The Association of Independent Assessment Centres

ONTARIO AUTO INSURANCE REFORMS: A BETTER MODEL FOR CONSUMERS WHO USE INDEPENDENT MEDICAL EVALUATIONS

Who We Are

The Association of Independent Assessment Centres (AIAC) is a non-profit industry group that represents the independent businesses and the thousands of health care professionals who perform independent medical examinations (IMEs) across Canada.

Introduction

Auto insurance stakeholders, the government and the public are currently engaged in discussions about how the current medical assessment of accident victims' injuries, both physical and mental, are conducted. Too often, the public perception is that the current model demonstrates an imbalance favouring insurers at the expense of injured claimants. Our ultimate objective is to create a system focused on the most appropriate rehabilitation of accident victims to their optimal pre-accident health.

The AIAC has consulted with its members and other industry stakeholders to develop strategies for better serving accident victims. This document makes recommendations focused on **improving the experience of automobile accident victims who undergo IMEs,** while ensuring that the system is **cost effective, easy to implement and results in better health outcomes**.

While we understand the government's concerns about the current IME system, we do not believe that there are "quick fixes" that will produce the results that we all would like to see. Our submission to the government is that it should avoid implementing an IME model that reintroduces a highly bureaucratic system that delays care for accident victims and increases the administrative costs required to administer it, without an appreciable, or any, increase in patient recovery.

We have provided the government with a chart based on publicly available data (from GISA and HCDB*) that demonstrates that IME costs as a percentage of total claims costs have decreased dramatically. Moreover, and contrary to what is too often publicly stated, the current IME system realizes 97% satisfaction from individuals who have undergone assessments. We fully recognize that there is room for improvement but in our respectful submission there is no need for the government to completely overhaul the current system. We are pleased to explain our position below. In that regard, this submission is divided into the following sections:

1. Background information on IMEs.
2. An overview of the history and current state of IMEs.
3. Recommendations for an improved IME system.

*GISA stands for General Insurance Statistical Agency, HCDB stands for Health Claim Database

1. Background

What is an Independent Medical Examination?

An independent medical examination, or IME, is a medical evaluation conducted by an objective and neutral third party to provide an opinion about a specific injury, appropriate treatment or disability status. An IME can be requested by insurance companies, benefit providers, HR managers, lawyers, or employers. In certain circumstances, IME requests are legislated requirements, such as when an insurance company disputes an accident victim's claims. In these cases, the *Insurance Act* mandates that insurance companies must cover the costs of the IME. After this examination, an IME report is produced that is often used by insurers to confirm or deny benefits to the accident victim. In an employment situation, the report contains recommendations to employers to allow for a safe and timely return to work for injured workers.

Who conducts an IME?

Typically, an IME is conducted by a regulated health professional who has completed occupation-specific and psychosocial IME training. A range of regulated health professionals can perform IMEs including, but not limited to, doctors, psychologists, physiotherapists and chiropractors. These are known as independent healthcare assessors and these individuals conduct IMEs separately from their regular practices.

Who organizes an IME?

IME centres organize and manage the process from start to finish. After a client (for example, an insurance company) contacts an IME centre, that company is responsible for completing a clinical quality assurance review of the accident victim's file, sorting the medical brief and selecting the most appropriate independent healthcare assessor to conduct the IME. A number of criteria are considered when selecting an assessor, including the need to ensure that the assessor has the relevant qualifications and is located geographically near the person being examined. The IME centre then schedules and confirms the examination and coordinates additional services such as chaperones, special accommodations, interpretation and translation. Once the assessor has completed his/her report, the IME centre then obtains the report from the assessor, completes a quality assurance review and delivers the IME report securely to the referral source.

Industry data shows that most accident victims undergo only one independent examination, although in complex cases involving multiple injuries, examinations by more than one healthcare discipline may be required. For example, serious automobile accidents can leave victims with broken bones and clinical depression, requiring separate assessments by an orthopedic surgeon and a psychologist.

Each year, IME centres see 25,000-30,000 accident victims. There are approximately 10 million drivers in Ontario. As such, the prevalence of IME participation for the Ontario population is relatively low (i.e. less than 1/3 of 1% of the population has an IME experience).

How do IMEs benefit consumers?

