

**STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Workers' Compensation**

INITIAL STATEMENT OF REASONS

**Subject Matter of Regulations: Workers' Compensation
Employee Benefit Notices**

**Title 8, California Code of Regulations, Title 8
Sections 9810, 9811, 9812, 9813, 9814, 9815, 9881.1 and 10139.**

Section 9810	General Provisions
Section 9811	Definitions
Section 9812	Benefit Payment and Notices
Section 9813	Vocational Rehabilitation Notices
Section 9814	Salary Continuation
Section 9881.1	Notice to Employees Poster
Section 10139	Workers' Compensation Claim Form (DWC 1) and Notice of Potential Eligibility.

BACKGROUND TO REGULATORY PROCEEDING:

Labor Code section 138.3 requires the Administrative Director to prescribe reasonable rules and regulations to require employers to serve notice on injured employees that they may be entitled to benefits under Division 4 of the Labor Code.

Labor Code section 138.4 requires the Administrative Director, in consultation with the Commission on Health and Safety and Workers' Compensation, to prescribe reasonable rules and regulations for service on the employee (or employee's dependents, in the case of death), notices dealing with the payment, nonpayment, or delay in payment of temporary disability, permanent disability, and death benefits; notices of any change in the amount or type of benefits being provided, the termination of benefits, the rejection of any liability for compensation; and, an accounting of benefits paid.

Labor Code section 3550 requires the Administrative Director, after consultation with the Commission on Health and Safety and Workers' Compensation, to prescribe the form and content of a notice to employees poster.

Labor Code section 5401 requires the Administrative Director, after consultation with the Commission on Health and Safety and Workers' Compensation, to prescribe the form and content of the notice of potential eligibility for benefits and claim form.

PROBLEMS ADDRESSED BY THIS RULEMAKING

The existing benefit notice regulations have been criticized as burdensome to claims administrators and producing notices that are overly complex and confusing to injured workers.

The objective of the regulations is to improve the quality of benefit notices provided to injured workers in order to provide them with a clearer understanding of their rights and responsibilities in the workers' compensation claims process and reduce litigation.

The proposed amendments are the result of extensive consultation by Division staff with the Commission on Health and Safety and Workers' Compensation and pre-regulatory public comments made via the DWC forum. These public comments may be viewed at: <http://www.dir.ca.gov/dwc/DWCWCABForum/1.asp>

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS RELIED UPON:

Report on Benefit Notices and Recommendations, a report of the Institute for Research on Labor and Employment, University of California at Berkeley for the California Commission on Health and Safety and Workers' Compensation, July 2010.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

The proposed regulations do not mandate the use of specific technologies or equipment.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATION AND REASONS FOR REJECTING THOSE ALTERNATIVES

The Acting Administrative Director has not identified any effective alternative, or any equally effective and less burdensome alternative, to the regulation at this time. The public is invited to submit such alternatives during the public comment process.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE IMPACT DIRECTLY AFFECTING BUSINESS

The Acting Administrative Director has made an initial determination pursuant to Government Code §11346.2(b)(6)(A) that the proposed regulatory action will not have a significant, statewide adverse economic impact directly affecting business.

Improving communications between claims administrators and injured workers will reduce confusion, misunderstandings, disputes, and litigation. A 2010 study conducted by the Institute for Research on Labor and Employment, University of California at Berkeley for the California Commission on Health and Safety and Workers' Compensation estimates that revising the benefit notice regulations to substantially

clarify the information provided will reduce legal defense expenses by \$43 million per year. In addition, shortening the length of benefit notices and eliminating most of the enclosures will significantly reduce printing and mailing costs.

Therefore, it is not anticipated that there will be a significant statewide adverse impact directly affecting business.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS (Gov. Code section 11346.2(b)(7))

The proposed regulations do not duplicate or conflict with any federal regulations.

SUMMARY OF PROPOSED REGULATIONS

Section Amended: Section 9810 - General Provisions

Section 9810 describes the general provisions governing the correct procedure and format for notice letters used to inform injured workers about their entitlement to workers' compensation benefits.

Specific Purpose of Amendments to Section 9810:

The proposed amendments to section 9810 will delete the effective date of the last series of amendments to the benefit notice regulations.

The proposed amendments will relocate the existing substantive mandatory content of the statement of employee's rights from subdivision (f) section 9811 of the current regulations (a section that sets forth definitions of terms used in the regulations) to this more appropriate location in the regulation which sets forth mandatory provisions applicable to all benefit notices.

The proposed amendments will provide that benefit notices using the model language contained in the Benefit Notice Instruction Manual will be presumed to be adequate notice to the employee and, unless modified, will not be subject to audit penalties.

The proposed amendments will provide that regardless of whether they are sent on the claims administrator's letterhead or not, all benefit notices are required to identify the claims administrator's name, mailing address, telephone number, the employee's name, employer's name, the claim number, the date the notice was sent to the employee, and the date of injury. Benefit notices will also have to include the claims administrator's website address if available.

The proposed amendments will provide that benefit notices are required to clearly state that additional information may be obtained on the Division's website: www.dwc.ca.gov, as well as from an Information and Assistance officer with the Division of Workers' Compensation.

The proposed amendments will provide that where a notice is being issued but a check for benefits to which the notice refers is being separately mailed to the employee, the notice must advise the employee that the check is being mailed separately.

The proposed amendments will provide that every benefit notice, excepting those mandatory notices that have been set forth in statute or where a specific notice form has been adopted as a regulation, must include a mandatory statement of employee's (or claimant's) remedies. Two specific alternative provisions setting forth mandatory language are being adopted, and which provision is required to be used will depend on whether or not the claim in which the benefit notice is being issued is subject to an alternative dispute resolution (ADR) program under Labor Code sections 3201.5 or 3201.7.

The proposed amendments will provide that the Administrative Director's making sample notices that comply with the benefit notice requirements available on the DWC website is discretionary instead of mandatory.

The proposed amendments also will provide that benefit notices using the sample notices devised by the Administrative Director and available on the Division's website are presumed to be adequate notice to the employee and, unless modified, will not be subject to audit penalties.

The proposed amendments will provide that every benefit notice is required to have a title at the top of the first page that clearly identifies the subject of the notice. The notice must also contain the statement in bold font at the end of the notice instructing the employee to: "Keep this notice. It contains important information about your workers' compensation benefits."

The proposed amendments will provide that upon the documented agreement of the attorney, all benefit notices, including attachments, may be sent electronically in lieu of by mail. An attorney may elect to change the method in which he or she receives benefit notices by giving written notice to the claims administrator.

The proposed amendments will provide that the extension of any deadline for reply which is measured from the date a notice is sent, and all rights protected within the deadline, is also extended if the notice is sent electronically.

The proposed amendments will provide that upon the documented agreement of the employee, all benefit notices, including attachments, may be sent electronically in lieu of by mail. The employee's agreement may be documented by provision of a personal email address on the claim form (DWC Form 1) and checking the box agreeing to receive benefit notices electronically. An employee may elect to change the method in which he or she receives benefit notices by giving written notice to the claims administrator.

