

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

FINAL STATEMENT OF REASONS

**Subject Matter of Regulations:
Transition to ICD-10; Update to
DWC Medical Billing and Payment Guide**

TITLE 8, CALIFORNIA CODE OF REGULATIONS
SECTIONS 9770, 9785, 9785.2, 9785.2.1, 9785.3, 9785.3.1, 9785.4, 9785.4.1, 9792.5.1,
14003, 14006, 14006.1 and 14007

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| Amend section 9770 | Definitions |
| Amend section 9785 | Reporting Duties of the Primary Treating Physician |
| Amend section 9785.2 | Form PR-2 "Primary Treating Physician's Progress Report" – Services Prior to October 1, 2015 |
| Adopt section 9785.2.1 | Form PR-2 "Primary Treating Physician's Progress Report" – Services On or After October 1, 2015 |
| Amend section 9785.3 | Form PR-3 "Primary Treating Physician's Permanent and Stationary Report" – Services Prior to October 1, 2015 |
| Adopt section 9785.3.1 | Form PR-3 "Primary Treating Physician's Permanent and Stationary Report" – Services On or After October 1, 2015 |
| Amend section 9785.4 | Form PR-4 "Primary Treating Physician's Permanent and Stationary Report" – Services Prior to October 1, 2015 |
| Adopt section 9785.4.1 | Form PR-4 "Primary Treating Physician's Permanent and Stationary Report" – Services On or After October 1, 2015 |
| Amend section 9792.5.1 | Medical Billing and Payment Guide; Electronic Medical Billing and Payment Companion Guide; Various Implementation Guides [and adopt the document incorporated by reference into section 9792.5.1 subdivision (a): California Division of Workers' Compensation Medical Billing and Payment Guide, Version 1.2.2] |
| Amend section 14003 | Physician. |
| Amend section 14006 | Form 5021, Rev. 4, Doctor's First Report of Occupational Injury or Illness – Services Prior to October 1, 2015 |
| Adopt section 14006.1 | Form 5021, Rev. 5, Doctor's First Report of Occupational Injury or Illness – Services On or After October 1, 2015 |
| Amend section 14007 | Reproduction of the Doctor's Report. |

UPDATE OF INITIAL STATEMENT OF REASONS AND INFORMATIVE DIGEST

As authorized by Government Code section 11346.9(d), the Administrative Director hereby incorporates by reference the entire the 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.

1. Section 9785

Section 9785, subdivision (e)(1), the word “re-port” has been corrected to “report.” In addition, the following language has been added to the end of this subdivision in response to comments from claims administrators: “Although ICD-10 coding is required on or after October 1, 2015, until October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider’s citation of the specificity of the ICD-10 diagnosis codes used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form.”

In subdivision (f)(8), the following language was added, for the same reason: “Although ICD-10 coding is required on or after October 1, 2015, until October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider’s citation of the specificity of the ICD-10 diagnosis codes used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form.”

In subdivision (h), the following language was added, for the same reason: “Although ICD-10 coding is required on or after October 1, 2015, until October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider’s citation of the specificity of the ICD-10 diagnosis codes used, Providers may use either version of the applicable form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form.”

2. Section 9785.2.1

The following changes were made to the PR-2 form: On the first page, fields for date of injury and date of birth were added back to the form. These had been deleted inadvertently. On the last page of the form, a field for the date of the physician’s examination was added back in. This had also been deleted inadvertently.

3. Section 9792.5.1 Medical Billing and Payment Guide; Electronic Medical Billing and Payment Companion Guide; Various Implementation Guides.