IME play a vital role in auto insurance by providing a necessary check and balance for all stakeholders. For example, for auto insurance companies, the IME process minimizes and weeds-out fraudulent activity by confirming diagnoses and opining on proposed treatment using an evidence-based medicine approach. For accident victims, IME centres ensure appropriate entitlement to accident benefits if questioned by an insurer. IME centres help to control costs and benefit all Ontario rate-paying drivers by helping to keep premiums low.

The objective, evidence-informed medical opinions provided by IMEs create a system where the interests of accident victims are prioritized, in an environment in which all stakeholders can operate in a manner that is fair to injured consumers. It is not surprising that many jurisdictions around the world, including every province and territory in Canada, use IME centres to ensure fairness to injured claimants and other stakeholders when disputes occur.

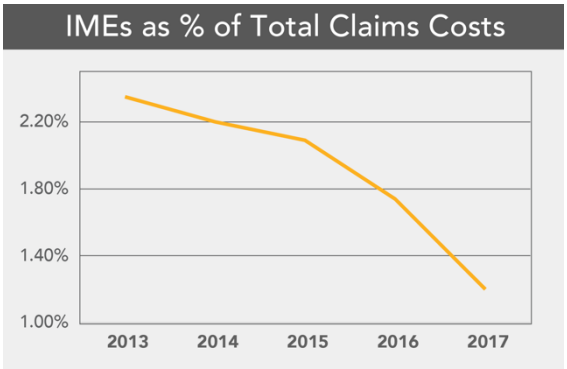
2. IMEs in Ontario

IME Reform in Ontario: A Brief History

Over the last 25 years, governments have made several attempts to reform the medical examination industry. The largest of these reforms took place in 1993 when the government released a task force report that recommended using independent medical assessment centres.

As a result, the Ontario Insurance Commission/Financial Services Commission of Ontario (now the Financial Services Regulatory Authority, or FSRA) developed a system of government-run neutral assessment centres called Designated Assessment Centres (DACs). The goal of the DACs was to increase transparency and fairness in assessments through government regulated delivery and oversight. In practice, however, DACs proved to be overly bureaucratic and resulted in processing and administrative delays that negatively impacted accident victims' benefits and their recovery from injury. The DACs cost an additional $54 million a year to operate; an expense passed on to drivers through higher premiums. Between 1993 and 2000, DACs were modified many times in an attempt to improve administrative outcomes, although DAC assessment-related costs continued to rise as these outcomes declined. The timelines were historically slow in the DAC system. The DAC system was eventually abandoned in 2006 and replaced entirely by an IME model.

IME Reform in Ontario: Current Status

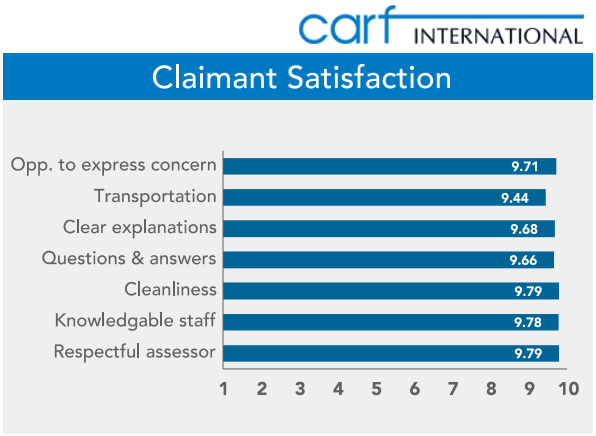


Today, **IMEs account for 1.2%-1.7% of the cost of all claims** and this proportion has decreased by 49% since 2013. In addition, **the average cost of IMEs per claimant has decreased by 38%** between 2013 and 2017.

Recently, some stakeholders have advocated for a return to assessment models similar to the DACs. One model suggests that FSRA maintain a roster of assessors that would be randomly assigned to a case.

There are several flaws with this model. First, FSRA lacks the necessary clinical expertise and technology to properly match and efficiently and effectively schedule an assessor with an accident victim. While an automated, random system may appear to increase neutrality, it fails to take a number of factors into account and would replicate some of the worst aspects of the DAC system. Each accident victim's needs differ based on their unique injuries and medical circumstances. Only an experienced and credentialled clinical coordinator, working for an independent IME centre, can assess and match the injured person with the assessor who best meets his or her individualized needs. This is essential to providing the best possible care and health outcome.

