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**~~§10250. Payment of Medical Provider and Medical-Legal Lien Claimant Initial Lien Filing Fees.~~**

~~(a) At the time of filing of the initial lien in each case, every medical provider or medical legal lien claimant, except the Veterans Administration, the Medi-Cal program, or a public hospital, shall be responsible for payment of the initial lien filing fee required of providers by Labor Code Section 4903.05. For purposes of this section, the term “initial lien” means any lien filed in a case on or after January 1, 2004 by a lien claimant who has not previously filed a lien in the same or in any related case. When the medical provider or medical legal lien claimant files a single initial lien in more than one related case involving the same employee or dependent, only a single filing fee shall be required. For purposes of this section, a case shall be deemed related if the case alleges injury to the same or substantially same body parts.~~

~~(b) When filing the initial lien in writing, the medical provider or medical legal lien claimant shall submit a check or money order in the amount of one hundred dollars (\$100), made payable to “DWC Revolving Fund.” The check or money order for the filing fee shall be attached to the front of the lien form and shall contain the words “lien filing fee” and the Workers' Compensation Appeals Board case number, if available, in the memo section of the check or money order.~~

~~(c) If no application exists for the employee at the time of the initial lien filing, the lien claimant must file any necessary application(s) together with the lien. When the medical provider or medical legal lien claimant files the application, the filing fee required by Labor Code Section 4903.05 shall be submitted together with the application. In such cases, the WCAB case number shall be filled in by the WCAB on the check or money order at such time as the case number is assigned. If the lien claimant wishes to receive a conformed copy of the application, the lien claimant shall submit a postage paid, pre-addressed return envelope together with the application(s).~~

~~(d) When the medical provider or medical legal lien claimant files liens in written form in more than one case at the same time, the filing fees for each lien may be paid with a single check or money order by attaching a list of the available WCAB case numbers for the cases in which the filing fees are paid to the check covering those cases. If the list includes cases in which the lien claimant is filing an application together with the lien, the lien claimant shall provide the name of the employee, the employee's social security number, and the date(s) of injury on the list instead of a WCAB case number. A single list may include existing cases and cases where the lien claimant is filing the application.~~

~~(e) No initial lien, filed in writing, shall be accepted for filing on or after January 1, 2004 unless accompanied by full payment for the filing fee required by Labor Code Section 4903.05. Any initial lien delivered for filing on or after January 1, 2004 without payment of the initial lien filing fee shall be discarded without notice to the party submitting it, unless a postage paid, pre-addressed return envelope is submitted with the lien. Until receipt of proper payment, the lien shall not be deemed to have been received or filed for any purpose.~~

~~(f) A medical provider or medical legal lien claimant shall be billed on a monthly basis for all liens filed electronically through the EDEX system, or as otherwise designated by DWC, in the preceding month. Within 30 calendar days of receipt of the billing, the medical provider or medical legal lien claimant shall submit a check or money order for the total filing fee billed. The check or money order, made payable to "DWC Revolving Fund," shall be submitted to:~~

~~LIEN FILING FEE PAYMENT UNIT  
DIVISION OF WORKERS' COMPENSATION  
P.O. BOX 420603  
SAN FRANCISCO, CA 94142-0603~~

~~(g) The WCAB will not order or enforce payment of any medical treatment or medical legal lien filed on or after January 1, 2004 without prior payment of the filing fee required by Labor Code Section 4903.05.~~

~~(h) When the attorney for the employee or dependent or any assignee of the lien claimant files the initial medical or medical legal lien, that filing shall be deemed to have been made by an agent for the medical provider or medical legal lien claimant and payment of the filing fee required by Labor Code Section 4903.05 shall be required of the filing party as if the lien had been filed directly by the medical provider or medical legal lien claimant.~~

~~Authority cited: Section 4903.05, Labor Code.~~

~~Reference: Sections 4903.05 and 5307, Labor Code.~~

## **Rules of the Court Administrator**

### **Article 1. Definitions and General Provisions**

#### **§10210. Definitions.**

(a) "Adjudication file" or "ADJ file" means a case file in which the jurisdiction of the Workers' Compensation Appeals Board has been invoked and which is maintained by the Division of Workers' Compensation in paper format, or electronic format, or both, including a temporary paper case file.

(b) “Administrative director” means the administrative director of the Division of Workers’ Compensation or his or her designee.

(c) “Appeals board” means the commissioners and deputy commissioners of the Workers’ Compensation Appeals Board acting en banc, in panels, or individually.

(d) “Applicant” means any person asserting a right to relief under the provisions of Labor Code section 5300.

(e) “Application for adjudication” or “application” means the initial pleading that asserts a right to relief under the provisions of Labor Code section 5300.

(f) “Central Registration Unit” is a unit within the Division of Workers’ Compensation which maintains the website list of uniform names and addresses of claims administrators’ offices and representatives’ offices.

(g) “Claims administrator’s office” means any office location that administers workers’ compensation claims.

(h) “Court administrator” means the administrator of the workers’ compensation adjudicatory process at the trial level, or his or her designee.

(i) “Declaration of readiness to proceed” or “declaration of readiness” means a request for a proceeding before the district office.

(j) “Declaration of readiness to proceed to expedited hearing” means a request for a proceeding before the district office pursuant to Labor Code section 5502(b).

(k) “Defendant” means any person against whom a right to relief is claimed.

(l) “District office” means a trial level workers’ compensation court.

(m) “Document” is a pleading, petition, medical report, record, declaration, exhibit, or another filing submitted by a party or lien claimant, including an electronically scanned version of a document that was filed in paper form. Each medical report or other record having a different author and/or a different date of service is a separate “document.”

(n) “Document cover sheet” means Form 10232.1, which is placed on top of a document or set of documents filed at one time in a specific case.

(o) “Document separator sheet” means Form 10232.2, which is placed on top of each individual document, when one or more documents are being filed at the same time in the same case and placed on top of each individual attachment to each document being filed, when a document has one or more attachments.

(p) “Electronic Adjudication Management System” or “EAMS” means the computerized case management system used by the Division of Workers’ Compensation to store and maintain adjudication files and to perform other case management functions.

(q) “Electronic signature” means a signature electronically affixed by a workers’ compensation administrative law judge or by the appeals board to any decision, findings, award, order or other document.

(r) “Fax” means a document that has been electronically served by a fax machine.

(s) To “file” a document means to deliver a document or cause it to be delivered to the district office with venue or to the appeals board for the purpose of having it included in the adjudication file.

(t) “Hearing” means any trial, mandatory settlement conference, rating mandatory settlement conference, status conference, lien conference, or priority conference.

(u) “Lien claimant” means any person claiming payment under the provisions of Labor Code section 4903 or 4903.1.

(v) “Lien conference” means a proceeding for the purpose of assisting the parties in resolving disputed lien claims pursuant to Labor Code section 4903 or 4903.1 or, if the dispute cannot be resolved, to frame the issues and stipulations in preparation for a lien trial.

(w) “Mandatory settlement conference” means a proceeding to assist the parties in resolving their dispute or, if the dispute cannot be resolved, to frame the issues and stipulations in preparation for a trial.

(x) “Optical character recognition form” or “OCR form” means a paper form designed to be scanned so that its information is automatically extracted and stored in EAMS.

(y) “Party” means: (1) a person claiming to be an injured employee or the dependent of an injured employee; (2) a defendant; or (3) a lien claimant where either (A) the underlying case of the injured employee or the dependent of an injured employee has been resolved or (B) the injured employee or the dependent of an injured employee chooses not to proceed with his, her, or their case.

(z) “Petition” means any document filed containing a request for action other than an application for adjudication, an answer or a declaration of readiness to proceed.

(aa) “Priority conference” means a proceeding in which the applicant is represented by an attorney and the issues in dispute at the time of the proceeding include employment and/or injury arising out of and in the course of employment.

(bb) “Product delivery unit” means the unit within the Division of Workers’ Compensation. The units are abbreviated as follows: Adjudication Unit “ADJ”; Disability Evaluation Unit “DEU”; Subsequent Injuries Benefits Trust Fund “SIF”; Uninsured Employers’ Benefits Trust Fund “UEF”; Vocational Rehabilitation “VOC; and Retraining and Return to Work Unit “RSU”. For each product delivery unit there is an area in EAMS in which the case management information related to that product delivery unit is stored. That area is called the “product delivery case.” “INT” is the integrated case, which is the umbrella for the individual product delivery cases for each unit residing in EAMS.

(cc) “Rating mandatory settlement conference” means a mandatory settlement conference conducted to facilitate the determination of the existence and extent of permanent disability through the use of informal ratings issued by the Disability Evaluation Unit, where the only unresolved issues are permanent disability and the need for future medical treatment.

(dd) “Representative’s office” means any office location for a law firm, lawyer or representative of a party or lien claimant in a workers’ compensation case.

(ee) “Regular hearing” means a trial.

(ff) To “serve” a document means to personally deliver a copy of the document, or to send it in a manner permitted by these rules and the rules of the appeals board, to a party, lien claimant, or attorney who is entitled to a copy of the document.

(gg) “Status conference” means a proceeding set for the purpose of ascertaining if there are genuine disputes requiring resolution, of providing assistance to the parties in resolving disputes, of narrowing the issues, and of facilitating preparation for trial if a trial is necessary.

(hh) “Submission” means the closing of the record to the receipt of further evidence or argument.

(ii) “Trial” means a proceeding set for the purpose of receiving evidence.

(jj) “Venue” means the district office, as established by Labor Code section 5501.5 or 5501.6, at which any proceedings will be conducted and from which any district office orders, decisions, or awards will be issued.

(kk) “Workers’ compensation administrative law judge” as defined in Labor Code section 123.7 includes pro tempore judges appointed pursuant to California Code of Regulations, title 8, section 10350.

Authority cited: Sections 133 and 5307(c), Labor Code.

Reference: Sections 110, 4903, 4903.1, 5300, 5500.3, 5501.5, 5501.6 and 5502, Labor Code.

#### **§10211. Compliance with Rules of the Court Administrator.**

The failure to comply with the rules of the court administrator shall be deemed a bad faith action or tactic that is frivolous or solely intended to cause unnecessary delay unless that failure results from mistake, inadvertence, surprise, or excusable neglect.

Authority cited: Sections 133, 5307(c) and 5500.3, Labor Code.

