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

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS AND FORMS AND NOTICE OF ADDITION OF DOCUMENTS TO THE RULEMAKING FILE
Second 15-Day Revision

Workers' Compensation – Independent Bill Review; Standardized Paper Billing and Payment; Electronic Billing and Payment

TITLE 8, CALIFORNIA CODE OF REGULATIONS, ARTICLES 5.5.0 AND 5.6 OF CHAPTER 4.5, SUBCHAPTER 1

NOTICE IS HEREBY GIVEN, pursuant to Government Code section 11346.8(c) that the Acting Administrative Director of the Division of Workers' Compensation, proposes to modify the text of the following proposed amendments to Title 8, California Code of Regulations:

Section 9792.5.1.	Medical Billing and Payment Guide; Electronic Medical Billing and Payment Companion Guide; Various Implementation Guides
Section 9792.5.4.	Second Review and Independent Bill Review – Definitions
Section 9792.5.5.	Second Review of Medical Treatment Bill or Medical-Legal Bill
Section 9792.5.6.	Provider's Request for Second Bill Review – Form
Section 9792.5.7.	Requesting Independent Bill Review
Section 9792.5.8.	Request for Independent Bill Review Form
Section 9792.5.9.	Initial Review and Assignment of Request for Independent Bill Review to IBRO
Section 9792.5.11.	Withdrawal of Independent Bill Review
Section 9792.5.12.	Independent Bill Review - Consolidation or Separation of Requests
Section 9792.5.15.	Independent Bill Review – Implementation of Determination and Appeal
Section 9793.	Definitions

PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS

Members of the public are invited to present written comments regarding this proposed modification and documents added to the rulemaking file. **Only comments concerning the proposed modification to the text of the regulations, documents incorporated by reference, and documents added to the rulemaking file will be**

considered and responded to in the Final Statement of Reasons.

Written comments should be addressed to:

Maureen Gray, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The Division's contact person must receive all written comments concerning the proposed modifications to the regulations no later than 5:00 p.m. on December 26, 2013.

Written comments may be submitted by facsimile transmission (FAX), addressed to the contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail), using the following e-mail address: dwcrules@dir.ca.gov

Due to the inherent risks of non-delivery by facsimile transmission, the Acting Administrative Director suggests, but does not require, that a copy of any comments transmitted by facsimile transmission also be submitted by regular mail.

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

AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text, the modified text with modifications clearly indicated and the entire rulemaking file, are currently available for public review during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, at the offices of the Division of Workers' Compensation. The Division is located at 1515 Clay Street, 17th Floor, Oakland, California. Please contact the Division's regulations coordinator, Ms. Maureen Gray, at (510) 286-7100 to arrange to inspect the rulemaking file.

NOTICE OF ADDITION OF REFERENCE MATERIAL TO RULEMAKING FILE

Pursuant to the requirements of Government Code section 11347.1, the Division of Workers' Compensation is providing notice that reference materials which the agency has relied upon in proposing the modifications to the proposed regulations have been added to the rulemaking file. The documents are available for public inspection and comment during the written comment period, see "Presentation of Written Comments and Deadline for Submission of Written Comments" set forth above. The Division will respond to comments regarding the documents in the Final Statement of Reasons. The documents may be inspected as part of the rulemaking file; see "Availability of Text of

Regulations and Rulemaking File" above for the place and time the documents will be available and the name and phone number of the contact person.

Documents added to the rulemaking file after close of the first 15-day comment period:

Document Incorporated by Reference

> Manual Claim Forms Reference Implementation Guide Version 1.3, October 2013, National Council for Prescription Drug Programs
>
> 1500 Instructions Change Log – as of 11/2003: 1500 Health Insurance Claim Form, Reference Instruction Manual Version 1.1 6/13 for the 02/12 1500 Claim Form Change Log

FORMAT OF PROPOSED MODIFICATIONS

Text of Emergency Regulations Effective January 1, 2013:

Deletions from the original codified regulatory text made by the emergency regulatory text effective January 1, 2013, are indicated by single strike-through: ~~deleted language~~.

Additions to the original codified regulatory text made by the emergency regulatory text effective January 1, 2013, are indicated by single underlining: added language.

Additional Proposed Text Noticed for 45-Day Comment Period:

Deletions from the emergency regulatory text noticed for the 45-day comment period are indicated by strike-through underlining: ~~deleted language~~.

