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

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS AND FORMS

Workers' Compensation – Utilization Review and Independent Medical Review

TITLE 8, CALIFORNIA CODE OF REGULATIONS, ARTICLE 5.5 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 9785	Reporting Duties of the Primary Treating Physician
Section 9785.5	Request for Authorization Form, DWC Form RFA
Section 9792.6.1	Utilization Review Standards—Definitions – On or After January 1, 2013
Section 9792.9	Utilization Review Standards--Timeframe, Procedures and Notice Content – For Injuries Occurring Prior to January 1, 2013
Section 9792.9.1	Utilization Review Standards--Timeframe, Procedures and Notice – On or After January 1, 2013
Section 9792.10	Utilization Review Standards--Dispute Resolution– For Utilization Review Decisions Issued Prior to July 1, 2013 for Injuries Occurring Prior to January 1, 2013
Section 9792.10.1	Utilization Review Standards--Dispute Resolution – On or After January 1, 2013
Section 9792.10.2	Application for Independent Medical Review, DWC Form IMR
Section 9792.10.3	Independent Medical Review – Initial Review of Application
Section 9792.10.4	Independent Medical Review – Assignment and Notification
Section 9792.10.5	Independent Medical Review – Medical Records
Section 9792.10.6	Independent Medical Review – Standards and Timeframes
Section 9792.10.7	Independent Medical Review – Implementation of Determination and Appeal
Section 9792.11	Investigation Procedures: Labor Code § 4610 Utilization Review Violations.
Section 9792.12	Administrative Penalty Schedule for Labor Code §4610 Utilization Review and Independent Medical Review Violations

Section 9792.15. Administrative Penalties Pursuant to Labor Code §§ 4610, 4610.5, and 4610.6 - Order to Show Cause, Notice of Hearing, Determination and Order, and Review Procedure.

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. **Only comments concerning the proposed modification to the text of the regulations 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 October 11, 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.

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 This 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**~~.

SUMMARY OF PROPOSED CHANGES

1. Section 9785. Reporting Duties of the Primary Treating Physician

(b)(3) Amend subdivision to include express reference to "independent medical review" with statutory references.

(g) Amend subdivision to delete of "A written confirmation of an oral request shall be clearly marked at the top that it is written confirmation of an oral request. The DWC Form RFA must include as an attachment documentation substantiating the need for the requested treatment."

2. Section 9785.5. Request for Authorization Form, DWC Form RFA

Amend DWC Form RFA, Request for Authorization. The amendments are as follows:

1. Heading now reads: "Attach the Doctor's First Report of Occupational Injury or Illness, Form DLSR 5021, a Treating Physician's Progress Report, DWC Form PR-2, or equivalent narrative report substantiating the requested treatment."

2. Substitute “treating physician” for “provider” in physician information box.

3. In Requested Treatment box:

   a. Delete “either” and substitute “attached” for “accompanying.”

   b. Insert “required” under “Diagnosis” heading.

   c. Substitute “Service/Good” for “Procedure”

   d. Delete “Facility” from “Other Information” column.

4. In Claims Administrator Response box, add Utilization Review Organization (URO) and insert “see separate letter” following “Liability for treatment is disputed checkbox.

5 Instructions:

a. In the Overview section, insert “for the employee’s treating physician” in the first sentence. Delete second sentence and replace with “A Doctor’s First Report of Occupational Injury or Illness, Form DLSR 5021, a Treating Physician’s Progress Report, DWC Form PR-2, or equivalent narrative report substantiating the requested treatment must be attached.” Insert as last sentence: “The DWC Form RFA is not a separately reimbursable report under the Official Medical Fee Schedule, found at California Code of Regulations, title 8, section 9789.10 et seq.”

b. Insert “A request for expedited, urgent, or rush review not made in good faith may result in civil or criminal penalties and removal from a Medical Provider Network” in expedited review bulletpoint.

c. Under “Routing Information,” replace “provider” with “treating physician” and “physician,” respectively.

d. Conform “Requested Treatment” instructions to changes made on the form.

e. Delete reference to section 9792.9 in the last paragraph.

3. Section 9792.6.1. Utilization Review Standards—Definitions – On or After January 1, 2013

Preface: Amend to reflect correct dates and circumstances on which the subdivision is effective - for either: (1) an occupational injury or illness occurring on or after January 1, 2013; or (2) where the decision on the request for authorization of medical treatment is communicated to the requesting physician on or after July 1, 2013, regardless of the date of injury.