Second, accident victims rely on the current system to act in a timely manner. Adding expense and bureaucracy will only cause delays in the assessment and claims processes. A government-maintained pool of assessors will be large and unwieldy. To uphold the system's integrity, FSRA would also need to review each assessor's credentials, arrange for peer review of assessment reports, resolve complaints, and develop ways to remove assessors for non-compliance. In effect, this will recreate the DAC system whose well-documented failure led to its demise.



Data source: post-exam surveys, 2016-2019

Third and most importantly, this proposed FSRA-led model would simply take over a service already successfully delivered by IME centres. In fact, despite media reports and complaints by some stakeholders, Ontarians are overwhelmingly satisfied with their IME experience. Over the past three years, more than 2,000 injured people have taken an industry-standardized post-examination survey **and rated their experience at 97% satisfaction or higher.**

3. Proposed Model

While data shows that IMEs are a minor cost to the auto insurance industry, and the vast majority of examinees are satisfied with their experience, we recognize that there is room for improvement. The AIAC has undertaken extensive research and consultations with its members and other stakeholders to develop ways to improve the experience of automobile accident victims who undergo IMEs, while ensuring that they are cost effective and easy-to-implement.

Each of our recommendations is made with one goal in mind: to put accident victims at the centre of the assessment they undergo and the care they receive. Our recommendations focus on strengthening four key areas:

1. **Credibility**
2. **Neutrality**

3. **Transparency**
4. **Standardization**

1. Increase Credibility

To increase credibility, we recommend the government make CARF accreditation mandatory for all IME centres.

Since 1966, the Commission on Accreditation of Rehabilitation Facilities (CARF) has been recognized as the world's gold standard for human services accreditation across a number of fields, including independent medical examinations. It has accredited more than 60,000 programs and facilities worldwide, including 4,700 in Canada. IME centres with CARF accreditation have passed on-site examinations by an independent survey teams and are required to maintain conformity to CARF's assessment standards. These standards are revisited annually.

The benefit of CARF certification is that accredited IME centres must have mandated policies and procedures that focus on the "person served," i.e. the auto accident victim/examinee. This means CARF-accredited centres must always prioritize consumer needs and make all reasonable accommodations to achieve it, such as offering translation services and transportation to and from the IME facility, for example. CARF facilities prominently display posters that clearly explain the 'rights of examinees.' As an information tool, copies of an examinee handbook are readily available and which include: An IME fact sheet; cultural competency and diversity plans; health professional standards and guidelines; company core values; examinee post assessment questionnaire results/data, etc. IME centres also institute and maintain a fairness and respect policy, are compliant with the *Accessibility for Ontarians with Disabilities Act*, including appropriate staff training in that regard. Moreover, CARF mandates how complaints are to be managed. This involves a detailed review of all complaints, investigation of the facts and implementation of preventive measures so that similar situations do not recur. A detailed response is provided to the examinee along with the immediate steps that are being undertaken to rectify the situation. Lastly, CARF facilities are continuously improving their quality management systems through ongoing accreditation. In short, CARF is an ideal model to ensure and maintain consumer protection.

2. Increase Neutrality

To increase neutrality, we recommend that FSRA mandate that only IME centres can match patients with assessors and that the FSRA oversee the development of credentialing standards for assessors.

Neutrality, both real and perceived, is an essential part of an IME system that prioritizes accident victims' care over insurers' profits and legal fees. The AIAC believes neutrality can be increased through thoughtful updates to current regulations. Government regulation, however, is not the same as government delivery of IMEs.

As the DAC system demonstrated, a government-delivered assessment system did not serve accident victims' needs. But equally, having little or no government regulation will result in a

"free-for-all" in which bad actors can profit at the expense of customer care. Over the years, there have been incidents in which judges have publicly exposed so-called experts who produced biased reports in favour of insurers or accident victims. In some cases, lawyers or insurance companies handpicked which health professionals they wanted to examine patients. Currently, there are no rules in place preventing this practice; nor do IME centres have the power to intervene to prevent such practices. Some of the negative media surrounding accident benefits cases is a direct result of this practice of handpicking assessors. Serious consideration should be given to eliminating the selection of specific assessors by insurer or lawyers. FSRA could empower the use of CARF accredited IME facilities for all assessor selection for all independent medical examinations.

