

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

**NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS AND FORMS**

**Subject Matter of Regulations:  
Workers' Compensation –Utilization Review and Related Subjects**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS**

**SECTIONS 9767.6, 9781, 9785, 9785.6, 9786, 9792.6, 9792.6.1, 9792.7, 9792.7.1, 9792.8,  
9792.9, 9792.9.1, 9792.9.2, 9792.9.3, 9792.9.4, 9792.9.5, 9792.9.6, 9792.9.7, 9792.9.8,  
9792.9.10.1, 9792.10.2, 9792.10.3, 9792.10.4, 9792.10.5, 9792.10.6, 9792.10.8, 9792.11,  
9792.12, 9792.13, & 9792.15, 9792.27.1, & 9792.27.17**

**NOTICE IS HEREBY GIVEN** that, pursuant to the requirements of Government Code section 11346.8 (c), and section 44 of title I of the California Code of Regulations, the Administrative Director of the Division of Workers' Compensation, Department of Industrial Relations (hereinafter "Administrative Director"), pursuant to the authority vested in him by Labor Code sections 59, 133, 4603.5, 4610, 5307.3, and 5307.27, proposes to amend the text of the following proposed regulations and forms, which were the subject of a regulatory hearing held on July 25, 2024:

Amend section 9767.6 Treatment and Change of Physicians Within MPN.  
Amend section 9781 Employee's Request for Change of Physician.  
Amend section 9785 Reporting Duties of the Primary Treating Physician.  
Delete section 9785.6 DWC Form PR-1: "Treating Physician's Report" – Optional for Services On or After (EFFECTIVE DATE OF REGULATION).  
Amend section 9786 Petition for Change of Primary Treating Physician.  
Amend section 9792.6.1. Utilization Review Standards—Definitions.  
Amend section 9792.7. Utilization Review Standards—Applicability.  
Amend section 9792.9.1. Utilization Review -- Receipt of Request for Authorization; Acceptance of Incomplete Request.  
Amend section 9792.9.2. Utilization Review — Dispute of Liability; Deferral.  
Amend section 9792.9.3. Utilization Review — Timeframes.  
Amend section 9792.9.5. Utilization Review — Decisions to Modify or Deny a Request for Authorization.  
Amend section 9792.9.8. Utilization Review — MTUS Drug Formulary.  
Amend section 9792.10.5. Independent Medical Review – Medical Records.  
Amend section 9792.10.8. Independent Medical Review – Payment for Review.  
Amend section 9792.11. Investigation Procedures: Labor Code § 4610 Utilization Review Violations.

## 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 to the rulemaking file. **Only comments concerning these proposed modifications to the text of the regulations and forms will be considered and responded to in the Final Statement of Reasons.** The text of the regulations and proposed modifications can be viewed via the web at:  
[https://www.dir.ca.gov/dwc/rulemaking/dwc\\_rulemaking\\_proposed.html](https://www.dir.ca.gov/dwc/rulemaking/dwc_rulemaking_proposed.html)

All written comments concerning the proposed modifications to the regulations must be received by the Regulations Coordinator no later than **11:59 P.M. on May 2, 2025.**

Written comments may be submitted as follows:

**By Mail** addressed as follows:

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

**By Hand Delivery** addressed as follows:

Maureen Gray, Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation  
1515 Clay Street 18<sup>th</sup> Floor  
Oakland, CA 94612

**By FAX** addressed to Maureen Gray, Regulations Coordinator, Department of Industrial Relations, Division of Workers' Compensation at the following number:

(510) 286-0687

**By e-mail** to the following e-mail address:

[dwcrules@dir.ca.gov](mailto:dwcrules@dir.ca.gov)

Comments sent to other e-mail addresses or facsimile numbers will not be accepted. All comments, including 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, 18<sup>th</sup> Floor, Oakland, California. Please contact the Division's regulations coordinator, Ms. Maureen Gray, at (510) 286-0676 or (510) 286-7100 to arrange to inspect the rulemaking file.

## FORMAT OF PROPOSED MODIFICATIONS

### Proposed Text Noticed for 45-Day Comment Period:

The proposed text was indicated by underlining: added language. Deletions are indicated by strikeout: ~~deleted language~~.

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

The proposed text was indicated by double underlining: added language. Deletions are indicated by double strikeout: ~~~~deleted language~~~~.

### Proposed Text Noticed for 2<sup>nd</sup> 15-Day Comment Period on Modified Text:

The proposed text was indicated by bolded single underline: **added language**. Deletions are indicated by bolded single strikeout: **~~deleted language~~**.

## SUMMARY OF PROPOSED CHANGES

### Section 9767.6 Treatment and Change of Physicians Within MPN.

(f) - Amend section 9767.6(f) for better wording and to add, if electronic data interchange (EDI) is available as an option, identity of payor's clearinghouse as one of the enumerated data a claims administrator shall provide to the selected MPN physician.

### Section 9781 Employee's Request for Change of Physician.

(d)(5) - Amend to add name of payor's clearinghouse as one of the data elements a claims administrator shall provide the selected physician or facility in the event that electronic data interchange (EDI) is available as an option for submitting requests for authorization of treatment.

(d)(7) – Amend to strike superfluous numbering within the text.

