

Integrated Medical Examiners

PROVIDERS

Audits

The Department is entitled to reimbursement even if the Department had authorized the use of specific billing codes that are subsequently found to be incorrect. If payment is made in an incorrect amount it must be repaid in a manner required by statute. **...*In re Integrated Medical Examiners, BIIA Dec., 04 P0067 (2006)*** [Editor's Note: The Board's decision was appealed to superior court under Thurston County Cause No. 06-2-00762-7.]

Limitations of actions

The provider of medical services provides a service pursuant to a contract with the Department. Accordingly, a six-year statute of limitations for actions under contract applies to the amount of time the Department has to request repayment from a provider. **...*In re Integrated Medical Examiners, BIIA Dec., 04 P0067, 2006*** [Editor's Note: The Board's decision was appealed to superior court under Thurston County Cause No. 06-2-00762-7.]

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**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON**

1 **IN RE: INTEGRATED MEDICAL) DOCKET NO. 04 P0067**
2 **EXAMINERS, LLC)**
3 **PROVIDER NO. 112435) DECISION AND ORDER**

4
5 APPEARANCES:

6 Provider, Integrated Medical Examiners, LLC, by
7 Rumbaugh Rideout Barnett & Adkins, per
8 Stanley J. Rumbaugh

9 Department of Labor and Industries, by
10 The Office of the Attorney General, per
11 Annalisa Gellermann and Heather Leibowitz, Assistants

12 The provider, Integrated Medical Examiners, LLC, filed an appeal with the Board of Industrial
13 Insurance Appeals on April 5, 2004, from an order of the Department of Labor and Industries dated
14 March 25, 2004, in which the Department affirmed in part its December 18, 2003, Order and Notice
15 and demanded payment from the provider in the amount of \$738,134.72, plus accumulated interest.
16 The Department order is **REVERSED AND REMANDED**.

17 **DECISION**

18 Pursuant to RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review
19 and decision on a timely Petition for Review filed by the provider to a Proposed Decision and Order
20 issued on October 10, 2005, in which the industrial appeals judge reversed and remanded the order
21 of the Department dated March 25, 2004.

22 The Board has reviewed the evidentiary rulings in the record of proceedings and finds that
23 no prejudicial error was committed. The rulings are affirmed.

24 We are in complete agreement with the reasoning and the result reached by the industrial
25 appeals judge in the Proposed Decision and Order, which is consistent with our holdings in *In re*
26 *Evergreen Medical Panel* Dckt. No. 03 P0004 (June 23, 2005), and *In re Online Medical Panel*
27 *Dckt. No. 03 P0091* (June 23, 2005). A significant issue in those cases, as in this one, is the
28 provider's argument that the Department had pre-authorized the use of a specific billing code that
29 the provider should be able to rely on. We continue to reject that argument. A provider of medical
30 services is not entitled to payment in an amount greater than that allowed by the medical aid rules,
31 and if a payment was made in an incorrect amount, it must be repaid in the manner required by law.

1 We have granted review to discuss a defense to the assessment order raised by the
2 provider, which is whether the Department is time barred from recovering some or all of the
3 assessment.

4 The Department performed an audit of every invoice submitted by the provider during the
5 period from May 1, 2000 through November 30, 2002. On December 18, 2003, the Department
6 issued an Order and Notice of Assessment. (A further order that is the subject of this appeal was
7 issued on March 25, 2004, in response to the provider's request for reconsideration.)

8 We have considered the various positions advanced by the parties in response to that
9 question. The Department relies on RCW 4.16.160¹ in maintaining that there is no limit on the time
10 the state has to bring an action. The provider argues that RCW 4.16.130² is the applicable statute
11 because no other statute applies, limiting the Department to commencing within two years after the
12 cause accrued.