Reference: Section 5813, Labor Code.

#### **§10212. District Office Records Not Subject to Subpoena.**

(a) The records, files and proceedings of the district office shall not be taken from its offices either on informal request or in response to a subpoena duces tecum or any order issued out of any other court or tribunal. The records, files and proceedings of the district office shall not be produced pursuant a subpoena issued under Labor Code section 130.

(b) Certified copies of portions of the records shall be delivered upon payment of fees as provided in California Code of Regulations, title 8, section 9990.

Authority cited: Sections 133 and 5307(c), Labor Code.

Reference: Sections 130, 138.7 and 5955, Labor Code.

### **§10213. Ex Parte and Prohibited Communications.**

(a) No document, including letters or other writings, shall be filed by a party or lien claimant with the district office unless service of a copy is made on all parties together with the filing of a proof of service. When a workers' compensation administrative law judge receives an ex parte letter or other document from any party or lien claimant in a case pending before the workers' compensation administrative law judge, he or she shall serve copies of the letter or document on all other parties to the case with a cover letter explaining that the letter or document was received ex parte in violation of this rule.

(b) No party or lien claimant shall discuss with a workers' compensation administrative law judge the merits of any pending case without the presence of all necessary parties to the proceeding, except as provided by these rules.

(c) All correspondence concerning the examination and reports of a physician appointed pursuant to Labor Code section 5701 or 5703.5 shall be made through the workers' compensation administrative law judge, and no party, attorney or representative shall communicate with that physician with respect to the merits of the case unless ordered to do so.

Authority cited: Sections 123.6, 133, 5500.3 and 5307 (c), Labor Code.

Reference: Sections 123.6, 5502, 5701, and 5703.5, Labor Code.

### **§10214. Compromise and Release forms and Stipulations with Request for Award forms.**

The following optical character recognition forms shall be used to settle case by either a compromise and release or stipulation with request for award.

(a) DWC-CA form 10214(a) (Stipulations with request for award) revision dated 11/2008 is incorporated by reference;

(b) DWC-CA form 10214(b) (Stipulations with request for award, death case) dated 11/2008 is incorporated by reference;

(c) DWC-CA form 10214(c) (Compromise and release) revision dated 11/2008 is incorporated by reference;

(d) DWC-CA form 10214(d) (Compromise and release, dependency claim) revision dated 11/2008 is incorporated by reference;

(e) DWC-CA form 10214(e) (Compromise and release, third party settlement) revision dated 11/2008 is incorporated by reference.

Authority cited: Sections 133, 5500.3 and 5307 (c), Labor Code.  
Reference: Sections 5002, 5003, 5004 and 5005, Labor Code.

## **Article 2. The Electronic Adjudication Management System**

### **§10215. Case Names and Case Index.**

An index of all cases filed with a district office shall be maintained in EAMS under the name of the person claimed to have been injured or the identification assigned to that person, whether or not that person is an applicant. Reference to the case shall be by the name of the injured person and the case number.

Authority cited: Sections 127.5, 133, 5307(c) and 5500.3, Labor Code.  
Reference: Section 126, Labor Code.

### **§10216. Adjudication Files.**

(a) All cases filed on and after the effective date of these regulations shall be maintained by the Division of Workers' Compensation in an electronic format in EAMS. All paper documents properly filed in such cases shall be scanned into the EAMS adjudication file and then destroyed no less than 30 business days after filing.

(b) All case opening documents shall be given a case number by the district office where no case number has been previously assigned for the injured worker for the alleged date of injury. The parties shall be notified of the case number by their preferred method of service.

(c) If a case number has been previously assigned by the Division of Workers' Compensation, a new case number will be assigned when a document is filed as follows: the prefix "ADJ" shall replace the previously assigned three letter prefix (i.e. "OAK") and precede the assigned case number.

(d) Except as provided in section 10273, the Division of Workers' Compensation shall maintain a paper adjudication file until it is converted to an electronic adjudication file. If, however, a paper adjudication file is maintained on or after the effective date of these regulations, an electronic adjudication file shall also be created and any documents filed thereafter shall be maintained electronically in EAMS, in accordance with subdivision (c).

(e) A paper adjudication file or a portion of a paper adjudication file may be converted to an electronic adjudication file by the Division of Workers' Compensation at any time. If a paper adjudication file is completely scanned into EAMS the Division of Workers' Compensation shall notify the parties to the case of the change in how the file is maintained; and the paper adjudication file may be destroyed no less than 30 business days after the issuance of the notification.

Authority cited: Sections 127.5, 133, 5307 and 5500.3, Labor Code.  
Reference: Section 126, Labor Code.



**§10217. Official Participant Record and Duty to Furnish Correct Address.**

(a) The Division of Workers' Compensation shall maintain an official participant record for each adjudication file, which shall contain the names of all parties and lien claimants, and their attorneys or hearing representatives.

(b) In order to ensure case parties and documents are accurately associated to the correct electronic adjudication file, uniform names for claims administrators' offices and representatives' offices shall be used when filing documents in EAMS. The names will be assigned by the Division of Workers' Compensation.

(1) The Division of Workers' Compensation will maintain a list on its website ([www.dwc.ca.gov/EAMS](http://www.dwc.ca.gov/EAMS)) of uniform names and mailing addresses and preferred method of service for the following entities: claims administrators' offices, and representatives' offices.

(2) Additions for new claims administrators' offices and representatives' offices and changes of name, location or address, telephone number, fax number, e-mail address or preferred method of service shall be registered by the entity requesting the change with the Central Registration Unit.

(A) The entity requesting the change must fax or e-mail a letter on letterhead with a signature from an authorized individual requesting the change to the Division of Workers' Compensation's Central Registration Unit within five business days of any change. The entity shall also advise all parties of any change of name, mailing address, or telephone number by furnishing the current information within five business days of any change.

(B) The fax number for the Central Registration Unit is: 1 (888) 822-9309. The e-mail address for the Central Registration Unit is: [cru@dir.ca.gov](mailto:cru@dir.ca.gov).

(C) The new uniform name or address and preferred method of service will be posted by the Central Registration Unit within ten business days of receipt of the request.

(c) Except as required by subdivision (b), every party and every lien claimant having an interest in an active case pending before the district office or appeals board shall advise the district office and all parties of any change of mailing address and telephone numbers by furnishing the current information within five business days of any change

(d) Every lien claimant that has filed a lien in a case pending in a district office shall advise all parties within five business days of any change in the identity and/or telephone number of the person with authority to resolve the lien by furnishing the correct name and daytime telephone number of that person to the interested parties; and shall advise the Division of Workers' Compensation of any such change after a declaration of readiness is filed.

(e) Every party and lien claimant having an interest in an inactive case: (1) shall advise all other known parties, lien claimants, attorneys, and hearing representative within five business days of any change of address (which shall include any change of mailing address and

telephone numbers) by furnishing the correct and current address and/or number; and (2) shall advise the Division of Workers' Compensation of any such change within five business days if there is an outstanding award of further medical treatment or if there is continuing jurisdiction pursuant to Labor Code sections 5410, 5803 and 5804.

Authority cited: Sections 127.5, 133, 5500.3 and 5307 (c), Labor Code.

Reference: Section 126, 127, 5316, 5410, 5502, 5504, 5803 and 5804, Labor Code.

#### **§10218. Designated Preferred Method of Service.**

(a) Claims administrators' offices and representatives' offices may designate first class mail, electronic mail or fax as their preferred method of service for receiving documents from the district office and the appeals board. The designated method of service shall be the same for all active cases for that claims administrator's office or representative's office. A party, a lien claimant, or an attorney or other representative for a party or lien claimant who does not or cannot designate a preferred method of service shall be served by first class mail.

(b) A represented party, a lien claimant, or an attorney or other representative for a party or lien claimant may agree with any other represented party, lien claimant, or attorney or other representative for a party or lien claimant that any method of service may be utilized for receiving documents between the parties to the agreement. If such an agreement is made, service pursuant to the agreement shall constitute valid service. Absent such an agreement, service between these parties or entities shall be made by first class mail.

(c) If the service is being made by or on an unrepresented injured worker, unrepresented dependent or unrepresented uninsured employer, then the service shall be made by first class mail.

Authority cited: Sections 127.5, 133, 5307 and 5500.3, Labor Code.

Reference: Section 126, Labor Code.

#### **§10222. Failure to Comply with the Court Administrator's Rules.**

(a) If a document is not filed in compliance with the court administrator's rules, either because it does not comply with the procedural requirements or with the place of filing requirements, the court administrator may in his or her discretion take the following actions:

(1) Correct the defect and file the document; or

(2) Notify the filer that the document is not accepted for filing by service of a Notice of Document Discrepancy. The Notice shall state the discrepancy, the date of the attempted filing, and provide the filer with 15 business days from service to cure the discrepancy. If the document is corrected within 15 business days, or at a later date upon a showing of good cause, it shall be deemed filed on the original date the document was submitted.

(b) Notwithstanding the provisions of subdivision (a), the following documents shall not be filed with the district office or the appeals board, except as a non duplicative supporting exhibit

or upon the order of a workers' compensation administrative law judge or the appeals board. Documents improperly submitted pursuant to this subdivision shall not be accepted for filing or deemed filed and shall not be acknowledged and may be discarded.

(1) letters to opposing parties or counsel;

(2) subpoenas;

(3) notices of taking deposition;

(4) medical appointment letters;

(5) proofs of service ordered pursuant to California Code of Regulations, title 8, section 10500;

(6) medical reports, except as required by section 10233;

(7) copies of any decision of any federal or state court opinion otherwise available.

(8) copies of any decision of the appeals board or a workers' compensation administrative law judge that is otherwise available.

(9) duplicate medical and medical-legal reports.

(10) no diagnostic imaging as defined in Labor Code section 139.3, subd. (b)(1), shall be transmitted to the district office or the appeals board unless it is ordered.

(c) No document shall be sent by electronic mail or by fax directly to the district office or the appeals board. If a document is sent by electronic mail or fax directly to the district office, it shall not be accepted for filing or deemed filed, shall not be acknowledged, and may be discarded unless otherwise ordered by the workers' compensation administrative law judge or the appeals board.

Authority cited: Sections 127, 133, 5500.3 and 5307 (c), Labor Code.

Reference: Section 126, 5500.3 and 5502, Labor Code.

