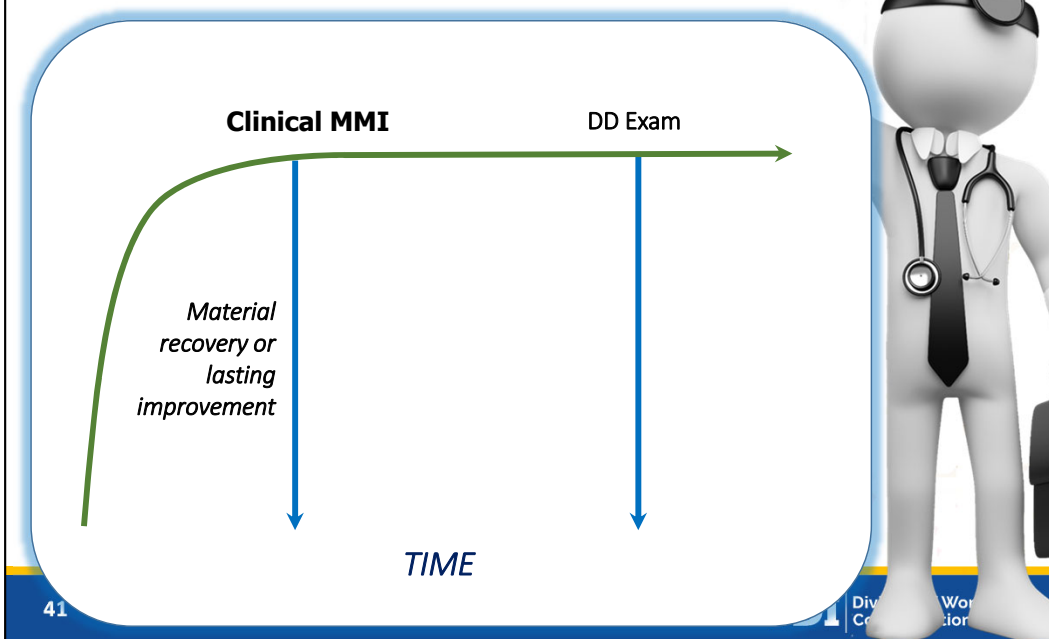
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DI

MMI date **WITHOUT** reasonable coherent explanation that demonstrates knowledge of ODG and EBM will likely be legally insufficient.

While it could be the right date, lack of explanation can result in report not being adopted because legally insufficient

MMI Before DD Exam



Questions About MMI Case 2?



MMI Case 3

- 46-year-old laborer sustained right rotator cuff tear on 2/28/21; statutory MMI is 3/8/23
- Initial dispute about compensability of injury resolved in IE's favor at CCH 1/15/22 (11 months later)

MMI Case 3

- Extensive treatment once treatment initiated
 - Meds: NSAIDs, muscle relaxants, acetaminophen
 - Subacromial Corticosteroid Injections - 2/22/22, 5/25/22
 - Pre-op PT: 24 visits - 2/1/22 - 10/1/22
 - Arthroscopic rotator cuff repair surgery - 11/15/22
 - Post-op PT: 40 visits - 12/15/22 - 3/5/23

What does the ODG say about all of these if the rotator cuff tear is considered compensable?

MMI Case 3

- Post-op PT on 3/5/23 documents
- Right shoulder ROM:

Flexion: 140°	Extension: 30°
Abduction: 110°	Adduction: 20°
External Rotation: 30°	Internal Rotation: 20°

- 4/5 strength of supraspinatus, infraspinatus and subscapularis
- Work hardening recommended

MMI Case 3

- 3/15/23 Sustained recurrent rotator cuff tear in work hardening
- 4/22/23 Undergoes 2nd arthroscopic rotator cuff repair

What are chances of repeat surgery being successful? Age 46? Age 65?
Presence of fatty atrophy. Co-morbidity of diabetes?

Also, completeness of tear, degree of retraction. All can factor into your MMI decision.

MMI Case 3

- 12/3/23 DD exam
- Right shoulder ROM:

Flexion: 150°	Extension: 30°
Abduction: 120°	Adduction: 20°
External Rotation: 40°	Internal Rotation: 30°

- 5/5 strength of supraspinatus, infraspinatus and subscapularis
- Normal sensation

Almost 8 months later.

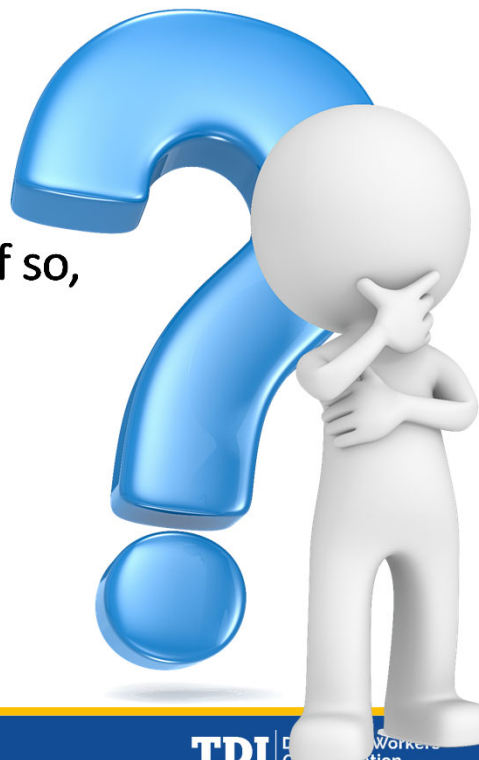
MMI Case 3

- Is injured employee at MMI?
- If no, why not?
- If yes, when?