The proposed amendments will also make minor, non-substantive grammatical and other changes to improve the clarity of the regulation and numbering changes to accommodate the newly added subdivisions. Existing subdivision (d) is being changed to (e), existing subdivision (e) is being changed to (h), existing subdivision (g) is being changed to (i), existing subdivision (h) is being changed to (j), and existing subdivision (i) is being changed to (k).

The proposed amendments will delete an authority citation to Labor Code section 139.5(a)(2) and a reference citation to Labor Code section 139.5(a)(3).

The proposed amendments will add a reference citation to Code of Civil Procedure sections 1010.6 and 1013.

Necessity:

Deleting the effective date of the last series of amendments to the benefit notice regulations improves the clarity of the regulations by removing surplus language.

Relocating the existing substantive mandatory content of the statement of employee's rights from subdivision (f) section 9811 of the current regulations (a section that sets forth definitions of terms used in the regulations) to this regulation which sets forth mandatory provisions applicable to all benefit notices improves the overall clarity of the regulations.

Requiring that all benefit notices identify the claims administrator's name, mailing address, telephone number, the employee's name, employer's name, the claim number, the date the notice was sent to the employee, the date of injury and the claims administrator's website address if available, regardless of whether they are sent on the claims administrator's letterhead or not, will ensure that injured workers are provided with the information needed to contact the claims administrator and obtain the necessary information to allow them to take timely and appropriate actions to protect their rights.

Providing that benefit notices are required to clearly state that additional information may be obtained on the Division's website, in addition to from an Information and Assistance officer with the Division of Workers' Compensation, allows claims administrators to reduce the complexity of benefit notices while still ensuring that injured workers have access to detailed information about their rights and responsibilities in the claims process.

Providing that where a notice is being issued, but a check for benefits to which the notice refers is being separately mailed to the employee, the notice must advise the employee that the check is being mailed separately will avoid confusion for the recipient where the business practice of the claims administrator is to issue notices and checks from different locations.

Revising the existing mandatory statements of employee's (or claimant's) remedies will improve their clarity.

Providing that the Administrative Director's making sample notices that comply with the benefit notice requirements available on the DWC website is discretionary instead of mandatory allows the Administrative Director flexibility in accommodating employee workload.

Providing that benefit notices using the model language contained in the Benefit Notice Instruction Manual will be presumed to be adequate notice to the employee and, unless modified and will not be subject to audit penalties provides assurances to claims administrators that they can rely on the adequacy of the sample benefit notices.

Requiring that every benefit notice have a title at the top of the first page that clearly identifies the subject of the notice will improve the clarity of the notices. Requiring notices to contain the statement in bold font at the end of the notice instructing the employee to: "Keep this notice. It contains important information about your workers' compensation benefits" will emphasize to the employee that the notice should be retained for future reference.

Allowing benefit notices to be sent electronically to injured workers and/or their attorney will reduce the cost of notices, allow them to be received faster by the injured worker and/or attorney, and, allow movement towards a paperless system. Requiring documentation of the injured worker and/or attorney's consent, and allowing the recipient to change the method in which he or she receives benefit notices by giving written notice to the claims administrator, protects the injured worker and/or their attorney's rights.

Providing that the extension of any deadline for reply which is measured from the date a notice is sent, and all rights protected within the deadline, is also extended if the notice is sent electronically, will ensure that injured workers who elect to receive notices electronically will be treated equally with those who are served by mail.

Making minor, non-substantive grammatical and other changes will improve the clarity of the regulation.

Deleting an authority citation to Labor Code section 139.5(a)(2) and a reference citation to Labor Code section 139.5(a)(3) will conform the authority note to the repeal of vocational rehabilitation.

Adding a reference citation to Code of Civil Procedure sections 1010.6 and 1013 will improve the clarity of the regulation.

Section Amended: Section 9811 - Definitions

Section 9811 provides definitions of the terms used in the benefit notice regulations.

Specific Purpose of Amendments to Section:

The proposed amendments to section 9811 will relocate the definition of the term dependent from section 9812(f) without substantively changing the definition.

The proposed amendments will relocate the existing substantive mandatory content of the statement of employee's rights from the definitions section of the regulations to the more appropriate section 9810, the section of the benefit notice regulations which sets forth mandatory provisions applicable to all benefit notices.

The proposed amendments will add a definition of the term "medical issue", and provide that the term means a dispute or question that is subject to Labor Code section 4060, 4061, or 4062, and that the term does not include a medical treatment issue that is subject to Labor Code section 4610, 4610.5, and 4610.6.

The proposed amendments will add a definition of the term "salary continuation," and provide that the term means payments made to an employee pursuant to a plan that meets the criteria specified in Labor Code section 4650(g).

The proposed amendments will provide that the term "temporary disability payment", includes salary continuation as defined in proposed subdivision (l) of this section.

The proposed amendments will also make minor, non-substantive grammatical and other changes to improve the clarity of the regulation and numbering changes to accommodate the newly added subdivisions. The amended regulation will add the word "employer" to the existing definition of the term "self-administered legally uninsured". Existing subdivision (d) is being changed to (e), existing subdivision (e) is being changed to (f), existing subdivision (f) is being changed to (g), existing subdivision (g) is being changed to (h), existing subdivision (h) is being changed to (i), and existing subdivision (i) is being changed to (k).

The proposed amendments will delete a reference citation to Labor Code section 139.5 subdivisions (c) and (d) and add reference citations to Labor Code sections 4060, 4062, 4610, 4610.5, 4610.6, 4850.

The proposed amendments will also add a reference citation to Insurance Code section 19871, Government Code section 19871 and Education Code section 89529.03.

Necessity:

Moving the definition of the term "dependent" to this section from section 9812(f) without substantively changing the definition will improve the clarity of the regulations.

Relocating the existing substantive mandatory content of the statement of employee's rights from the definitions section of the regulations to the more appropriate section

9810, (the section of the benefit notice regulations which sets forth mandatory provisions applicable to all benefit notices) will improve the clarity of the regulations.

Adding a definition of the term “medical issue”, and providing that the term means a dispute or question that is subject to Labor Code section 4060, 4061, or 4062, and that the term does not include a medical treatment issue that is subject to Labor Code section 4610, 4610.5, and 4610.6 will improve the clarity of the regulations.

Adding a definition of the term “salary continuation,” and providing that the term means payments made to an employee pursuant to a plan that meets the criteria specified in Labor Code section 4650(g) will improve the clarity of the regulations for claims administrators and benefit notices for injured workers.

Providing that the term “temporary disability payment”, includes salary continuation as defined in proposed subdivision (l) of this section will update the notices to reflect the existing state of the law, and will improve the clarity of the regulations for claims administrators and benefit notices for injured workers.

Making minor, non-substantive grammatical and other changes will improve the clarity of the regulation.

