

California Code of Regulations, Title 8
Chapter 4.5. Division of Workers' Compensation
Subchapter 1.6. Permanent Disability Rating Determination

§10150. Authority.

~~§10151. Filing Requirements.~~

§10150.1. Signature ~~d~~Disputes and the ~~s~~iSignatures of ~~e~~Cconsultants.

§10150.2. Technical Unavailability of EAMS.

§10150.3. Disability Evaluation Unit File Retention.

§10150.4. Misfiled or ~~m~~Misdirected ~~d~~Documents.

§10151. Filing Requirements.

§10152. Electronic Filing Exemption

§10160. Summary Rating Determinations, Comprehensive Medical Evaluation of Unrepresented Employee.

§10160.1. Summary Rating Determinations, Report of Primary Treating Physician for Unrepresented Employee.

§10160.5. Summary Rating Determinations, Represented Employees.

§10161. Forms.

§10161.1. Reproduction of Forms.

§10162. Summary Rating Determinations, Apportionment.

§10164. Summary Rating Determinations, Reconsideration ~~i~~f Employee is Unrepresented.

§10165. Service of Summary Rating Determination and Notice of Options Following Permanent Disability Rating.

§10166. Consultative Ratings Determinations.

§10166.1. Form (Request for Consultative Ratings).

§10167. Informal Ratings.

~~§10168. Records, Destruction of~~

§10150. Authority.

The Disability Evaluation Unit, under the direction and authority of the ~~A~~administrative ~~D~~director, will issue permanent disability ratings as required under this subchapter utilizing the Schedule for Rating Permanent Disabilities adopted by the ~~A~~administrative ~~D~~director. The Disability Evaluation Unit will prepare the following kinds of rating determinations:

(a) Formal rating determinations

(b) Summary rating determinations

(c) Consultative rating determinations

(d) Informal rating determinations.

Authority cited: Sections 133 and 5307.3, Labor Code.

Reference: Sections 124, 4061, 4660, 4662, 4663 and 4664, Labor Code.

15 Day Comment Period

Proposed Disability Evaluation Unit Regulations

August 6, 2008

§10151. Filing Requirements.

~~(a) "Electronic Adjudication Management System" or "EAMS" means the computer case management system used by the Division of Workers' Compensation to electronically store and maintain the Division of Workers' Compensation or the appeals board's case files and to perform other case management functions.~~

~~(b) All forms or correspondence submitted to the Disability Evaluation Unit shall be stored in the EAMS.~~

~~(1) Except for documents or forms which open a Disability Evaluation Unit file, all documents and forms shall contain a case number assigned by the Division of Workers' Compensation. The case number shall be preceded by the prefix "DEU". Case opening document shall be assigned a case number by the Division of Workers' Compensation after filing. Documents or forms filed without a case number will be returned to the sender with instructions for proper filing.~~

~~(2) All documents presented for filing shall conform to the requirements of section 10232 of title 8 of the California Code of Regulations.~~

~~(3) All filed paper documents and forms shall be scanned into the EAMS and then will be destroyed. A properly filed electronic form or document or a properly filed paper document or form shall be deemed a legal filing for all purposes.~~

~~(4) The service of all documents and forms shall conform to the receiving party's designated preferred method of service described in section of 10218 of title 8 of the California Code of Regulation.~~

~~Authority cited: Sections 133, 4061, 4660, 5307.3 and 5307.4, Labor Code.~~

~~Reference: Sections 124 and 4061, Labor Code.~~

§10150.1. Signature ~~d~~Disputes and the ~~s~~Signatures of ~~e~~Consultants.

~~(a) Anyone who disputes the authenticity of any signature must file with the Manager of the Disability Evaluation Unit an objection to the pleading or other document within ten (10) days of the filing of that document. The objection shall contain a complete explanation of the basis for the objection.~~

~~(b) The filing of a document, signed with a "/s/ name" or an electronic image of the signature filed with the login and password of the Division of Workers' Compensation consultant assigned to the case shall constitute an original signature for all purposes.~~

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

~~Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.~~

§10150.2. Technical ~~Un~~Availability of EAMS.

Technical problems with filing documents shall be governed by sections 10225 of title 8 of the California Code of Regulation.

Authority cited: Sections 133 and 5307.3, Labor Code.

Reference: Sections 5502 and 5700, Labor Code.

§10150.3. Disability Evaluation Unit File Retention.

(a) Following a period of fifty (50) years after the filing of a document used to open a case or file, the Division of Workers' Compensation may destroy the electronic and/or paper file in each case maintained by the Disability Evaluation Unit.

