



California Workers' Compensation Institute
1333 Broadway Suite 510, Oakland, CA 94612 • Tel: (510) 251-9470 • Fax: (510) 763 -1592

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VIA E-MAIL to dwcrules@dir.ca.gov

Maureen Gray, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation, Legal Unit
Post Office Box 420603
San Francisco, CA 94142

RE: Written Testimony - Workers Compensation Information System (WCIS) Regulations

Dear Ms. Gray:

These comments on the proposed revisions to the Workers' Compensation Information System (WCIS) regulations are presented on behalf of members of the California Workers' Compensation Institute (the Institute). Institute members include insurers writing 72% of California's workers' compensation premium, and self-insured employers with \$46B of annual payroll (28% of the state's total annual self-insured payroll).

Insurer members of the Institute include AIG, Alaska National Insurance Company, Allianz/Fireman's Fund Insurance Company, AmTrust North America, CHUBB, CNA, CompWest Insurance Company, Crum & Forster, EMPLOYERS, Everest National Insurance Company, The Hartford, ICW Group, Liberty Mutual Insurance, Pacific Compensation Insurance Company, Preferred Employers Group, Republic Indemnity Company of America, Sentry Insurance, State Compensation Insurance Fund, State Farm Insurance Companies, Travelers, XL America, Zenith Insurance Company, and Zurich North America.

Self-insured employer members include Adventist Health, California State University Risk Management Authority, Chevron Corporation, City and County of San Francisco, City of Santa Ana, City of Torrance, Contra Costa County Schools Insurance Group, Costco Wholesale, Country of Alameda, County of San Bernardino Risk Management, County of Santa Clara, Dignity Health, Foster Farms, Grimmway Enterprises Inc., Kaiser Permanente, Marriott International, Inc., Pacific Gas & Electric Company, Safeway, Inc., Schools Insurance Authority, Sempra Energy, Shasta County Risk Management, Shasta-Trinity Schools Insurance Group; Southern California Edison, Special District Risk Management Authority, Sutter Health, University of California, and The Walt Disney Company.

Recommended revisions to the proposed modifications to the Workers' Compensation Information System (WCIS) regulations are indicated by **underline** and **strikeout**. Comments and discussion by the Institute are indented and identified by *italicized text*.

§9702 Electronic Data Reporting

§9702(c) Each transmission of data elements listed under subdivisions (b), (d), (e), (f), or (g) of this section shall also include the following elements for data linkage:

(6) The Employee Date of Birth (DN 52) is required on all first report transmissions under subdivision (b).

(9) The Time of Injury (DN 32) is required on first report transmissions except acquired first report transmissions under subdivision (b) with a Date of Injury (DN 31) on or after the implementation date of the California EDI Implementation Guide for First and Subsequent Reports of Injury, Version 3.1.

Recommendation

The Institute recommends deleting notes (6) and (9) related to the Employee Date of Birth (DN52) and Time of Injury (DN32) respectively.

Discussion

The data elements requirements for Subsequent Report of Injury (SROI) files does not include the employee's date of birth or the time of injury, so the data elements cannot be used for matching records. Similarly, neither the employee's date of birth nor the time or injury is used for matching medical bill payment records to FROI records.

§9702(h) Final reports (MTC = FN) are required only for claims where indemnity benefits are paid ~~or where no benefits are paid~~. For medical-only claims, the final report may be reported under this section or on the annual report (MTC = AN) with Claim Status (DN0073) = "closed."

Recommendation

The Institute recommends deleting the new language "or where no benefits are paid" from §9702(h).

Discussion

The new language changes the requirement for final reports to be filed from only "where indemnity benefits are paid" to whether or not indemnity benefits are paid. The new language also contradicts the following sentence which states that medical-only claims for which no indemnity benefits are paid may be reported as closed in the final report or in the annual report.

Section E: Legal Authorities

WCIS Penalty Regulations

WCIS penalties upon approval will be stated in Title 8, California Code of Regulations, section 9705. ~~Link to be determined upon approval~~

Recommendation

The Institute recommends deleting the placeholder for future regulation section 9705.