Has MMI been reached; if so,
on what date?

- A. Not at MMI
- B. 3/5/2023
- C. 3/8/2023
- D. 12/3/2023



Answer is C. 03/08/22



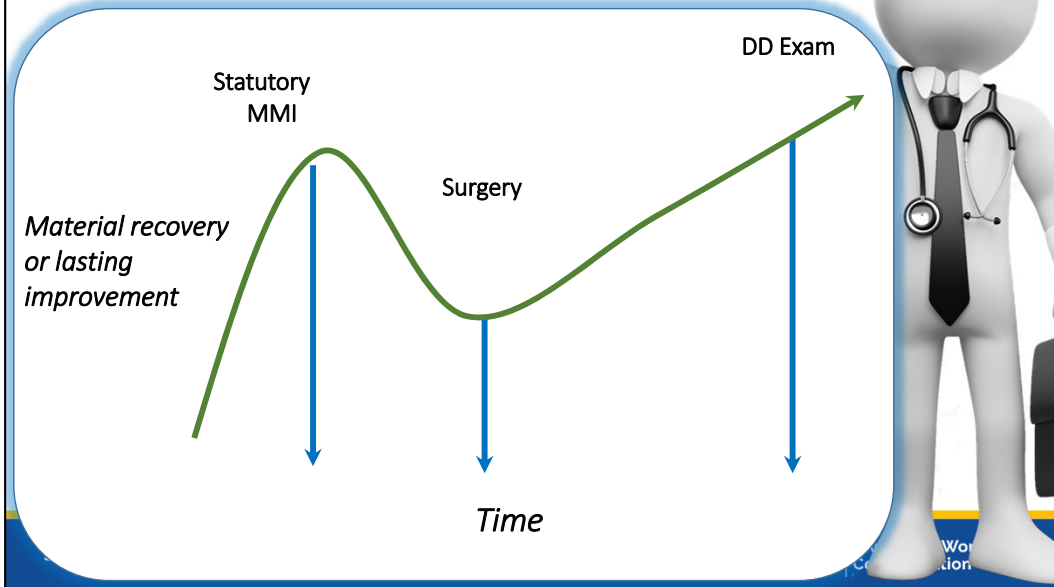
MMI Case 3

- Injured employee is at statutory MMI 3/8/2023
- Basis of IR
 - ROM at PT discharge on 3/5/23
 - **Not** 12/3/23 DDE findings which occurred after statutory MMI and after surgery. Findings do not reflect IE condition at MMI

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Answer D, 12.03.23 has better ROM - shouldn't they use that? EXPLAIN AGAIN USING THE GRAPH ON NEXT SLIDE!

DD Exam After Statutory MMI With Surgery After Statutory MMI



Questions About MMI Case 3?



MMI Case 4

- 39 year old electrician twisted left knee 5/30/2023; statutory MMI is 06/08/2025
- Treatment: Rest, ice, compression, elevation, and NSAIDs
- 6/4/2023 returned to restricted duty work
- Symptoms worsened with RTW

MMI Case 4

- 7/12/2023 MRI scan
 - showed tear of medial meniscus without degenerative changes of the medial compartment
- 7/18/2023 - 8/15/2023 PT: 9 visits
 - minor improvement in ROM, strength, activity tolerance

Why are lack of degenerative findings and age important.

MORE probable that the meniscal findings are injury related rather than degenerative.

MMI Case 4

- 9/14/2023 Arthroscopic medial meniscectomy
- 9/21/2023 - 12/15/2023 Post-Op PT: 12 visits
- 12/15/2023 PT Discharge
 - flexion 110° extension 0°
 - left VMO atrophy
 - 1 hour interval weight bearing tolerance
- 12/22/2023 Ortho Follow-up

MMI Case 4

2/8/24 DD Exam

- Continued home exercise program; ice after work
- Reported continued improvement
- Normal gait
- Left knee flexion 135°, extension 0 degrees without evidence of any lag or flexion contracture

MMI Case 4

2/8/24 DD Exam (continued)

- 5/5 strength bilateral lower extremities
- Well-healed surgical scars; only minimal swelling
- Girth measurements
 - right thigh circumference 45 cm
 - left thigh circumference 44 cm

