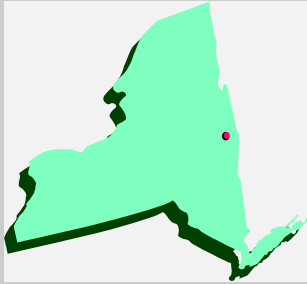


# Dispute Resolution Program



## New York State Workers' Compensation Program

*For NYS Employees represented by:*

- **New York State Correctional Officers and Police Benevolent Association, Inc. (NYSCOPBA) in the Security Services Unit**
- **Council 82 in the Security Supervisors Unit**
- **Police Benevolent Association of New York State, Inc. (PBANYS) in the Agency Police Services Unit (APSU)**

*Administered by:*

**National Medical Reviews, Inc.  
607 Louis Drive, Suite C  
Warminster, PA 18974**

**Phone: 215-352-7800/Toll free: 800-283-8196  
Fax: 215-352-7801/Toll free: 866-357-9045**

### **What is the Medical Evaluation Program (MEP)?**

The Medical Evaluation Program (MEP) is a program that provides eligible employees who suffer a work-related injury or illness with an expedited, independent examination arranged by the New York State Insurance Fund (SIF). A SIF Evaluating Physician will determine your degree of disability. This determination is used by your Employing Agency as the basis for its decision to make a Light Duty Assignment.

### **What is the Dispute Resolution Program (DRP)?**

The Dispute Resolution Program (DRP) provides eligible employees with a process to review conflicting medical opinions regarding your degree of disability for a work-related injury or illness.

The DRP affords you the opportunity for an independent, third party medical review, in those instances where the decision of the Evaluating Physician does not agree with your Treating Physician regarding your degree of disability.

### **What is the effect of the Evaluating Physician's determination on the MEP?**

If the Evaluating Physician determines that your degree of disability is greater than fifty percent (50%), you continue to receive workers' compensation leave benefits at full-pay.

If the Evaluating Physician determines that your degree of disability is fifty percent (50%) or less, the Evaluating Physician must also assess your estimated physical capabilities and expected return to work.

### **When did the DRP become effective?**

A work-related injury or illness that occurred on or after April 15, 1993 and was in dispute regarding the degree of disability on or after November 1, 1998 is eligible for the DRP.

### **Who performs the third party medical review?**

National Medical Reviews, Inc. (NMR), an independent medical review organization dedicated to providing evidenced-based medical reviews, will issue an independent, third party review determination regarding your degree of disability.

Dispute resolution reviews are conducted by physicians selected from NMR's extensive panel of

more than five hundred (500) physicians representing twenty six (26) medical disciplines. NMR physicians, who are board certified in their specialties and authorized by the New York State Workers' Compensation Board (Board), will evaluate your medical records. Assignments for appeals will be made according to the specific type of injury or illness involved. For example, heart diagnoses will be reviewed by a cardiologist, surgical diagnoses by a surgeon, etc.

NMR assures that appeals are reviewed by members of a neutral panel of physicians. These physicians must adhere to NMR's confidentiality and conflict of interest requirements. A Reviewer must maintain the confidentiality of the personal health information provided and must decline to review any case where he/she has been involved personally or professionally.

### **Which cases are eligible for dispute resolution?**

Your case is eligible for dispute resolution if you have elected to participate in the MEP, and

- a. your Treating Physician determines that you have an injury/illness resulting in a disability of greater than fifty (50) percent and the Evaluating Physician determines that you have an injury/illness resulting in a disability of fifty (50) percent or less; or
- b. your Treating Physician determines that a disability exists and the Evaluating Physician determines you have no disability.

In either of these situations, if your Treating Physician's determination does not agree with the Evaluating Physician's determination, your Treating Physician may appeal on your behalf.

### **Who can initiate the request for dispute resolution?**

Requests for dispute resolution must be initiated on your behalf by your Treating Physician using a Dispute Resolution Program Appeal Form (Appeal Form). You can obtain this Appeal Form from your Employing Agency.

You are responsible for providing the Appeal Form to your Treating Physician, informing him/her of the appeal process and requesting that he/she submit the appeal to NMR.

Your Treating Physician is responsible for providing NMR with a completed Appeal Form and all medical documentation to substantiate the degree of disability determination.

The Evaluating Physician's report will be provided by the SIF to NMR if it was not received from your Treating Physician.

### **When must the Treating Physician submit the appeal to NMR?**

Your Treating Physician must submit the appeal to NMR during the Appeal Period. For the MEP, the Appeal Period is three (3) business days from the time that you are notified to return to work. Business day means any day Monday through Friday, with the exception of holidays observed by the State as an employer.

The time of day that you receive your notification is important in determining the first day of the Appeal Period. If your notification to return to work occurs prior to noon, that is the first day of the Appeal Period. If the notification occurs at noon, afternoon or on a non-business day, the next business day is the first day of the Appeal Period.

### **What time frames must be followed by NMR?**

When NMR receives your appeal, NMR must immediately request supporting medical documentation from the Evaluating Physician (if it was not received from your Treating Physician). Once NMR receives complete medical documentation from both the Treating and Evaluating Physicians, NMR will complete the review within seven (7) calendar days. This seven-day period is the Program Review Period. NMR will report, in writing, the Reviewing Physician's decision to uphold the Treating or Evaluating Physician's determination within the Program Review Period. The outcome of the review shall be reported in writing to you, your Employing Agency, your Treating Physician, the Evaluating Physician, your bargaining unit and the SIF.