Discussion

While regulations defining WCIS penalties will be promulgated at a future date it is not appropriate to begin a new policy of inserting placeholders in guides that govern processes. In this instance a future regulation is listed as legal authority for penalties that will not be in place until the new regulation is adopted. If the intent is to adopt the proposed changes to the FROI/SROI CA Implementation Guide at the same time that new regulation section 9705 is adopted then that should be made clear, and the proposed section 9705 must be made available for public review and comment pursuant to the Administrative Procedure Act.

Section K: Required Data Elements

Data Requirements for First Reports of Injury

Recommendation

Data number 52 (DN52), representing the employee's date of birth is proposed to be changed to Mandatory/Fatal (M/F) in the revised Data Requirements for First Reports of Injury table. The Institute recommends that this data element remain as Mandatory/Serious (M/S).

Discussion

The Institute recommends that this data element not be made Mandatory/Fatal because claims administrators do not have complete control over this information. The California Workers' Compensation Claim Form (DWC 1) does not include the employee's date of birth, nor is there a provision in the Labor Code or regulations requiring that an employee provide his or her date of birth in order to file a claim for benefits. The Doctor's First Report of Occupational Injury or Illness (DWC 5021) does include the date of birth, but the form is not deficient if it is not provided. While attempts are made to obtain an employee's date of birth, there is nothing that compels an employee to provide it.

Data Requirements for First Reports of Injury

Recommendation

32	Time of Injury	OC/S	OC/S	O	OC/S	OC/S
39	Initial Treatment	OC/S	OC/S	O	OC/S	OC/S
52	Employee Date of Birth	M/S M/F	M/S C/F	O M/F	M/S M/F	M/S M/F
62	Wage	C/M M/S	C/M M/S	O	C/M M/S	C/M M/S

Discussion

Data Element Number 32 (DN32), representing the time of injury is proposed to be changed to Conditional/Serious (C/S) in the Data Requirements for First Reports of Injury table, but the claims administrator does not always have the time of injury and does not always require the information be obtained from the employer for medical only or minor injury claims. In these instances the claims administrator may simply pay a medical bill and close the claim. Leaving DN32 as an optional data element would allow for a claims administrator to provide the time of injury if they have it in time for FROI filing.

Data Element Number 39 (DN39), representing the Initial Treatment code is proposed to be changed from Optional to Conditional/Serious (C/S) in the Data Requirements for First Reports of Injury table, but the claims administrator does not always have this information at the time of filing the First Report of Injury. Requiring the Initial Treatment code on the initial FROI may either delay submission of FROI reporting or increase the submission of “no treatment” records. Leaving the data element as optional would allow a claims administrator to report the information if an initial medical bill had been processed for payment prior to FROI reporting without causing delayed reporting or misreporting of the Initial Treatment code.

Data Element Number 52 (DN52) is listed as Mandatory/Fatal (M/F) in the Data Requirements for First Reports of Injury table, but the claims administrator does not always have the employee’s date of birth at the time of claim creation. Electronic First Reports of Injury (FROIs) are required to be submitted within 10 business days of knowledge by the claims administrator. The short time frame for reporting does not allow time to obtain information that may not be immediately available and may result in the unintended consequence of late reporting to comply with the mandatory inclusion of the employee’s date of birth or alternatively reporting of a date that does not represent the date of birth. Leaving the requirement as mandatory/serious provides a claims administrator additional time to obtain the information for reporting in a subsequent correction file. It is noted that the date of birth is requested on the Employer’s Report of Occupational Injury or Illness, but it is not a required data element for filing.

In many instances a claims administrator may not obtain a date of birth for minor injury or medical only claim, opting to pay a medical bill and closing the claim with the information. Requiring the date of birth on every reported claim would require additional time and resources for claims administrators processing claims for medical only/minor injuries.