Deleting a reference citation to Labor Code section 139.5 subdivisions (c) and (d) will conform the authority note to the repeal of vocational rehabilitation.

Adding reference citations to Labor Code sections 4060, 4062, 4610, 4610.5, 4610.6, 4850, Insurance Code section 19871, Government Code section 19871, and, Education Code section 89529.03 will improve the clarity of the regulation.

Section Amended: Section 9812 - Benefit Payment and Notices

Section 9812 prescribes the required timeframes for sending benefit notices and the content for notices dealing with each type of benefit to which an injured worker might be entitled.

Specific Purpose of Section:

The proposed amendments to section 9812 will delete the requirement to provide a copy of various DWC informative pamphlets with the notices required by this section.

The proposed amendments will delete the requirement that notices concerning the right of an employee to obtain an evaluation by a Qualified Medical Evaluator have a warning in not less than 12 point font at the top of the first page that the employee may lose important rights if they do not take certain actions within 10 days, and replace the warning with more detailed language explaining the QME process in the body of the notices.

The proposed amendments substantially revise the required content of the notices required to resolve a delay or denial of temporary disability benefits related to a medical issue. Instead of prescribing content, specific mandatory and uniform language will be required depending on whether the employee is represented by an attorney or not.

The proposed amendments will also make minor, non-substantive grammatical, formatting and other changes to improve the clarity of the regulation.

The proposed amendments will replace all reference in this section to the term “injured worker” or “injured workers” with “employee” or “employees” and replace the reference to “continuing medical care” to “future medical care”.

To improve the clarity of section 9812 as a whole, the subdivision addressing the Notice of Delay in Determining All Liability will be renumbered so it precedes, rather than follows, the subdivision addressing the Notice Denying Liability for All Compensation Benefits.

The proposed amendments will also make minor, non-substantive numbering changes to accommodate the newly added and re-ordered subdivisions. Existing subdivision (g) is being changed to (e), existing subdivision (h) is being changed to (f), existing subdivision (i) is being changed to (h), and, existing subdivision (j) is being changed to (g).

(a) Temporary Disability Notices.

(2) Notice of Delay in Any Temporary Disability Indemnity Payment.

The proposed amendments will improve the clarity of the notice by providing that the issuance of the Notice of Delay in Any Temporary Disability Indemnity Payment is required if the employee's entitlement to any period of temporary disability indemnity cannot be determined within 14 days **after** the date of knowledge of the employee's injury and disability. (The current regulation uses the ambiguous phrase “within 14 days **of** the date of knowledge of injury and disability”.)

The proposed amendments will improve the clarity of the section by relocating the requirement that a subsequent delay notice is required to comply with all requirements for the contents of an original delay notice from the end of the subdivision (where it appeared that the requirement might only apply to a delay where the employee was represented by an attorney) to make it clear that the requirement applies to *any* delay in any temporary disability indemnity payment.

The proposed amendments will clarify the language used in the notice to provide an explanation of the employee's right to challenge the claims administrator's determination to delay any temporary disability indemnity payment. Instead of prescribing content, specific mandatory and uniform language will be required depending on whether the employee is unrepresented or represented by an attorney.

(3) The Notice of Denial of Any Temporary Disability Indemnity Payment.

The proposed amendments to subdivision will substantially revise the notice requirements for the denial of any liability for any temporary disability indemnity payment.

The proposed amendments will require that if the claims administrator's determination is based on a medical report, a copy of the medical report or reports is required to be provided with the notice, except for psychiatric reports that the psychiatrist has recommended not be provided to the employee.

The proposed amendments will clarify the language used in the notice to provide an explanation of the employee's right to challenge the claims administrator's determination to deny any liability for any temporary disability indemnity payment. Instead of prescribing content, specific mandatory and uniform language will be required depending on whether the employee is unrepresented or represented by an attorney.

(b) The Notice of Resumed Benefit Payments.

The proposed amendments will delete any reference to salary continuation, vocational rehabilitation temporary disability indemnity or maintenance allowance.

(c) The Notice of Changed Benefit Rate, Payment Amount or Schedule.

The proposed amendments will delete any reference to salary continuation, vocational rehabilitation temporary disability indemnity or maintenance allowance.

The proposed amendments will also change the requirement that the notice must be given before or **with** the new payment, to allow it to be given before or **at the same time** as the new payment.

(d) The Notice that Benefits Are Ending.

The proposed amendments will delete any reference to salary continuation, vocational rehabilitation temporary disability indemnity or maintenance allowance.

The proposed amendments will improve the clarity of the notice by providing that the notice is required if the decision to end payment of indemnity was made after the last payment, the claims administrator must send the notice and accounting of benefits paid within 14 days **after** the last payment. (The current regulation uses the ambiguous phrase "within 14 days **of** the date of knowledge of injury and disability".)

The proposed amendments will require that if the claims administrator's determination is based on a medical report, a copy of the medical report or reports is required to be

provided with the notice, except for psychiatric reports that the psychiatrist has recommended not be provided to the employee.

The proposed amendments will clarify the language required in the notice to provide an explanation of the employee's right to challenge the claims administrator's determination to end the employee's benefits. Instead of prescribing content, specific mandatory and uniform language will be required depending on whether the employee is unrepresented or represented by an attorney.

(e) Permanent Disability Notices For Injuries That Occurred Prior To 1991.

The proposed amendments will repeal this subdivision.

(f) Permanent Disability Notices for Injuries Occurring in 1991, 1992, 1993.

The proposed amendments will repeal this subdivision.

(g) Permanent Disability Notices For Injuries Occurring on or after 1/1/94. For injuries occurring on or after January 1, 1994.

The proposed amendments will make this subdivision applicable to all dates of injury, eliminating the differing requirements for notices for date of injury on or after January 1, 1994 through December 31, 2004 and dates of injury on or after January 1, 2005.

(1) Condition Not Permanent and Stationary, May Cause Permanent Disability -- Notice of Monitoring Until P&S Date.

The proposed amendments will change the requirement that the Notice of Monitoring Until P&S Date must be given **together with** the last payment of temporary disability indemnity, to allow it to be given **at the same time as** the last payment of temporary disability indemnity.

(2) Condition Becomes Permanent and Stationary, Causes Permanent Disability - Notice of QME/AME Procedures.

The proposed amendments will clarify the notice required when the employee's condition becomes permanent and stationary, and causes permanent disability by changing the name of the notice to the "Notice That Permanent Disability Exists".

The proposed amendments will change the requirement that the notice must be given **together with** the last payment of temporary disability indemnity or within 14 days of knowledge that the injury is permanent and stationary or has caused permanent disability, to allow it to be given **at the same time as** the last payment of temporary disability indemnity or within 14 days of knowledge that the injury has caused permanent disability, whichever is later.

The proposed amendments will revise the requirement for the claims administrator to advise the employee whether there *is* the need for continuing future medical care, to require the claims administrator to advise the employee whether there **will be** the need for continuing future medical care.