### **Section 9785. Reporting Duties of the Primary Treating Physician.**

(d) – Amend to fix incorrect reference to subdivision (a typo) and to add EDI as a means of transmitting required physician reports if made available by the claims administrator.

(g) – Amend to restore original text, which was renumbered as subdivision (g), back to appear under (f)(8). Subdivision (g) is now listed as “reserved.” (This is needed based on the decision to rescind the PR-1 Form.)

(h) – Amend to correct subdivision reference, and to restore the requirement that the Form RFA must include attached documentation substantiating the need for the requested treatment. (This is needed based on the decision to rescind the PR-1 Form.)

### **Section 9785.6 DWC Form PR-1: "Treating Physician's Report" – Optional for Services On or After (EFFECTIVE DATE OF REGULATION).**

Form, in its entirety, is stricken (rescinded).

### **Section 9786. Petition for Change of Primary Treating Physician.**

(b)(1) – Amend to correct typo. Reference should have been to subdivision (h), not (i), in order to keep the status quo.

(c)(4) – Amend to revert back to referencing section 9785(f)(8), instead of 9785(g). (This is needed based on the decision to rescind the PR-1 Form.)

### **Section 9792.6.1. Utilization Review Standards—Definitions.**

(u)(1) – Amend to restore use of the DWC Form RFA for submitting treatment requests.

(u)(3) – Amend wording to clarify that submission of a request for authorization of treatment may include electronic data interchange (EDI) if made available by the claims administrator.

(bb) – Amend definition of “written” to include EDI transmission, on par with electronic mail.

### **Section 9792.7. Utilization Review Standards—Applicability.**

(e)(1) – Divide subsection into three paragraphs ((A), (B), and (C)).

(e)(1)(A) - Amend to add a 60-day extension for review of a utilization review (UR) plan after initial 60-day timeframe, and to clarify that if the Administrative Director takes no action after the second 60-day time period has elapsed, then the plan is provisionally approved until a determination to approve, conditionally approve, or deny the UR plan is made.

(f) – Amend to increase from 20 to 25 days the time a UR plan has to appeal a rejection/denial of a UR plan.

(h)(2) – Correct reference to subdivision (change from (g) to (h)), which was a typo.

### **Section 9792.9.1. Utilization Review -- Receipt of Request for Authorization; Acceptance of Defective Request.**

Title – Deleted “Defective” and add back “Incomplete.”

(a)(1) – Amend to include electronic data interchange and, accordingly, identification of the payor’s clearinghouse, within the rules regarding receipt of a request for authorization.

(b)(2) – Delete (provision regarding how to handle receipt of a request for authorization of treatment at a non-designated number or address); and renumber.

### **Section 9792.9.2. Utilization Review – Dispute of Liability; Deferral.**

(a)(2)(B) – Amend to delete language indicating that the checkbox reflecting “Resubmission – Change in Material Fact” at the top of the DWC Form RFA or PR-1 constitutes a requesting physician’s express and unequivocal opinion that the request for treatment contains a change in material fact such that physician review is required.

Further amend to include that, in addition to an express and unequivocal opinion in the RFA that there is a change in material fact, documentation of such change is also required before deferral is precluded.

### **Section 9792.9.3. Utilization Review – Timeframes.**

(d) - Amend to replace “or” with “and” such that the timeframe for retrospective UR begins to run from receipt of the RFA *and* information regarding rendered medical treatment that is sufficient for a reviewer to make a determination of medical necessity.

### **Section 9792.9.5. Utilization Review – Decisions to Modify or Deny a Request for Authorization.**

(d) - Amend to replace “or” with “and” such as to align with change made under section 9792.9.3(d) regarding the timeframe for retrospective review.

(e)(7) – Break up subsection into two paragraphs ((A) and (B)) for better readability.

### **Section 9792.9.8. Utilization Review — MTUS Drug Formulary.**

(b)(1)(A) – Strike “no less than” for better readability.

(e)(2) – Strike text indicating that a decision to modify or deny a request for treatment based on a reason other than medical necessity could be resolved through the claims administrator’s voluntary internal UR appeals process, and replace with resolution through either agreement of the parties (in addition to the existing dispute resolution process via the Workers’ Compensation Appeals Board).

**Section 9792.10.5. Independent Medical Review – Medical Records.**

(b)(1) – Amend to indicate that an employee, or the employee’s representative, may, instead of shall, submit documents to the Independent Medical Review Organization.

(b)(3) – Regarding an employee’s ability to submit newly developed or discovered relevant medical records in their possession, revert back to “shall” instead of “may.” (The greater subdivision already makes it optional that the employee submit records so this requirement would be contingent on that choice.)

**Section 9792.10.8. Independent Medical Review – Payment for Review.**

(a)(2)(B) – Amend text to clarify that full payment will be owed if a case is withdrawn subsequent to the receipt of documentation and information in the context of the record-gathering process as outlined in section 9792.10.5.

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

(g)(1) – For Routing Investigations of a claims administrator, amend to indicate that it would take place at least once every five years for each known “claims adjusting location” instead of for each “claims administrator.” Also add “or claims administrator” as an entity who receives requests for authorization of treatment (RFAs) from which a random sample of RFAs may be chosen in the context of a routing investigation.