13 We reject both arguments.

14 We rely on *U.S. Oil & Refining Company v. the Department of Ecology*, 96 Wn.2d 85, 89-90
15 (1981) that held "The absolute language of RCW 4.16.160, however, has never been literally
16 followed. Many common law exceptions have been engrafted onto the statute. It has been held
17 not to apply when the State is acting in its proprietary **rather** than sovereign role." We also note
18 there are time limits set forth in title 51 RCW, including a one year limitation on reimbursement of a
19 payment erroneously made by the Department. RCW 51.32.240

20 It is our view that a statutory limit exists on the Department's ability to seek reimbursement of
21 funds paid in excess of what the provider is entitled to but we find the limitation to be six years
22 pursuant to RCW 4.16.040, the statute that control actions upon a written contract.

23 We have determined that RCW 4.16.005 requires that actions be commenced within the
24 periods provided in this chapter after the cause of action has accrued unless a different limitation is
25 set by statute not contained in RCW 4.16 or RCW 4.16 provides otherwise. We do not find a
26 different limitation set by another statute or any provision of RCW 4.16 that is otherwise applicable.

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28
29 ¹ The limitations prescribed in this chapter shall apply to actions brought in the name or for the benefit of any county or other
30 municipality or quasi municipality of the state, in the same manner as to actions brought by private parties: PROVIDED, That, except
31 as provided in RCW 4.16.310, there shall be no limitation to actions brought in the name or for the benefit of the state, and no claim
32 of right predicated upon the lapse of time shall ever be asserted against the state: AND FURTHER PROVIDED, That no previously
existing statute of limitations shall be interposed as a defense to any action brought in the name or for the benefit of the state,
although such statute may have run and become fully operative as a defense prior to February 27, 1903, nor shall any cause of
action against the state be predicated upon such a statute.

² An action for relief not hereinbefore provided for, shall be commenced within two years after the cause of action shall have accrued.

1 Our reasoning is that RCW 51.04.030 authorizes the Department to enter into contracts for goods
2 and services and that Integrated Medical Examiners provided services to the Department pursuant
3 to such a contract. In fact, Integrated could not have obtained a provider number without signing a
4 written agreement accepting the Department's terms of participation. Accordingly, the controlling
5 statute is RCW 4.16.040 that requires an action upon a contract in writing, or liability express or
6 implied arising out of a written agreement to be commenced within six years.

7 The Department commenced the action within six years and is not time barred from seeking
8 reimbursement for excess funds. The Department order is reversed and remanded for recalculation
9 of the amount due by the provider.

10 **FINDINGS OF FACT**

- 11 1. On December 18, 2003, the Department of Labor and Industries issued
12 an Order and Notice that determined that a medical services provider,
13 Integrated Medical Examiners, LLC (Integrated), had been paid by the
14 Department for services in an amount in excess of the services that
15 were provided, and directed Integrated to refund the Department
16 \$778,032.37, plus interest. On January 7, 2004, Integrated protested
17 the Department order dated December 18, 2003. On March 25, 2004,
18 the Department issued a Final Order and Notice that reconsidered its
19 prior order dated December 18, 2003, determined Integrated had been
20 overpaid for services provided by \$738,134.72, and directed Integrated
21 to refund \$738,134.72, plus interest of \$211,637.83, which had
22 accumulated to the date of that order. On April 5, 2004, the provider
23 filed a Notice of Appeal to the Department's Final Order and Notice
24 dated March 25, 2004, with the Board of Industrial Insurance Appeals.
25 On May 4, 2004, the Board granted the appeal and assigned the appeal
26 Docket No. 04 P0067.
- 27 2. Integrated is a registered, contracted, and authorized provider of
28 medical services to the Department, and during the period from May 1,
29 2000, through November 30, 2002, inclusive, the Department conducted
30 an audit of the bills received from Integrated and the bills paid to
31 Integrated. The audit disclosed that Integrated had been overpaid
32 during that span of time.
3. Finding 1-a: During the period from May 1, 2000, through November 30,
2002, inclusive, Integrated billed the Department for 146 instances of
billing code 1109M for complex examinations by a single examiner,
when those examinations were standard examinations, and Integrated
was overpaid \$8,839.10.