(a) The definition of “Authorization” is amended to allow authorization to be based on the proposed medical treatment set forth in either the “Request for Authorization for Medical Treatment,” DWC Form RFA, or a request for authorization for authorization of medical treatment accepted by the claims administrator under subdivision 9792.9.1(c)(2). The subdivision is further amended to provided that authorization can be given using the response section of the Form RFA, if that form was initially submitted by the treating physician.

(b) The definition of “Claims Administrator” is amended to delete of “Unless otherwise indicated by context, “claims administrator” also means the employer.”

(e) The definition of “Delay” is amended to be a determination, based on the need for additional evidence as set forth in subdivision 9792.9.1(f), that the timeframe requirements for the utilization review process provided in subdivision 9792.9.1(c) cannot be met.

(f) The definition of “Denial” is amended to be a decision by a physician reviewer that the requested treatment or service cannot be authorized.

(h) The definition of “Disputed medical treatment” is amended to delete “delayed.”

(k) The definition of “Expert Reviewer” is amended to include a requirement that the expert reviewer not be an employee of the claims administrator or the utilization review organization under contract to provide or conduct the claims administrator’s utilization review responsibilities.

(m) The definition of “Immediately” is amended to change “24 hours” to “one business day.”

(r) The definition of “Medically necessary” and “medical necessity” is deleted. The remaining subdivisions are re-lettered.

(u) The definition of “Request for authorization” is relettered as subdivision (t) and divided into subdivisions. Proposed subdivision (t)(1) provides that that unless accepted by a claims administrator under section 9792.9.1(c)(2), a request for authorization must be set forth on the “Request for Authorization for Medical Treatment” (DWC Form RFA). Prior to March 1, 2014, any version of the DWC Form RFA adopted by the Administrative Director under section 9785.5 may be used by the treating physician. Proposed subdivision (t)(2) provides that “Completed,” for the purpose of this section and for purposes of investigations and penalties, means that the request for authorization must identify both the employee and the provider, and identify with specificity a recommended treatment or treatments. Proposed subdivision (t)(3) provides that the request for authorization must be signed by the treating physician and

may be mailed, faxed or e-mailed. By agreement of the parties, the treatment physician may submit the request for authorization with an electronic signature.

(x) The definition of “Utilization review decision” is relettered as subdivision (w) and is amended to delete “based in whole or in part on medical necessity to cure or relieve.”

(z) The definition of “Utilization review process” is relettered as subdivision (y) and is amended to include a decision to approve a treatment request. The subdivision is further amended to delete “Utilization review does not include determinations of the work-relatedness of injury or disease, or bill review for the purpose of determining whether the medical services were accurately billed.”

4. Section 9792.9. Utilization Review Standards--Timeframe, Procedures and Notice Content – For Injuries Occurring Prior to January 1, 2013

Title and preface: Substitute “received” for “made” in title of subdivision. Substitute “submitted” for “made in the first sentence of the preface. Substitute “received” for “made” in the last sentence.

5. Section 9792.9.1. Utilization Review Standards--Timeframe, Procedures and Notice – On or After January 1, 2013

Preface: Substitute “submitted” for “made in the first sentence of the preface. Substitute “received” for “made” in the last sentence.

(b)(1) The subdivision is amended to delete the word “only” in the last sentence.

(c) Preference timeline subdivision with “Unless an extension is requested under subdivision (f).”

(c)(2) Amend subdivision to provide that if a treating physician requests a course of treatment in a manner that does not utilize the DWC Form RFA, or if the DWC Form RFA does not identify the employee or provider, does not identify a recommended treatment, or is not signed by the requesting physician, a non-physician reviewer as allowed by section 9792.7 or reviewer must either regard the request as a complete DWC Form RFA and comply with the timeframes for decision set forth in this section or return it to the requesting physician marked “not complete,” specifying the reasons for the return of the request, no later than three (3) business days from receipt. The timeframe for a decision on that returned request for authorization shall begin anew upon receipt of a completed DWC Form RFA.

(c)(3) Delete “but in no event more than 14 calendar days from initial receipt of the complete DWC Form RFA.”

(c)(3)(A) Renumber subdivision as (c)(4).

(c)(3)(B) Delete subdivision.

(c)(3)(C) Delete subdivision.

