



## Department of Industrial Relations

### Its Failure to Adequately Administer the Qualified Medical Evaluator Process May Delay Injured Workers' Access to Benefits

#### **Background**

California workers who experience job-related injuries or illnesses generally can receive workers' compensation benefits, including employer-paid medical care, temporary wages, and compensation for any permanent disability. Injured workers filed roughly 684,000 workers' compensation claims during fiscal year 2017–18. Of those, about 15 percent required a qualified medical evaluator (QME) to resolve disputes between employees and their employers over medical issues. The Department of Industrial Relations (department) oversees QMEs, administers the QME selection and reappointment process, and investigates complaints about QMEs. In fiscal year 2017–18, the department had about 2,800 participating QMEs in more than 30 specialties.

#### **Our Key Recommendations**

The Legislature should amend state law to do the following:

- Require the department to review and update, when needed, the fee schedule for compensating QMEs at least every two years.
- Increase the number of QMEs on the panels the department provides.

The department should develop and implement the following:

- A plan for increasing the number of QMEs that prioritizes the specialties with greatest shortages;
- Written policies and processes for disciplining and reappointing QMEs; and
- A plan to continuously review QME reports for quality and report findings annually.

#### **Key Findings**

- The department has not ensured that it has enough QMEs to keep up with the demand for their services, which results in injured workers experiencing delays in resolution of their disputes, and thus possible delays in benefits for workers and increased cost for employers.
  - » The number of QMEs has declined steadily since fiscal year 2013–14, while requests for services have risen significantly.
  - » The availability of some specialty QMEs dropped even more than the average QME decline.
- Despite the shortage of QMEs, the department has not conducted any studies or analysis to determine if accessing QMEs is a problem and has not taken steps to address the shortage.
  - » It has not updated the rates of its medical-legal fee schedule that QMEs use to charge for their services since 2006—the rates are 30 percent lower than what the rates would be if adjusted for inflation.
  - » It has not established a process for recruiting QMEs and has not used data it collects to better manage the QME supply and recruit more QMEs.
- The department inappropriately used the reappointment process to discipline QMEs—it denied some reappointments based on alleged overbilling violations making the QMEs unavailable until allegations were resolved. Further, the department was slow to schedule hearings QMEs requested after it denied their reappointment appeals, or did not schedule them at all.
- Although required to do so, the department has not ensured that QMEs produce high-quality reports that provide medical evidence to help judges and others to resolve disputes timely—it has not tracked when judges rejected reports that failed to meet standards such as accuracy or completeness.