- 1 4. Finding 1-b: During the period from May 1, 2000, through November 30,
2 2002, inclusive, Integrated billed the Department on one occasion for
3 billing code 1109M for a complex examination by a single examiner,
4 when that examination was a limited examination, and Integrated was
5 overpaid \$146.68.
- 6 5. Finding 1-c: During the period from May 1, 2000, through November 30,
7 2002, inclusive, Integrated billed the Department on one occasion for
8 billing code 1109M for a complex examination by a single examiner,
9 when that examination was a repeat examination, and Integrated was
10 overpaid \$106.19.
- 11 6. Finding 1-d: During the period from May 1, 2000, through November 30,
12 2002, inclusive, Integrated billed the Department in 11 instances of
13 billing code 1108M for standard examinations by a single examiner,
14 when those examinations were repeat examinations, and Integrated was
15 overpaid \$615.08.
- 16 7. Finding 1-e: During the period from May 1, 2000, through November 30,
17 2002, inclusive, Integrated billed the Department on one occasion for
18 billing code 1108M for a standard examination by a single examiner,
19 when that examination was a limited examination, and Integrated was
20 overpaid \$88.50.
- 21 8. Finding 1-f: During the period from May 1, 2000, through November 30,
22 2002, inclusive, Integrated billed the Department in six instances of
23 billing code 1108M for standard examinations by a single examiner,
24 when those examinations should have been billed for two-examiner
25 examinations, which is paid at a higher rate, and for which Integrated
26 was underpaid.
- 27 9. Finding 1-g: During the period from May 1, 2000, through November 30,
28 2002, inclusive, Integrated billed the Department on one occasion for
29 billing code 1108M for a standard examination by a single examiner,
30 when the service provided was for a physical capacities evaluation,
31 which is paid at a higher rate, and for which Integrated was underpaid.
- 32 10. Finding 1-h: During the period from May 1, 2000, through November 30,
2002, inclusive, Integrated billed the Department on one occasion for
billing code 1108M for a standard examination by a single examiner,
when the examination was not completed, but for which a report was
furnished, and Integrated was neither under nor overpaid.

- 1 11. Finding 1-i: During the period from May 1, 2000, through November 30,
2 2002, inclusive, Integrated billed the Department on two occasions for
3 billing code 1106M for limited, single-examiner examinations, when
4 those examinations were done by two examiners, which is paid at a
5 higher rate, and for which Integrated was underpaid.
- 6 12. Finding 1-j: During the period from May 1, 2000, through November 30,
7 2002, inclusive, Integrated billed the Department on two occasions for
8 billing code 1106M for limited, single-examiner examinations, when
9 those examinations were done by three examiners, which is paid at a
10 higher rate, and for which Integrated was underpaid.
- 11 13. Finding 1-k: During the period from May 1, 2000, through November 30,
12 2002, inclusive, Integrated billed the Department on one occasion for
13 billing code 1106M for a limited, single-examiner examination for what
14 should have been billed as an 1104M addendum report, and Integrated
15 was overpaid \$123.89.
- 16 14. Finding 1-l: During the period from May 1, 2000, through November 30,
17 2002, inclusive, Integrated billed the Department on one occasion for
18 billing code 1106M for a limited, single-examiner examination, when
19 only a records review was done, which the Department allowed under
20 discretionary billing code 1124M. Integrated was neither under nor
21 overpaid.
- 22 15. Finding 1-m: During the period from May 1, 2000, through November 30,
23 2002, inclusive, Integrated incorrectly billed the Department on one
24 occasion for billing code 1110M, a microfiche handling fee.
- 25 16. Finding 2-a: During the period from May 1, 2000, through November 30,
26 2002, inclusive, Integrated billed the Department on six occasions for
27 billing code 1113M for two-examiner examinations, when those
28 examinations were done by single examiners, and Integrated was
29 overpaid \$1,428.87.
- 30 17. Finding 2-b: During the period from May 1, 2000, through November 30,
31 2002, inclusive, Integrated billed the Department on four occasions for
32 billing code 1113M for two-examiner examinations, when those
examinations were not requested by the Department, and Integrated
was overpaid \$1,535.18.
18. Finding 2-c: During the period from May 1, 2000, through November 30,
2002, inclusive, Integrated billed the Department on four occasions for
billing code 1113M for two-examiner examinations, when those
examinations were done by three examiners, and for which Integrated
was underpaid.