We have several recommendations that we believe will remedy this problem. First, we recommend that FSRA direct that only IME centres can match credentialled assessors with accident victims. This would prevent insurance companies and/or lawyers from cherry-picking assessors to act in their interests, and not in the interests of consumers. Matching examinees to the most appropriate assessors should be decided by professional clinical coordinators employed by a CARF-accredited IME facility. This would also allow IME centres to act as third-party buffers between insurance companies, lawyers and assessors. All communication for the purpose of arranging an IME should be required to proceed through the IME centre to ensure that undue pressure is not placed on assessors to produce reports favouring any particular party. This would apply for all accident benefits, bodily injury and/or tort claims.

To further strengthen neutrality, we also recommend that FSRA oversee the development of credentialing standards for assessors. As the auto insurance industry's objective third party, IME centres are best-positioned to lead this process under FSRA's guidance. This approach would also take advantage of IME centres' knowledge and expertise in matching accident victims with qualified assessors.

Examples of assessor credentialing standards could include the need for:

- Being active in practice and in good standing with their regulatory colleges
- A minimum of five years of clinical practice
- Research and/or teaching experience
- Relevant assessment certification from their peer organizations

Comprehensive standards mandated by FSRA would also ensure that all IME centres use the same customer-care based criteria to match assessors with examinees. To further promote neutrality, insurers could rotate their selection list of CARF-accredited centres, to ensure the selection of IME centres is done fairly and randomly.

The AIAC would welcome the opportunity to work with FSRA to determine reporting metrics and key performance indicators of success under our proposed IME model.

3. Increase Transparency

To increase transparency, we recommend that the government change existing rules and mandate all IME reports and documents be provided to both parties to a dispute. We also recommend that IME centres be required to publicly release anonymized satisfaction survey results.

Media and government reports have taken issue with a lack of transparency in the IME industry. The AIAC acknowledges this and agrees that there is a perception that the current system focuses on, and prioritizes, the needs of insurers and not those of accident victims. It is important to note many of the issues identified flow from policies and procedures that existing government regulation requires the industry to follow. For example, IME reports are currently required to be delivered to the requesting party, which is often an insurance company, which then reviews and distributes them to the accident victim. This often creates a sense of suspicion on the part of claimants and erodes trust in the IME system. Changing regulations that ensure that all parties involved in a claim receive complete correspondence, letters and reports from the IME centre concurrently would greatly increase transparency and trust in the process.

To further promote transparency, IME centres should be required to publicly release anonymized consumer feedback information on a quarterly basis. CARF-accredited IME centres already gather post-exam feedback from accident victims using a standardized surveys. The AIAC believes making these results publicly available would foster trust among drivers and incentivize IME centres to make consumer satisfaction a primary goal.

4. Standardization

To improve patients' experience, we recommend standardizing many procedures and forms that IME centres use.

While not everyone is in agreement, there is also common ground among stakeholders, including the Insurance Bureau of Canada, that consumers would benefit if unnecessary differences in procedures, processes, and forms were eliminated. The lack of consistency among insurers in how they interact with IME centres adds unnecessary costs, and as a result, increases drivers' premiums. Everyone would be better served if assessment processes were standardized.

For example, consent forms that outline the parameters of the IME assessment and report differ from one IME centre to another. Some patient legal advocates believe the wording of some forms results in adversarial positions being taken, and leads to patient no-shows for assessments and ultimately in costly delays.

The AIAC recommends the development of a common consent form that would be implemented industry-wide. Methods of communication between IME centres and examinees could also be standardized, particularly the appointment confirmation letter to better explain the purpose of an IME examination and what to expect when examinees attend the IME.

Other areas where industry-wide standardization would improve the patient experience include:

- Insurer referral questions
- Standardized IME report formats
- Standardized processes for dissemination of IME reports.

The goal of all industry-wide standardization is to create transparency and ensure a level playing field for all parties involved.

AIAC believes that adoption of these recommendations will do more than make changes at the "fringes" of the IME process. We believe that they will result in placing claimants at the centre of the IME process, a development that will ensure that all stakeholders remain focused on the objective of the auto insurance product: the health and care of the injured claimant.