

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION**

**INITIAL STATEMENT OF REASONS**

**Subject Matter of Regulations: Workers' Compensation Information System**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS  
SECTIONS 9701 – 9703**

Section 9701	Definitions
Section 9702	Electronic Data Reporting
Section 9703	Access to Individually Identifiable Information

**BACKGROUND TO REGULATORY PROCEEDING**

Labor Code section 138.6 requires the Administrative Director of the Division of Workers' Compensation to develop a cost-efficient workers' compensation information system (WCIS) to accomplish four objectives:

1. Assist the Department of Industrial Relations manage the workers' compensation system in an efficient and effective manner.
2. Facilitate the evaluation of the effectiveness and efficiency of the benefit delivery system.
3. Assist in measuring how adequately the system indemnifies injured workers and their dependents.
4. Provide statistical data for research into specific aspects of the workers' compensation system.

The statute further requires that the data collected electronically by the WCIS be compatible with the Electronic Data Interchange (EDI) system of the International Association of Industrial Accident Boards and Commissions (IAIABC), and that the data elements to be provided electronically must be set forth in regulations.

The regulations implementing Labor Code section 138.6 (Title 8, California Code of Regulations, sections 9700 – 9704) were filed with the Secretary of State on October 6, 1999 and became operative November 5, 1999. On March 1, 2000, California workers' compensation claims administrators adjusting approximately 95% of all worker's compensation claims in the State either began to transmit data elements required under section 9702(b) or formally obtained a variance from subsection (b)'s reporting requirements under section 9702 (a).

The proposed regulations seek to refine WCIS reporting by eliminating unnecessary data elements, adding relevant data elements, adding medical bill payment data elements, and accommodating current data reporting under the two IAIABC implementation guides that are available for use by claims administrators (IAIABC EDI Implementation Guide, Release 1 and EDI Implementation Guide for Medical Bill Payment Records) by incorporating by reference the IAIABC Guides and the California specific guides (California EDI Implementation Guide for First and Subsequent Reports of Injury and California EDI Implementation Guide for Medical Bill Payment Records). The California EDI Implementation Guide for First and Subsequent Reports of Injury and the California EDI Implementation Guide for Medical Bill Payment Records explain how the data transmission is accomplished, explain how to edit data transactions, include the required codes for transmitting data, and set forth the system specifications.

Additionally, the proposed regulations seek to allow the Division access to WCIS individually identifiable information to conduct research on the worker's compensation system in order to carry out the duties of the Division and the Administrative Director. To implement the Legislature's amendment of Labor Code section 138.7 (Chapter 792, Stats. 2001), the proposed regulations will also allow access to this information by researchers employed or under contract to the Commission of Health and Safety and Workers' Compensation.

These proposed regulations implement, interpret, and make specific two sections of the Labor Code: (1) Labor Code section 138.6, which mandates the development of the WCIS, requires data to be collected electronically to be compatible with the IAIABC EDI system, and requires data elements to be collected through EDI to be set forth in regulations; and (2) Labor Code section 138.7, which limits access to individually identifiable information, and requires the Administrative Director to promulgate regulations governing access to this information by specified entities.

## **TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS**

The Division relied upon:

(1) IAIABC EDI Implementation Guide, Release 1. EDI Implementation Guide for First, Subsequent, Acknowledgment Detail, Header & Trailer Records, Release 1, issued February 15, 2002, by the International Association of Industrial Accident Boards and Commissions.

(2) IAIABC EDI Implementation Guide for Medical Bill Payment Records. IAIABC EDI Implementation Guide for Medical Bill Payment Records, Release 1, approved July 4, 2002, by the International Association of Industrial Accident Boards and Commissions.

(3) California State Auditor. *California's Workers' Compensation Program: Changes to the Medical Payment System Should Produce Savings Although Uncertainty About New*

*Regulations and Data Limitations prevent a More Comprehensive Analysis.* January 2004.

## **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

Labor Code section 138.6 requires the data submitted electronically to the WCIS to be compatible with the IAIABC EDI system. The proposed regulations, as well as the existing regulations, require the use of computer technology: File Transfer Protocol (FTP) and Value Added Networks (VAN). Claims administrators will be able to use the technology (FTP and VAV) that is currently used to transmit the preponderance of information to the WCIS.