- 1 19. Finding 2-d: During the period from May 1, 2000, through November 30,
2 2002, inclusive, Integrated billed the Department on five occasions for
3 billing code 1113M for two-examiner examinations, when those
4 examinations were repeat examinations, and for which Integrated was
5 overpaid \$840.60.
- 6 20. Finding 2-e: During the period from May 1, 2000, through November 30,
7 2002, inclusive, Integrated billed the Department on six occasions for
8 billing code 1115M for three-examiner examinations, when those
9 examinations were done by less than three examiners, and for which
10 Integrated was overpaid \$1,107.23.
- 11 21. Finding 2-f: During the period from May 1, 2000, through November 30,
12 2002, inclusive, Integrated billed the Department on one occasion for
13 billing code 1115M for a three-examiner examination, but reported an
14 incorrect date of service for the three-examiner examination that was
15 done, and for which Integrated was neither under nor overpaid.
- 16 22. Finding 3-a: During the period from May 1, 2000, through November 30,
17 2002, inclusive, Integrated billed the Department on 17 occasions for
18 billing code 1118M for psychiatric examinations, when those
19 examinations were repeat examinations, and for which Integrated was
20 overpaid \$2,882.28.
- 21 23. Finding 3-b: During the period from May 1, 2000, through November 30,
22 2002, inclusive, Integrated billed the Department on three occasions for
23 billing code 1118M for psychiatric examinations, when those
24 examinations were two-examiner examinations, payable under code
25 1113M, and for which Integrated was neither under nor overpaid.
- 26 24. Finding 3-c: During the period from May 1, 2000, through November 30,
27 2002, inclusive, Integrated billed the Department on two occasions for
28 billing code 1118M for psychiatric examinations, when those
29 examinations were three-examiner examinations, payable under code
30 1115M, and for which Integrated was underpaid.
- 31 25. Finding 4: During the period from May 1, 2000, through November 30,
32 2002, inclusive, Integrated billed the Department for examinations under
a variety of billing codes on 126 occasions when the Department did not
receive written reports of those examinations, and for which Integrated
was overpaid \$25,863.77.
26. Finding 5: During the period from May 1, 2000, through November 30,
2002, inclusive, Integrated billed the Department for examinations under
a variety of billing codes on 62 occasions, when the examinations were
not completed, and for which Integrated was overpaid \$10,420.72.

- 1 27. Finding 6: During the period from May 1, 2000, through November 30,
2 2002, inclusive, Integrated billed the Department on 517 occasions
3 under billing code 1127M, an add-on billing code available when an
4 examination becomes an unanticipated complex examination, when
5 those examinations were not unanticipated complex examinations, and
6 for which Integrated was overpaid \$123,240.12.
- 7 28. Finding 7-a: During the period from May 1, 2000, through November 30,
8 2002, inclusive, Integrated billed the Department on 295 occasions
9 under billing code 1104M for addendum fees for job analyses that were
10 reviewed by the examining physicians at the time of the examinations,
11 and for which Integrated was overpaid \$41,543.21.
- 12 29. Finding 7-b: During the period from May 1, 2000, through November 30,
13 2002, inclusive, Integrated billed the Department on five occasions
14 under billing code 1104M for addendum fees when the billing dates
15 preceded the dates of the examinations, and for which Integrated was
16 overpaid \$778.58.
- 17 30. Finding 7-c: During the period from May 1, 2000, through November 30,
18 2002, inclusive, Integrated billed the Department on 11 occasions under
19 billing code 1104M for addendum fees when the Department had not
20 requested further information, and for which Integrated was overpaid
21 \$920.85.
- 22 31. Finding 7-d: During the period from May 1, 2000, through November 30,
23 2002, inclusive, Integrated billed the Department on 77 occasions under
24 billing code 1104M for addendum fees for job analyses that were
25 reviewed by the examining physicians when those job analyses had
26 been sent to Integrated before the dates of the examinations, and for
27 which Integrated was overpaid \$13,129.21.
- 28 32. Finding 7-e: During the period from May 1, 2000, through November 30,
29 2002, inclusive, Integrated billed the Department on 37 occasions under
30 billing code 1104M for addendum fees, following Department requests
31 for clarifications of the examination reports when the Department did not
32 receive the clarification reports it requested, and for which Integrated
was overpaid \$2,699.87.
33. Finding 7-f: During the period from May 1, 2000, through November 30,
2002, inclusive, Integrated billed the Department on four occasions
under billing code 1104M for addendum fees when the provider had
sent the Department written requests for additional information, and for
which Integrated was overpaid \$285.68.