(b) The Division of Workers' Compensation, at any time, may convert a paper file to an electronic file. ~~If a paper case file has been converted to electronic form, the paper case file may be destroyed.~~ The Division of Workers' Compensation shall inform the parties when a paper file is converted. If a paper case file has been converted to electronic form, the paper case file may be destroyed no less than 30 business days after the parties have been informed of the conversion.

Authority cited: Sections 133 and 5307.3, Labor Code.

Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

§10150.4. Misfiled or ~~mis~~Misdirected ~~d~~Documents.

(a) A request to move or substitute a corrected ~~a~~ document shall be made in conformity with section 10223 of title 8 of the California Code of Regulation, except that a written request to substitute with the proposed document for substitution appended shall be made in lieu of a petition to substitute as allowed under section 10223(b). The authority to approve moving a document from one file to another file shall reside with the Manager of the Disability Evaluation Unit or his or her designee.

(b) If a document is not filed in compliance with sections 10217, 10228 and 10232 of title 8 of the California Code of Regulations and these regulations, the administrative director may in his or her discretion take the actions set forth in section 10222 of title 8 of the California Code of Regulations.

Authority cited: Sections 133 and 5307.3, Labor Code.

Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

§10151. Filing Requirements.

(a) “Electronic Adjudication Management System” or “EAMS” means the computer case management system used by the Division of Workers’ Compensation to electronically store and maintain the Division of Workers’ Compensation or the appeals board’s case files and to perform other case management functions.

(b) All forms or correspondence submitted to the Disability Evaluation Unit shall be stored in the EAMS:

(1) Except for documents or forms which open a Disability Evaluation Unit file, all documents and forms shall contain a case number assigned by the Division of Workers' Compensation. The case number shall be preceded by the prefix "DEU". Case opening document shall be assigned a case number by the Division of Workers Compensation after filing. Documents or forms filed without a case number will be returned to the sender with instructions for proper filing.

(2) All documents presented for filing shall conform to the requirements of sections 10215, 10228 and 10232 of title 8 of the California Code of Regulations.

(3) All filed paper documents and forms shall be scanned into the EAMS and then will be destroyed. A properly filed paper document or form shall be deemed a legal filing for all purposes.

(4) The service of all documents and forms shall conform to the receiving party's designated preferred method of service described in section of 10218 of title 8 of the California Code of Regulation.

Authority cited: Sections 133, 4061, 4660, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124 and 4061, Labor Code.

§10152. 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 sections 10228 and 10232 of title 8 of the California Code of Regulation.

Authority cited: Sections 111, 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124 and 4061, Labor Code.

§10160. Summary Rating Determinations, Comprehensive Medical Evaluation of Unrepresented Employee.

(a) The Disability Evaluation Unit will prepare a summary rating determination upon receipt of a properly prepared request. A properly prepared request shall consist of:

(1) A completed Request for Summary Rating Determination, DWC AD DEU Form 101 (DEU);

(2) A completed Employee's Disability Questionnaire, DWC AD DEU Form 100 (DEU);

(3) A comprehensive medical evaluation of an unrepresented employee from a Qualified Medical Evaluator.

(b) The insurance carrier or self-insured employer shall provide the employee with an Employee's Disability Questionnaire (~~DEU Form 100~~) prior to the appointment scheduled with the Qualified Medical Evaluator. The employee will be instructed in the form and manner prescribed by the ~~A~~Administrative ~~D~~irector to complete the questionnaire and provide it to the Qualified Evaluator at the time of the examination.

(c) The insurance carrier, self-insured employer or injured worker shall complete a Request for Summary Rating Determination (~~DEU Form 101~~), a copy of which shall be served on the opposing party. The requesting party shall send the request, including proof of service of the request on the opposing party, to the Qualified Medical Evaluator together with all medical reports and medical records relating to the case prior to the scheduled examination with the Qualified Medical Evaluator. The request shall include the appropriate address of the Disability Evaluation Unit. A listing of all of the offices of the Disability Evaluation Unit, with each office's area of jurisdiction, will be provided, upon request, by any office of the Disability Evaluation Unit or any Information and Assistance Office.

(d) When a summary rating determination has been requested, the Qualified Medical Evaluator shall submit all of the following documents to the Disability Evaluation Unit at the location indicated on the DWC AD DEU Form 101 (DEU) and shall concurrently serve copies on the employee and claims administrator:

1. Request for Summary Rating Determination of Qualified Medical Evaluator's Report (~~DEU Form 101~~) as a cover sheet to the evaluation report;

2. Employee's Disability Questionnaire (~~DEU Form 100~~);

3. Comprehensive medical evaluation by the Qualified Medical Evaluator, including the Qualified Medical Evaluator's Findings Summary Form (~~IMC QME Form 1002 111~~).

