

<b>DISABILITY EVALUATION UNIT REGULATIONS</b>	<b>RULEMAKING WRITTEN COMMENTS 45 DAY COMMENT PERIOD</b>	<b>P</b>	<b>NAME OF PERSON/ AFFILIATION</b>	<b>RESPONSE</b>	<b>ACTION</b>
<b>General Comment</b>	<p>There is variation in the description of Medical-Legal Evaluators in these provisions. In all cases where treating physician is mentioned, it should state primary treating physician and whenever QME is noted, AME should be added.</p> <p>There appears to be an error in numbering or misplacement of a Section, both in the Table of Contents and in the body of the regulations, The numbering reflects Section 10150 then 10151, and then returns to Section 10150,1, 10150,2, etc.</p>		<p>Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comment</p>	<p>Accept in part. We will add “primary” to “treating physician” on the forms.</p> <p>Disagree in part. It is not appropriate to have AME noted whenever QME is noted. For example, an unrepresented injured worker may have a summary rating based upon a QME report, not an AME report. (See Labor Code section 4062.1 and regulation section 10160.)</p> <p>Agree. Section 10151 will be moved to the proper sequential place.</p>	<p>We will add “primary” to “treating physician” on the forms.</p> <p>None.</p> <p>Section 10151 will be moved to the proper sequential place.</p>
<b>10150.2</b>	Change "Sections" to "Section".		<p>Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comment</p>	Agree.	“Sections” is changed to “section.”
<b>10150.3</b>	Commenter is concerned that the paper file may be destroyed upon creation of the electronic file and recommends that DEU retain paper files in the same manner and under the same rules as she previously recommended for the DWC.		<p>Sue Borg, President California Applicants’ Attorneys Association July 15, 2008 Written and Oral Comment</p> <p>Linda Atcherley, Legislative Chair California Applicants’ Attorneys Association July 15, 2008 Written and Oral Comment</p>	Agree in part.	Subdivision (b) is amended to state: If a paper case filed has been converted to electronic form, the paper case file may be destroyed no less than 30 business days after the parties have been informed of the conversion.
<b>10150.4</b>	Delete the "a" after the word "corrected" in the first line. Clarity is necessary to describe how an external user could determine if a substitution was necessary and how a		<p>Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008</p>	Agree.	The “a” is deleted.

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	substitution request is to be made.		Written Comment		
10150.1(a)	Commenter recommends that the first sentence of subdivision (a) be amended to read: "Anyone who disputes the authenticity of any signature must file with the Manager of the Disability Evaluation Unit an objection to the pleading or other document within ten (10) days of the filing of the document or within ten (10) days of learning the facts upon which the objection is based."		Sue Borg, President California Applicants' Attorneys Association July 15, 2008 Written and Oral Comment  Linda Atcherley, Legislative Chair California Applicants' Attorneys Association July 15, 2008 Written and Oral Comment	Disagree. If facts are discovered at a later date, the party may file a petition to re-open pursuant to Labor Code section 5803, upon a show of good cause.	None.
10151(b)(3)	This subsection provides for a "properly filed electronic form or document... ", but does not describe the electronic filing procedures.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comment	Agree. Reference to "properly filed electronic form or document" is removed from the moved section 10151.	Reference to "properly filed electronic form or document" is removed from the moved section 10151.
<b>10160.1</b>	The citation to Section 9785.5 should be corrected. This section was repealed effective January 1, 1999.		Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comment	Agree. The repealed section number is replaced with the correct citation, section 9785.	The repealed section number is replaced with the correct citation, section 9785.
<b>10160.5</b>	There is no provision for summary ratings of the treating physician reports for cases with represented workers. There is a provision for summary ratings of treating physician reports for unrepresented employees, see proposed §10160.1. Because many cases are settled on the report of the treating physician, a provision equivalent to proposed rule §10160.5 should be added to this section.		Sue Borg, President California Applicants' Attorneys Association July 15, 2008 Written and Oral Comment  Linda Atcherley, Legislative Chair California Applicants' Attorneys Association July 15, 2008 Written and Oral Comment	Disagree. Form 104 is used for this purpose. See sections 10166 and 10166.1. (Labor Code sections 4061 and 4062.2 were amended in 2004 and no longer provide for a procedure for summary rating determinations for represented employees.)	None.
10166(e)	Commenter recommends the deletion of the last sentence in subdivision (e). Since the adjudication file will be available to the DEU through EAMS, there is no need for the file to		Sue Borg, President California Applicants' Attorneys Association July 15, 2008	Disagree. The request will only be made if the file is needed. Because not all existing files will be scanned into EAMS when the system goes	None.