The proposed amendments will require the claims administrator to advise the employee whether an indemnity payment will be deferred pursuant to paragraph (2) of subdivision (b) of Labor Code section 4650.

The proposed amendments will clarify the language used in the notice to provide an explanation of the employee's right to challenge the claims administrator's determination to delay any permanent disability indemnity payment. Instead of prescribing content, specific mandatory and uniform language will be required depending on whether the employee is unrepresented or represented by an attorney.

The proposed amendments will repeal the requirement that a copy of the medical report on which the estimate of permanent disability was based be sent to the employee, and instead provide that if the claims administrator's determination is based on a medical report, a copy of the medical report or reports is required to be provided with the notice, except for psychiatric reports that the psychiatrist has recommended not be provided to the employee.

(3) Notice That No Permanent Disability Exists.

The proposed amendments will clarify that this notice is only required in cases where the employee has sustained compensable lost time from work, has received payment of temporary disability indemnity or the employee claims permanent disability.

The proposed amendments will change the requirement that the notice must be given **together with** the last payment of temporary disability indemnity or within 14 days after the claims administrator determines that the injury has caused no permanent disability, to allow it to be given **at the same time as** the last payment of temporary disability indemnity or within 14 days after the claims administrator determines that the injury has caused no permanent disability.

The proposed amendments will repeal the requirement that a copy of the medical report on which the determination of no permanent disability was based be sent to the employee, and instead provide that if the claims administrator's determination is based on a medical report, a copy of the medical report or reports is required to be provided with the notice, except for psychiatric reports that the psychiatrist has recommended not be provided to the employee.

The proposed amendments will clarify the language used in the notice to provide an explanation of the employee's right to challenge the claims administrator's determination of no permanent disability. Instead of prescribing content, specific

mandatory and uniform language will be required depending on whether the employee is unrepresented or represented by an attorney.

(4) Notice of Permanent Disability Indemnity Payment When Injury Causes Permanent Disability.

The proposed amendments will delete the requirement that the notice be given if the claims administrator knows that the employee has sustained permanent disability, whether or not its extent is known and whether or not the employee's medical condition is permanent and stationary, and instead require the notice at the same time as the first payment of permanent disability indemnity.

The proposed amendments will delete the requirement for injuries occurring on or after January 1, 2005 that the claims administrator advise the employee, in specified benefit notices, of any increase or decrease in the amount of the employee's permanent disability payments, pursuant to Labor Code section 4658, subdivision (d) resulting from the employer's offer of regular, modified or alternative work or resulting from the employer's failure to offer, or the employer's early termination of, regular, modified or alternative work.

(h) Notices to Dependents in Death Cases.

The proposed amendments will relocate the definition of the term "dependent" from this subdivision to the more appropriate section 9811 which provide definitions of terms applicable to all benefit notices. There will be no substantive change in the definition.

2) Notice of Changed Benefit Rate, Amount or Schedule or that Benefits are Ending.

The proposed amendments will change the requirement that a notice that payment is ending must be sent *with* the last payment unless the decision to end payment was made after that payment; in that case it must be sent within 14 days *of* the last payment, to require instead that the notice be sent *at the same time as* the last payment unless the decision to end payment was made after that payment; in that case it must be sent within 14 days *after* the last payment.

(i) Notice Denying Liability for All Compensation Benefits

The proposed amendments will provide that if the claims administrator's determination is based on a medical report, a copy of the medical report(s) must be provided with the notice, except for psychiatric reports that the psychiatrist has recommended not be provided to the employee.

The proposed amendments will provide that if the employee is not represented, the determination to deny liability for all compensation benefits is related to a medical issue, and the employee has not previously received a comprehensive medical evaluation for

this claim, the notice must be accompanied by the form prescribed by the DWC Medical Unit to request assignment of a panel of Qualified Medical Evaluators, and an explanation of the QME panel request and selection process.

The proposed amendments will provide that if the employee is represented by an attorney, the employee will be instructed to contact their attorney with any questions.

The proposed amendments will provide that instead of requiring service of a copy of the Notice Denying Liability for All Compensation Benefits on “all persons or entities who can reasonably be identified by the claims administrator from information in the claims file to be potential lien claimants on account of their having furnished benefits, goods or services for which a lien may be filed under Labor Code sections 4903 through 4906, inclusive,” the notice will be required to be served on “all persons or entities that have been authorized by the claims administrator to furnish benefits, goods or services for which a lien or claim for costs may be filed under Labor Code sections 4903 through 4906, inclusive.”

To improve the clarity of this subdivision, the four paragraphs will be numbered.

The proposed amendments will add an authority citation to Labor Code section 124, and delete authority citations to Labor Code sections 139.5(a)(2), 4636(d), and 4637.

The proposed amendments will add reference citations to Labor Code sections 4060 and 4062.2, amend a reference citation from Labor Code section 4061(e) to 4061(f), and amend a reference citation from Labor Code section 4061(f) to 4061(g).

(j) Notice of Delay in Determining All Liability.

The proposed amendments will provide that The proposed amendments will improve the clarity of the notice by providing that the issuance of the Notice of Delay in Determining All Liability is required if the claims administrator cannot determine whether the employer has any liability for an injury, other than an injury causing death, within 14 days **after** the date of knowledge of injury. (The current regulation uses the ambiguous phrase “within 14 days **of** the date of knowledge of injury”.)

The proposed amendments will also require the claims administrator to send an additional notice if a determination cannot be made by the date specified in a prior notice to the employee, or if the reason for the delay has changed. The additional notice will be required to be sent as soon as is reasonably practical, but in any event not later than the determination date specified in the previous notice, and the additional notice will be required to explain the reason for the additional delay.

The proposed amendments will provide that, for unrepresented employees, if the delay is related to a medical issue, and the claims administrator is requesting a comprehensive medical evaluation the notice must be accompanied by the form prescribed by the DWC Medical Unit to request assignment of a panel of Qualified

Medical Evaluators and an explanation of the QME panel request and selection process.

The proposed amendments will provide that if the employee is represented by an attorney, the employee will be instructed to contact their attorney with any questions.

Necessity:

Deleting the requirement to provide a copy of various DWC informative pamphlets with the notices required by this section will reduce the size of the notices, and allow claims administrators to more effectively communicate their main message to the recipient without overwhelming them with too much detail that might not be relevant at the time the notice is being sent. Additional detailed, and more easily updated information will still be available to the injured worker on-line from the Division's web site, or from the claims administrator upon request.

Deleting the requirement that notices concerning the right of an employee to obtain an evaluation by a Qualified Medical Evaluator have a warning in not less than 12 point font at the top of the first page that the employee may lose important rights if they do not take certain actions within 10 days, and replacing the warning with more detailed language explaining the QME process in the body of the notices will make the notices less intimidating, and improve their clarity.

Revising the required content of the notices used to inform injured workers how to resolve a delay or denial of temporary disability benefits related to a medical issue will improve the clarity of the notices.

Making minor, non-substantive grammatical, formatting and other changes will improve the clarity of the regulation.