Additions to the original codified regulatory text and emergency regulatory text noticed for the 45-day comment period are indicated by double underlining: added language.

Newly proposed deletions from the original codified regulatory text noticed for the 45-day comment period are indicated by double strike-through: ~~deleted language.~~

For sections that were not included in the adoption of the emergency regulatory text, deletions and additions from the original codified regulatory text are indicated by single strike-through and single underlining, respectively.

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

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

Proposed Text Noticed for 2nd 15-Day Comment Period on Modified Text:

The proposed text is indicated by bold underline Arial font shaded 15%, thus: **added language.** Deletions are indicated by bold strikethrough Arial font, shaded 15%, thus: **~~deleted language.~~**

SUMMARY OF PROPOSED CHANGES

1. Section 9792.5.1. Medical Billing and Payment Guide; Electronic Medical Billing and Payment Companion Guide; Various Implementation Guides

9792.5.1 (a):

Amend to clarify the versions of the documents incorporated by reference, and to add subdivisions for each version of the Medical Billing and Payment Guide: (a)(1) the 2011 Guide effective for bills submitted on or after October 15, 2011, (a)(2) Version 1.1 effective for bills submitted on or after January 1, 2013, (a)(3) Version 1.2 effective for bills submitted on or after [OAL to insert effective date of regulations], 2014

Medical Billing and Payment Guide, Version 1.2 (incorporated by reference)

Cover Page: delete "Version 1.1" (which is the emergency regulation version) and add "Version 1.2" which will be the identifier of the version to be effective in 2014.

Introduction: Add a heading to indicate Guide versions and effective dates, provide website address to download the Guides, and add a table showing the version numbers and effective dates.

Section One – Business Rules, 3.0 Complete Bills:
3.0(c): for paper bills, delete reference to Section One 7.3 for electronic bill attachments, and add subdivisions (c)(1) – (c)(7) specifying the elements required on a header or attached cover sheet, in conformity with the elements required for electronic bill attachments by Electronic Medical Billing and Payment Companion Guide section 2.4.7.

Section One – Business Rules, 7.0 Bill Processing and Payment Requirements for Electronically Submitted Medical Treatment Bills:
7.3 Electronic Bill Attachments:
7.3(a): Add cross-reference to the Electronic Medical Billing and Payment Companion Guide section 2.4.7 for documentation/attachment identification rules, and delete substantive provisions.
7.3(b): Delete provisions requiring the unique attachment indicator number in the body of the attachment or inscribed on the face of the attachment; retain the provisions cross-referencing the "complete bill rules" and security rules.

Section One – Business Rules, 8.0 Request for Second Review of a Paper or Electronic Bill:
Add language allowing the 90-day time limit for requesting a second review to be extended by mutual written agreement between the provider and claims administrator.

Appendices for Section One: Appendix A. Standard Paper Forms:
1.0 CMS 1500: Amend Table showing dates of the forms and instruction manuals to

delete January 6, 2014 as the beginning of the period of "dual use" of the old (08/05) and new (02/12) versions of the CMS 1500 Form. Instead, provide that the beginning of the dual use period will be the effective date of the regulations, the date to be inserted by OAL. Amend to add the "1500 Instructions Change Log – as of 11/2003: 1500 Health Insurance Claim Form, Reference Instruction Manual Version 1.1 6/13 for the 02/12 1500 Claim Form Change Log" as part of the Instruction Manual for 02/12 Manual. Also, correct a typographical error: "March" instead of "Mach".

1.2 Field Table CMS 1500 (02/12) heading: Amend Table heading to delete January 6, 2014 as the beginning of the period of "dual use" of the old (08/05) and new (02/12) versions of the CMS 1500 Form. Instead, the beginning of the dual use period will be the effective date of the regulations, the date to be inserted by OAL.

1.2 Field Table CMS 1500 (02/12) Field 11 Insured's Policy Group or FECA Number: Amend to make the field "O" (optional) rather than "S" (situational). Delete the instruction to add the claim number. Add to the instruction that the "insured" is the employer, and that the provider may enter the employer's workers' compensation insurance policy number.

1.2 Field Table CMS 1500 (02/12) Field 11b Other Claim ID (Designated by NUCC): Add language that had been eliminated from Field 11 instructing that if the claim number is not known, enter "unknown", and indicating that the field cannot be left blank.

