

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

NOTICE OF FURTHER MODIFICATION TO TEXT OF PROPOSED REGULATIONS

Subject Matter of Regulations: Workers' Compensation Employee Benefit Notices

**TITLE 8, CALIFORNIA CODE OF REGULATIONS, SECTIONS
9810, 9811, 9812, 9813, 9814, 9815, 9881.1 and 10139**

NOTICE IS HEREBY GIVEN that the Acting Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 59, 133, 138.3, 138.4, 139.5, 4061, 4616, 4636, 4637, 4658.5, and 5307.3 proposes modify the text of the following proposed regulations:

Amend section 9810	General Provisions
Amend section 9811	Definitions
Amend section 9812	Benefit Payment and Notices
Amend section 9881.1	Notice to Employees Poster (DWC 7)
Amend section 10139	Workers' Compensation Claim Form (DWC 1 Rev. July 2014), and Notice of Potential Eligibility.

PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS

Members of the public are invited to present written comments regarding these proposed modifications. **Only comments directly concerning the proposed modifications to the text of the regulations described in this notice will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Maureen Gray
Regulations Coordinator
Department of Industrial Relations
P.O. Box 420603
San Francisco, CA 94612

The Division's contact person must receive all written comments concerning the proposed modifications to the regulations no later than 5:00 p.m. on Friday July 3, 2015. Written comments may be submitted via facsimile transmission (FAX), addressed to the above-named contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail) using the following e-mail address: dwcrules@dir.ca.gov.

Due to the inherent risks of non-delivery by facsimile transmission, the Acting Administrative

Director suggests, but does not require, that a copy of any comments transmitted by facsimile transmission also be submitted by regular mail.

Comments sent to other e-mail addresses or facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the deadline set forth above for written comments.

AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text and modified text with modifications clearly indicated, and the entire rulemaking file, are currently available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 17th Floor, Oakland, California 94612, between 9:00 A.M. and 4:30 P.M., Monday through Friday. Please contact the Division of Workers' Compensation's regulations coordinator, Ms. Maureen Gray, at (510) 286-7100 to arrange to inspect the rulemaking file.

FORMAT OF PROPOSED MODIFICATIONS

Proposed Text Noticed for 45-Day Comment Period:

The proposed text was indicated by underlining: added language. Deletions are indicated by strikeout: ~~deleted language~~.

Proposed Text Noticed for First 15-Day Comment Period on Modified Text:

The proposed text was indicated by double underlining: added language. Deletions were indicated by double strikeout: ~~~~deleted language~~~~.

Proposed Text Noticed for Second 15-Day Comment Period on Modified Text:

The proposed text is indicated by bold italic double underlining: ***added language***. Deletions are indicated by bold italic double strikeout: ~~~~***deleted language***~~~~.

SUMMARY OF PROPOSED CHANGES

1. Section 9810: General Provisions

Subdivision (c)(2) is being amended to require a clearly documented reason to believe that disclosure of the claims examiner's name presents or may present a security concern towards the personal safety of the claims examiner before the claims administrator may identify an alternate but specific claims department name and telephone number in lieu of the claims examiner's name and telephone number.

2. Section 9811: Definitions

Subdivision (g) is being amended to correct an erroneous cross reference from subdivision (d) of section 9810 to subdivision (e).

3. Section 9812: Benefit Payment and Notices

Subdivisions (a)(2)(A)2; (a)(3)(A)1; (a)(3)(A)2; (a)(3)(A)3; (d)(1)(B); (e)(2)(A)3; and, (e)(3)(A)2 are being amended to provide that if no comprehensive medical evaluation has taken place, the notice shall advise the employee that if he or she disagrees with the results of the evaluation, the employee must either:

- i. contact the claims administrator within the applicable time limit prescribed in Labor Code section 4062(a) to obtain the form prescribed by the DWC Medical Unit to request assignment of a panel of Qualified Medical Evaluators, or
- ii. within the applicable time limit prescribed in Labor Code section 4062(a), download the form to request assignment of a panel of Qualified Medical Evaluators from the DWC website. (**Note:** the notice is required to provide the employee with the url to enable the employee to download the applicable form.)

Subdivision (g)(3) is being amended, in the final phrase of the second sentence, to correct a typographical error and correct the word “me” to “us”. “...you must choose a QME from the panel, make an appointment to be examined by the QME, and inform ~~me~~ us of your choice and appointment time.”

4. Section 9881.1: Notice to Employees Poster (DWC 7)

The Spanish translation of the Notice to Employees Poster as amended before the April comment period is now available, and is shown in full strikeout and underline text version. No further changes from that version are being proposed.

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

Changes to the Notice of Potential Eligibility

A typographical error in the area code for the alternative contact number for the Employment Development Department is being corrected from (800) to (866).

The Spanish translation of the Notice of Potential Eligibility as is now available, and is shown in a full strikeout and underline text version. In addition to the proposed substantive amendments, minor non-substantive changes have been made to improve the quality of the translation and correct typographical errors.

When the final clean version of the form is submitted to OAL, the English and Spanish Language text will be side by side as it is on the current form.