(4) A document cover sheet and separator sheet pursuant to section 10232 (b) of title 8 of the California Code of Regulation, which shall only be served on the Disability Evaluation Unit.

(e) No request for a summary rating determination ~~will~~ shall be considered to be received until the Employee's Disability Questionnaire DEU Form 100, the Request for Summary Rating Determination of Qualified Medical Evaluator's Report DEU Form 101, and the comprehensive medical evaluation have been received by the office of the Disability Evaluation Unit having jurisdiction over the employee's area of residence. In the event an employee does not have a completed Employee's Disability Questionnaire (~~DEU Form 100~~) at the time of his or her appointment with a Qualified Medical Evaluator, the medical evaluator shall provide this form to

15 Day Comment Period

Proposed Disability Evaluation Unit Regulations

August 6, 2008

Page 5

the employee for completion prior to the evaluation. Any requests received on or after April 1, 1994 without all the required documents will be returned to the sender.

(f) Any request for the rating of a supplemental comprehensive medical evaluation report shall be made no later than twenty days from the receipt of the report and shall be accompanied by a copy of the correspondence to the evaluator soliciting the supplemental evaluation, together with proof of service of the correspondence on the opposing party.

Authority cited: Sections 133 and 5307.3, Labor Code.

Reference: Sections 124, 4061, 4062, 4062.01, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

§10160.1. Summary Rating Determinations, Report of Primary Treating Physician for Unrepresented Employee.

(a) For injuries on or after January 1, 1994, the insurance carrier, self-insured employer or the employee may request a summary rating of the primary treating physician's report prepared in accordance with Section 9785 ~~9785.5~~.

(b) The request may be made by completing a Request for Summary Rating Determination of Primary Treating Physician's Report (DWC AD DEU Form 102 (DEU)) and ~~sending~~ filing the request to the Disability Evaluation Unit together with a copy of the primary treating physician's report, if the report has not already been filed in EAMS.

(c) A filed ~~C~~copy of the request form and a copy of the primary treating physician's report ~~must~~ shall be served concurrently immediately after filing on the non-requesting party, ~~including with~~ a proof of service on the non-requesting party.

Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124, 4061, 4061.5, 4062, 4062.1, 4062.2, 4062.5, 4064 and 4067, Labor Code.

§10160.5. Summary Rating Determinations, Represented Employees.

(a) For injuries on or after January 1, 1991 and before January 1, 1994, the Disability Evaluation Unit will prepare a summary rating determination in cases where the injured worker is represented only if requested by a party. A summary rating determination will be prepared only upon receipt of a properly prepared request. A properly prepared request shall consist of:

- (1) A completed Request for Summary Rating Determination DWC AD DEU Form 101 (DEU);
- (2) An evaluation by a Qualified Medical Evaluator or Agreed Medical Evaluator.

(b) The requesting party shall complete a Request for Summary Rating Determination (~~DEU Form 101~~) and submit it together with all medical reports and medical records concerning the case to the medical evaluator. The medical evaluator shall send the completed medical evaluation report together with the Request for Summary Rating Determination to the office of the Disability

15 Day Comment Period

Proposed Disability Evaluation Unit Regulations

August 6, 2008

Page 6

Evaluation Unit designated by the ~~Administrative Director~~ and specific on the Request for Summary Rating Determination (~~DEU Form 101~~) and shall simultaneously serve the party or parties requesting the evaluation.

(c) Notwithstanding the provisions of subdivision (b), a party may request a summary rating determination following receipt of a medical report prepared by a Qualified Medical Evaluator or Agreed Medical Evaluator on a represented case. The party shall ~~send~~ file the Request for Summary Rating Determination (~~DEU Form 101~~) and the medical report ~~to~~ with the DEU office designated by the ~~Administrative Director~~ and shall ~~simultaneously~~ immediately serve a filed copy of the Summary Rating Determination the other party.

(d) If a case is settled prior to receipt of a summary rating which has been requested, the requesting party shall notify the DEU office to which the request was directed-of the settlement.

Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124, 4061, 4062, 4062.1, 4062.2, 4062.5, 4064 and 4067, Labor Code.

§10161. Forms.

(a) Employee's Disability Questionnaire (DWC AD DEU Form 100 (DEU)) (~~revised 4/05~~).
[Insert New Form]

(b) Request for Summary Determination of Qualified Medical Evaluator's Report (DWC AD DEU Form 101 (DEU)) (~~revised 4/05~~).
[Insert New Form]

(c) Request for Summary Determination of Primary Treating Physician's Report (DWC AD DEU Form 102 (DEU)).
[Insert New Form]

Authority cited: Sections 133 and 5307.3, Labor Code.