Replacing all reference in this section to the term "injured worker" or "injured workers" with "employee" or "employees" and replacing the reference to "continuing medical care" to "future medical care" will improve the consistency and clarity of the regulation.

Reordering the placement of the subdivision addressing the Notice of Delay in Determining All Liability so it precedes, rather than follows, the subdivision addressing the Notice Denying Liability for All Compensation Benefits will improve the clarity of the section as a whole.

(a) Temporary Disability Notices.

(2) Notice of Delay in Any Temporary Disability Indemnity Payment.

Providing that the issuance of the Notice of Delay in Any Temporary Disability Indemnity Payment is required if the employee's entitlement to any period of temporary disability indemnity cannot be determined within 14 days *after* the date of knowledge of the

employee's injury and disability, instead of the current ambiguous phrase "*within* 14 days of the date of knowledge of injury and disability" will improve the clarity of the notice.

Relocating the requirement that a subsequent delay notice is required to comply with all requirements for the contents of an original delay notice from the end of the subdivision (where it appeared that the requirement might only apply to a delay where the employee was represented by an attorney) will improve the clarity of the section by making it clear that the requirement applies to any delay in any temporary disability indemnity payment.

Clarifying the language used in the notice to provide an explanation of the employee's right to challenge the claims administrator's determination to delay any temporary disability indemnity payment by requiring specific mandatory and uniform language depending on whether the employee is unrepresented or represented by an attorney will improve the clarity of the notice.

(3) The Notice of Denial of Any Temporary Disability Indemnity Payment.

Revising the notice requirements for the denial of any liability for any temporary disability indemnity payment will improve the clarity of the notice.

Requiring that if the claims administrator's determination is based on a medical report, a copy of the medical report or reports is required to be provided with the notice, except for psychiatric reports that the psychiatrist has recommended not be provided to the employee will ensure that the injured worker has the information needed to timely make decisions on how to proceed with their claim and what actions may be necessary to protect their rights.

Revising the language used in the notice to provide an explanation of the employee's right to challenge the claims administrator's determination to deny any liability for any temporary disability indemnity payment will improve the clarity of the notice.

(b) The Notice of Resumed Benefit Payments.

Deleting any reference to salary continuation, vocational rehabilitation temporary disability indemnity or maintenance allowance will update the regulation and notice to reflect the repeal of vocational rehabilitation.

(c) The Notice of Changed Benefit Rate, Payment Amount or Schedule.

Deleting any reference to salary continuation will improve the clarity of the regulation. Deleting any reference to vocational rehabilitation temporary disability indemnity or maintenance allowance will update the regulation and notice to reflect the repeal of vocational rehabilitation.

Changing the requirement that the notice must be given before **or with** the new payment, to allow it to be given before **or at the same time as** the new payment will accommodate the business practice of claims administrators that issue notices and checks from different locations.

(d) The Notice that Benefits Are Ending.

Deleting any reference to salary continuation will improve the clarity of the regulation. Deleting any reference to vocational rehabilitation temporary disability indemnity or maintenance allowance will update the regulation and notice to reflect the repeal of vocational rehabilitation.

Providing that the notice is required, the claims administrator must send the notice and accounting of benefits paid within 14 days **after** the last payment instead of the more ambiguous “within 14 days **of the date of knowledge of injury and disability**” will improve the clarity of the notice.

Requiring that if the claims administrator’s determination is based on a medical report, a copy of the medical report or reports is required to be provided with the notice, except for psychiatric reports that the psychiatrist has recommended not be provided to the employee will ensure that the injured worker has the information needed to timely make decisions on how to proceed with their claim and what actions may be necessary to protect their rights.

Revising the language required in the notice to provide an explanation of the employee’s right to challenge the claims administrator’s determination to end the employee’s benefits will improve the clarity of the notice.

(e) Permanent Disability Notices For Injuries That Occurred Prior To 1991.

Repealing this subdivision will improve the clarity of the regulations, and ensure that uniform and updated notices are provided to all injured workers with open claims, regardless of their date(s) of injury.

(f) Permanent Disability Notices for Injuries Occurring in 1991, 1992, 1993.

Repealing this subdivision will improve the clarity of the regulations, and ensure that uniform and updated notices are provided to all injured workers with open claims, regardless of their date(s) of injury.

(g) Permanent Disability Notices For Injuries Occurring on or after 1/1/94. For injuries occurring on or after January 1, 1994.

Making this subdivision applicable to all dates of injury, eliminating the differing requirements for notices for date of injury on or after January 1, 1994 through December 31, 2004 and dates of injury on or after January 1, 2005 will improve the

clarity of the regulations, and ensure that uniform and updated notices are provided to all injured workers with open claims, regardless of their date(s) of injury.

(1) Condition Not Permanent and Stationary, May Cause Permanent Disability -- Notice of Monitoring Until P&S Date.

Revising the requirement that the Notice of Monitoring Until P&S Date be given together with the last payment of temporary disability indemnity, to allow it to be given at the same time as the last payment of temporary disability indemnity will accommodate the business practice of claims administrators that issue notices and checks from different locations.

(2) Condition Becomes Permanent and Stationary, Causes Permanent Disability - Notice of QME/AME Procedures.

Changing the name of the notice required when the employee's condition becomes permanent and stationary and causes permanent disability to the "Notice That Permanent Disability Exists" will improve the clarity of the notice. (Some injured workers erroneously believe that this notice requires them to begin the QME panel process.)

Changing the requirement that the notice must be given **together with** the last payment of temporary disability indemnity or within 14 days **of** knowledge that the injury is permanent and stationary or has caused permanent disability, to allow it to be given **at the same time as** the last payment of temporary disability indemnity or within 14 days **after** knowledge that the injury has caused permanent disability, whichever is later, will improve the clarity of the section.

Revising the requirement for the claims administrator to advise the employee whether there **is** the need for continuing future medical care, to require the claims administrator to advise the employee whether there **will be** the need for continuing future medical care will improve the clarity of the regulation and the notice.

Requiring the claims administrator to advise the employee whether an indemnity payment will be deferred pursuant to paragraph (2) of subdivision (b) of Labor Code section 4650 will avoid confusing an injured worker about the total amount and timing of his or her indemnity payments.

Revising the language used in the notice to provide an explanation of the employee's right to challenge the claims administrator's determination to delay any permanent disability indemnity payment will clarify the notice for the injured worker.

Repealing the requirement that a copy of the medical report on which the estimate of permanent disability was based be sent to the employee, and instead providing that if the claims administrator's determination is based on a medical report, a copy of the medical report or reports is required to be provided with the notice, except for psychiatric reports that the psychiatrist has recommended not be provided to the

employee will eliminate the unnecessary inclusion of medical reports and reduce copying and postage costs.

(3) Notice That No Permanent Disability Exists.

Providing that this notice is only required in cases where the employee has sustained compensable lost time from work, has received payment of temporary disability indemnity or the employee claims permanent disability, will clarify the regulation, and avoid requiring the claims administrator to issue unnecessary and possibly confusing notices to injured workers.