### **§10223. Corrective Measures for Misfiled or Misdirected Documents into the Case Management System.**

(a) The Division of Workers' Compensation may perform document substitution on filed documents; repair scanned documents; and move documents to other adjudication files.

(b) A document substitution may occur where a technical problem of readability and/or legibility exists with a filed document. The filer may seek a substitution of the document by filing a petition to substitute. The proposed document for substitution must be appended to a petition to substitute. If the petition to substitute is granted, the proposed document for substitution will replace the document that was unreadable or illegible.

(c) A document repair may occur where a document scanned into an electronic adjudication file by the Division of Workers' Compensation fails to reflect the original paper document. The Division of Workers' Compensation may repair the document so that the scanned image accurately reflects the original paper document. The Division of Workers' Compensation may repair a document at any time or a party may request a document be repaired. EAMS will retain as viewable the original document for those who have access to the electronic file.

(d) A document may be moved when a document originally scanned by the Division of Workers' Compensation is filed into the wrong electronic file.

(e) Documents that are in the process of being substituted or repaired shall not be moved.

(f) The Division of Workers' Compensation will provide notice to all parties of moved, substituted, or repaired documents within 15 business days.

Authority cited: Sections 127, 133, 5500.3 and 5307 (c), Labor Code.

Reference: Section 126, 5500.3 and 5502, Labor Code.

#### **§10225. Extended System Unavailability.**

(a) If, for any reason, there is a technical failure of EAMS for longer than 24 hours, the court administrator, in his or her discretion, may declare that EAMS is unavailable for an extended period of time.

(b) After issuing a declaration of extended system unavailability, the court administrator shall issue an order that includes, but is not limited to:

(1) requiring that the district office or the appeals board shall serve all documents by first class mail;

(2) providing that filed documents shall be maintained in temporary paper adjudication files;

(3) providing that the time for performing any action, whether by the parties or by the district office, shall be extended by a specified period or until EAMS is declared to be operational; or

(4) requiring or allowing any other actions or remedies, as deemed appropriate under the circumstances.

(c) The court administrator shall post the declaration of extended system unavailability on the website of the Division of Workers' Compensation, if the website remains operational, and shall post it at every district office and at the office of the appeals board.

(d) Any declaration of extended unavailability shall remain in effect until the court administrator issues a subsequent declaration that EAMS is operational.

(e) The Division of Workers' Compensation will maintain a list of any and all technical failures of EAMS that last longer than 24 hours on its website.

(f) EAMS shall be backed up daily pursuant to the State of California's information technology standards.

Authority cited: Sections 127.5, 133, 5307(c) and 5500.3, Labor Code.  
Reference: Sections 5502 and 5700, Labor Code.

### **Article 3. Filing of Documents by Parties or Lien Claimants.**

#### **§10227. Place of Filing Documents After Initial Application or Case Opening Document.**

(a) After the filing and processing of an initial application for adjudication of claim or other case opening document, all documents required or permitted to be filed under these regulations or under the rules of the appeals board shall be filed only with the district office having venue, except as provided by the rules of the appeals board, unless otherwise ordered by a workers' compensation administrative law judge or the appeals board.

Authority cited: Sections 133 and 5307 (c), Labor Code.  
Reference: Sections 126 and 5502 Labor Code.

#### **§10228. Manner of Filing Documents.**

(a) Except as provided by section 10603, subd. (a), all documents shall be filed in paper form.

(b) All paper documents shall be scanned into the electronic adjudication file and then destroyed no less than 30 business days after filing, unless otherwise provided by these rules or ordered by a workers' compensation administrative law judge or the appeals board. A scanned document shall have the same legal effect as a document filed in paper form.

(c) Each of the following persons or entities shall file optical character recognition forms completed by using a computer or typewriter with the exception of OCR forms that are prepared at a hearing or that, for good cause, are filed at trial:

(1) any attorneys representing any party or any lien claimant;

(2) any insurance carrier or any representative of any insurance carrier (including any claims adjuster);

(3) any self-insured employer or any representative of a self-insured employer (including any claims adjuster);

(4) any third-party administrator or any representative of a third-party administrator (including any claims adjuster); and

(5) any lien claimant or any representative of any lien claimant, with the exception of: (A) a lien claimant (or a non-attorney representative of a lien claimant) asserting a living expenses lien under Labor Code section 4903(c); (B) a lien claimant (or a non-attorney representative of a lien claimant) asserting a burial expenses lien under Labor Code section 4903(d); or (C) a non-governmental lien claimant (or a non-attorney representative of a lien claimant) asserting a spousal or child support expenses lien under Labor Code section 4903(e).

(d) OCR forms will be posted in fillable format on the Division of Workers' Compensation website (<http://www.dir.ca.gov/dwc/forms.html>).

(e) All unrepresented employees, unrepresented dependents, unrepresented uninsured employers, or lien claimants listed in subdivision (c)(5)(A), (B) or (C) shall utilize optical character recognition forms, where such forms are required, but if they do not have ready access to a computer or typewriter, printed OCR forms will be available at the district offices and the information added to the form may be hand-printed in black ink.

(f) Whenever any party or lien claimant files any document utilizing an optical character recognition form, the party or lien claimant shall use the appropriate OCR form required by these rules.

(g) Except as set forth in subdivision (e), any OCR form that was not obtained from the Division of Workers' Compensation's website must function with EAMS in an equivalent manner as the Division's form.

Authority cited: Sections 133 and 5307, Labor Code.

Reference: Section 126, Labor Code.

#### **§10229. Electronic Filing Exemption**

If a document is filed with EAMS as part of the electronic filing trial, that document does not need to be filed in compliance with regulation sections 10228 and 10232.

Authority cited: Sections 133 and 5307, Labor Code.

Reference: Section 126, Labor Code.

#### **§10230. Time of Filing Documents.**

(a) A paper document, including one filed by mail (regardless of when posted), is deemed filed on the date it is received, if received prior to 5 p.m. of a court day (i.e., Monday through Friday, except designated State holidays). A paper document received after 5 p.m. of a court day shall be deemed filed as of the next court day.

(b) When a document is filed by mail or by personal service, the appeals board or the district office that received the document for filing shall affix on it an appropriate endorsement as evidence of receipt. The endorsement may be made by handwriting, hand-stamp, electronic date stamp, or by other means.

Authority cited: Sections 133 and 5307, Labor Code.

Reference: Section 126, Labor Code.

#### **§10232. Form and Size Requirements for Filed Documents.**

(a) All documents except the medical reports of treating physicians, secondary physicians, qualified or agreed medical evaluators and proposed exhibits, shall be filed in accordance with the following standards:

(1) Only one side of each paper shall be used;

(2) All documents shall be printed with black ink on white paper that is 8½ x 11 inches and at least twelve pound weight. All margins shall be at least 1 inch and shall be without typed or handwritten text in any margin;

(3) The first page shall include a case caption that shall include the name of the injured worker or dependent claiming benefits, the name of the employer and the employer's insurer or indicating the employer is self-insured and a case number if one has been assigned by the district office. If a case number has been assigned the number shall be preceded by the abbreviation "ADJ";

(4) All non-form legal pleadings shall contain a heading above the case caption containing the name of the filing attorney and their state bar membership number and the attorney's law firm name and address;

(5) Except as otherwise provided in this section or section 10228(c), all OCR forms and documents shall be printed in Times New Roman, Times, Courier, Palatino, Century Schoolbook or similar serif font of at least 12 points in size;

(6) Except as otherwise provided in section 10228, all text added to the OCR forms shall be in capital letters.

(7) Response to the request on the OCR forms for social security numbers is optional, not mandatory.

(8) A list of body part codes is provided with the document cover sheet form and posted on the Division of Workers' Compensation website (<http://www.dir.ca.gov/forms.html>). The codes shall be used on OCR forms to describe the part of the body injured.

(9) A list of district office codes for place of venue is provided with the document cover sheet form and posted on the Division of Workers' Compensation website (<http://www.dir.ca.gov/forms.html>). The codes shall be used on OCR forms to describe the district office venue.

(10) No single document shall exceed 25 pages in length without the prior permission of the appeals board or the presiding workers' compensation administrative law judge of the district office with venue over the case;

(11) The text of a document shall be double spaced or one and one half spaces; however, captions, headings, headers, footnotes, footers and block quotations shall be single spaced.

(12) The documents shall be flat, without folds and without staples.

(13) OCR forms have bar codes at the top of the document. No other documents shall have bar codes on the top of the document.

(b) All documents shall be filed with document cover sheets and document separator sheets as follows:

(1) A completed document cover sheet shall be the first page of each individual document or set of documents filed at one time in the same case. The cover sheet provides space for information regarding 15 companion cases. Only the pages filled out need to be filed. A document separator sheet shall precede each document within a set of documents.

(2) If an individual document includes an attachment, a completed document separator sheet shall precede the attachment and if an individual document includes multiple attachments, a document separator sheet shall precede each individual attachment. A document separator sheet shall not be placed between a document and the proof of service for that document. Where one proof of service is used for multiple documents, a document separator sheet shall precede the proof of service.

(3) A list of document titles is provided with the document separator sheet form and posted on the Division of Workers' Compensation website (<http://www.dir.ca.gov/forms.html>). The document titles shall be used on document separator sheet to describe the attached document.

(4) The document separator sheet requires the filer to list the product delivery units, as defined in section 10210(bb), the date of the attached document, and the author of the attached document.

(5) This subdivision shall not apply to any unrepresented employees, unrepresented dependents or unrepresented uninsured employers who do not have ready access to document cover sheets and document separator sheets.

(c) Oversized documents shall be filed only at the time of trial in accordance with the provisions of section 10603.

(d) If an unrepresented worker, an unrepresented uninsured employer, or an unrepresented dependent does not have ready access to a computer or typewriter and compliance with subdivisions (a)(3) and (a)(5) is not feasible, a hand-printed document may be submitted. Any hand-printed document shall be legible and shall otherwise comply with subdivision (a), including the requirements of subdivision (a)(3) regarding margins and text in the margins.

Authority cited: Sections 133, 5307 and 5500.3, Labor Code.

Reference: Sections 126 and 5500.3, Labor Code.

### **§10232.1. Document cover sheet form.**

DWC-CA form 10232.1 (Document cover sheet) revision dated 11/2008 is incorporated by reference.