Data Element Number (DN62) is listed as Mandatory/Serious (M/S) in the Data Requirements for First Reports of Injury table, but the claims administrator may not have obtained wage information from the employer at the time of First Report of Injury reporting. The average weekly wage is not a factor in the majority of claims, which are medical-only. Since the wage calculation is not needed or used until indemnity benefits begin wage data should not be required until Subsequent of Report Injury (SROI) reporting.

*Furthermore, §9702(b) states “Each claims administrator shall submit to the WCIS on each claim, within ten (10) business days of knowledge of the claim, each of the following **data elements known to the claims administrator...**” [emphasis added]. §9702(b) further states “Data elements omitted under this subsection because they were not known by the claims administrator shall be submitted within sixty (60) days from the date of the first report under this subsection”. There is no statutory authority to mandate transmission of data that the claims administrator does not have at the time of FROI reporting.*

Section M: System Specifications

Changed or Corrected Data

The WCIS regulations require each claim administrator to submit to WCIS any changed or corrected data elements. Changed or corrected data for a claim are due by the time of the next submission for the claim. Correction reports (MTC=CO) are sent in response to a TE (transaction accepted with error) acknowledgment from WCIS. Change Reports (MTC=02) are sent when either the data in a previously submitted report was incomplete, or when the claim administrator becomes aware that the value of a previously reported data element has changed, e.g., Employee Address. If the data in a previously submitted first report was incomplete, then a Change Report should be submitted within 3060 calendar days of the original first report submission. If the data in a previously submitted first report has changed, then a Change Report should be submitted by the next date a submission is due on the claim. Correction Reports (MTC=CO) are sent in response to a TE (transaction accepted with error) acknowledgment from WCIS. Correction Reports are due within 3060 calendar days of original TE acknowledgment. If a claim administrator needs to make changes to some data elements while making corrections to other elements for a given claim, these can the changes and corrections should be combined on either a change or on a Correction Report with identical results.

Discussion

As previously noted §9702(b) requires information that was unknown at the time of FROI reporting be “submitted within sixty (60) days from the date of the first report”. The timeframes for reporting unknown/unavailable information must be reconciled between the regulation and the instructions in the California EDI Implementation Guide for First and Subsequent Reports of Injury (FROI/SROI) Version 3.1.

Transaction Processing and Sequencing

Subsequent Reports

Recommendation

Open Benefits: these Maintenance Type Codes are used to report the start of a benefit period.

MTC Code	MTC Name
IP	Initial Payment
AP	Acquired Payment
FS	Full Salary
RB	Reinstatement of Benefits
CB	Change Benefit
AN	Annual**
FN	Final**

**For indemnity claims, must be preceded by a SROI IP or AP, CD, FS or PY, as applicable

Other: These Maintenance Type codes don't fall into the above categories. They don't open, close, or update benefits in the same manner as other Maintenance Type Codes, because (1) the MTC reports single, lump sum payments (PY) rather than the payment of ongoing benefits, or (2) the MTC has specific jurisdictional uses (UR) or (3) the MTC reports the closing of a claim (FN).

MTC Code	MTC Name
PY	Payment Record
UR	Upon Request
FN**	Final Report
AN	Annual Report

**For indemnity claims, must be preceded by a SROI IP or AP, CD, FS or PY, as applicable

Discussion

The Institute recommends against moving the Maintenance Type Code for a Final Report (FN) from the "Other" event table to the Open Benefits Event table because the Final Report of claim closing may occur without any other SROI reporting or it may occur after one or more SROI reports have been submitted for the given claim. The Annual Report is a periodic report with reporting requirements that have been clearly defined in Section M of the California EDI Implementation Guide for First and Subsequent Reports of Injury (FROI/SROI) Version 3.1 and these requirements do not follow the logic for inclusion in the Open Benefits event table.

Thank you for the opportunity to comment, and please contact me if additional information would be helpful.

Sincerely,

Stacy L. Jones
Senior Research Associate

SLJ/pm

cc: George Parisotto, DWC Acting Administrative Director
Genet Daba, DWC Research Program Specialist
CWCI Claims Committee
CWCI Medical Care Committee
CWCI Regular Members
CWCI Associate Members