(c)(3)(5) Renumber as subdivision (c)(5); substitute “request for authorization” for “medical information that is reasonably necessary to make this determination request for authorization.”

(d)(1) Delete “set forth in a DWC Form RFA.” Include “the date the request for authorization was received.”

(e)(3) Add “the injured worker, and if the injured worker is represented by counsel, the injured worker's attorney” as parties entitled to receive written notice of a decision to modify, delay, or deny a treatment request.

(e)(4) Substitute “request for authorization” for “information that is reasonably necessary to make this determination.”

(e)(5) Amend to provided that the written decision shall be signed by either the claims administrator or the reviewer, and shall only contain the information set forth in the subdivision.

(e)(6) Add subdivision addressing additional requirements for a concurrent review decision to deny authorization for medical treatment. The requirements were formerly found at section 9792.10.1(e).

(e)(5)(G) Amend first sentence to read; “The Application for Independent Medical Review, DWC Form IMR. All fields of the form, except for the signature of the employee, to must be completed by the claims administrator.” Delete “and if the injured worker is represented by counsel, the injured worker’s attorney.” Add sentence stating that prior to March 1, 2014, any version of the DWC Form IMR adopted by the Administrative Director under section 9792.10.2 may be used by the claims administrator in a written decision modifying, delaying or denying treatment authorization.

(e)(6) Add subdivision to provide additional requirements that must be met prior to a concurrent review decision to deny authorization for medical treatment: (A) medical care shall not be discontinued until the requesting physician has been notified of the decision and a care plan has been agreed upon by the requesting physician that is appropriate for the medical needs of the employee; and (B) medical care provided during a concurrent review shall be medical treatment that is reasonably required to cure or relieve from the effects of the industrial injury. The subdivision was previously found in section 9792.10.1.

(f)(1) Delete “with a written notice of delay by the reviewer.”

(f)(1)(A) Amend subdivision to read: “The claims administrator or reviewer is not in receipt of all of the information reasonably necessary to make a determination.”

(f)(2)(A) Add subdivision providing that if “information reasonably necessary to make a determination is not provided with DWC Form RFA or other accepted request for authorization, a reviewer or non-physician reviewer shall request the information from the treating physician within five (5) business days from the date of receipt of the request.”

(f)(2) Renumber as subdivision (f)(2)(B). Amend subdivision to provide that if “any of the circumstances set forth in subdivisions (f)(1)(A), (B) or (C) above are deemed to apply following the receipt of a DWC Form RFA or accepted request for authorization, the reviewer shall immediately notify the requesting physician, the injured worker, and if the injured worker is represented by counsel, the injured worker's attorney in writing, that the reviewer cannot make a decision within the required timeframe, and request, as applicable, the information reasonably necessary to make a determination, the additional examinations or tests required, or the specialty of the expert reviewer to be consulted.”

(f)(3) Add new subdivisions (f)(3)(A) and (f)(3)(B). The former provides that if information reasonably necessary to make a determination is not received within fourteen (14) days from receipt of the completed request for authorization for prospective or concurrent review, or within thirty (30) days of the request for retrospective review, the reviewer shall deny the request with the stated condition that the request will be reconsidered upon receipt of the information. The latter provides that if the results of the additional examination or test, or the specialized consultation, is not received within thirty (30) days from the date of the request, the reviewer shall deny the request for authorization with the stated condition that the request will be reconsidered upon receipt of the results of the additional examination or test or the specialized consultation.

(f)(3)-(5) The existing subdivision (f)(3)-(5) is renumbered as (f)(4)-(6).

6. Section 9792.10. Utilization Review Standards--Dispute Resolution– For Utilization Review Decisions Issued Prior to July 1, 2013 for Injuries Occurring Prior to January 1, 2013

(a)(4) Delete reference to specific WCAB form. (Form WCAB 1, and a Declaration of Readiness to Proceed (expedited trial), DWC-CA form 10208.3.)

7. Section 9792.10.1. Utilization Review Standards--Dispute Resolution – On or After January 1, 2013

Preface: Amend to reflect correct dates and circumstances on which the subdivision is effective - for either: (1) an occupational injury or illness occurring on or after January 1, 2013; or (2) where the decision on the request for authorization of medical treatment is communicated to the requesting physician on or after July 1, 2013, regardless of the date of injury.