Authority cited: Sections 133, 5307 and 5500.3, Labor Code.

Reference: Sections 126 and 5500.3, Labor Code.

### **§10232.2. Document separator sheet form.**



DWC-CA form 10232.2 (Document separator sheet) revision dated 11/2008 is incorporated by reference.

Authority cited: Sections 133, 5307 and 5500.3, Labor Code.

Reference: Sections 126 and 5500.3, Labor Code.

### **§10233. Filing of Medical Reports, Medical-Legal Reports, and Various Records.**

(a) Except as provided by section 10603, medical reports, medical-legal reports, and medical records, and other records and documents shall be filed only in accordance with the following provisions.

(b) This subsection shall apply where a declaration of readiness (other than a declaration of readiness for an expedited hearing) is being filed, including a walk-through declaration of readiness.

(1) When filing a declaration of readiness, the filing party or lien claimant shall file the report of any agreed medical evaluator, any qualified medical evaluator, and any treating physician that: (A) are then in its possession or control, (B) are relevant to the issue being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(2) When filing an objection to a declaration of readiness, or within ten days of the filing of the declaration of readiness if no objection is timely filed, each opposing party or lien claimant shall file the report of any agreed medical evaluator, any qualified medical evaluator, and any treating physician that: (A) are then in its possession or control, (B) are relevant to the issue being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(c) This subsection shall apply where a declaration of readiness for an expedited hearing is being filed.

(1) When filing a declaration of readiness for an expedited hearing, the filing party or lien claimant shall file the report of any agreed medical evaluator, any qualified medical evaluator, and any treating physician that: (A) are then in its possession or control, (B) are relevant to the issue being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time.

(2) When filing an objection to a declaration of readiness for an expedited hearing, or within ten days of the filing of the declaration of readiness if no objection is timely filed, each opposing party or lien claimant shall file the report of any agreed medical evaluator, any qualified medical evaluator, and any treating physician that: (A) are then in its possession or control, (B) are relevant to the issue being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time.

(3) All other medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits with respect to the issue being raised by the declaration of readiness, and that have not been filed previously, shall be filed at the time of trial, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(d) This subsection shall apply where a compromise and release or a stipulations with request for award is being filed, with the exception that this subsection shall not apply when the compromise and release or the stipulations with request for award is being filed on a walk-through basis in accordance with section 10280.

(1) When filing a compromise and release or a stipulations with request for award, the filing party shall file all agreed medical evaluator reports, qualified medical evaluator reports, treating physician reports, and any other medical records or other records (e.g., wage statements) that: (A) are relevant to a determination of the adequacy of the compromise and release or stipulations with request for award; and (B) have not been filed previously.

(2) If the compromise and release or the stipulations with request for award is not approved, and the matter is set for a hearing on the adequacy of the proposed settlement, any additional reports, records, or other documents not previously filed that are being proposed as exhibits shall be filed at the time of the adequacy hearing, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(3) If the compromise and release or the stipulations with request for award is not approved at or after the adequacy hearing, and the matter is set for a mandatory settlement conference or trial, then any additional medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits shall be filed in the same manner as set forth in subsections (g) and (h).

(e) Excerpted portions of relevant physician, hospital or dispensary records shall be filed in accordance with section 10232.

(f) Excerpted portions of relevant personnel records, wage records and statements, job descriptions, and other business records shall be filed in accordance with section 10232.

(g) At a mandatory settlement conference, rating mandatory settlement conference, priority conference or lien conference, all other medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits with respect to the issue being raised by the declaration of readiness, and that have not been filed previously, shall be filed, but only if the matter is being set for trial, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(h) At trial, any additional medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits with respect to the issue being raised by the declaration of readiness shall be filed, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

Authority cited: Sections 133, 5500.3 and 5307 (c), Labor Code.

Reference: Section 126, 4600, 5500.3 and 5502, Labor Code.

### **§10236. Filing of Copies of Documents.**

(a) Except as provided by section 10603, subd. (a), no “original” business, medical, or other documents shall be filed with a district office.

(b) Only a photocopy or other reproduction of an original document shall be filed, and it is presumed the filed document is an accurate representation of the original document.

(c) If a party or lien claimant alleges that a filed document is an inaccurate or unreliable, the party alleging the document is inaccurate or unreliable shall state the basis for the objection. The filing party must establish that the document is an accurate representation of the original document.

(d) A party or lien claimant that elects to retain the original of an exhibit or proposed exhibit need not retain the original after either (1) the exhibit has been authenticated at trial or (2) a settlement that resolves all pending issues has been approved and all appeals have been exhausted or the time for seeking appellate review has expired.

Authority cited: Sections 133, 5500.3 and 5307 (c), Labor Code.

Reference: Section 126, 5500.3, Labor Code.

## **Article 4. Appearances, the Form of Minutes of Hearings and Minute Orders**

### **§10240. Appearances Required.**

(a) All parties and lien claimants shall appear at all hearings, except as provided below:

(1) Where injury arising out of and in the course of employment is at issue, lien claimants not defined as a party under subdivision 10210(y)(3) shall not be required to appear at the mandatory settlement conference or trial, unless otherwise ordered by the workers’ compensation administrative law judge.

(2) Where liability for the claim has been accepted, lien claimants not defined as a party under subdivision 10210(y)(3), with a lien claim of \$25,000 or more, shall appear or have a representative appear at the mandatory settlement conference or lien conference, unless the appearance is excused by the workers’ compensation administrative law judge.

(3) Lien claimants not defined as a party under subdivision 10210(y)(3) with liens of less than \$25,000 shall be available by telephone with settlement authority and shall notify defendant(s) of the telephone number at which the defendant may reach the lien claimants during the mandatory settlement conference or lien conference. The workers’ compensation administrative law judge may order the appearance of lien claimants not defined as a party under subdivision 10210(y)(3), with liens of less than \$25,000 at a mandatory settlement conference or lien conference.

(4) All lien claimants shall appear at trial at which their lien(s) is an issue to be decided.

(b) All parties shall have a person available with settlement authority at the mandatory settlement conference or lien conference. The person with settlement authority need not be present if an attorney or representative who is present at these proceedings can obtain immediate authority by telephone.

(c) Unless the notice otherwise provides, the applicant shall be present at a mandatory settlement conference as provided in Labor Code section 5502, subd. (e).

(d) Appearance at a hearing not covered under this section shall be at the discretion of the workers' compensation administrative law judge.

Authority cited: Sections 127.5, 133, 5500.3 and 5307(c), Labor Code.

Reference: Sections 5502 and 5700, Labor Code.

### **§10241. Failure to Appear.**

(a) Where a party or a lien claimant is served with notice of trial pursuant to section 10240 and fails to appear either in person or by attorney or representative, the workers' compensation administrative law judge may:

(1) dismiss the application after issuing a notice of intention to dismiss pursuant to California Code of Regulations, title 8, section 10562;

(2) dismiss the lien claim after issuing a notice of intention to dismiss pursuant to California Code of Regulations, title 8, section 10562;

(3) hear the evidence and, after service of the minutes of hearing and summary of evidence that shall include notice of intention to submit the case for decision pursuant to California Code of Regulations, title 8, section 10562.

(b) Where a party or a lien claimant is served with notice of a conference or mandatory settlement conference pursuant to section 10240 and fails to appear at the conference, the workers' compensation administrative law judge may:

(1) dismiss the application after issuing a notice of intention to dismiss pursuant to California Code of Regulations, title 8, section 10562;

(2) dismiss the lien claim after issuing a notice of intention to dismiss with or without prejudice pursuant to California Code of Regulations, title 8, section 10562;

(3) close discovery and forward the case to the presiding workers' compensation administrative law judge to set for trial.

(c) Where a party, after notice, fails to appear at either a trial or a conference and good cause is shown for failure to appear, the workers' compensation administrative law judge may take the case off calendar or may continue the case to a date certain.

Authority cited: Sections 133, 5500.3 and 5307(c), Labor Code.

Reference: Article XIV, Section 4, California Constitution; and Sections 5502(e) and 5700, Labor Code.

#### **§10243. Continuances.**

Requests for continuances are inconsistent with the requirement that workers' compensation proceedings be expeditious and are not favored. Continuances will be granted only upon a clear showing of good cause. Where possible, reassignment pursuant to section 10346 shall be used to avoid continuances.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Article XIV, Section 4, California Constitution; and Sections 5502 and 5502.5, Labor Code.

#### **§10244. Appearances in Settled Cases.**

When the parties represent to the workers' compensation administrative law judge assigned to the case that a case has been settled, the case shall be taken off calendar and no appearances shall be required.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Article XIV, Section 4, California Constitution; and Sections 5502 and 5502.5, Labor Code.

#### **§10245. Minutes of Hearing form.**

DWC-CA form 10245 (Minutes of Hearing form) revision dated 11/2008 is incorporated by reference.

Authority cited: Sections 126, 127.5, 133, and 5307 (c), Labor Code.

Reference: Sections 5307 (c), 5307.5(b), 5313, 5500.3 and 5502, Labor Code.

#### **§10246. Electronically Filed Decisions, Findings, Awards, and Orders.**

The district office may electronically file any decision, findings, award, order or other document issued by a workers' compensation administrative law judge. Any document that is electronically filed shall have the same legal effect as a document in paper form.

Authority cited: Sections 127.5, 133, 5307 (c), Labor Code.

Reference: Section 5307 (c), 5307.5(b) and 5313, Labor Code.

### **Article 5. Declarations of Readiness to Proceed and Objections and Hearing Calendars**

#### **§10250. Declaration of Readiness to Proceed.**

(a) Applications or petitions shall not be placed on calendar for mandatory settlement conferences, status conferences, priority conferences, expedited hearing or any other hearing unless one of the parties has filed and served a declaration of readiness to proceed in the form

prescribed by the court administrator. The declaration of readiness shall be served on all other parties and lien claimants.

(b) All declarations of readiness to proceed shall state under penalty of perjury the moving party has made a genuine, good faith effort to resolve the dispute before filing the declarations of readiness to proceed, and shall state with specificity the same on the declarations of readiness to proceed.

(c) A false declaration or certification by any party, lien claimant, attorney or representative may give rise to proceedings under Labor Code section 134 for contempt or Labor Code section 5813 for sanctions.

(d) If a party or lien claimant is represented by an attorney or representative any declaration of readiness filed on behalf of the party shall be executed by the attorney or representative.

