

# Establishment of Maximum Medical Improvement in Injured Workers: Perception, Truth and Fallacy

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By ORLANDO G. FLORETE Jr., M.D.

The concept of Maximum Medical Improvement (MMI) is one of the thorniest issues in workers' compensation. Subsequent questions have been raised as to the continuation of monetary benefit and future medical care of the injured worker. The amount of "fair" compensation is a major bone of contention. The injured worker is faced with a major decision whether to settle for a final amount and release the employer and the workers' compensation carrier of subsequent liability or to continue receiving benefits for medical care and other expenses.

The question of the degree of total or partial body impairment is raised once MMI is established. Often times, the injured worker and in some instances, the treating physicians are hampered by the progress of the case, misinterpretation of the state requirement, and lack of knowledge of the existing laws that enumerate the rights of the injured worker. It is the purpose of this article to discuss the concept of MMI, expound the truth and expose the fallacy behind this concept.

MMI is defined as the point at which the injured worker's medical condition has stabilized and further functional improvement is unlikely, despite continued medical treatment or physical rehabilitation. A treatment plateau in the patient's recovery is reached and that is as good as the patient is going to get. In some instances, it may mean that the patient has fully recovered from the injury. At MMI, no further healing or improvement is expected and the degree of permanent or partial impairment can now be determined.

One of the most frequent asked questions is who will determine the MMI of an injured worker.

Only a physician may determine MMI. The treating physician customarily provides the MMI date. However, the workers' compensation carrier may request an Independent Medical Examination (IME) by a qualified physician to determine the MMI after reviewing the patient's medical records and examining the patient. A copy of the report is provided to the treating physician, the patient, employer and the workers' compensation carrier.

If the treating physician agrees to the MMI determination by the independent medical examiner, the total temporary compensation is terminated effective on the date of the examination or the date when the treating physician gives approval. If the treating physician disagrees, the claim is then forwarded either to the Industrial Commission or to a workers' compensation judge for a hearing and judgment.



The importance of the MMI cannot be understated. Its determination defines the benefits and compensation an injured worker may receive from the employer and the workers' compensation carrier. MMI is the end point by which the long term effects of the accident are known and a reasonable and fair compensation can be established.

The relationship of MMI and the establishment of the Whole Person Impairment (WPI) or Partial Impairment Rating (PIR) should be clarified. Only when the MMI is determined can an impairment rating be issued and never before that. This indicates that the accident results in a permanent medical condition. There is a direct relationship in the severity of injury to the percentage of impairment and the amount of compensation provided to the injured worker.

Return to work is also a major area of concern and consternation to the injured worker. After MMI is established, an injured worker may be totally partially disabled but can return to work depending upon his functional limitation as defined by the functional capacity evaluation (FCE). However, a person with severe injury can be totally and permanently disabled from work. The injured worker may continue to receive disability benefits indefinitely or until the state's statutory time limit has been reached.

The impact of MMI on the injured worker's benefits can sometimes be confusing. The patient is quite fearful that his benefits will be totally cut off and the medical treatment discontinued once MMI is established. The workers' compensation carrier may stop payment of the total partial benefit to the injured worker immediately after MMI is established. A settlement of the claim may be offered by the employer or the workers' compensation program for a specific amount in exchange of a "release." A "release" inhibits the injured worker from bringing any further claim against the employer or the workers' compensation carrier.

Another major area of concern to the injured worker is whether medical treatment will be stopped after MMI is achieved. The establishment of MMI may be contingent upon continuation of the current level of medical care at which MMI is reached. At this point, the employer remains financially responsible for medical care and disability benefit payment.

The employer may be liable to pay for the medical expense related to the compensable injury throughout the injured worker's lifetime. Discontinuation of treatment once MMI is determined may result in regression or deterioration of the patient's medical condition. Even after MMI is achieved, the patient's medical condition that is directly related to the injury may worsen in the future and additional treatment may be necessary.

To summarize, the injured worker is entitled to the following benefits after MMI is established. This includes the following:

- Rehabilitation: the injured worker may be entitled to a variety of vocational and occupational rehabilitation and other return-to-work programs in order to help him find a meaningful means of livelihood within the scope of the patient's functional capacity and limitation.
- Wage loss: if the injured worker starts working and is receiving a lower wage or work fewer hours because of his medical condition, he may be eligible for working wage loss. However, if the patient cannot find a job because of functional limitations, he may be eligible for non-working wage loss.
- Percentage of permanent partial disability: compensation is provided depending upon the degree of permanent partial damage resulting from the work-related injury.
- Permanent total disability: permanent total benefits may be provided for injured workers who are unable to return to work due to the work-related injury.
- Lump sum settlement: a one-time payment may be received to settle the injured worker's claim

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ABOUT THE AUTHOR

[Orlando G. Florete Jr., M.D.](#) is medical director at the [Florida Institute of Pain Management](#) and the Florida Institute of Medical Research in Jacksonville, Fla. Dr. Florete has received numerous scholarships and awards, among them the Winthrop Stearns Scholarship Award and the Community Service Award from the Department of Anesthesiology at the University of Florida College of Medicine. In 2011, Dr. Florete was recognized by the International Association of Anesthesiologists as one of the Leading Physicians of the World.

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