



California Workers' Compensation Institute

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VIA E-MAIL to [dwcrules@dir.ca.gov](mailto:dwcrules@dir.ca.gov)

November 7, 2014

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

**RE: 2<sup>nd</sup> 15-Day Comments – Copy Service Fee Schedule**

Dear Ms. Gray:

These written comments on modifications to proposed regulations regarding copy service fees are presented on behalf of the members of the California Workers' Compensation Institute (the Institute). Institute members include insurers writing 71% of California's workers' compensation premium, and self-insured employers with \$46B of annual payroll (26% of the state's total annual self-insured payroll).

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

Self-insured employer members are Adventist Health, Agilent Technologies, Chevron Corporation, City and County of San Francisco, City of Santa Ana, City of Torrance, Contra Costa County Schools Insurance Group, Costco Wholesale, County of San Bernardino Risk Management, County of Santa Clara Risk Management, 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, Sutter Health, University of California, and The Walt Disney Company.

Recommended revisions to the draft Copy Service Fee Schedule regulations are indicated by highlighted **underscore** and **strikeout**. Comments and discussion by the Institute are indented and identified by *italicized text*.

## § 9981 Bills for Copy Services

### Recommendation

- (b) Bills for copy services must specify services provided and include the provider tax identification number and professional photocopier registration number, county of registration, date of billing, case information including employee name, claim number, case number (if applicable), source information including type of records, date of service, description of services, and the number of pages produced.

(3) Bills for records obtained by authorization must include a declaration of completion of records pursuant to section 9984(a).

### Discussion

*The Institute recommends adding “county of registration”, since professional photocopier registration is at the county level. Without identification of the county of registration it would not be possible to verify the registration number provided on the bill.*

*Reinstatement of professional photocopier services provided in response to an authorization requires reinstating declaration of completion of records language.*

## § 9982 Allowable Services

### Recommendation

Provide clarification or revise language for §9982(c).

- (c) If the claims administrator fails to provide written notice, pursuant to Labor Code section 4055.2, to the injured worker of records which they are seeking by subpoena, this fee schedule applies to obtaining those records.

(d) There will be no payment for copy and related services that are:

- (4) Provided-Obtained by any person or entity which is not a registered professional photocopier.

(e) The claims administrator is not liable for payment of:

- (1) Records previously obtained by subpoena by the same party and served from the same source, unless the a subpoena or authorization is accompanied by a declaration from the party requesting the records setting forth good cause to seek duplicate records...
- (A) If there is good cause, the claims administrator is liable for payment. Good cause addresses the necessity to provide records that are not in the possession of the requesting party and includes new counsel seeking duplicate records for review, and loss or destruction of records due to natural disaster.

### Discussion

*By inserting language referencing Labor Code section 4055.2, the implication is that the fee schedule would not apply to services obtained by a subpoena issued on behalf of a claims administrator if the claims administrator did provide written notice to the injured worker. If this*

language does not apply to records being sought by the claims administrator, revised language should clarify who the requesting party is. As currently written, subdivision (c) is not clear on this point, nor is it clear whether or not "they" refers to the claims administrator.

The Institute recommends replacing "provided" with "obtained" to accurately reflect the role of the registered professional photocopier. The photocopier is obtaining records that are being provided by the holder of the records.

The Institute recommends striking "by subpoena" since the records could have been obtained by a different means. The Institute also recommends additional language defining good cause in order to avoid requests for additional record sets that are already in the possession of the requesting party. In the absence of clarifying language, disputes regarding circumstances included in "good cause" will arise.

#### **§ 9984 Declaration of Completion of Records Obtained by Authorization**

(a) All records copied, produced, or served by authorization shall be accompanied by an affidavit or declaration, signed under penalty of perjury, itemizing in detail the category or description of all records produced, together with an explanation of any records that were withheld and not produced and served for any reason.

(b) All records copied, produced, or served by authorization shall be considered certified.

Authority: Sections 127, 133, 5703 and 5307.9, Labor Code; sections 1271, 1561, and 1562, Evidence Code.

Reference: Section 5307.9, Labor Code.

#### **Discussion**

It appears that the deletion of §9984 inadvertently remained after the reinstatement of services provided in response to an authorization.

Thank you for considering these recommendations and comments. Please contact me if additional clarification would be helpful.

Sincerely,

Stacy L. Jones  
Senior Research Associate

SLJ/pm

cc: Christine Baker, DIR Director  
Destie Overpeck, DWC Acting Administrative Director  
CWCI Claims Committee  
CWCI Medical Care Committee  
CWCI Legal Committee  
CWCI Regular Members  
CWCI Associate Members