(b)(1) Amend first sentence by substituting "filed" for "communicated" and "with" for "to." Include in second sentence "must be" prior to "…submitted with a copy of the written decision…." The subdivision is further amended to provide that at the time of filing, the employee shall concurrently provide a copy of the signed DWC Form IMR, without a copy of the adverse utilization review decision, to the claims administrator.

(c)(2) Amend the subdivision to provide: "If the claims administrator provides the employee with a written utilization review determination modifying, delaying, or denying a treatment request that does not contain the required elements set forth in section 9792.9(l) or section 9792.9.1(e) at the time of notification of its utilization review decision…."

(d)(1) Amend last sentence of new subdivision (d)(1) to provide: "Any request by the employee or treating physician for an internal utilization review appeal process conducted under this subdivision must be submitted to the claims administrator within ten (10) days after the receipt of the utilization review decision.

(d)(2) Add subdivision (d)(2) to provide that any determination following an internal utilization review appeal that results in a modification of the requested medical treatment shall be communicated under the requirements of section 9792.9.1(e) and that the accompanying DWC Form IMR must indicate that the decision is a modification after appeal.

(e) Delete subdivision and move to section 9792.9.1(e)(6).

8. Section 9792.10.2. Application for Independent Medical Review, DWC Form IMR

Amend the DWC Form IMR, Application for Independent Medical Review, as follows:

1. Replace initially proposed language with filing instructions.

2. Amend "Type of Review to insert "Utilization." Delete "Required."

3. Add checkbox indicating "Modification after Appeal."

4. Delete "Completion of this section is required" from information and treatment sections.

5. Add “employer name” and “employee e-mail” to employee information section. Delete redundant references to “employee” and combine address, city, state, and zip into one field.

6. Substitute “treating physician” for “provider” in second section. Delete references to “provider” and add fields for address, phone number, and fax number.

7. Delete redundant references to “claims administrator” in third section, combine address, city, state, and zip into one field and add field for fax number.

8. Substitute “disputed” for “requested” in medical treatment section. Amend text in box to read: “Describe with specificity all the requested medical services, goods, or items that were denied or modified.”

9. Combine signature line with section “Consent to Obtain Medical Records.” Section now provides: “I request an independent medical review of the above-described requested medical treatment. I certify that I have sent a copy of this application to the claims administrator named above. I allow my health care providers and claims administrator to furnish medical records and information relevant for review of the disputed treatment identified on this form to the independent medical review organization designated by the Administrative Director of the Division of Workers' Compensation. These records may include medical, diagnostic imaging reports, and other records related to my case. These records may also include non-medical records and any other information related to my case, excepting records regarding HIV status. My permission will end one year from the date below, except as allowed by law. I can end my permission sooner if I wish.”

10. Delete filing information section; relocate language to top of page.

11 Instructions:

a. Delete heading “Instructions for Employee.”

b. Amend first paragraph by inserting reference to “utilization review” in the first sentence and the independent medical review can be requested at no cost. Delete sentences referencing the specialty of the reviewing physician, that the request must be made on the IMR form, and that the employee pays no costs for IMR.

c. Modify “How to Apply” paragraph using bullet points and additional information regarding the filing of the form.

d. Replace “Determining Your Eligibility for IMR” with revised paragraph briefly outlining the process whereby an application is reviewed for eligibility.

9. Section 9792.10.3. Independent Medical Review – Initial Review of Application

(a)(4) Amend to provide that the Administrative Director shall consider for the purpose of determining eligibility any assertion by the claims administrator that a factual or legal basis exists that precludes liability on the part of the claims administrator for the a specific course of requested medical treatment requested by the treating physician.

(a)(6) Amend to provide that the Administrative Director shall consider for the purpose of determining eligibility the "failure by the requesting physician to respond to a request by the claims administrator under section 9792.9.1(f) for information reasonably necessary to make a utilization review determination, for additional required examinations or tests, or for a specialized consultation."

(c) Amend subdivision to provide that the parties shall respond to any reasonable request made by the Administrative Director under subdivision (b) within five (5) days following receipt of the request.

10. Section 9792.10.4. Independent Medical Review – Assignment and Notification

Title Amend title to read "Consolidation, Assignment, and Notification."

(a) Add subdivision (a) to provide that the independent review organization delegated the responsibility by the Administrative Director to conduct independent medical review pursuant to Labor Code section 139.5 (IMRO) may consolidate two or more eligible applications for independent medical review by a single employee for resolution in a single determination if the applications involve the same requesting physician and the same date of injury.