Reference: Sections 124, 4061, 4062, 4062.01, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

§10161.1. Reproduction of Forms.

The Request for Summary Rating Determination (~~DEU Form 101~~), the Employee's Permanent Disability Questionnaire (~~DEU Form 100~~), and the Request for Summary Rating Determination of the primary treating physician (~~DEU Form 102~~) may be reproduced by automated office equipment or other means as long as the content-printed content and layout of the form are is identical to the specified form.

Authority cited: Sections 133 and 5307.3, Labor Code.

Reference: Sections 124, 4061, 4062, 4062.01, 4062.1, 4062.2, 4062.5, 4064, 4067, 4660, 4662, 4663 and 4664, Labor Code.

§10162. Summary Rating Determinations, Apportionment.

(a) In cases where the injured worker is not represented and a Qualified Medical Evaluator's formal medical evaluation indicates apportionment of the permanent disability, a summary rating determination will not be made until a ~~W~~workers' ~~C~~ompensation administrative law ~~J~~udge has reviewed the medical evaluation to determine if the apportionment is inconsistent with the law. The determination of the ~~W~~workers' ~~C~~ompensation administrative law ~~J~~udge will not be admissible in any judicial proceeding.

(b) Upon receipt of a formal medical evaluation which apportions the disability, the Disability Evaluation Unit will transmit the medical evaluation to the ~~P~~residing ~~W~~workers' ~~C~~ompensation administrative law ~~J~~udge of the office of the ~~A~~ppeals ~~B~~oard designated by the Disability Evaluation Unit, with a request to review the apportionment to determine whether it is inconsistent with the law. The ~~W~~workers' ~~C~~ompensation administrative law ~~J~~udge ~~will~~ shall make the determination and respond to the Disability Evaluation within 45 days.

(c) If the ~~W~~workers' ~~C~~ompensation administrative law ~~J~~udge refers the medical report back to the Qualified Medical Evaluator for correction or clarification, the Qualified Medical Evaluator shall provide a response to the ~~W~~workers' ~~C~~ompensation administrative law ~~J~~udge within 30 days of the referral. If no response is received, the ~~W~~workers' ~~C~~ompensation administrative law ~~J~~udge ~~will~~ shall make a determination whether the apportionment is inconsistent with the law, and a summary rating determination will be made.

(d) In cases where the injured worker is represented and an Agreed Medical Evaluator or Qualified Medical Evaluator apportions the permanent disability, the Disability Evaluation Unit will issue a summary rating determination "Before Apportionment."

Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124 and 4061, Labor Code.

§10164. Summary Rating Determinations, Reconsideration ~~I~~f Employee ~~I~~s Unrepresented.

(a) Requests for reconsideration of the summary rating determination ~~must~~ shall be filed with the ~~A~~administrative ~~D~~irector in writing within 30 days of receipt of the summary rating determination. The request shall clearly specify the reasons the summary rating determination should be reconsidered and a ~~shall be accompanied by a copy of the summary rating, a copy of the comprehensive medical evaluation,~~ proof of service on the other party and any other information necessary to support the request. Reconsideration of a summary rating may be granted by the administrative director for one or more of the following reasons:

- (1) the summary rating was incorrectly calculated,
- (2) the comprehensive medical evaluation failed to address one or more issues;
- (3) the comprehensive medical evaluation failed to completely address one or more issues;

(4) the comprehensive medical evaluation was not prepared in accordance with required procedures, including the procedures of the ~~Industrial Medical Council~~ administrative director promulgated under paragraph (2) or (3) of subdivision (j) of Section 139.2.

Requests for reconsideration which are not based on one of the above reasons will be denied.

(b) The ~~Administrative Director~~ shall not accept or consider, as a basis for a request for reconsideration, a supplemental or follow-up evaluation which was requested by a party after a summary rating determination has already been issued to the parties.

(c) If the ~~Administrative Director~~ determines that an additional evaluation from another Qualified Medical Evaluator is necessary, the matter shall be referred to the ~~Executive Medical Director of the Industrial Medical Council~~ Medical Unit for the provision of another Qualified Medical Evaluator.

Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124 and 4061, Labor Code.

§10165. Service of Summary Rating Determination and Notice of Options Following Permanent Disability Rating.

Within the time specified in Labor Code section 4061(h e), the ~~Office of Benefit Determination Disability Evaluation Unit~~ shall serve the permanent disability rating determination and the Notice of Options Following Permanent Disability Rating on the employee and employer by ~~their the~~ method of service described in section of 10218 of title 8 of the California Code of Regulation. ~~first class mail. At the same time, the employee shall also be served with the Notice of Options Following Permanent Disability Rating.~~

Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 124 and 4061, Labor Code.