Authority cited: Sections 127.5, 133, 5502 (a) and 5307 (c), Labor Code.

Reference: Sections 134, 5500.3, 5502 and 5813, Labor Code.

#### **§10250.1. Declaration of Readiness to Proceed form.**

DWC-CA form 10250.1 (Declaration of Readiness to Proceed form) revision dated 11/2008 is incorporated by reference.

Authority cited: Sections 127.5, 133, 5502 (a) and 5307 (c), Labor Code.

Reference: Sections 5500.3, 5502 and 5813, Labor Code.

#### **§10251. Objection to Declaration of Readiness to Proceed.**

(a) Any objection to a declaration of readiness to proceed shall be filed and served within ten (10) calendar days after service of the declaration. The objection shall set forth, under penalty of perjury, specific reason why the case should not be set or why the requested proceedings are inappropriate.

(b) A false declaration or certification filed under this section by any party, lien claimant, attorney or representative may give rise to proceedings under Labor Code section 134 for contempt or Labor Code section 5813 for sanctions.

(c) If a party or lien claimant is represented, the attorney or representative shall execute any objection to the declaration of readiness to proceed on behalf of the party. Declarations of readiness to proceed shall be reviewed by the presiding workers' compensation administrative law judge or any workers' compensation administrative law judge designated by the presiding workers' compensation administrative law judge, who will determine on the basis of the facts stated in the declaration whether the objection should be sustained.

(d) If a party has received a copy of the declaration of readiness to proceed and has not filed an objection under this section, that party shall be deemed to have waived any and all objections to proceeding on the issues specified in the declaration, absent extraordinary circumstances.

Authority cited: Sections 127.5, 133, 5502 (a) and 5307 (c), Labor Code.

Reference: Sections 134, 5502 and 5813, Labor Code.

**§10252. Filing the Request Expedited Hearing Calendar.**

~~(a) The Administrative Director shall establish a uniform expedited hearing calendar in all offices of the Division of Workers' Compensation.~~

~~(b) An applicant~~ (a) Where injury to any part or parts of the body is accepted as compensable by the employer, a party is entitled to an expedited priority hearing and decision upon the filing of an Application for Adjudication of Claim and Request for Expedited Hearing, DWC Form 4, showing of an a bona fide dispute application for adjudication of claim and a declaration of readiness to proceed pursuant to section 10250 establishing a bona fide, good faith dispute as to:

(1) the employee's entitlement to medical treatment pursuant to Labor Code section 4600;

(2) the employee's entitlement to, or the amount of, temporary disability indemnity payments or amount;

~~(3) appeal from a decision and order of the rehabilitation unit, enforcement thereof, or termination; or~~

(3) the employee's entitlement to vocational rehabilitation services, or the termination of an employer's liability to provide these services to an employee; or

~~(4) liability for benefits among employers;~~

(4) the employee's entitlement to compensation from one or more responsible employers when two or more employers dispute liability as among themselves.

~~(c) The request for expedited hearing must be on the form set forth in Section 10252.1, DWC Form 4, and must be filed with an Application for Adjudication of Claim.~~

~~(d) Within two (2) days of receipt of the Request for Expedited Hearing, the Request shall be reviewed for compliance with Subdivision (b).~~

(b) An expedited hearing may be set upon request where injury to any part or parts of the body is accepted as compensable by the employer and the issues include medical treatment or temporary disability for a disputed body part or parts.

(c) A workers' compensation administrative law judge assigned to a case involving a disputed body part or parts may redesignate the expedited hearing as a mandatory settlement conference, receive a pretrial conference statement pursuant to Labor Code section 5502, subd. (e) (3), close discovery, and schedule the case for trial on the issues presented, if the workers' compensation administrative law judge determines, in consultation with the presiding workers' compensation administrative law judge, that the case is not appropriate for expedited determination.

(d) Grounds for the redesignation of an expedited hearing includes, but is not limited to, cases where the direct and cross-examination of the applicant will be prolonged, or where there are multiple witnesses who will offer extensive testimony.

(e) The parties are expected to submit for decision all matters properly in issue at a single trial and to produce all necessary evidence, including witnesses, documents, medical reports, payroll statements and all other matters considered essential in the proof of a party's claim or defense.

Authority cited: Sections 127.5, 133 and 5307.3-5502(b), Labor Code.  
Reference: Section 5502(b), Labor Code.

#### **§10252.1. Form. Expedited Hearing form.**

DWC-CA form 10252.1 (Expedited Hearing form) revision dated 11/2008 is incorporated by reference.

Authority cited: Sections 127.5, 133 and 5307.3-5502(b), Labor Code.  
Reference: Section 5502(b), Labor Code.

#### **§10253. Settlement Conference Calendar.**

(a) In accordance with Labor Code section 5502, subd. (e) (2), the workers' compensation administrative law judge shall have authority to inquire into the adequacy and completeness, including provision for lien claims, of compromise and release agreements or stipulations with request for award or orders, and to issue orders approving compromise and release agreements or awards or orders based upon approved stipulations, to make orders and rulings regarding admission of evidence and discovery matters, including admission of offers of proof and stipulations of testimony where appropriate and necessary for resolution of the dispute by the workers' compensation administrative law judge, and may submit and decide the dispute on the record pursuant to the agreement of the parties. The workers' compensation administrative law judge shall not hear sworn testimony at any conference.

(b) The workers' compensation administrative law judge may continue a conference to a time certain to facilitate a specific resolution of the dispute subject to Labor Code section 5502, subd. (e)(1).

(c) Subject to the provisions of Labor Code section 5502.5, upon a showing of good cause, the workers' compensation administrative law judge may continue a mandatory settlement conference to a date certain, may continue it to a status conference on a date certain, or may take the case off calendar. In such a case, the workers' compensation administrative law judge shall note the reasons for the continuance or order taking off calendar in the minutes. The minutes shall be served on all parties and lien claimants, and their representatives.

(d) Absent resolution of the dispute, the parties shall file at the mandatory settlement conference a joint pre-trial conference statement setting forth the issues and stipulations for trial, witnesses, and exhibits.



(e) A summary of conference proceedings including the joint pre-trial conference statement and the disposition shall be filed by the workers' compensation administrative law judge in the adjudication file and shall be served on the parties and lien claimants.

Authority cited: Sections 127.5, 133, 5307(c) and 5502, Labor Code.

Reference: Sections 5502 and 5502.5, Labor Code

### **§10253.1. Pre-trial Conference Statement form.**

DWC-CA form 10253.1 (Pre-trial Conference Statement form) revision dated 11/2008 is incorporated by reference.

Authority cited: Sections 133, 5307, 5502, and 5500.3 Labor Code.

Reference: Section 5502, Labor Code.

### **§10254. Priority Conference Calendar.**

(a) A priority conference shall be set upon the filing of a declaration of readiness requesting a priority conference that shows that the applicant is represented by an attorney and that the issues in dispute include employment and /or injury arising out of and in the course of employment.

(b) Upon a showing of good cause, a workers' compensation administrative law judge may continue the matter to a status conference. At each priority or status conference, the parties shall be prepared to set the matter for trial or to provide a plan to complete discovery.

(c) To the extent possible, all priority and status conferences in a case shall be conducted by the same workers' compensation administrative law judge. When discovery is complete, or when the workers' compensation administrative law judge determines that the parties have had sufficient time to complete reasonable discovery, the case shall be set for trial as expeditiously as possible.

Authority cited: Sections 127.5, 133, 5307 and 5502(c), Labor Code.

Reference: Section 5502(c), Labor Code.

### **§10256. Setting the Case.**

(a) A presiding workers' compensation administrative law judge or a workers' compensation administrative law judge, using sound discretion, may on his or her own motion set any case for hearing.

(b) The parties are expected to submit for decision all matters properly in issue at a single trial and to produce all necessary evidence, including witnesses, documents, medical reports, payroll statements and all other matters considered essential in the proof of a party's claim or defense. However, a workers' compensation administrative law judge may order that the issues in a case be bifurcated and tried separately upon a showing of good cause.

Authority cited: Sections 127.5, 133, 5502 (a) and 5307 (c), Labor Code.

## **Article 6. Consolidation Procedures**

### **§10260. Assignment of Consolidated Cases.**

(a) Any request or petition to consolidate cases that are assigned to different workers' compensation administrative law judges in the same district office, or that have not been assigned but are venued at the same district office, shall be referred to the presiding workers' compensation administrative law judge of that office, whether the cases involve the same injured worker or multiple injured workers.

(b) Any request or petition to consolidate cases involving the same injured worker that are assigned to workers' compensation administrative law judges at different district offices, or that have not been assigned but are venued at different district offices, shall first be referred to the presiding workers' compensation administrative law judges of the district offices to which the cases are assigned. If the presiding workers' compensation administrative law judges are unable to agree on where the cases will be assigned for hearing, the conflict shall be resolved by the court administrator upon referral by one of the presiding judges.

(c) Any request or petition to consolidate cases involving multiple injured workers that are assigned to workers' compensation administrative law judges at different district offices, or that have not been assigned but are venued at different district offices, shall be referred to the court administrator.

(d) In resolving any request or petition to consolidate cases that are assigned to workers' compensation administrative law judges at different district offices, or that have not been assigned but are venued at different district offices, the court administrator shall set the request or petition for a conference regarding the place of hearing. At or after the conference, the court administrator shall determine the place of hearing and may determine the workers' compensation administrative law judge to whom the cases will be assigned, giving consideration to the factors set forth in California Code of Regulations, title 8, section 10589. In reaching any determination, the court administrator may assign a workers' compensation administrative law judge to hear any discovery motions and disputes relevant to discovery in the action and to report their findings and recommendations to the court administrator.

(e) Any party aggrieved by the determination of the court administrator may request proceedings pursuant to Labor Code section 5310, except that an assignment to a particular workers' compensation administrative law judge shall be challenged only in accordance with the provisions of California Code of Regulations, title 8, sections 10452 and 10453.

Authority cited: Sections 133 and 5307, Labor Code.

Reference: Sections 5303 and 5708, Labor Code.

## **Article 7. Access to Records and Retention of Records**

### **§10270. Access to and Viewing Adjudication Files.**

(a) A party, a lien claimant, or an attorney or other representative for a party or lien claimant may access and view specific adjudication files in which the party, lien claimant, attorney, or representative is a case participant except as provided for in section 10271.