1.2 Field Table CMS 1500 (02/12) Field 15 Other Date: Add instructions indicating that the situational field is required if applicable, and add the instruction to enter the applicable qualifier and date.

1.2 Field Table CMS 1500 (02/12) Field 17 Name of Referring Provider or Other Source: Revise instruction to indicate that the situational field is required if there is a referring provider, ordering provider or supervising provider associated with the bill. Add the instruction to enter the applicable qualifier and provider name.

2.0 UB-04: Amend Table showing dates of the forms and instruction manuals to delete January 1, 2014 as the effective date for the Version 8.0 of the NUBC UB-04 Data Specifications Manual. Instead, provide that the effective date of the regulations will be the effective date of the regulations, the date to be inserted by OAL.

3.0 National Council for Prescription Drug Programs "NCPDP" Workers' Compensation/Property & Casualty Universal Claim Form ("WC/PC UCF"): Amend Table showing dates of the forms and instruction manuals to delete January 1, 2014 as the effective date for the Version 1.3 of the NCPDP Manual Claim Forms Reference Manual. Instead, provide that the effective date of the updated manual will be the effective date of the regulations, the date to be inserted by OAL.

4.0 ADA Dental Claim Form: Amend Table showing dates of the forms and instruction manuals to delete January 1, 2014 as the effective date for the new ADA Dental Claim Form 2012. Instead, provide that the effective date of the new form will be the effective date of the regulations, the date to be inserted by OAL.

Appendices for Section One: Appendix B. Standard Explanation of Review / Remittance Advice:

Paper Explanation of Review/Remittance Advice: In the narrative explanation stating that the paper EOR uses the DWC Bill Adjustment Reason Codes and Explanatory Messages correct numerical references to Data Items 39 and 51.

1.0 California DWC Bill Adjustment Reason Code / CARC / RARC Matrix Crosswalk: Amend the row for DWC Bill Adjustment Reason Code G53 to add the "issue" and "explanatory message" as follows: "Prescription is incomplete or not current". Add the payer instruction to "Indicate specific deficiencies in the prescription".

9792.5.1 (b):

Amend to clarify the versions of the documents incorporated by reference, and to add subdivisions for each version of the Electronic Medical Billing and Payment Companion Guide:

(b)(1) Version 1.0, dated 2012, effective for electronic bills submitted on or after October 18, 2012,
(b)(2) Version 1.1 effective for electronic bills submitted on or after January 1, 2013,
(b)(3) Version 1.2 effective for bills submitted on or after [OAL to insert effective date of regulations], 2014

<u>Electronic Medical Billing and Payment Companion Guide Version 1.2 (incorporated by reference)</u>

Preface, Change Control Table: Add Version numbers to Table. Delete January 1, 2014 effective date for Version 1.2 and instead provide that the effective date of the Version 1.2 will be the effective date of the regulations, the date to be inserted by OAL.

Chapter 2, California Workers' Compensation Requirements, 2.4.7 Document / Attachment Identification: Amend to reinstate the documentation identification elements that had been deleted in the prior comment period, except revise "claim number" to state "claim number (if known)".

2. Section 9792.5.4. Second Review and Independent Bill Review – Definitions

Preface: Amend to provide that the section is applicable to medical treatment services and goods rendered under Labor Code section 4600, or medical-legal expenses incurred under Labor Code section 4620, on or after January 1, 2013.

(a)(1): Amend to substitute "categories of goods and" for "category of."

(d): Amend to insert "of" between "existence" and "good-faith issue."

3. Section 9792.5.5. Second Review of Medical Treatment Bill or Medical-Legal Bill

(a): Amend to insert "or goods" between "medical treatment services" and

"rendered."

(b)(3): Addition of new subdivision providing that the 90-day time limit for requesting a second review may be extended by mutual written agreement between the provider and the claims administrator.

(c)(1)(B): Amend to add the following sentence: "The DWC Form SBR-1 shall be the first page of the request for second review submitted by the provider."

4. Section 9792.5.6. Provider's Request for Second Bill Review – Form

The following amendments are proposed for the Provider's Request for Second Bill Review, DWC Form SBR-1:

1. The version of the form is "01/2014."

2. Amend top text box to read: The Medical Provider signing below seeks reconsideration of the denial and/or adjustment of the billed charges for the medical services or goods, or medical-legal services, provided to the injured employee."