Changing the requirement that the notice must be given *together with* the last payment of temporary disability indemnity or within 14 days after the claims administrator determines that the injury has caused no permanent disability, to allow it to be given *at the same time as* the last payment of temporary disability indemnity or within 14 days after the claims administrator determines that the injury has caused no permanent disability will accommodate the business practice of claims administrators that issue notices and checks from different locations.

Repealing the requirement that a copy of the medical report on which the determination of no permanent disability was based be sent to the employee, and instead provide that if the claims administrator's determination is based on a medical report, a copy of the medical report or reports is required to be provided with the notice, except for psychiatric reports that the psychiatrist has recommended not be provided to the employee will eliminate the unnecessary inclusion of medical reports and reduce copying and postage costs.

Revising the language used in the notice to provide an explanation of the employee's right to challenge the claims administrator's determination of no permanent disability will improve the clarity of the notice.

(4) Notice of Permanent Disability Indemnity Payment When Injury Causes Permanent Disability.

Deleting the requirement that the notice be given if the claims administrator knows that the employee has sustained permanent disability, whether or not its extent is known and whether or not the employee's medical condition is permanent and stationary, and instead only requiring the notice at the same time as the first payment of permanent disability indemnity will eliminate a cause of confusion for injured workers about their entitlement to permanent disability benefits and may potentially reduce litigation that results from such confusion.

Deleting the requirement for injuries occurring on or after January 1, 2005 that the claims administrator advise the employee, in specified benefit notices, of any increase or decrease in the amount of the employee's permanent disability payments, pursuant to Labor Code section 4658, subdivision (d) resulting from the employer's offer of

regular, modified or alternative work or resulting from the employer's failure to offer, or the employer's early termination of, regular, modified or alternative work will conform this section to the enactment of Labor Code section 4658(e) effective January 1, 2013, which does not contain a provision for a 15% increase or decrease in permanent disability for dates of injury on or after January 1, 2103.

(h) Notices to Dependents in Death Cases.

Moving the definition of the term "dependent" from this subdivision to the more appropriate section 9811 which provide definitions of terms applicable to all benefit notices will improve the clarity and consistency of the regulations.

2) Notice of Changed Benefit Rate, Amount or Schedule or that Benefits are Ending.

Revising the requirement that the notice must be sent *with* the last payment unless the decision to end payment was made after that payment; in which case it must be sent within 14 days *of* the last payment, to require instead that the notice be sent *at the same time as* the last payment unless the decision to end payment was made after that payment; in that case it must be sent within 14 days *after* the last payment will accommodate the business practice of claims administrators that issue notices and checks from different locations and improve the clarity of the section.

(i) Notice Denying Liability for All Compensation Benefits

Requiring that if the claims administrator's determination is based on a medical report, a copy of the medical report(s) must be provided with the notice, except for psychiatric reports that the psychiatrist has recommended not be provided to the employee will ensure that the injured worker has the information needed to timely make decisions on how to proceed with their claim and what actions may be necessary to protect their rights.

Requiring that if the employee is not represented, the determination to deny liability for all compensation benefits is related to a medical issue, and the employee has not previously received a comprehensive medical evaluation for this claim, the notice must be accompanied by the form prescribed by the DWC Medical Unit to request assignment of a panel of Qualified Medical Evaluators, and an explanation of the QME panel request and selection process will ensure that the injured worker has the information needed to timely make decisions on how to proceed with their claim and what actions may be necessary to protect their rights.

Requiring that if the employee is represented by an attorney, the employee will be instructed to contact their attorney with any questions direct represented injured workers to communicate their questions to the person in the best position to explain issues about their claim - their attorney.

Requiring service of a copy of the Notice Denying Liability for All Compensation Benefits on “all persons or entities that have been authorized by the claims administrator to furnish benefits, goods or services for which a lien or claim for costs may be filed under Labor Code sections 4903 through 4906, inclusive” instead of “all persons or entities who can reasonably be identified by the claims administrator from information in the claims file to be potential lien claimants on account of their having furnished benefits, goods or services for which a lien may be filed under Labor Code sections 4903 through 4906, inclusive” will update the section to reflect the enactment of Labor Code section 4903.05.

Numbering the four paragraphs of this subdivision will improve its clarity.

Adding an authority citation to Labor Code section 124, and deleting authority citations to Labor Code sections 139.5(a)(2), 4636(d), and 4637 will improve the clarity of the regulation and conform the authority note to the repeal of vocational rehabilitation.

Adding reference citations to Labor Code sections 4060 and 4062.2, amending a reference citation from Labor Code section 4061(e) to 4061(f), and amending a reference citation from Labor Code section 4061(f) to 4061(g) will improve the clarity of the regulation.

(j) Notice of Delay in Determining All Liability.

Providing that the issuance of the Notice of Delay in Determining All Liability is required if the claims administrator cannot determine whether the employer has any liability for an injury, other than an injury causing death, within 14 days **after** the date of knowledge of injury instead of the more ambiguous “within 14 days **of** the date of knowledge of injury” will improve the clarity of the regulation.

Requiring the claims administrator to send an additional notice if a determination cannot be made by the date specified in a prior notice to the employee, or if the reason for the delay has changed, and requiring the notice to be sent as soon as is reasonably practical, but in any event not later than the determination date specified in the previous notice, and explaining the reason for the additional delay will ensure open communications and potentially reduce the likelihood of litigation.

Requiring that, for unrepresented employees, if the delay is related to a medical issue, and the claims administrator is requesting a comprehensive medical evaluation the notice must be accompanied by the form prescribed by the DWC Medical Unit to request assignment of a panel of Qualified Medical Evaluators and an explanation of the QME panel request and selection process will ensure that the injured worker has the information needed to timely make decisions on how to proceed with their claim and what actions may be necessary to protect their rights.

Requiring that if the employee is represented by an attorney, the employee will be instructed to contact their attorney with any questions will direct represented injured

workers to communicate their questions to the person in the best position to explain issues about their claim - their attorney.

Section Repealed: Section 9813 - Vocational Rehabilitation Notices

Section 9813 prescribes the required timeframes for sending notices, and the required content for each notice, for vocational rehabilitation benefits.

Specific Purpose of Section:

Section 9813 is being repealed in its entirety.

Necessity:

Before January 1, 2004, Labor Code section 139.5 established a vocational rehabilitation services program for qualified injured workers for purposes of developing vocational rehabilitation plans to retrain injured workers for future employment and required the Administrative Director to establish a vocational rehabilitation unit to perform various functions and duties with respect to the vocational rehabilitation services program.

Effective January 1, 2004, AB 227 (Stats 2003, ch 635) repealed these provisions in their entirety and replaced them with a new section concerning independent medical review and independent bill review.

In 2009, all regulations concerning vocational rehabilitation benefits and services were repealed, and the focus of the vocational rehabilitation unit was shifted to return to work services and supplemental job displacement benefits. For this reason, section 9813 is no longer necessary.