(b) Except as otherwise prohibited by law or sections 10271 and 10272, any person may inspect the contents of any electronic adjudication file at any district office, whether or not the district office has venue over the case.

(c) Except as otherwise prohibited by law or sections 10271 and 10272, any person may inspect the contents of any paper adjudication file at the district office or office of the appeals board where the file is located during regular office hours.

(d) The paper adjudication file and the records and documents contained therein may not be removed from the district office or the office of the appeals board for copying or for any other purpose.

(e) Copying operators must operate their equipment in the room assigned to them and any person copying a paper adjudication file must put papers back in the file in their original order and any person viewing or copying a file must return the file in the same order and condition in which it was received.

(f) A paper adjudication file shall not be sent from one office to another for inspection except for good cause by order of a workers' compensation administrative law judge or the appeals board and upon the payment of a fee required by California Code of Regulations, title 8, section 9990. At the request of a party to the case, or his or her attorney, a paper adjudication file that has been transferred to a record storage center for storage will be made available for inspection through the office from which the file was transferred. Paper adjudication files that have been transferred to a record storage center will be made available for inspection by any other person upon payment of the fee required by California Code of Regulations, title 8, section 9990.

Authority cited: Sections 127.5, 133, 138.7, 5307(c) and 5500.3, Labor Code.

Reference: Sections 5502 and 5700, Labor Code.

### **§10271. Prohibitions on Document Inspection.**

(a) The following documents shall not be made available for inspection by any person:

(1) Decisions, reports, opinions, orders, recommendations and other documents that are in the process of preparation, or, although fully prepared, have not yet been signed and filed.

(2) Ratings that have not yet been served.

(3) The working papers, personal notes, deliberation records, and other private notations made by a workers' compensation administrative law judge, commissioner, deputy commissioner or appeals board attorney or legal assistant in the course of hearing or deliberation relating to the case.

(4) Any legal memorandum or analysis prepared by a workers' compensation administrative law judge, commissioner, deputy commissioner, appeals board attorney or legal assistant to

assist a workers' compensation administrative law judge, deputy commissioner or commissioner in his or her deliberations concerning a case.

Authority cited: Sections 133, 5307 (c) and 5500.3, Labor Code, Section 6253.4, Government Code.

Reference: Sections 126, 127 and 138.7, Labor Code.

### **§10272. Sealing Documents.**

(a) The presiding workers' compensation administrative law judge or the appeals board may order sealed medical reports, medical records or other documents filed in a case containing references to or discussions of mental or emotional health of any person, sexual habits or practice, use of or addiction to alcohol or other drugs, or other matters of similar character. In a case involving an unrepresented injured employee, the presiding workers' compensation administrative law judge or appeals board may on his, her, or its own motion seal a document or documents after compliance with subdivision (d). Within twenty court days after the order sealing documents, the presiding workers' compensation administrative law judge or the appeals board shall allow the injured worker an opportunity to object to the order.

(b)(1) A party requesting that a document or documents be sealed shall file a petition for an order sealing the requested records. The petition must be accompanied by a memorandum of points and authorities and a declaration containing facts sufficient to justify the sealing.

(2) The party requesting that a record or records be filed under seal must lodge it with the district office under (d) when the petition is filed or with the appeals board if the matter is pending on petition for reconsideration, removal or disqualification, unless good cause exists for not lodging it. Pending the determination of the petition, the lodged records will be conditionally under seal.

(3) If necessary to prevent disclosure, the petition, any opposition, and any supporting documents must be filed in a public redacted version and lodged in a complete version conditionally under seal.

(4) If the presiding workers' compensation administrative law judge or appeals board denies the petition to seal, the clerk must return the lodged record to the submitting party and must not place it in the adjudication file.

(5) A document filed with the district office or appeals board shall not disclose material contained in a previously filed document that is sealed, conditionally under seal, or subject to a pending petition to seal.

(c)(1) The party requesting that a record be filed under seal shall put it in a manila envelope or other appropriate container, seal the envelope or container, and lodge it with the district office or with the appeals board if the matter is pending on petition for reconsideration, removal or disqualification.

(2) The envelope or container lodged with the court must be labeled "CONDITIONALLY UNDER SEAL."

(3) The party submitting the lodged record shall affix to the envelope or container a cover sheet that:

(A) Contains a case number and

(B) States that the enclosed record is subject to a petition to file the record under seal.

(4) Upon receipt of a record lodged under this rule, the district office or the appeals board shall endorse the affixed cover sheet with the date of its receipt and must retain but not file the record unless ordered to do so.

(d) The presiding workers' compensation administrative law judge or the appeals board may order that a document be filed under seal or sealed only if he, she, or it expressly finds facts that establish:

(1) There exists an overriding public interest that overcomes the right of public access to the record;

(2) The overriding public interests supports sealing the record;

(3) A substantial probability exists that the overriding public interest will be prejudiced if the record is not sealed;

(4) The proposed sealing is narrowly tailored; and

(5) No less restrictive means exists to achieve the overriding public interest.

(e) (1) If an order is made that a document or documents be sealed, the order shall be filed in the record of the proceedings. The order shall set forth the facts that support the findings and direct the sealing of only those documents and pages, or if practicable, portions of those documents and pages, that contain the material that needs to be placed under seal.

(2) If the order directs that an entire document shall be sealed, and if the sealed document is contained in a paper adjudication file, the sealed document shall be placed in a sealed envelope, which shall be removed from the file before the file is made available for public inspection. If the sealed document is in an electronic adjudication file, the document shall be marked as sealed. No entirely sealed document in a paper file or an electronic file shall be available for public inspection.

(3) If the order directs that a portion or portions of a document be sealed, and if the partially sealed document is contained in a paper adjudication file, the partially sealed document shall be placed in a sealed envelope, however, a version of the document with the sealed portion redacted shall be made available for public inspection. If the sealed document is in an electronic adjudication file, a version of the document with the sealed portion redacted also shall be electronically maintained and shall be made available for public inspection.

(f) Sealed documents shall be made available for inspection by any party to the case or by his representative, subject to any reasonable conditions and limitations as the presiding workers' compensation administrative law judge or the appeals board may impose.

(g) Sealed documents shall not otherwise be made available for public inspection except by order of a workers' compensation administrative law judge or the appeals board which shall be made only on a showing that good cause exists to permit the inspection.

Authority cited: Sections 127, 133 and 5307, Labor Code.

Reference: Section 5307(c), Labor Code.

### **§10273. Retention, Return and Destruction of Records and Exhibits.**

(a) The Division of Workers' Compensation shall retain for at least fifty years after the filing of case opening documents (i.e., the initial application for adjudication of claim or, where an application has not previously been filed, either a stipulations with request for award or a compromise and release) the following records in a adjudication file, in either electronic or paper form:

(1) the application for adjudication of claim and any amended application;

(2) all settlement documents;

(3) all orders, decisions, or awards;

(4) all minutes of hearing;

(5) all minutes of hearing and summary of evidence;

(6) all medical-legal reports;

(7) all permanent and stationary medical reports of treating physicians;

(8) all rating instructions;

(9) all formal ratings, summary rating determinations, and consultative ratings; and

(10) any other documents as determined by the appeals board, the administrative director, the court administrator.

(b) After five years from the date of filing of the initial application, the Division of Workers' Compensation may eliminate from the adjudication file and destroy paper or electronic correspondence and other miscellaneous material or records, including non-permanent and stationary medical reports of treating physicians, not listed in subdivision (a), above.

(c) At any time, the Division of Workers' Compensation may eliminate from the adjudication file and destroy any of the following paper or electronic documents:

(1) extra copies of pleadings, notices, findings, orders, decisions, awards and other documents; and

(2) any documents filed in violation of section 10222, subd. (b).

(d) Following a period of fifty (50) years after the filing of the application or other case opening document, the Division of Workers' Compensation may destroy the electronic and/or paper file in each case.

(e) Any party filing an original document or other pieces of evidence pursuant to California Code of Regulations, title 8, section 10603, subd. (a), shall, at the time of filing, either (1) arrange for the return of the document or evidence, at the filing party's sole expense, at the conclusion of all proceedings and appeals thereof; or (2) be deemed by not making such arrangements, to have consented to destruction, without notice, of the document or other evidence at the conclusion of all proceedings and appeals thereof.

(f) Stenographic reporters' notes or electronic sound recording of testimony shall be retained for a period of six (6) years after the taking of them and thereafter may be destroyed or otherwise disposed of.

Authority cited: Sections 133, 5500.3 and 5307, Labor Code.

Reference: Section 136, 135 and 5708, Labor Code.

### **§10275 Recording of Trial Level Proceedings.**

(a) For the purposes of this section, "recording" means any photographing, recording, or broadcasting of trial level proceedings using video, film, audio, any digital media or other equipment.

(b) Except as provided in this rule, trial level proceedings shall not be photographed, recorded, or broadcast. This rule does not prohibit the Division of Workers' Compensation from photographing or videotaping sessions for judicial education or publications and is not intended to apply to closed-circuit television broadcasts solely within the Division of Workers' Compensation or between Division of Workers' Compensation facilities if the broadcasts are controlled by the Division of Workers' Compensation and Division of Workers' Compensation personnel.

(c) Recording shall be permitted only on written order of the workers' compensation administrative law judge assigned to the case as provided in this subdivision. The workers' compensation administrative law judge in his or her discretion may permit, refuse, limit, or terminate recording.

(1) Any person who wishes to record a trial level proceeding shall make a written request to the presiding workers' compensation administrative law judge for permission to record the proceeding at least five business days before the proceeding commences unless good cause to shorten time is shown. The workers' compensation administrative law judge assigned to the proceeding shall rule upon the request. The district office shall promptly notify the parties that a request has been filed.

(2) The workers' compensation administrative law judge may hold a hearing on the request or rule on the request without a hearing.

