

342.315 Medical evaluations by university medical schools and "B" readers -- Procedures -- Report -- Payment of costs -- Performance assessment of medical schools -- Use of telehealth.

- (1) For workers who have had injuries or occupational hearing loss, the commissioner shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers. For workers who have become affected by occupational diseases, the commissioner shall contract with the University of Kentucky and the University of Louisville medical schools, or other physicians otherwise duly qualified as "B" readers who are licensed in the Commonwealth and are board-certified pulmonary specialists. Referral for evaluation may be made whenever a medical question is at issue.
- (2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the commissioner. Except as otherwise provided in KRS 342.316, the clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.
- (3) The commissioner or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the commissioner, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the commissioner within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the commissioner for those services.
- (4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the commissioner that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.
- (5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.
- (6) Not less often than annually the designee of the secretary of the Cabinet for Health and Family Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the "Guides to the Evaluation of Permanent Impairment," and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.

- (7) The General Assembly finds that good public policy mandates the realization of the potential advantages, both economic and effectual, of the use of telehealth. The commissioner may, to the extent that he or she finds it feasible and appropriate, require the use of telehealth, as defined in KRS 304.17A-005, in the independent medical evaluation process required by this chapter.

Effective: July 1, 2019

History: Amended 2018 Ky. Acts ch. 40, sec. 8, effective July 14, 2018; and ch. 187, sec. 6, effective July 1, 2019. -- Amended 2010 Ky. Acts ch. 24, sec. 1815, effective July 15, 2010; and ch. 90, sec. 3, effective July 15, 2010. -- Amended 2007 Ky. Acts ch. 24, sec. 29, effective June 26, 2007. -- Amended 2005 Ky. Acts ch. 99, sec. 611, effective June 20, 2005. -- Amended 2002 Ky. Acts ch. 340, sec. 1, effective July 15, 2002. -- Amended 2001 Ky. Acts ch. 57, sec. 2, effective June 21, 2001. -- Amended 2000 Ky. Acts ch. 514, sec. 22, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 426, sec. 566, effective July 15, 1998. -- Amended 1996 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 15, effective December 12, 1996. -- Amended 1996 Ky. Acts ch. 355, sec. 11, effective July 15, 1996. -- Amended 1987 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 40, effective January 4, 1988. -- Amended 1956 Ky. Acts ch. 77, sec. 11. -- Amended 1950 Ky. Acts ch. 188, sec. 2. -- Amended 1948 Ky. Acts ch. 151, sec. 3. -- Amended 1946 Ky. Acts ch. 23, sec. 3; and ch. 37, sec. 8. -- Amended 1944 Ky. Acts ch. 82, sec. 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 4941.

Legislative Research Commission Note (7/1/2019). This statute was amended by 2018 Ky. Acts chs. 40 and 187, which do not appear to be in conflict and have been codified together.