Section Amended: Section 9814 - Salary Continuation

Specific Purpose of Section:

The proposed amendments will delete a reference citation to Labor Code section 139.5(a)(2).

The proposed amendments will also add a reference citation to Insurance Code sections 11651 and 11652, Government Code section 19871 and Education Code section 89529.03.

Necessity:

Deleting a reference citation to Labor Code section 139.5(a)(2) will conform the authority note to the repeal of vocational rehabilitation.

Adding reference citations to Insurance Code sections 11651 and 11652, Government Code section 19871 and Education Code section 89529.03 will improve the clarity of the regulation.

Section Amended: Section 9815 – Corrected Notices

Specific Purpose of Section:

The proposed amendment will provide that if information in any notice, or the action taken as reflected in the notice, was incorrect or incomplete, the claims administrator must provide the employee with a corrected notice within 14 days **after** knowledge of the error or omission, instead of the more ambiguous “within 14 days **of** knowledge of the error or omission.”

The proposed amendments will delete a reference citation to Labor Code sections 139, 139.5(a)(2) and 4636.

The proposed amendments will also add a reference citation to Insurance Code sections 11651 and 11652, Government Code section 19871 and Education Code section 89529.03.

Necessity:

Providing that a corrected notice must be sent within 14 days **after** knowledge of the error or omission, instead of the more ambiguous “within 14 days **of** knowledge of the error or omission” will improve the clarity of the section.

Deleting a reference citation to Labor Code section 139.5(a)(2) will conform the authority note to the repeal of vocational rehabilitation.

Adding reference citations to Insurance Code sections 11651 and 11652, Government Code section 19871 and Education Code section 89529.03 will improve the clarity of the regulation.

Section Amended: Section 9881.1 - Notice to Employees Poster

Specific Purpose of Section:

The proposed amendments to section 9881.1 will update the information on the poster to reflect the existing state of the law, and rephrase some of its content in more readily understandable language.

The proposed amendments will replace the employer’s MPN’s address with its identification number.

The proposed amendments will inform employees that they can access the publication “Workers’ Compensation in California: A Guidebook for Injured Workers” on the DWC website.

Necessity:

Updating the information on the poster to reflect the existing state of the law, and rephrasing some of its content in more readily understandable language will improve the clarity of the poster and improve its usefulness to employees.

Replacing the employer’s MPN’s address with its identification number will better enable the employee to obtain information about the MPN from the Division.

Informing employees that they can access the publication “Workers’ Compensation in California: A Guidebook for Injured Workers” on the DWC website will provide employees to more detailed and easily updated information than is available on the poster.

Section Amended: Section 10139 - Workers’ Compensation Claim Form (DWC 1) and Notice of Potential Eligibility.

Specific Purpose of Section:

The proposed amendments to the notice of potential eligibility will inform the employee that if he or she loses time from work, the claims administrator must notify the employee within 14 days whether the employee’s claim is accepted or whether additional investigation is needed.

The proposed amendments will inform the employee to submit the claim form, with a complete description of their injury, to their employer, and advise the employee that in some cases, benefits will not start until they inform their employer about their injury by filing a claim form.

The proposed amendments will suggest that the employee mail the form to their employer, using first-class or certified mail, and buy a return receipt, so they will be able to prove that the claim form was mailed and when it was delivered.

The proposed amendments will advise the employee that their medical benefits may include equipment and travel costs, and that there are limits on chiropractic, physical therapy, and other occupational therapy visits.

The proposed amendments will update the information on the role of the primary treating physician, explain the predesignation process, and inform the employee that if their employer is not using an MPN or HCO, in most cases, the claims administrator can choose the doctor who first treats the employee unless he or she predesignated a personal physician or a medical group.

The proposed amendments will inform the employee that within one working day after the employee files a claim form, the claims administrator must authorize the provision of up to \$10,000 in treatment for the employee's injury, consistent with the applicable treating guidelines, until the claim is accepted or rejected.

The proposed amendments will also explain how to obtain treatment if the claims adjuster does not authorize treatment.

The proposed amendments will explain how the employee can transfer their treatment to a different primary treating physician in cases where the employee is being treated in a Medical Provider Network, a Health Care Organization, or where they employee is being treated by an employer selected doctor.

The proposed amendments will explain how to resolve disagreements with the claims administrator or primary treating physician about medical treatment or other issues.

The proposed amendments will expand the discussion of the return to work process to emphasize the value of the employee staying at work if possible, in addition to the benefits of returning to work as soon as the employee is medically able. The proposed amendments will explain the process and encourage the employee to actively communicate with the other participants in the process.

The proposed amendments will clarify the meaning of the term "permanent disability."

The proposed amendments will update the section on the Supplemental Job Displacement Benefit to reflect the existing state of the law.

The proposed amendments will clarify that a spouse is a relative who may be entitled to a death benefit.

The proposed amendments will advise the employee that they may contact their employer as well as the claims administrator to resolve disputes about their claim.

The proposed amendments advise the employee that they may be able to get unemployment insurance benefits if they are not receiving workers' compensation benefits, and advises the employee how to get information about unemployment insurance benefits.

The proposed amendments clarify the kinds of information available from information and assistance officers, and provide additional sources of information about workers' compensation.

The proposed amendments to the claim form will advise the employee to detach the notice of potential eligibility from the claim form, and save it for future reference.

The proposed amendments will advise the employee that they may receive written notices from their employer or its claims administrator about their claim, and that if the employee agrees to receive these notices only by email, to provide their email address in the space being added to the claim form and check the box being added to the form. The employee will be informed that if they later decide they want to receive the notices by mail, they must inform their employer in writing.

The proposed amendments will also improve the section's clarity by rephrasing some of its content in more readily understandable language.

The existing line numbering is being amended to reflect the addition of the space and check box for the employee to provide their e-mail address and indicate their agreement to receive notices by e-mail.

The proposed amendments will also add an authority citation to Labor Code section 5401.

Necessity:

Revising the notice of potential eligibility to inform the employee that if he or she loses time from work, the claims administrator must notify the employee within 14 days whether the employee's claim is accepted or whether additional investigation is needed will alert the employee to an important timeframe in which he or she should expect to hear from the claims administrator.

Revising the notice to instruct the employee to submit the claim form, with a complete description of their injury, to their employer, and advising the employee that in some cases, benefits will not start until they inform their employer about their injury by filing a claim form will ensure that the injured worker knows how take action to protect their rights.

Revising the notice to inform the employee to mail the form to their employer, using first-class or certified mail, and buy a return receipt, so they will be able to prove that the claim form was mailed and when it was delivered will ensure that the injured worker knows how take action to protect their rights.

Revising the notice to inform the employee that their medical benefits may include equipment and travel costs, and that there are limits on chiropractic, physical therapy, and other occupational therapy visits will ensure that the employee understands their rights to benefits and is aware of important limitations on some benefits.