Three minor changes were made to the Guide. On page 5 of the Guide, the form “DLSR 5021” is renamed “Form 5021.” On page 16 of the Guide, the reference is updated to the 1500 Health Insurance Claim Form Reference Instruction Manual for Form Version 02/12, Version 3.0, dated July 2015, rather than Version 2.0, dated July, 2014. The newer version of the Manual was not available at the time of the initial rulemaking action. In addition, on page 28 of the Guide, the reference is updated to the National Uniform Billing Committee Official UB-04 Data Specifications Manual, 2016, Version 10.0, issued in July 2015, rather than the 2015 Manual, Version 9.0, issued in July 2014. The newer version of the Manual was not available at the time of the initial rulemaking action.

4. Section 14003

In subdivision (c), the following language has been added to the end of this subdivision in response to comments from claims administrators: “Although ICD-10 coding is required on or after October 1, 2015, until October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider’s citation of the specificity of the ICD-10 diagnosis codes used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form.”

5. Section 14006.1

On page 2 of Form 5021, item 12 was clarified to specify that it is the address where the injury occurred. In item 21, the “yes” was changed to a “no.” “Yes” had been used in error. Minor grammatical errors were also corrected in items 21 and 22.

NONSUBSTANTIVE CHANGES MADE AFTER THE CLOSE OF THE 15-DAY COMMENT PERIOD

1. Section 9785

With respect to subdivisions (e)(1), (f)(8) and (h), following the 15-day comment period, the following non-substantive changes were made in response to a suggestion from a commenter: “Although ICD-10 coding is required on or after October 1, 2015, until for a twelve month period ending October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider’s citation of the level of specificity of the ICD-10 diagnosis code(s) used.” These revisions were made to correct syntax and grammar.

2. Section 9792.5.1 Medical Billing and Payment Guide; Electronic Medical Billing and Payment Companion Guide; Various Implementation Guides.

In Section 3.0, Complete Bills, in subdivision (a)(2), on page 5, the following language was added: “The correct uniform billing codes for the applicable portion of the OMFS under which the services are being billed, including the correct ICD code as specified in Section 3.1.0 – 3.2.1. Although ICD-10 coding is required on or after October 1, 2015, for a twelve month period ending October 1, 2016, no medical treatment shall be denied based solely on an error in the level of specificity of the ICD-10 diagnosis code(s) used.” This language was added to provide a cross-reference for changes made to the corresponding regulations during the public comment process so that the regulations and the Guide are consistent on this point.

In Appendix 1.0, for CMS 1500, on page 16, in the last row of the table, the following revisions were made to correct a typographical error made in the prior version of the Guide when updating the reference made to the 1500 Health Insurance Claim Form Reference Instruction Manual for Form Version 02/12, from Version 2.0 (July 2014) to Version 3.0 (July 2015). Reference to the Change Log as of October 2014 had erroneously been left in when it should have been deleted because it relates only to the 2014 version and is irrelevant to the current version. The changes made to the text are as follows:

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| <p><u>For bills submitted on or after October 1, 2015</u></p> | <p><u>CMS 1500 Health Insurance Claim Form (version 02/12)</u></p> | <p><u>1500 Health Insurance Claim Form Reference Instruction Manual for Form Version 02/12, Version 3.0 7/154 and 1500 Instructions Change Log as of 10/2014</u></p> | <p><u>1.2 Field Table CMS 1500</u></p> |
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3. Section 14003

In subdivision (c), following the 15-day comment period, the following additional changes were made in response to a suggestion from a commenter: “Although ICD-10 coding is required on or after October 1, 2015, until for a twelve month period ending October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider’s citation of the level of specificity of the ICD-10 diagnosis code(s) used.” These revisions were made to correct syntax and grammar.

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 Administrative Director has now determined that no alternatives proposed by the regulated public or otherwise considered by the DWC 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 or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

SUMMARY OF COMMENTS RECEIVED AND RESPONSES THERETO CONCERNING THE REGULATIONS ADOPTED

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

The public comment periods were as follows:

Initial 45-day comment period on proposed regulations:

May 22, 2015 - July 7, 2015

15-day comment period on modifications to proposed text:

July 17, 2015 – August 3, 2015