(3) In ruling on the request, the workers' compensation administrative law judge shall consider the following factors:

(A) Importance of maintaining public trust and confidence in the workers' compensation system;

(B) Importance of promoting public access to the workers' compensation system;

(C) Parties' support of or opposition to the request;

(D) Nature of the case;

(E) Privacy rights of all participants in the proceeding, including witnesses;

(F) Effect on any minor who is a party, prospective witness, or other participant in the proceeding;

(G) Effect on any ongoing law enforcement activity in the case;

(H) Effect on any subsequent proceedings in the case;

(I) Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness;

(J) Effect on excluded witnesses who would have access to the televised testimony of prior witnesses;

(K) Security and dignity of the trial level proceeding;

(L) Undue administrative or financial burden to the Division of Workers' Compensation or participants;

(M) Interference with neighboring hearing rooms;

(N) Maintaining orderly conduct of the proceeding;

(O) Any other factor the workers' compensation administrative law judge deems relevant.

(4) The workers' compensation administrative law judge's ruling on the request to permit recording is not required to make findings or a statement of decision. The workers' compensation administrative law judge may condition the order permitting recording of the proceedings on the requestor's agreement to pay any increased costs incurred by the Division of Workers' Compensation resulting from recording the proceeding (for example, for additional security). The requestor shall be responsible for ensuring that any person who records the trial level proceedings on their behalf know and follow the provisions of the order and this rule.

(5) The order permitting recordation may be modified or terminated on the workers' compensation administrative law judge's own motion or upon application to the workers' compensation administrative law judge without the necessity of a prior hearing or written findings. Notice of the application and any modification or termination ordered pursuant to the application shall be given to the parties and each person permitted by the previous order to record the proceeding.



(6) The workers' compensation administrative law judge shall not permit recording of the following:

(A) Proceedings held in chambers which are not transcribed by a hearing reporter;

(B) Proceedings closed to the public; and

(C) Conferences between an attorney and a client, witness, or aide, between attorneys, or between counsel and the workers' compensation administrative law judge at the bench, unless transcribed by a hearing reporter.

(7) The workers' compensation administrative law judge may require a demonstration that people and equipment comply with this rule. The workers' compensation administrative law judge may specify the placement of equipment to minimize disruption of the proceedings.

(8) The following rules shall apply to all recording:

(A) One video recording device and one still photographer shall be permitted.

(B) The equipment used shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible.

(C) Microphones and wiring shall be unobtrusively located in places approved by the workers' compensation administrative law judge and shall be operated by one person.

(D) Operators shall not move equipment or enter or leave the courtroom while the proceeding is in session, or otherwise cause a distraction.

(E) Equipment or clothing shall not bear the insignia or marking of a media agency.

(9) If two or more people request recordation of a proceeding, they shall file a statement of agreed arrangements. If they are unable to agree, the workers' compensation administrative law judge may deny a request to record the proceeding.

(d) Any violation of this rule or an order made under this rule is an unlawful interference with the proceedings may be the basis for an order terminating recording, a citation for contempt, or an order imposing monetary or other sanctions as provided by law.

(e) Notwithstanding (a) through (d), a workers' compensation administrative law judge may permit inconspicuous personal recording devices to be used by parties in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device shall obtain advance permission from the workers' compensation administrative law judge before recording the proceeding. The recording shall not be used for any purpose other than as personal notes, and shall not constitute evidence as to any matter recorded. The right on any individual to use a personal recording device shall be suspended if, in the workers' compensation administrative law judge's sole discretion, it appears that (1) the continued recording of the proceedings will inhibit any party or witness from participation in the proceeding; or (2) the recording is done in a manner that threatens to disrupt the proceeding.

Authority cited: Sections 127, 5500.3 and 5307 (c), Labor Code.

Reference: Section 5307(c), Labor Code.

## **Article 8. Procedures for Requesting Immediate Action by a Judge**

### **§10280. Walk-Through Documents.**

(a) A “walk-through” document is a document that is presented to a workers’ compensation administrative law judge for immediate action. Notwithstanding the provisions of section 10250 (relating to the filing of declarations of readiness) and section 10544 (relating to notices of hearing), the following provisions shall govern walk-through documents.

(b) Each district office will have a designee of the presiding workers’ compensation administrative law judge available to assign walk-through cases from 8:00 a.m. to 11:00 a.m. and 1:00 p.m. to 4:00 p.m. on court days.

(c) The following documents may be submitted on a walk-through basis:

(1) Compromise and releases;

(2) Stipulations with request for award;

(3) Petitions for attorney’s fees for representation of the applicant in vocational rehabilitation;

(4) Petitions for attorney’s fees for representation of the applicant at a deposition; and

(5) Petitions to compel attendance at a medical examination or deposition.

(d) The following procedures shall be followed for filing walk-through documents:

(1) A walk-through settlement document (i.e., a compromise and release or a stipulations with request for award), and all supporting medical reports and other supporting documents not previously filed, shall be filed directly with the workers’ compensation administrative law judge at the date and time of the walk-through. The party presenting the walk-through settlement shall use the appropriate form, document cover sheet, and document separator sheet. Permanent and stationary medical or medical-legal reports shall be indicated as such. In addition, each walk-through settlement document (i.e., a compromise and release or a stipulations with request for award) shall be accompanied by a proof of service showing that the settlement document was served on all other parties to the settlement, on any defendant not executing the settlement who may be liable for the payment of additional compensation, and on all lien claimants whose liens have not been resolved.

(A) A case opening settlement document being submitted for a walk-through shall be submitted no later than noon (12:00 p.m.) of the court day before any action on the walk-through, and shall be designated as a walk-through document. All documents in support of the settlement document shall be submitted at the walk-through with the assigned judge.

(2) A walk-through petition (i.e., a petition for vocational rehabilitation attorney’s fees, a petition for deposition attorney’s fees, or a petition to compel attendance at a medical

examination or deposition) and all other documents relating to the walk-through petition, including any supporting documentation shall be filed directly with the workers' compensation administrative law judge at the date and time of the walk-through. The party presenting the walk-through petition shall use the appropriate form, document cover sheet, and document separator. In addition, at the date and time of the walk-through, the party filing the walk-through petition shall file a proof of service directly to the workers' compensation administrative law judge, as follows:

(A) For a petition for attorney's fees for representation of the applicant in vocational rehabilitation, a proof of service showing service on the injured worker and the defendant alleged to be liable for paying the fees.

(B) For a petition for attorney's fees for representation of the applicant at a deposition, a proof of service showing service on the injured worker and the defendant alleged to be liable for paying the fees.

(C) For a petition to compel attendance at a medical examination or deposition, a proof of service showing service on the injured worker, the injured worker's attorney, and all defendants.

(e) When appearing for the walk-through proceeding, the party filing the walk-through document shall appear before the district office staff person designated by the presiding workers' compensation administrative law judge to assign the walk-through document to a workers' compensation administrative law judge. The filing party shall then appear before the assigned judge. If the assigned judge is unavailable for any reason, the filing party shall then proceed to the presiding workers' compensation administrative law judge for possible reassignment to another judge.

(f) A workers' compensation administrative law judge who is presented with a walk-through settlement document shall approve it, disapprove it, suspend action on it, or accept it for later review and action. If a workers' compensation administrative law judge is presented with so many walk-through settlement documents that review of them will interfere with the cases scheduled before him or her for hearing, the judge may refer the walk-through settlement to the presiding judge for possible reassignment to another judge.

(g) A walk-through document may be acted on only by a workers' compensation administrative law judge at the district office that has venue. If an injured worker has existing cases at two or more district offices that have venue, a walk-through document may be filed at any office having venue over an existing case that is a subject of the walk-through document. An existing case is a case that has been filed and assigned a case number prior to the filing of the walk-through document.

(h) A walk-through document may be acted on by any workers' compensation administrative law judge except as follows:

(1) If a judge has taken testimony, any walk-through document in that case must be acted on by the judge who took testimony if that judge works at the district office to which the case is assigned, unless the presiding judge allows it to be acted on by another judge.

(2) If a judge has reviewed a document and declined to approve it, a walk-through document in that case must be acted on by the same judge, if that judge works at the district office to which the case is assigned, unless the presiding judge allows it to be acted on by another judge.

(i) A workers' compensation judge who is presented with a walk-through petition for attorney's fees or petition to compel attendance shall issue an order in compliance with section 10349.

Authority cited: Sections 127.5, 133 and 5307 (c), Labor Code.

Reference: Sections 4053, 4054, 5001, 5002, 5702 and 5710, Labor Code.

### **§10281. Emergency Petitions for Stay.**

(a) A party may present to the presiding workers' compensation administrative law judge of the district office having venue a petition to stay an action by another party pending a hearing.

(b) Each district office will have a designee of the presiding workers' compensation administrative law judge available to assign petitions for stay from 8:00 a.m. to 11:00 a.m. and 1:00 p.m. to 4:00 p.m. on court days.

(c) A party who walks through a petition to stay an action shall provide notice to the opposing party or parties no later than 10:00 a.m. of the immediately preceding court day. This notice shall: (1) state with specificity the nature of the relief to be requested by the petition to stay; and (2) state the date, time, and place that the petition to stay will be presented. A copy of the petition to stay shall be attached to the notice. The notice shall be given by either fax or e-mail. If notice by fax or e-mail fails, or if an opposing party's fax number or e-mail address are unknown, notice shall be given in the manner best calculated to expeditiously and timely advise the opposing party of the information set forth in subdivisions (c)(1) and (c)(2), including notice by phone or by overnight mail or delivery service. First-class mail shall not be utilized for notice of a petition to stay an action.

(d) A petition to stay an action shall be accompanied by a declaration regarding notice stating under penalty of perjury: (1) the notice given, including the date, time, manner, and name of the party informed; (2) the relief sought; and (3) whether opposition is expected. In addition, if the petitioner was unable to give timely notice to the opposing party, the declaration under penalty of perjury also shall state that the petitioner in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party.

(e) Upon the receipt of a proper petition to stay an action, the presiding workers' compensation or his or her designee shall, in his or her discretion, either: (1) deny the petition; (2) grant a temporary stay and set the petition for a formal hearing; or (3) set the petition for a formal hearing, without either denying the petition or granting a temporary stay.

Authority cited: Sections 127.5, 133 and 5307 (c), Labor Code.

Reference: Sections 4053, 4054, 4902, 5001, 5002, 5702 and 5710, Labor Code.