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	accompany a request for a consultative rating.		Written and Oral Comment  Linda Atcherley, Legislative Chair California Applicants' Attorneys Association July 15, 2008 Written and Oral Comment	live, there may still be a need to request the file.	
<b>10167</b>	There is no form provided for these "informal ratings." If it is intended that the "Consultative Rating" form be used for this purpose, we recommend amending this section to provide that instruction.		Sue Borg, President California Applicants' Attorneys Association July 15, 2008 Written and Oral Comment  Linda Atcherley, Legislative Chair California Applicants' Attorneys Association July 15, 2008 Written and Oral Comment	Disagree. The rating will issue from DEU. The form is not subject to this rulemaking.	None.
<b>DWC –AD Form 100 (DEU)</b>	Commenter recommends changing “Address 1” to “Address” and deleting the “Address 2” and “International Address” fields as only one street address field is necessary.  Commenter also recommends reverting to a single field for “Claim Number” and removing fields for Claim Numbers 1 through 5 as only one is necessary.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute July 15, 2008 Written Comment	Disagree. The information in each field is a separate data element in the data base. Although all the lines may not be needed, if, for example, an injured worker has an international address, it must be entered in the appropriate field.  Disagree. If there is only one claim number, then only the first line needs to be filled in.	None.  None.
<b>DWC-AD Form 101 (DEU)</b>	Commenter recommends:  Changing “Address 1” to “Address” and deleting the “Address 2” and “International Address” fields as only one street address field is necessary.		Brenda Ramirez Claims & Medical Director Michael McClain, General Counsel & Vice President California Workers' Compensation Institute	Disagree. The information in each field is a separate data element in the data base. Although all the lines may not be needed, if, for example, an injured worker has an international address, it must be entered in the	None

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	<p>Reverting to a single field for “Claim Number” and removing fields for Claim Numbers 1 through 5 as only one is necessary.</p> <p>Adding a mailing address so that the physician knows where to mail the form.</p> <p>Replacing the prompt for “WCAB Case No.” with “Case Number” to conform to EAMS.</p>		<p>July 15, 2008 Written Comment</p>	<p>appropriate field.</p> <p>Disagree. If there is only one claim number, then only the first line needs to be filled in.</p> <p>Disagree. The claims administrator is directed to fill in the address for the appropriate DEU office.</p> <p>Agree.</p>	<p>None</p> <p>None</p> <p>The prompt for “WCAB Case No.” is replaced with “Case Number.”</p>
<b>DWC-AD Form 101 (DEU)</b>	<p>This form is titled "Request for Summary Rating Determination of QME's Report", but according to the Instruction box, it is only for use with unrepresented injured employees. It is unclear if DWC-AD Form 102 could be used for an unrepresented worker if they did not seek out a Panel QME.</p> <p>If commenter’s recommendation for Section 10218(c) is accepted, page four should be amended to allow for other preferred methods of service.</p>		<p>Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comment</p>	<p>Form 102 is to be used for a summary rating of a primary treating physician’s report.</p> <p>Disagree. Unrepresented injured workers must be served by first class mail. (See section 10218.)</p>	<p>None.</p> <p>None.</p>
<b>DWC –AD Form 102 (DEU)</b>	<p>Commenter recommends:</p> <p>Changing “Address 1” to “Address” and deleting the “Address 2” and “International Address” fields as only one street address field is necessary.</p> <p>Reverting to a single field for “Claim Number” and removing fields for Claim Numbers 1 through 5 as only one is necessary.</p> <p>Adding a mailing address so that the physician knows where to mail the form.</p>		<p>Brenda Ramirez Claims &amp; Medical Director Michael McClain, General Counsel &amp; Vice President California Workers’ Compensation Institute July 15, 2008 Written Comment</p>	<p>Disagree. The information in each field is a separate data element in the data base. Although all the lines may not be needed, if, for example, an injured worker has an international address, it must be entered in the appropriate field.</p> <p>Disagree. If there is only one claim number, then only the first line needs to be filled in.</p> <p>The form must be sent to the appropriate DEU office, which is the</p>	<p>None</p> <p>None</p> <p>None</p>