- 1 34. Finding 7-g: During the period from May 1, 2000, through November 30,
2 2002, inclusive, Integrated billed the Department on 205 occasions
3 under billing code 1104M for addendum fees when Integrated reported
4 the results of diagnostic testing obtained after the dates of the
5 examinations, and for which Integrated was overpaid \$14,431.46.
- 6 35. Finding 7-h: During the period from May 1, 2000, through November 30,
7 2002, inclusive, Integrated billed the Department on six occasions under
8 billing code 1104M for addendum fees when the provider did not answer
9 the questions the Department had asked, and for which Integrated was
10 overpaid \$419.08.
- 11 36. Finding 7-i: During the period from May 1, 2000, through November 30,
12 2002, inclusive, Integrated billed the Department on one occasion under
13 billing code 1104M for an addendum fee for a review of a job analysis
14 that was signed by an examiner other than the one who did the
15 examination, and for which Integrated was overpaid \$141.52.
- 16 37. Finding 7-j: During the period from May 1, 2000, through November 30,
17 2002, inclusive, Integrated billed the Department on one occasion under
18 billing code 1104M for an addendum fee when the service provided was
19 a three-examiner examination, payable under billing code 1115M, and
20 for which Integrated was underpaid.
- 21 38. Finding 7-k: During the period from May 1, 2000, through November 30,
22 2002, inclusive, Integrated billed the Department on 185 occasions
23 under billing code 1104M for addendum fees for the review of job
24 analyses provided after the dates of the examinations when multiple job
25 analyses had been furnished to the examiners, where Integrated billed a
26 separate 1104M billing for each job analysis reviewed, and for which
27 Integrated was overpaid \$28,582.32.
- 28 39. Finding 8: During the period from May 1, 2000, through November 30,
29 2002, inclusive, Integrated billed the Department on 124 occasions for
30 panel examinations by using separate billings when all of the panel
31 members were not able to be present at the first scheduled date of the
32 examination, i.e., Integrated had unbundled the panel and billed for
services separately. Integrated was overpaid \$2,638.97.
40. Finding 9: During the period from May 1, 2000, through November 30,
2002, inclusive, Integrated billed the Department on two occasions for
more examiners than the Department had requested, and for which
Integrated was overpaid \$415.88.
41. Finding 10: During the period from May 1, 2000, through November 30,
2002, inclusive, Integrated billed the Department on 885 occasions for
the same services that had been provided and paid on different dates,
and for which Integrated was overpaid \$58,207.08.

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42. Finding 11-a: During the period from May 1, 2000, through November 30, 2002, inclusive, Integrated billed the Department on 1,203 occasions under billing code 1101M for additional microfiche handling fees in excess of the microfiche handling fees the provider was entitled to receive, and for which Integrated was overpaid \$47,562.19.
 43. Finding 11-b: During the period from May 1, 2000, through November 30, 2002, inclusive, Integrated billed the Department on five occasions under billing code 1100M for microfiche handling fees on dates that no examinations were scheduled, and for which Integrated was overpaid \$175.48.
 44. Finding 11-c: During the period from May 1, 2000, through November 30, 2002, inclusive, Integrated billed the Department on four occasions under billing codes 1100M and 1101M for microfiche handling and additional microfiche handling fees where no services had been requested, and for which Integrated was overpaid \$141.60.
 45. Finding 11-d: During the period from May 1, 2000, through November 30, 2002, inclusive, Integrated billed the Department on 11 occasions under billing codes 1100M and 1101M for microfiche handling and additional microfiche handling fees when paper copies of the files had been sent to the provider rather than microfiche, and for which Integrated was overpaid \$606.92.
 46. Finding 11-e: During the period from May 1, 2000, through November 30, 2002, inclusive, Integrated billed the Department on one occasion under billing code 1100M, and upon reconsideration, the Department allowed the billing fee, and for which Integrated was neither under nor overpaid.
 47. Finding 12-a: During the period from May 1, 2000, through November 30, 2002, inclusive, Integrated billed the Department on 518 occasions under billing code 1103M, an add-on billing code for anticipated complex examinations performed by a panel of examiners, when those examinations were not complex, and for which Integrated was overpaid \$278,455.52.
 48. Finding 12-b: During the period from May 1, 2000, through November 30, 2002, inclusive, Integrated billed the Department on 35 occasions under billing code 1103M, an add-on billing code for anticipated complex examinations performed by a panel of examiners, when the examinations were done by a single examiner, and for which Integrated was overpaid \$8,465.07.