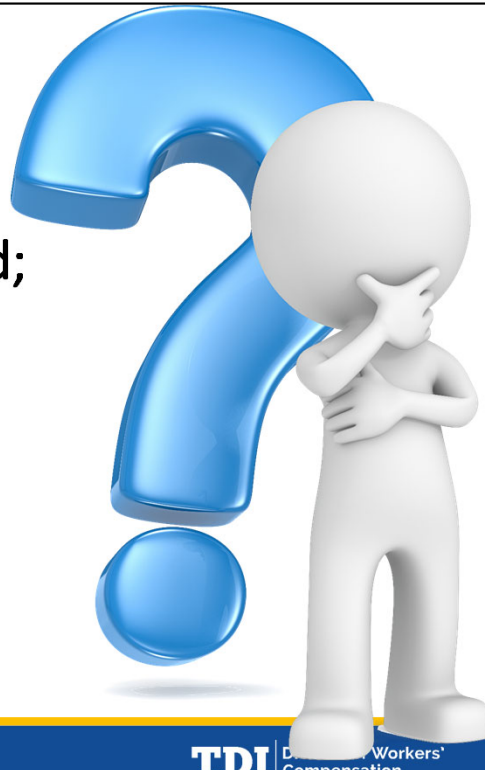
MMI Case 4

- Is injured employee at MMI?
- If no, why not?
- If yes, when?



Has MMI been reached;
if so, on what date?

- A. Not at MMI
- B. 12/15/2023
- C. 12/22/2023
- D. 2/8/2024

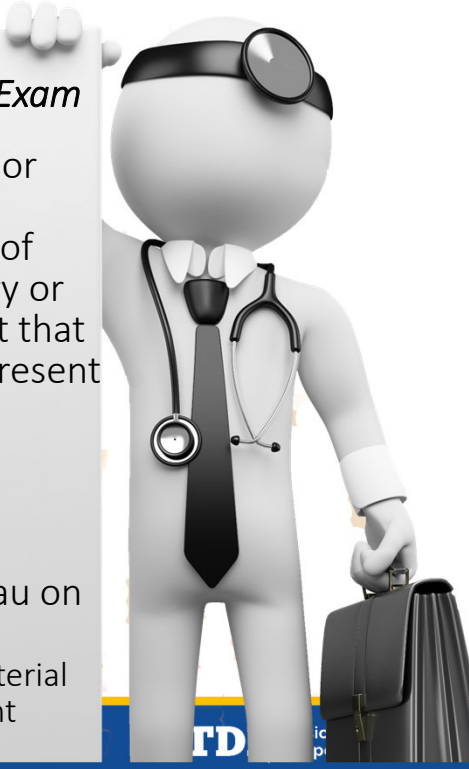


Correct is 02/08/24. Date of DD exam.

MMI Reached on Date of DD Exam

- **Injured employee is at MMI at 2/8/24 DD exam**
- Additional treatment, time, etc. not reasonably anticipated to result in further material recovery or lasting improvement
- **12/15/2023 PT Discharge**
 - restricted ROM and activity intolerance that would reasonably be anticipated to improve with continued HEP and RTW as an electrician (continued ADLs)
- **12/22/2023 Ortho Follow-up**
 - no documentation of medical condition





MMI Reached on Date of DD Exam

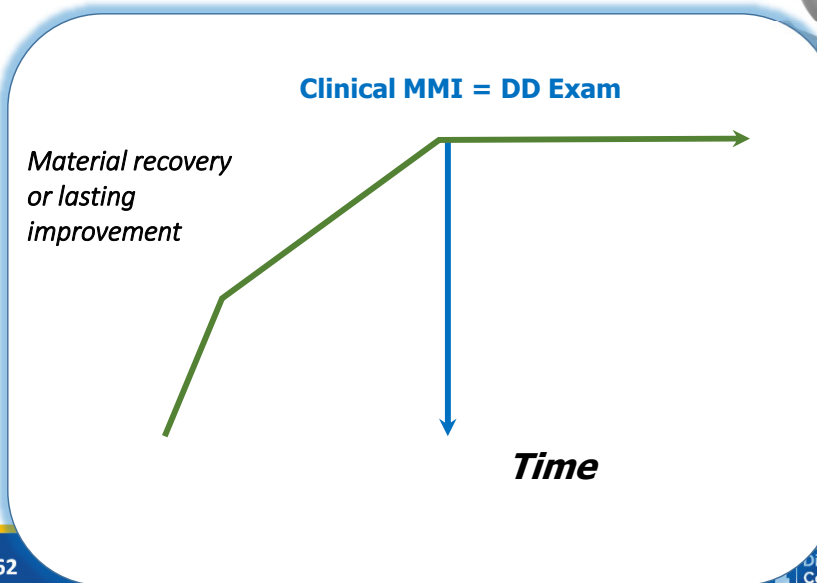
- Clinical findings from prior records show IE had reasonable anticipation of further material recovery or lasting improvement but that anticipation no longer present as of the DD exam
- Poor records
 - medical condition not documented
- IE reached clinical plateau on date of DDE
 - no additional lasting material recovery or improvement expected

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FD ic p

Would it be likely that 1 cm back at this age?

Reached MMI on Date of DDE



Questions About MMI Case 4?



Questions About MMI?



Thank you