## **Article 9. Review of Administrative Orders issued by the Administrative Director**

### **§10290. Petition Appealing Order Granting or Denying Petition for Order Requiring Employee to Select Employer-Designated Physician.**

(a) Upon receipt of a timely petition appealing a decision granting or denying a change of primary treating petition, pursuant to California Code of Regulations, title 8, section 9786, subd. (e) (2) or (e) (3), the matter shall be referred to a workers' compensation administrative law judge for hearing and determination of the issues raised. The petition shall be accompanied by a copy of the administrative director's order, a declaration of readiness, an application for adjudication if one has not been previously filed, and any other documents deemed relevant that have not been previously filed. A party aggrieved by the determination of the workers' compensation administrative law judge may seek relief therefrom within the same time and in the same manner specified for petitions for reconsideration.

(b) Any party aggrieved by an order issued by a workers' compensation administrative law judge pursuant to a referral under California Code of Regulations, title 8, section 9786, subd. (e)(4), of the rules of the administrative director may petition the appeals board for relief therefrom within twenty (20) days from the date of the issuance of the order in the same manner specified for petitions for reconsideration.

Authority cited: Sections 127.5, 133 and 5307(c), Labor Code.

Reference: Sections 4603 and 4604, Labor Code.

### **§10291. Petition Appealing Notice of Compensation Due.**

(a) The petition appealing notice of compensation due shall be served on the injured worker or dependent and on the audit unit, concurrently with its filing.

(b) The petition appealing notice of compensation due shall specify the factual and legal basis for the petition and shall include the audit unit's file number. The petition appealing notice of compensation due shall be accompanied by a copy of the notice of compensation due, a declaration of readiness, an application for adjudication if one has not been previously filed, and any other documents deemed relevant.

(c) If an application for adjudication has not been previously filed, venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409. If an application for adjudication has been previously filed, the petition appealing notice of compensation due shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition.

(d) An appeal of notice of compensation due shall be set for a hearing before a workers' compensation administrative law judge within forty-five (45) days of filing unless the employee's claim is already before a workers' compensation administrative law judge on other substantive issues in which case the appeal may be considered with these other issues. The audit unit, insurer, self-insured employer or third party administrator and the injured worker shall receive notice of the hearing and copies of subsequent notices of orders issued in the case. Following the hearing, the workers' compensation administrative law judge shall issue findings

of fact and an order affirming, modifying or rescinding the notice of compensation due, which complies with Labor Code section 5313.

(e) The copy of the appeal of notice of compensation due sent to the injured worker shall inform the injured worker of the right to consult an attorney. If the injured worker is represented by an attorney, the workers' compensation administrative law judge may determine the amount of attorney fees reasonably incurred in resisting the appeal of notice of compensation due and may assess reasonable attorney fees as a cost upon the employer filing the appeal of notice of compensation due in accordance with Labor Code section 129(c).

Authority cited: Sections 127.5, 133 and 5307 (c), Labor Code.

Reference: Sections 129, 5300 and 5301, Labor Code.

### **§10293. Petition Appealing Order of the Rehabilitation Unit.**

(a) Appeals from decisions of the rehabilitation unit of the Division of Workers' Compensation shall be commenced as follows:

(1) if an application for adjudication is already on file, by filing and serving a declaration of readiness and a petition setting forth the reason for the appeal;

(2) if no application for adjudication is on file, by filing and serving an application for adjudication, a declaration of readiness, and a petition setting forth the reason for the appeal.

(b) The party appealing the rehabilitation unit decision and the party opposing the appeal shall file and serve any documents that the parties deem relevant that have not already been filed in the rehabilitation unit case file.

(c) If an application for adjudication has not been previously filed, venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409. If an application for adjudication has been previously filed, the petition appealing a decision of the rehabilitation unit shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition.

(d) A petition appealing a decision of the rehabilitation unit shall be filed within twenty (20) days from the date of the issuance of the rehabilitation unit decision.

Authority cited: Sections 127, 133 and 5307(c), Labor Code.

Reference: Sections 139.5, 4603, 4604, and 5500, Labor Code.

### **§10294. Petition Appealing Determination of a Return to Work Reimbursement.**

(a) An eligible employer may appeal the administrative director's notice under section 10119, subd. (i) (1) and (2), by filing a "Petition Appealing Administrative Director's Reimbursement Allowance," setting forth the basis of the appeal. The petition shall be filed within twenty (20) days from the date of the issuance of the administrative director's notice.

(b) If an application for adjudication has been previously filed, the petition appealing the administrative director's notice shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition. If an application for adjudication has not been previously filed, an application shall be filed together with the petition, and venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409.

(c) A "Petition Appealing Administrative Director's Reimbursement Allowance" shall be accompanied by a declaration of readiness.

(d) A copy of the petition shall be concurrently served on the administrative director.

Authority cited: Sections 133, 139.48 and 5307.3, Labor Code.

Reference: Sections 62.5, 139.48 and 5814.6, Labor Code.

#### **§10294.5. Petition Appealing Determination Regarding Supplemental Job Displacement Benefits.**

(a) Either party may appeal the determination and order of the administrative director issued under California Code of Regulations, title 8, section 10133.54 by filing a petition together with a declaration of readiness to proceed pursuant to section 10250 within twenty calendar days of the issuance of the decision or within twenty days after a request is deemed denied pursuant to California Code of Regulations, title 8, section 10133.54, subd. (f), except that the time for filing shall be extended in accordance with California Code of Regulations, title 8, sections 10507 and 10508. The petition shall set forth the specific factual and legal basis for the appeal.

(b) If an application for adjudication has been previously filed, the petition appealing the administrative director's notice shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition. If an application for adjudication has not been previously filed, an application shall be filed together with the petition, and venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409.

(c) A copy of the petition shall be concurrently served on the administrative director.

Authority cited: Sections 133 and 5307.3, Labor Code.

Reference: Sections 4658.5 and 4658.6, Labor Code.

### **Article 10. Arbitration**

#### **§10295. Mandatory Arbitration.**

(a) This rule applies to injuries occurring on or after January 1, 1990.

(b) Any application for adjudication that lists one or more disputes involving an issue set forth in Labor Code section 5275, subd. (a), shall be accompanied by an arbitration submittal form. The arbitration submittal form shall indicate that either:

(1) an arbitrator has been selected pursuant to Labor Code section 5271, subd. (a), or

(2) an unsuccessful attempt has been made to select an arbitrator and the presiding workers' compensation administrative law judge is requested pursuant to Labor Code section 5271, subd. (b), to assign a panel of five arbitrators.

(c) If the parties have agreed to an arbitrator pursuant to Labor Code section 5271, subd. (c), the presiding workers' compensation administrative law judge shall, within six (6) days of receipt of the arbitration submittal form, order the issue or issues in dispute submitted for arbitration pursuant to Labor Code sections 5272, 5273, 5276 and 5277.

(d) If the arbitration submittal form requests a panel pursuant to Labor Code section 5271, subd. (b), the presiding workers' compensation administrative law judge shall, within six (6) days of receipt of the arbitration submittal form, serve on each of the parties an identical list of five arbitrators selected at random pursuant to Labor Code 5271, subd. (b). For each party in excess of one party in the capacity of employer and one party in the capacity of injured employee or lien claimant, the presiding workers' compensation administrative law judge shall randomly select two additional arbitrators to add to the panel in accordance with the selection process set forth in Labor Code section 5271, subd. (c). Each of the parties shall strike two arbitrators from the list and return it to the presiding workers' compensation administrative law judge within six (6) days after service. Failure to timely return the list shall constitute a waiver of a party's right to participate in the selection process. If one arbitrator remains, the presiding workers' compensation administrative law judge shall, within six (6) days of return of the lists from the parties, order the issue or issues submitted for arbitration before the selected arbitrator pursuant to Labor Code sections 5272, 5273, 5276 and 5277. If more than one arbitrator remains on the panel, the presiding workers' compensation administrative law judge shall randomly select an arbitrator from the remaining panelists.

(e) If the parties to the dispute have stricken all the arbitrators from the panel, the presiding workers' compensation administrative law judge shall, within six (6) days of receipt of the last of the returned lists, serve on each of the parties to the dispute a new list of five arbitrators and any additional arbitrators required by Labor Code section 5271, subd. (c), selected at random but excluding the names of the arbitrators on the prior list. Each of the parties to the dispute shall again strike two arbitrators from the list and return it to the presiding workers' compensation administrative law judge within six (6) days after service. This procedure shall continue until one or more arbitrators remain on the lists returned to the presiding workers' compensation administrative law judge.

(f) The parties shall provide all necessary materials to the arbitrator. Any paper file shall remain in the custody of the district office.

(g) A copy of any final decision, order or award from the arbitrator, together with a copy of the record developed as set forth in Labor Code sections 5276 and 5277, shall be filed with the presiding workers' compensation administrative law judge of the district office having venue. The district office shall scan the copies of the arbitrator's the decision, order or award and record into the EAMS adjudication file and, after scanning, shall destroy the copies.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Sections 5270 through 5277, Labor Code.



### **§10296. Voluntary Arbitration.**

(a) At any time, the parties may agree to submit any issue for arbitration pursuant to Labor Code section 5275, subdivision (b), by submitting an arbitration submittal form that indicates that the parties have selected an arbitrator pursuant to Labor Code section 5271, subdivision (a), and by filing an application for adjudication if one has not been previously filed.

(b) Within six (6) days of receipt of the arbitration submittal form, the presiding workers' compensation administrative law judge shall order the issues in dispute submitted for arbitration pursuant to Labor Code sections 5272, 5273, 5276 and 5277.

(c) If the parties are unable to agree to an arbitrator under Labor Code section 5271, subdivision (a), the parties may agree to follow the procedures for selecting an arbitrator under Labor Code section 5271, subdivisions (b) and (c), as set forth in section 10295.

(d) The parties shall provide all necessary materials to the arbitrator.

(e) A copy of any final decision, order or award from the arbitrator, together with a copy of the record developed as set forth in Labor Code sections 5276 and 5277, shall be filed with the presiding workers' compensation administrative law judge of the district office having venue. The district office shall scan the copies of the arbitrator's decision, order or award and the record into the EAMS adjudication file and, after scanning, shall destroy the copies.

Authority cited: Sections 133 and 5307(c), Labor Code.

Reference: Sections 5270 through 5277, Labor Code.

### **§10297. Arbitration Submittal form.**

DWC-CA form 10297 (Arbitration Submittal form) revision dated 11/2008 is incorporated by reference.

Authority cited: Sections 133, 5307 and 5500.3, Labor Code.

Reference: Section 5275, Labor Code.