Revising the notice to update the information on the role of the primary treating physician, the predesignation process, and the results of whether or not their employer is using an MPN or HCO will ensure that the employee understands their rights to benefits and is aware of important limitations on some benefits.

Revising the notice to inform the employee that within one working day after the employee files a claim form, the claims administrator must authorize the provision of up to \$10,000 in treatment for the employee's injury, consistent with the applicable treating guidelines, until the claim is accepted or rejected will ensure that the employee understands their rights to benefits and is aware of important limitations on some benefits.

Revising the notice to inform the employee how to obtain treatment if the claims adjuster does not authorize treatment will ensure that the employee understands their rights and how to protect them.

Revising the notice to explain how the employee can transfer their treatment to a different primary treating physician in cases where the employee is being treated in a Medical Provider Network, a Health Care Organization, or where they employee is being treated by an employer selected doctor will ensure that the employee understands their rights to benefits and is aware of important limitations on some benefits.

Revising the notice to explain how to resolve disagreements with the claims administrator or primary treating physician about medical treatment or other issues will ensure that the employee understands their rights to benefits and is aware of important limitations on some benefits.

Revising the notice to expand the discussion of the return to work process will explain the process and encourage the employee to actively communicate with the other participants in the process.

Revising the notice to clarify the meaning of the term "permanent disability" will improve the clarity of the poster.

Revising the notice to update the section on the Supplemental Job Displacement Benefit to reflect the existing state of the law will improve the clarity of the notice.

Revising the notice to clarify that a spouse is a relative who may be entitled to a death benefit will improve the clarity of the notice.

Revising the notice to advise the employee that they may contact their employer as well as the claims administrator to resolve disputes about their claim will ensure that the employee knows how to take action to obtain information and protect their rights.

Revising the notice to advise the employee that they may be able to get unemployment insurance benefits if they are not receiving workers' compensation benefits, and to advise the employee how to get information about unemployment insurance benefits will ensure that the employee knows how to take action to obtain information and protect their rights.

Revising the notice to clarify the kinds of information available from information and assistance officers, and provide additional sources of information about workers' compensation will ensure that the employee knows how to take action to obtain information and protect their rights.

Revising the claim form to advise the employee to detach the notice of potential eligibility from the claim form, and save it for future reference will ensure that the employee retains useful information about their rights.

Revising the notice and claim form to advise the employee that they may receive written notices from their employer or its claims administrator about their claim, and that if the employee agrees to receive these notices only by email, to provide their email address in the space being added to the claim form and check the box being added to the form will reduce the cost of notices, allow them to be received faster by the injured worker and/or attorney, and, allow movement towards a paperless system

Rephrasing some of its content of the form in more readily understandable language will also improve clarity of the form.

Adding space and a check box for the employee to provide their e-mail address and indicate their agreement to receive notices by e-mail will provide a place for the employee to document their agreement to receive notices electronically, and provide their email address.

Adding an authority citation to Labor Code section 5401 will improve the clarity of the regulation.

ECONOMIC IMPACT ANALYSIS

Creation or Elimination of Jobs within the State of California

The Acting Administrative Director has concluded that it is unlikely that the proposal will create or eliminate any jobs within the State of California. The proposal will amend and update existing regulations adopted pursuant to Labor Code sections 138.3 and 138.4 which require the Administrative Director to prescribe regulations requiring employers to serve notice on injured employees that they may be entitled to workers' compensation benefits.

The objective of the regulations is to improve the quality of benefit notices provided to injured workers in order to provide them with a clearer understanding of their rights and responsibilities in the workers' compensation claims process and reduce litigation. Employers are already complying with the existing regulations, and the rulemaking adds no new requirements to the law for employers or rights to the law for employees and will, therefore neither create nor eliminate any jobs within the state of California.

Creation of New or Elimination of Existing Businesses Within the State of California

The Acting Administrative Director has concluded that it is unlikely that the proposal will create or eliminate any businesses within the State of California.

The objective of the regulations is to improve the quality of benefit notices provided to injured workers in order to provide them with a clearer understanding of their rights and responsibilities in the workers' compensation claims process and reduce litigation. Employers are already complying with the existing regulations, and the rulemaking adds no new requirements to the law for employers or rights to the law for employees and therefore, no new businesses will be created, nor existing businesses eliminated in California.

Expansion of Business or Elimination of Existing Businesses Within the State of California

The Acting Administrative Director has concluded that it is unlikely that the proposal would cause the expansion or elimination of any business currently doing business within the State of California.

The objective of the regulations is to improve the quality of benefit notices provided to injured workers in order to provide them with a clearer understanding of their rights and responsibilities in the workers' compensation claims process and reduce litigation. Employers are already complying with the existing regulations, and the rulemaking adds no new requirements to the law for employers, or rights to the law for employees and therefore, no business will be expanded or existing businesses eliminated in California.

Benefits of the Regulations

The objective of the regulations is to streamline the workers' compensation benefit notice program to allow claims administrators to more effectively communicate with injured workers, and implement the mandate of Labor Code section 138.3 for Administrative Director to prescribe reasonable rules and regulations requiring the employer to serve notice on the injured employee that he may be entitled to benefits under this division.

A 2010 study conducted by the California Commission on Health and Safety and Workers' Compensation concluded that the current benefit notice regulations produced notices that were "too voluminous (e.g., overly wordy, redundant, and containing factsheets and forms that are not needed by all workers)". The existing benefit notices were also described as being "complex, overwhelming, frightening, vague, confusing (e.g., "you may lose important rights if you do not take certain actions within 10 days"; "you may be asked to return to the physician for a new evaluation").

Injured workers will benefit from updated and more accurate benefit notices.

Employers and claims administrators will experience a cost savings of an indeterminable amount based on the use of clearer and more accurate benefit notices. Savings will be reflected both in administrative costs (shortening the length of benefit notices and eliminating enclosures will significantly reduce printing and mailing costs) and litigation costs. As to the latter, a 2010 study conducted by the Institute for Research on Labor and Employment, University of California at Berkeley for the California Commission on Health and Safety and Workers' Compensation (CHSWC) estimated that revising the benefit notice regulations to substantially clarify the information provided could reduce legal defense expenses by \$43 million per year. This estimate was based on total of \$867 million per year in defense litigation costs (taken from 2008 Workers' Compensation Insurance Rating Bureau data) and an assumption of 5 percent savings. However, the lack of empirical data on the extent of attorney involvement and litigation before benefit notices reached their current level of complexity, in the mid-1990s, in addition to the difficulty in ascertaining the current level of litigation driven by complicated benefit notices as opposed to amount of compensation paid, casts doubt on the study's assumptions. Lower savings are more probable, although there is no accurate means to forecast or identify savings directly due to the regulation's improvements after they become effective. The Division estimates that the total cost savings to employers and claims administrators could be as much as much as 5 percent (\$43 million), but it could also be as little as 0.5 percent (\$4.3 million). The Division conservatively estimates that the savings will be in the range of \$15 million.

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