

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION**

**FINAL STATEMENT OF REASONS  
Subject Matter of Regulations: Copy Service Fee Schedule**

**California Code of Regulations, Title 8, Chapter 4.5, Subchapter 1, Article 12 and  
Subchapter 1.8.5, Article 8**

**Sections 9980-9984, 9990, 9992, 9994, and 10208.7.**

The Acting Administrative Director of Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 59, 133, 4616, 5307.3, and 5307.9, has adopted, amended, and repealed regulations described below, in part to implement the provisions of Labor Code section 5307.9, of Senate Bill 863 (Chapter 363, stats. of 2012, effective January 1, 2013), and to make revisions to existing regulations. The list of regulations appears below:

Adopt Section 9980	Definitions
Adopt Section 9981	Bill for Copy Services
Adopt Section 9982	Allowable Services
Adopt Section 9983	Fees for Copy and Related Services
Adopt Section 9984	Declaration of Completion of Records Obtained by Authorization
Amend Section 9990	Division Fees for Transcripts; Copies of Documents; Certification; Case File Inspection; Electronic Transactions
Amend Section 9992	Payment of Fees in Advance to the Division
Repeal Section 9994	Payment for Transcripts
Amend Section 10208.7	Retention, Return and Destruction of Records and Exhibits

**UPDATE OF INITIAL STATEMENT OF REASONS AND INFORMATIVE DIGEST**

As authorized by Government Code §11346.9(d), the Administrative Director hereby incorporates by reference the entire Initial Statement of Reasons prepared in this matter. Unless a specific basis is stated below for any modification to the regulations as initially proposed, the necessity for the amendments to existing regulations and for the adoption of new regulations as set forth in the Initial Statement of Reasons continues to apply to the regulations as now adopted. All modifications from the initially proposed text of the regulations are summarized below.

**THE FOLLOWING SECTIONS WERE AMENDED FOLLOWING THE PUBLIC HEARING AND CIRCULATED FOR THREE 15-DAY COMMENT PERIODS September 16, 2014 – October 1, 2015, October 24, 2014 – November 8, 2015, and January 28, 2014 – February 13, 2015.**

The Article number is changed from 11 to 12 to allow for insertion of an interpreter fee schedule which will be part of a separate future rulemaking.

### **1. Section 9980 - Definitions**

“Authorization” has been defined with parameters of its usage to obtain records which state the specific uses and limitations on the types of information to be disclosed and a specific date after which the provider is no longer authorized to disclose the information.

In subdivision (b), the words “necessary for” were replaced with “related to,” to clarify the definition of “copy and related services.”

### **2. Section 9981 Bill for Copy Services**

In subdivision (a), the word “incurred” was replaced with “provided” for clarification. Services are provided while costs are incurred.

Subdivision (b) was updated to require billing information to ease the billing process. The billing information required is as follows: “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.”

Subdivision (b)(1) was amended to provide for California-only workers’ compensation billing codes to avoid miscoding. A separate billing code for certificates of no record because cancelled services and certificates of no record involve different tasks. Codes for records from the Employment Development Department (EDD) and the Workers’ Compensation Insurance Rating Bureau (WCIRB) were added to conform with additions for these fees in the schedule. A new code for CDs of X-rays and scans was also added because a separate fee for them is included in the fee schedule. The words “an Additional Electronic Set of \$30, WC 028 is for” has been added.

### **3. Section 9982 Allowable Services**

Subdivision (b) was clarified to directly refer to parameters in Labor Code section 5307.9 and section 10608 for clarity. The words “that are being sought” were replaced

with “which they are seeking” for clarity.

The word “written” was added to subdivision (d)(1) to reduce disputes regarding when notice was provided.

Former subdivision (d)(2) was deleted as unnecessary after proposed revision to 9983(a)(1) as all available records are included in the flat fee for a set of records. Liability for duplicate records is covered in subdivision (e)(1).

Subdivision (d)(3) was moved to subdivision (e)(3) to clarify that the claims administrator is not liable for payment of records subpoenaed from the Workers’ Compensation Insurance Rating Bureau and the Employment Development Department that can be obtained without a subpoena at lower cost.

In subdivision (e)(1), the word “duplicative” was stricken to avoid confusion. The words “duplicate records” are later used to describe when good cause should be set forth.

9982(e)(1)(A) was added to provide that the claims administrator is liable for payment if there is good cause for duplicate records. Examples of good cause were added to provide guidance as to when a declaration could be used.