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	Replacing the prompt for “WCAB Case No.” with “Case Number” to conform to EAMS.			same as the district office venue. The addresses are listed on the website.  Agree	The prompt for “WCAB Case No.” is replaced with “Case Number.”
<b>DWC-AD Form 102 (DEU)</b>	<p>This form, which presumably is for represented workers, is titled "Request for Summary Rating Determination of Primary Treating Physician's Report". Commenter recommends adding "or Agreed Medical Examiner's Report." If this change is not made, clarification needs to be provided as to how to request a Summary Rating of an AME Report.</p> <p>On page 2, in the Employee Data Section, the form asks for the WCAB Number. Commenter recommends that this be changed to "Case Number" to be consistent with the regulations and other forms, and so it is not confused with the previous identification system.</p> <p>If commenter’s recommendation for Section 10218(c) is accepted, page three should be amended to allow for other preferred methods of service.</p>		<p>Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comment</p>	<p>Disagree. Pursuant to section 10160.1, this form is for unrepresented employees to use when they have a report of a primary treating physician. Since 1994, represented injured workers have not been entitled to request summary ratings.</p> <p>Agree.</p> <p>Disagree. The recommendation is not accepted, but represented parties may agree between themselves to accept preferred methods of service. Unrepresented injured workers must be served by first class mail. (See section 10218.)</p>	<p>None</p> <p>The prompt for “WCAB Case No.” is replaced with “Case Number.”</p> <p>None.</p>
<b>DWC –AD Form 103 (DEU)</b>	<p>Commenter recommends:</p> <p>Changing “Address 1” to “Address” and deleting the “Address 2” and “International Address” fields as only one street address field is necessary.</p> <p>Reverting to a single field for “Claim Number”</p>		<p>Brenda Ramirez Claims &amp; Medical Director Michael McClain, General Counsel &amp; Vice President California Workers’ Compensation Institute July 15, 2008 Written Comment</p>	Form 103 is not part of the rulemaking.	None.

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	<p>and removing fields for Claim Numbers 1 through 5 as only one is necessary.</p> <p>Revising the language in the second paragraph of the box as follows: A request for reconsideration may be granted if it is shown that the <u>Agreed Medical Evaluator (AME)</u>, <u>Qualified Medical Evaluator (QME)</u> or <u>Primary Treating Physician (PTP)</u> has failed to address all issues, failed to completely address issues, failed to follow the <del>procedures</del> <u>regulations</u> promulgated by the DWC Medical Unit, or if the rating was incorrectly calculated.</p> <p>Revising the prompt language on page 2 as follows:</p> <ul style="list-style-type: none"> <li>• <del>QME/TP</del> <u>AME/QME/PTP...</u></li> <li>• <del>Medical Unit procedures</del> <u>DWC regulations</u> not followed by <del>QME/TP</del> <u>AME/QME/PTP</u>.</li> </ul> <p>Updating the mailing address for the form if necessary so that the physician does not mail it to the incorrect address.</p> <p>Deleting “(Instructions on Reverse)” and “on the reverse side” since the reverse side is not appropriate for EAMS forms.</p> <p>Repealing the existing form.</p>				
<b>DWC-AD Form 103 (DEU)</b>	<p>The authority cited, Labor Code Section 4061(g) appears to be in error. That section deals with the QME visit. Further, this form should be clarified to provide which DWC Medical Unit procedures are included.</p> <p>On page two, in the "Reasons for Request" area, the AME designation needs to be added.</p>		<p>Steven Suchil Assistant Vice President American Insurance Assn. July 15, 2008 Written Comment</p>	<p>Form 103 is not part of the rulemaking.</p>	<p>None.</p>

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	<p>If commenter's recommendation for Section 10218(c) is accepted, page two should be amended to allow for other preferred methods of service.</p> <p>Pages two and three both have notations stating "Instructions on Reverse". Electronic forms have no reverse side, and Section 10232 states "Only one side of each paper shall be used."</p>				
<b>DWC-AD Form 104</b>	<p>Commenter recommends:</p> <p>Reverting to a single field for "Case Number" and "Date of injury," removing fields for Case Numbers 1 through 5 and Dates of injury 1 through 5, as only one of each is necessary.</p> <p>Adding a mailing address to the form.</p> <p>Repealing the existing form.</p>		<p>Brenda Ramirez Claims &amp; Medical Director Michael McClain, General Counsel &amp; Vice President California Workers' Compensation Institute July 15, 2008 Written Comment</p>	<p>Disagree. The information in each field is a separate data element in the data base. Although all the lines may not be needed, if, for example, an injured worker has an international address, it must be entered in the appropriate field.</p> <p>Disagree. If there is only one claim number, then only the first line needs to be filled in.</p> <p>The form must be sent to the appropriate DEU office, which is the same as the district office venue. The addresses are listed on the website.</p> <p>Disagree. The existing form never went through rulemaking.</p>	<p>None</p> <p>None</p> <p>None</p> <p>None</p>