(b) Existing language is placed under new subdivision (b) and renumbered (b)(1) through (b)(6) . Amend subdivision to provide that the assignment notification shall be issued by the independent review organization one business day following receipt of the Administrative Director's eligibility determination.

(g) Existing subdivision (g) is re-lettered as subdivision (c).

11. Section 9792.10.5. Independent Medical Review – Medical Records

(a)(1)(B) Amend to provide that the subdivision only requires the submission of the written utilization review determination issued to the employee under section 9792.9.1(e)(5), absent the application for independent medical review.

(a)(1)(C) Amend to provide that the information required to be submitted, that which was provided to the employee by the claims administrator concerning the utilization review decision, does not include the utilization review decision itself.

(a)(2) Amend to expressly provide that the copies of documents to be provided to the employee by the claims administrator shall not include mental health records withheld from the employee pursuant to Health and Safety Code section 123115(b).

12. Section 9792.10.6. Independent Medical Review – Standards and Timeframes

(a) Amend subdivision to read: “The independent medical review process may be terminated at any time upon notice by the claims administrator to the independent review organization that the disputed medical treatment has been authorized.”

(b) Amend subdivision to provide that “medically necessary” for the purpose of independent medical review means medical treatment that is reasonably required to cure or relieve the employee of the effects of their injury and based on the standards set forth in Labor Code section 4610.5(c)(2).

(d) Amend subdivision to delete regulatory citation.

(i) Add subdivision (i) to provide that upon receipt of credible information that the claims administrator has failed to has failed to comply with its obligations under the independent medical review requirements set forth in Labor Code sections 4610.5 or in sections 9792.6 through 9792.10.8 of this Article, the Administrative Director shall, concurrent or subsequent to the issuance of the final determination issued by the independent review organization, issue an order to show cause under section 9792.15 for the assessment of administrative penalties against the claims administrator under section 9792.12(c).

13. Section 9792.10.7. Independent Medical Review – Implementation of Determination and Appeal

(b) Amend subdivision to provide that upon receipt of credible information that the claims administrator has failed to implement the final determination as required in subdivision (a), the Administrative Director shall issue an order to show cause under section 9792.15 for the assessment of administrative penalties against the claims administrator under section 9792.12(c).

14. Section 9792.11. Investigation Procedures: Labor Code § 4610 Utilization Review Violations.

(c)(1)(A) Amend subdivision to require a routine investigation at least once every five (5) years. Further amend subdivision to correct citation to definition for request for authorization: section 9792.6.1(t).

(c)(2)(A) Amend subdivision to correct citation to definition for request for authorization: section 9792.6.1(t).

(j)(4) Amend subdivision to correct citation to section 9792.10.1.

15. Section 9792.12. Administrative Penalty Schedule for Labor Code §4610 Utilization Review and Independent Medical Review Violations

(a) Amend first sentence of subdivision to read: "Mandatory Utilization Review Administrative Penalties." Amend subdivision to delete "the independent medical review process required by Labor Code sections 4610.5 and 4610.6."

(a)(8) Amend subdivision to substitute "without documenting the amended request" for "to possess an amended written request for treatment authorization."

(a)(12) Amend subdivision to substitute "a complete DWC Form RFA or other request for authorization accepted by a claims administrator under section 9792.9.1(c)(2) submitted" for "the request for authorization."

(a)(13) Amend subdivision to substitute "a complete DWC Form RFA or other request for authorization accepted by a claims administrator under section 9792.9.1(c)(2) submitted" for "the request for authorization."

(a)(14) Amend subdivision to substitute "a complete DWC Form RFA or other request for authorization accepted by a claims administrator under section 9792.9.1(c)(2) submitted" for "the request for authorization."

(a)(18) – (25) Delete subdivisions and relocate to section 9792.12.1.

(b) Amend subdivision to provide "Additional Utilization Review Penalties and Remediation."

(b)(4)(C) Amend subdivision to allow for the assessment of an administrative penalty for, prospective or concurrent review, the failure to make a decision to approve or modify or deny the request for authorization in a timely manner following the receipt of the completed DWC Form RFA, an accepted request for authorization, or of the requested information. Correct citation to section 9792.9.1(f)(4).

(b)(4)(D) Amend subdivision to allow for the assessment of an administrative penalty for, retrospective review, the failure to make a decision to approve or modify or deny the request for authorization in a timely manner following the receipt of the completed DWC

Form RFA, an accepted request for authorization, or of the requested information. Correct citations to section 9792.9.1(h)(4), and section 9792.9.1(e)(4) and (f)(6).