#### **4. Section 9983 Fees for Copy and Related Services**

In subdivisions (c) and (d), maximum fees for records from the WCIRB are \$30 and for records from EDD, the maximum fee is \$20. These records can be obtained free-of-charge upon request from the injured worker.

In the second sentence of subdivision (e), the words “witness costs” was replaced by “the production of records” to reflect the broader scope of Labor Code section 132 and the WCAB’s jurisdiction.

In subdivision (f), the words “are also reimbursable” were replaced with “apply” for clarification.

The words “payable by the party ordering the additional set” were deleted in subdivision (f)(2) to avoid liability for costs falling on injured workers. After the injured worker’s one additional set of records, further additional sets are payable by the party ordering them.

In subdivision (f)(3), fees for X-rays and scans were modified after a survey of copy fees for X-rays and scans was taken. The Official Medical Fee Schedule has not been updated in many years and the survey showed that costs for X-rays often exceed the Official Medical Fee Schedule’s provision of \$5.13 and was more in line with the

provision for scans of \$10.26. There did not appear to be a significant difference in costs between X-rays and scans.

#### **5. Section 9984 Declaration of Completion of Records Obtained by Authorization**

This section has been deleted as there is no requirement that the custodian sign any declaration and the copy service has no authority to compel a signature. The copy service itself cannot sign a declaration because it is not producing the records; it would have simply copied records provided by the custodian. As authorizations are not used to obtain documents by non-contracted copy services, this section is not necessary.

#### **6. Section 9990 Division Fees for Transcripts; Copies of Documents; Certifications; Case File Inspection; Electronic Transactions**

In subdivision (c), the fee to order transcripts was changed from \$150 to \$100 in light of an updated DWC study which showed that for fiscal year 2013-2014, the average total number of pages ordered was 54, which is less than the average total number of pages from fiscal year 2007 – 2008 which the \$150 fee was based upon. The number of pages was also changed to conform with the \$50 change. Transcripts over 33 pages are \$3 per page for every page over 33.

Subdivision (e)(1)(A) was deleted because tape is no longer used for new case opening records.

Subdivision (e)(1) was clarified by eliminating a colon to conform to a previous deletion.

#### **THE FOLLOWING ADDITIONAL NON-SUBSTANTIVE/CORRECTIONS WITHOUT REGULATORY EFFECT WERE MADE TO THE TEXT OF THE REGULATIONS AFTER THE CLOSE OF THE FINAL COMMENT PERIOD**

##### **1. Section 9983.**

Subdivision (f) was renumbered in sequence to correct a numbering error.

#### **DOCUMENTS**

The documents and information added to the rulemaking file are as follows:

- Table of Fiscal Year 2013 - 2014 Transcript Orders.
- Table of Fiscal Year 2007 – 2008 Transcript Orders.
- August 21, 2014 Memo re: Web search for fees charged for duplicate X-rays and scans

## **LOCAL MANDATES DETERMINATION**

- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district. The proposed amendments do not apply to any local agency or school district.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. The proposed amendments do not apply to any local agency or school district.
- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed amendments do not apply to any local agency or school district.

## **CONSIDERATION OF ALTERNATIVES**

The Division considered all comments submitted during the public comment periods, and made modifications based on those comments to the regulations as initially proposed. The Acting Administrative Director has now determined that no alternatives proposed by the regulated public or otherwise considered by the Division of Workers' Compensation would be more effective in carrying out the purpose for which these regulations were proposed, nor would they be as effective and less burdensome to affected private persons and businesses than the regulations that were adopted.

## **SUMMARY OF COMMENTS RECEIVED AND RESPONSES THERETO CONCERNING THE REGULATIONS ADOPTED**

The comments of each organization or individual are addressed in the following charts.

The public comment period was as follows:

### **Initial 45-day comment period on proposed regulations:**

May 2, 2014 through July 1, 2014

### **First 15-day comment period on modifications to proposed text:**

September 16, 2014 – October 1, 2014

### **Second 15-day comment period on modifications to proposed text:**

October 24, 2014 – November 8, 2014

### **Third 15-day comment period on modifications to proposed text:**

January 28, 2015 – February 13, 2015

Copy Service Fee Schedule FSOR March 16, 2015  
California Code of Regulations, title 8, sections 9981, 9982, 9983, 9984, 9990, 9992, 9994, and 10208.7