3. In the "Bill Information" section, amend to delete multiple references to procedures and items.

4. In the first paragraph of instruction page, "Overview," insert "and goods" following two references to "medical treatment services."

5. In the second paragraph of instruction page, "How to Apply," delete "version 1.1" following reference to the billing guides. .

6. In the third paragraph of the instruction page, "When to Apply," amend firs sentence to read: "A request for second bill review must be made within 90 days of service of the explanation of review that explained why the payment you sought in the initial bill was reduced or denied."

7. On the instruction page, under "Bill Information," amend the first sentence to read: "Complete all fields in this section for each disputed service or good, or medical-legal service." Amend the first sentence of the fourth bullet point to read: "State the service or good for which payment is in dispute."

8. On the instruction page, replace "physician" with "provider" under the signature instructions.

5. Section 9792.5.7. Requesting Independent Bill Review

(a): Amend to insert “or goods” between “medical treatment services” and “rendered.”

(a)(1): Amend to insert “or goods” following the word “services” on the first and second line of the subdivision.

(b)(1): Amend to insert “or goods” between “services” and “where that category.”
(d)(1)(A): Amend to correct the website link: delete https://ibr.dir.ca.gov and replace with http://www.dir.ca.gov/dwc/IBR.htm.

(d)(2): Amend to substitute “of the following categories” for “category.”

6. Section 9792.5.8. Request for Independent Bill Review Form

The following amendments are proposed for the Provider’s Request for Second Bill Review, DWC Form SBR-1:

1. The version of the form is “01/2014.”

2. Delete “City,” “State,” and “Zip Code” from both the provider and claims administrator information sections.

3. Under “Bill Information” and “Consolidation” section, replace references to “Procedure/Service/Item” with “Service/Good.” Under the first field in the “Consolidation” section, insert “or goods.”

4. Under the “Overview” section of the instructions page, update the website link to http://www.dir.ca.gov/dwc/IBR.htm

5. Under “Form Instructions” on the instruction page, replace references to “Procedure/Service/Item” with “Service/Good.” When referencing “services,” include “and goods.”

6. Under “Consolidation” on the instruction page, insert “up to a maximum of twenty (20)” following “Two or more requests for IBR.”

7. Section 9792.5.9. Initial Review and Assignment of Request for Independent Bill Review to IBRO

(a)(5): Amend to insert “goods” following “medical treatment services.”

(a)(6): Amend subdivision to read: “If the required fee for the review was not paid pursuant to section 9792.5.7(d)(1)(A) or (B).”

(b)(1): Amend to replace “A” with “An.”

(c): Amend to substitute “provider” for “other party” in two places.

(c)(5): Amend to insert “or goods” between “services” and “provided.”

(f)(2): Amend to replace “A” with “An.”

(f)(3): Amend to provide that the notification sent by the independent bill review organization must include identification of the claim and the disputed amount of payment. Replace comma at the end of the sentence with a period.

8. Section 9792.5.11. Withdrawal of Independent Bill Review

Amend to provide that the provider, concurrent with written notice to the claims administrator, may withdraw a request for independent bill review at any time prior to the issuance of a final determination.

9. Section 9792.5.12. Independent Bill Review - Consolidation or Separation of Requests

(a): Amend to provide that a maximum of twenty (20) requests for independent bill review can be consolidated for the purpose of having the payment reductions contested in each request resolved in a single determination. Deletion of the word “together.”

(b)(2): Amend definition of “Delivery of similar or related services” to replace “items” with “goods” and to include medical-legal services within the definition.

(c): Amend to provide that a maximum of twenty (20) requests for independent bill review can be consolidated for a single determination.

(c)(1) Amend to include as eligible for consolidation, subject to the express conditions, separate requests for medical-legal services.

10. Section 9792.5.15. Independent Bill Review – Implementation of Determination and Appeal

(b): Amend to begin subdivision with “Pursuant to Labor Code section 4603.6(f), the provider or the claims administrator may appeal….”

11. Section 9794. Reimbursement of Medical-Legal Expenses

(i): Amend to require that physicians keep and maintain for five years copies of all billings for medical-legal expense.

(k): Amend to add statutory reference to Labor Code section 139.32.

Reference: Amend to add references to Labor Code sections 139.3 and 139.32.