- 1 49. Finding 12-c: During the period from May 1, 2000, through
2 November 30, 2002, inclusive, Integrated billed the Department on two
3 occasions under billing code 1103M, an add-on billing code for
4 anticipated complex examinations performed by a panel of examiners,
5 when no examinations had been requested, and for which Integrated
6 was overpaid \$495.52.
- 7 50. Finding 12-d: During the period from May 1, 2000, through
8 November 30, 2002, inclusive, Integrated billed the Department on
9 10 occasions under billing code 1103M, an add-on billing code for
10 anticipated complex examinations performed by a panel of examiners,
11 for more examiners than who actually performed the examinations, and
12 for which Integrated was overpaid \$2,035.72.
- 13 51. Finding 13-a: During the period from May 1, 2000, through
14 November 30, 2002, inclusive, Integrated billed the Department on
15 19 occasions for no-show fees applicable under billing codes 1111M,
16 1117M, and 1120M, when those bills were correctly applied, and for
17 which Integrated was neither under nor overpaid.
- 18 52. Finding 13-b: During the period from May 1, 2000, through
19 November 30, 2002, inclusive, Integrated billed the Department on three
20 occasions for no-show fees applicable under billing codes 1111M,
21 1117M, and 1120M, when those bills were for dates when examinations
22 were not scheduled, and for which Integrated was overpaid \$1,135.97.
- 23 53. Finding 13-c: During the period from May 1, 2000, through
24 November 30, 2002, inclusive, Integrated billed the Department on one
25 occasion for a no-show fee under billing code 1117M when an
26 examination had not been scheduled, and for which Integrated was
27 overpaid \$265.46.
- 28 54. Finding 13-d: During the period from May 1, 2000, through
29 November 30, 2002, inclusive, Integrated billed the Department on
30 seven occasions for no-show fees under billing code 1117M for more
31 examiners than had been asked to do the examinations, and for which
32 Integrated was overpaid \$804.37.
55. Finding 13-e: During the period from May 1, 2000, through
November 30, 2002, inclusive, Integrated billed the Department on five
occasions for no-show fees applicable under billing codes 1111M,
1117M, and 1120M when the examining physicians had either failed to
appear or had left the examinations before they were finished, and for
which Integrated was overpaid \$992.11.

