



California Workers' Compensation Institute

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May 2, 2025

VIA E-MAIL – dwcrules@dir.ca.gov

Maureen Gray, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
P.O. Box 420603
San Francisco, CA 94142

Re: Proposed Amendments to the Utilization Review Regulations – Second 15-Day Comment Period

Dear Ms. Gray:

These comments on proposed modifications to the text of rules related to the Utilization Review Regulations are presented on behalf of members of the California Workers' Compensation Institute (the Institute). Institute members include insurers writing 76% of California's workers' compensation premium, and self-insured employers with \$92B of annual payroll (30.3% of the state's total annual self-insured payroll).

Insurer members of the Institute include AF Group/CompWest, AIG, AmTrust North America, Berkshire Hathaway Homestate Companies, CHUBB, CNA, CopperPoint Insurance Companies, Crum & Forster, EMPLOYERS, Everest Insurance, GUARD Insurance Companies, The Hanover Insurance Group, The Hartford, ICW Group Insurance Companies, Liberty Mutual Insurance, North American Casualty Company, Pie Insurance, Preferred Employers Insurance, Republic Indemnity, Sentry Insurance, State Compensation Insurance Fund, Travelers, WCF Insurance, Zenith Insurance Company, and Zürich North America.

Self-insured employer members include Albertsons Companies, Alliance of Schools for Cooperative Insurance Programs, BETA Healthcare Group Risk Management Authority, California Fair Services Authority, California Joint Powers Insurance Authority, California State University Risk Management Authority, , City and County of San Francisco, City of Los Angeles, City of Pasadena, Costco Wholesale, County of Los Angeles, County of Santa Clara Risk Management, Dignity Health, Disneyland Resort, East Bay Municipal Utility District, Grimmway Farms, Kaiser Permanente, Loma Linda University Health Risk Management, North Bay Schools Insurance Authority, Pacific Gas & Electric Company, San Diego Gas & Electric Company, Schools Insurance Authority, Shasta County Risk Management, Shasta-Trinity Schools Insurance Group, Southern California Edison, Southern California Gas Company, Special District Risk Management Authority, Sutter Health, United Airlines, and the University of California.

Recommended revisions to the proposed regulations are indicated by **bolded** single underline and ~~strikeout~~. Comments and discussion by the Institute are identified by italicized text.

The Institute offers the following comments:

§9785. Reporting Duties of the Primary Treating Physician

(d) The primary treating physician shall render opinions on all medical issues necessary to determine the employee's eligibility for compensation in the manner prescribed in subdivisions (e), (f), (h), (i) and (j) of this section. The primary treating physician may transmit reports to the claims administrator by secure email, mail, or FAX, or by any other means satisfactory to the claims administrator, including secure electronic transmission, such as through electronic data interchange (EDI), **as designated by the claims administrator per section 9767.6(f).**

Comment:

The Institute recommends adding language requiring the primary treating physician to utilize the addresses designated by the claims administrator in the section 9767.6(f) notice.

§9785.6. DWC Form PR-1: "Treating Physician's Report"

Comment:

The Institute supports the removal of the DWC Form PR-1 from this rulemaking.

§9792.7.1. DWC Form UR-01: "Utilization Review Plan Application or Modification."

Signature of authorized individual: "I, the undersigned Medical Director of the UR Plan Applicant named herein, have signed this document with knowledge of its contents, and verify that they are true and correct to the best of my knowledge and belief. ~~I further understand that the DWC's approval of the UR plan identified herein does not equate to approval of policies and procedures that are contrary to law, and any such approval is unintended. Applicant, have read and signed this application and know the contents thereof, and verify that, to the best of my knowledge and belief, the information included in this application is true and correct.~~"

Recommendations:

Although DWC Form UR-01 is not specifically addressed in this comment period, the Institute believes the stricken language is an impermissible abdication of the DWC's oversight of UR plans. The Institute again recommends deletion of the language regarding unintended approval.

The Division is responsible for the review and approval of all utilization review plans. The claims administrator or URO should be able to rely upon the approval of their policies and procedures to conduct utilization review internally or for their customers without concern of later consequences.

§9792.9.1. Utilization Review - Receipt of Request for Authorization; Acceptance of Incomplete Request.

(a) (1) A request for authorization shall be deemed to have been received by the claims administrator or its utilization review organization by facsimile, electronic mail, or by electronic data interchange, **as designated by the claims administrator per section 9767.6(f)**, on the date the form was received if the receiving facsimile, electronic mail address, or clearinghouse electronically date stamps the transmission when received. If there is no electronically stamped date recorded, then the date the form was transmitted shall be deemed to be the date the form was received by the claims administrator or the claims administrator's utilization review organization.

Recommendation:

The Institute recommends adding language requiring the primary treating physician to utilize the addresses designated by the claims administrator in the section 9767.6(f) notice.

Comment:

The Institute supports the deletion of section 9792.9.1(b)(2).

§9792.9.2. Utilization Review - Dispute of Liability; Deferral.

(a)(2)(B) A request for authorization of treatment for which UR would otherwise be precluded under Labor Code section 4610(k) cannot be deferred if the requesting physician expressly and unequivocally indicates or opines in the request for treatment that there has been a change in facts material to the basis of the prior denial of such same treatment, and includes documentation of such change. Such a request **may be reviewed and approved by a non-physician reviewer.** **A determination that there has not been a change in material facts** must be **reviewed made** by a physician reviewer and any modification or denial of the request must comply with applicable requirements as set forth at section 9792.9.5.

Recommendation:

The Institute recommends that a non-physician reviewer be permitted to review and approve these requests. Requiring that a physician review all these requests would increase the volume of physician reviews unnecessarily.

§9792.9.3. Utilization Review - Timeframes.

(a) (1) The first day in counting any timeframe requirement is the first normal business or working day after receipt of the completed or accepted as complete request for authorization, **as designated by the claims administrator per section 9767.6(f)**, except when the timeline is measured in hours. Whenever the timeframe requirement is stated in hours, the time for compliance is counted in hours from the time of receipt of the request for authorization.

Recommendation:

The Institute recommends adding language requiring the primary treating physician to utilize the addresses designated by the claims administrator in the section 9767.6(f) notice.

Thank you for the opportunity to comment. Please contact us if additional information would be helpful.

Sincerely,

Sara Widener-Brightwell

Sara Widener-Brightwell, SVP Claims and General Counsel
California Workers' Compensation Institute

SWB/pm

cc: Katrina Hagen, DIR Executive Director
George Parisotto, DWC Administrative Director
CWCI Claims Committee
CWCI Medical Care Committee
CWCI Legal Committee
CWCI Regular Members
CWCI Associate Members