### **What are the consequences of missing a deadline?**

- a. If your Treating Physician's appeal including all necessary medical documentation is not received by NMR within the Appeal Period, and you do not return to work from the work-related injury or illness, you will remain in or be placed in Leave Without Pay (LWOP) status until an appeal is received.
- b. If NMR's decision is not completed within the Program Review Period and you had a work-related injury or illness, you (either working, on LWOP or charging accruals) will be placed in Workers' Compensation Leave full-pay status on the next assigned work day until NMR's decision is rendered.

### **What is the payroll status of employees during the Appeal Process?**

- a. If you return to work in a light duty, modified duty or full duty assignment pending the outcome of an appeal, you will receive full-pay.
- b. If the three days of LWOP ends prior to the expiration of the Appeal Period [three (3) business days], you will be allowed to use leave credits until the Appeal Period expires.
- c. Following the three days of LWOP and if your appeal is received by NMR during the Appeal Period, you will be allowed to charge available leave credits for the number of days in the Program Review Period [up to seven (7) calendar days] pending the outcome of the appeal.

### **What happens if the NMR Physician finds in favor of the Treating Physician?**

If NMR finds in favor of your Treating Physician's determination of your degree of disability, your Employing Agency will advise you through a telephone call and letter not to report to work until further notification. The appropriate Workers' Compensation Leave will be retroactive to the first day of LWOP relating to the disputed degree of disability for a work-related injury or illness.

### **What happens if the NMR physician finds in favor of the Evaluating Physician?**

If the NMR physician finds in favor of the Evaluating Physician's determination of degree of disability, your Employing Agency will notify you to report to work in a medically appropriate assignment. If you fail to report to work, you will be placed in LWOP status. Any leave credits used during the Appeal Period and/or Program Review Period will not be returned to you. The period of Workers' Compensation Leave without charge to credits will not be affected by an adverse decision in the DRP. If, at a subsequent hearing of the Board, the Appeal Period or Program Review Period is found compensable, restoration of such leave credits will be proportional to the wage award.

Once you are notified by NMR of the Reviewing Physician's determination, there is no further appeal under the DRP. Requests for further appeals beyond the DRP pertaining to issues of eligibility for statutory benefits must be made to the Board pursuant to the New York State Workers' Compensation Law.

### **What happens after the appeal is filed?**

In addition to the Dispute Resolution Program Appeal Form, there are two letters you will receive as part of the dispute resolution process:

**Acknowledgment letter** advising you that the appeal was received by NMR and that all medical documentation was included. If all medical documentation was not received, your appeal will be considered invalid. The appeal cannot be reviewed until NMR receives the necessary medical documentation.

**Review Determination letter** advising you of the outcome of your appeal. The NMR Reviewing Physician will either agree with your Treating Physician or agree with the Evaluating Physician on your degree of disability.

You will be contacted by your Employing Agency regarding the outcome of the review.

**How do I initiate an appeal through the DRP?**

- Obtain the New York State Workers' Compensation Dispute Resolution Program Appeal Form from your Employing Agency immediately upon receiving the notification by your Employing Agency to return to work.
- Complete the form by printing or typing all requested information in Part I, Employee Section of the Appeal Form.
- Sign your name at the bottom of Part I.
- Immediately take the form to your Treating Physician.
- Explain to your Treating Physician the importance of completing Part II of the form and submitting it to NMR **within three (3) business days of notification by your Employing Agency to return to work.** Failure to comply may result in additional leave without pay.

**NOTE: You cannot file this appeal on your own behalf. Only your Treating Physician can file this appeal.**

**Instructions to Treating Physician:**

- Type or print all requested information in Part II of the Appeal Form.
- Attach all additional medical documentation needed to substantiate the employee's degree of disability to the completed Appeal Form.
- Sign your name at the bottom of Part II.
- Send the completed Appeal Form and any additional medical documentation to NMR by overnight mail or facsimile **within (3) business days of notification by the Employing Agency to the employee to return to work.** Any information sent via facsimile should be followed with a copy by mail.
- NMR mailing address:

**National Medical Reviews, Inc.**

607 Louis Drive, Suite C

Warminster, PA 18974

Phone: 215-352-7800 / Toll free: 800-283-8196

Fax: 215-352-7801 / Toll free: 866-357-9045

- You will receive a copy of the NMR physician's determination which will agree with either your determination or that of the Evaluating Physician in regard to the Employee's degree of disability.

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The Department of Civil Service, the State Insurance Fund and the Workers' Compensation Board administer the Workers' Compensation Program.

State of New York, Department of Civil Service

Employee Benefits Division

Agency Building 1

Empire State Plaza

Albany, NY 12239

WC/DRP/2-17

It is the policy of the State of New York Department of Civil Service to provide reasonable accommodation to ensure effective communication of information in benefits publications to individuals with disabilities. If you need an auxiliary aid or service to make benefits information available to you, please contact your Personnel Office.