- 1 56. Finding 13-f: During the period from May 1, 2000, through November 30,
2 2002, inclusive, Integrated billed the Department on 122 occasions for
3 single examiner no-show fees under billing code 1111M when the
4 proper billing for those examinations would have been billing code
5 1117M for equivalent units of multiple-examiner no-show fees, and for
6 which Integrated was overpaid \$10,632.10.
- 7 57. Finding 13-g: During the period from May 1, 2000, through
8 November 30, 2002, inclusive, Integrated billed the Department on
9 33 occasions for multiple-examiner no-show fees under billing code
10 1117M when the proper billing for those examinations would have been
11 billing codes 1107M or 1111M, and for which Integrated was underpaid.
- 12 58. Finding 13-h: During the period from May 1, 2000, through
13 November 30, 2002, inclusive, Integrated properly billed the Department
14 on one occasion for three units of multiple-examiner no-show fees under
15 billing code 1117M, when the Department erroneously allowed only two
16 units of 1117M, and for which Integrated was underpaid \$132.73, a sum
17 that is credited against overpayment in other findings.
- 18 59. Finding 14: During the period from May 1, 2000, through November 30,
19 2002, inclusive, Integrated billed the Department on two occasions using
20 CPT codes when the proper billing codes for those services would have
21 been 1102M, a billing code for physician telephone conferencing fees,
22 and 1104M, an addendum report fee, and for which Integrated was
23 overpaid \$100.02.
- 24 60. Finding 15-a: During the period from May 1, 2000, through
25 November 30, 2002, inclusive, Integrated billed the Department on
26 215 occasions for claims when the records of those claims were sent to
27 the provider as background information only for the scheduled
28 examinations, and for which Integrated was overpaid \$9,849.08.
- 29 61. Finding 15-b: During the period from May 1, 2000, through
30 November 30, 2002, inclusive, Integrated billed the Department on
31 159 occasions, but the Department split the billing among two or more
32 claims as a means of allocating expenses across several active claims,
and in the process, the Department erroneously overpaid Integrated for
the services it performed, and for which Integrated was overpaid
\$6,107.45.
62. Finding 15-c: During the period from May 1, 2000, through
November 30, 2002, inclusive, Integrated billed the Department on one
occasion, but the Department erroneously split the billing for that
examination, and for which Integrated was underpaid \$278.74, a sum
that is credited against overpayment in other findings.

1 63. Finding 15-d: During the period from May 1, 2000, through
2 November 30, 2002, inclusive, Integrated billed the Department on two
3 occasions where Integrated split the bills with different procedure codes,
4 which the Department paid, and for which Integrated was overpaid
\$308.06.

5 64. The action commenced by the Department on December 18, 2003 was
6 within six years of when the action accrued.

7 **CONCLUSIONS OF LAW**

8 1. The Board of Industrial Insurance Appeals has jurisdiction over the
9 parties to and the subject matter of this appeal.

10 2. The Department of Labor and Industries has the authority to recover
11 payments made by the Department to Integrated Medical Examiners,
12 LLC, for those amounts it was not entitled to when it was paid for
13 services in excess of the amounts applicable for the services provided,
as contemplated by RCW 51.48.260.

14 3. RCW 51.48.260 requires that repayment of amounts received, to which
15 Integrated Medical Examiners, LLC, was not entitled, include interest
16 that accrues at a rate of 1 percent each month from the date the excess
17 payments were made, until repayment is made, and that an appeal
18 before the Board of Industrial Insurance Appeals does not stay the
accrual of that interest.

19 4. The action is timely within the meaning of RCW 4.16. 040.

20 5. The Department order dated March 25, 2004, entitled Final Order and
21 Notice, and which includes by reference the Department's Audit Report
22 and Order and Notice dated December 18, 2003, is incorrect. That
23 order is reversed and remanded to the Department with direction to
24 issue an order that: (1) during the period from May 1, 2000, through
25 November 30, 2002, determines that Integrated Medical Examiners,
26 LLC, received payments for services in excess of what it was entitled in
27 the amount of \$709,564.56; (2) Integrated Medical Examiners, LLC,
28 received payments for services that were less than what it was entitled
29 to in the amount of \$411.47; (3) credits Integrated Medical Examiners,
30 LLC, for \$411.47 against the payments for services in excess of what it
31 was entitled to; (4) demands repayment of the net amount of payments
32 in excess of what Integrated Medical Examiners, LLC, was entitled to,
an amount established as \$709,153.09; and (5) assesses interest on

1 \$709,153.09 at a rate of 1 percent each month from the date the excess
2 payments were made to Integrated Medical Examiners, LLC, and
3 continues until the amount the provider was not entitled to is repaid.

4 It is so **ORDERED**.

5 Dated this 27th day of March, 2006.

6
7 BOARD OF INDUSTRIAL INSURANCE APPEALS

8
9
10 /s/ _____
11 THOMAS E. EGAN Chairperson

12
13 /s/ _____
14 FRANK E. FENNERTY, JR. Member

15
16 /s/ _____
17 CALHOUN DICKINSON Member