(b)(5)(C) Amend subdivision to include citation to section 9792.9.1(e)(3). Delete “of Title 8 of the California Code of Regulations.”

(b)(5)(D) Amend subdivision to substitute “send a written notice of the” in place of “communicate a.”

(c) Add new subdivision (c) to provide for Independent Medical Review Administrative Penalties. The subdivision lists specific violations and the amount to be assessed as an administrative penalty for each. The violations are as follows:

(c)(1) For the failure to provide the Application for Independent Medical Review, DWC Form IMR, set forth at section 9792.10.2, with all applicable fields completed by the claims administrator, with a written decision modifying, delaying, or denying a treatment authorization under sections 9792.9(l) or 9792.9.1: $2,000.

(c)(2) For the failure to include in a written decision modifying, delaying, or denying a treatment authorization under sections 9792.9(l) or 9792.9.1 a clear statement that advising the injured employee that any dispute shall be resolved in accordance with the independent medical review provisions of Labor Code section 4610.5 and 4610.6, and that an objection to the utilization review decision must be communicated by the injured worker, the injured worker's representative, or the injured worker's attorney on behalf of the injured worker on the Application for Independent Medical Review, DWC Form IMR, set forth at section 9792.10.2, within 30 days of service of the utilization review decision: $1,000.

(c)(3) For the failure to include in a written decision modifying, delaying, or denying a treatment authorization under sections 9792.9(l) or 9792.9.1 a statement detailing the claims administrator's internal utilization review appeals process for the requesting physician, if any, and a statement that the internal appeals process is a voluntary process that neither triggers nor bars use of the dispute resolution procedures of Labor Code section 4610.5 and 4610.6, but may be pursued on an optional basis: $1,000.

(c)(4) For the failure to timely provide information requested by the Administrative Director under section 9792.10.3(b): $500.00 for each day the response is untimely under section 9792.10.3(c), up to a maximum of $5,000.00.

(c)(5) For the failure to timely provide all information required by section 9792.10.5(a) and (c): $500.00 for each day the response is untimely up to a maximum of $5,000.00.

(c)(6) For the failure to authorize services found to be medically necessary by the independent medical review organization in the final determination issued under section

9792.10.6 within either five (5) business days of receipt of the determination, or sooner if appropriate for the employee's medical condition, or five (5) business days from the date the determination is final, if an appeal of the determination has been filed under Labor Code section 4610.6(h): $1,000.00 for each day up to a maximum of $5,000.00.

(c)(7) For the failure to reimburse for services already rendered that has been found to be medically necessary by the independent medical review organization in the final determination issued under section 9792.10.6 within twenty (20) days after receipt of the final determination, or within twenty (20) days from the date the determination is final if an appeal of the determination has been filed under Labor Code section 4610.6(h), subject to resolution of any remaining issue of the amount of payment pursuant to Labor Code sections 4603.2 to 4603.6, inclusive: $500.00 for each day up to a maximum of $5,000.00

(c)(8) For the failure to timely pay an invoice sent from the designated independent medical review organization under section 9792.10.8(c): $250.

(d) Add new subdivision (d) to provide that the Administrative Director, or his or her designee, may assess both an administrative penalty under either Labor Code sections 4610.5 and 4610.6, and a civil penalty under Labor Code section 129.5(e), based on the same violation(s).

(c) Existing subdivision (c) is re-lettered as subdivision (e). Amend to replace "subsection 9792.12(a) and (b) above" with "this section."

16. Section 9792.15. Administrative Penalties Pursuant to Labor Code §§ 4610, 4610.5, and 4610.6 - Order to Show Cause, Notice of Hearing, Determination and Order, and Review Procedure.

Amend title to include statutory reference to Labor Code sections 4610.5 and 4610.6.

(a) Amend subdivision to include statutory reference to Labor Code sections 4610.5 and 4610.6.

(b)(2) Amend subdivision to limit its application to administrative penalties assessed under section 4610(i).

(b)(3) Add subdivision to provide that for administrative penalties assessed under sections 4610.5(i), and 4610.6(k), the order to show cause shall include the basis for the penalty assessment, including a statement of the alleged violations and the amount of each proposed penalty.

(b)(4) Add subdivision to provide that an order to show cause must include a description of the methods for paying or appealing the penalty assessment