§10166. Consultative Ratings Determinations.

(a) The Disability Evaluation Unit will prepare consultative rating determinations upon request of the ~~Workers' Compensation Appeals Board, Workers' Compensation administrative law~~ Judge, Settlement Conference Referees, Arbitrators, Workers' Compensation Judges Pro-Tempore and Information & Assistance Officers.

(b) Consultative rating determinations may be requested for the purpose of determining the ratable significance of factors, reviewing proposed ~~C~~ompromise and ~~R~~elease ~~A~~greements for adequacy, determining commuted values, resolving occupational questions or any other matters within the expertise of the disability evaluators. ~~These rating determinations are the "informal ratings" referred to in subsection (k) of section 10301 of the Workers' Compensation Appeals Board Rules of Practice and Procedure.~~ Consultative Rating Determinations will not be admissible in judicial proceedings.

(c) The Disability Evaluation Unit may also prepare consultative rating determinations upon receipt of reasonable requests from employers, injured workers or their respective representatives. A request is not considered reasonable where an insurance carrier or self-insurer seeks a consultative rating determination for the purpose of terminating its self-insurer seeks a consultative rating determination for the purpose of terminating its liability or for negotiating a compromise and release settlement where the injured worker has no representative. Consultative rating determinations shall not to be used as a substitute for summary rating determinations.

(d) In all cases the person making a request for a consultative rating determination will provide the Disability Evaluation Unit with the occupation and age of the injured worker at the time of injury.

(e) No consultative rating determination will be provided on cases in which an application for adjudication of claim has been filed with the Appeals Board without prior written authorization of the Appeals Board, a Workers' Compensation administrative law judge, Settlement Conference Referees, Arbitrators, Workers' Compensation Judges Pro-Tempore and Information & Assistance Officers. In cases where an application has been filed, the disability evaluator may require that any request for consultative rating determination be accompanied by the Appeals Board file.

Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 123.6, 123.7, 124, 5275, 5451, 5502, 5701 and 5703.5, Labor Code.

§10166.1. Form (Request for Consultative Rating).

DWC-AD form104 (DEU)

[Insert New Form]

Authority cited: Sections 133, 5307.3 and 5307.4, Labor Code.

Reference: Sections 123.6, 123.7, 124, 5275, 5451, 5502, 5701 and 5703.5, Labor Code.

§10167. Informal Ratings.

(a) An informal rating will be prepared by the Disability Evaluation Unit upon the request of both the employee and/or his/her representative and the employer, or at the request of an Information and Assistance Officer providing the necessary information. Such requests shall be submitted on forms and in a manner prescribed by the Administrative Director. Informal ratings shall be issued only in those instances where an Application for Adjudication of Claim has not been filed with the Appeals Board. All medical reports pertaining to the case must be submitted with the request.

~~The Disability Evaluation Unit may request the employee to submit to a medical examination as provided for under Labor Code Sections 4050, 4600, and 5703.5.~~

(b) The Disability Evaluation Unit will issue the informal rating ~~on a form prescribed for that purpose by the Administrative Director~~, which will contain a statement that the informal rating is not: a) a finding, award, order or decision of the Appeals Board, and b) evidence as to the existence of the factors of disability.

(c) Where the informal rating indicates a life pension, or provision for future medical treatment appears indicated, the Disability Evaluation Unit will forward a copy of the rating to an Information and Assistance Officer for the purpose of obtaining a stipulated award, or other action as may be appropriate.

(d) Self-ratings prepared by the employer are not acceptable substitutes for informal ratings prepared by the Disability Evaluation Unit.

Authority cited: Sections 133 and 5307.3, Labor Code.

Reference: Section 4061, Labor Code.

§10168. Records, Destruction of.

~~(a) The Disability Evaluation Unit's copies of requests for, and instructions on formal rating determinations, together with the disability evaluator's work notes shall be destroyed by the unit two years after the date of issuance of the formal rating determination by the disability evaluator.~~

~~(b) Requests for summary rating determinations and informal ratings, the documents and reports pertaining thereto, the rating and work notes of the disability evaluators, shall be destroyed by the unit two years after issuance of the summary or informal rating, unless there is evidence of on-going activity.~~

~~The approval of the Department of Finance, as required by the provisions of Government Code section 14755, is recognized.~~

~~Authority cited: Sections 133, 135 and 5307.3, Labor Code.~~

~~Reference: Sections 135 and 4061, Labor Code; and Section 14755, Government Code.~~