## **FACTS ON WHICH THE AGENCY RELIES IN SUPPORT OF ITS INITIAL DETERMINATION THAT THE REGULATIONS WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON BUSINESS**

Although the requirement to report medical data to the WCIS will increase costs to business, medical data reporting to the WCIS is required by: (1) Labor Code section 138.6 which established the WCIS; (2) Labor Code section 4603.4 which requires that all employers/claims administrators accept electronic billing from medical providers; and (3) the need to collect medical data in order to analyze and monitor system performance [see the California State Auditor Report entitled: California's Workers' Compensation Program: Changes to the Medical Payment System Should Produce Savings Although Uncertainty about New Regulations and Data Limitations Prevent a More Comprehensive Analysis (January 2004.)]. Claims administrators are currently required under the existing regulation to report certain information (data elements) about workers' compensation claims to the WCIS via electronic reporting. Some nationwide workers' compensation insurance companies already report medical data to other states (i.e. Texas and West Virginia) and therefore already have their medical reporting systems in operation. Other insurance carriers who are not yet providing medical data may contract with a third party vendor and incur costs of approximately \$8000 per year. Insurance companies who report directly to WCIS and use their own systems will need to upgrade their programming for the medical data reporting and may incur an initial cost of approximately \$50,000.

## **SECTION 9701 DEFINITIONS**

### Specific Purpose of Section 9701:

Section 9701 lists and defines the terms used in these regulations. The purpose of the definitions is to implement, interpret, and make specific Labor Code section 138.6 and to ensure that the meanings of the terms are clearly understood by the workers' compensation community.

### Necessity:

It is necessary to define each of the key terms used in the Workers' Compensation Information System regulations to ensure that the content and meaning of the regulations are clearly understood by the workers' compensation community.

Specifically, the definition of "Bona Fide Statistical Research" is necessary to clarify the purpose for which individually identifiable information will be released under section 9703(d). It is necessary to define and incorporate by reference the "California EDI Implementation Guide for First and Subsequent Reports of Injury" and the "California EDI Implementation Guide for Medical Bill Payment Records," because they contain the California specific data elements derived from the updated version of the "IAIABC EDI Implementation Guide, Release 1," issued February 15, 2002 and the "IAIABC EDI Implementation Guide for Medical Bill payment Records," approved July 4, 2002. The references are necessary to comply with the Labor Code requirement that the data elements must be compatible with IAIABC EDI system. "Closed Claim" is defined to provide a consistent meaning to an event that gives rise to a reporting obligation under Section 9702 (d). Finally, the definition of "International Association of Industrial Accident Boards and Commissions" is amended to reflect the association's change in office location and the fact that a licensing agreement is no longer required. It is necessary to delete reference to the "EDI Trading Partner Profile" as the regulations do not refer to that term.

### Consideration of Alternatives:

No more effective alternative to any of the definitions, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time.

## **SECTION 9702 ELECTRONIC DATA REPORTING**

### Specific Purpose of Section 9702:

The purpose of this proposed regulation is to refine the previously required non-medical bill payment data elements, to add medical bill payment data elements to the list of data elements required to be electronically transmitted to the WCIS [subdivision (e)], to set forth the timing of the submission of these data elements, and to set forth the claims on which these data elements are to be submitted. The proposed regulation will further accommodate the reporting of data elements under the IAIBC EDI Implementation Guide, Release 1, and the IAIABC EDI Implementation Guide for Medical Bill Payment Records.

Subdivision (a)(1) is deleted as the variance period ended.

The purpose of changing the time period to fifteen days in subdivision (d) is to allow more time to the claims administrators to submit data.

The purpose of adding subdivision (h)(3) is to relieve claims administrators from the requirement to submit an Annual Report of Inventory if the claims administrator is providing the information to WCIS.

Necessity:

The section is amended to refer to the California EDI Implementation Guide for First and Subsequent Reports of Injury and the California EDI Implementation Guide for Medical Bill Payment Records, which contain the California specific data elements derived from the updated version of the IAIABC EDI Implementation Guide for First, Subsequent, Acknowledgment Detail, Header & Trailer Records, Release 1, issued February 15, 2002 and the IAIABC EDI Implementation Guide for Medical Bill payment Records, Release 1, approved July 4, 2002. The amended references are necessary to comply with the Labor Code requirement that the data elements must be compatible with IAIABC EDI system.

Additionally, the Division's Research Unit determined, following the initial reporting of data elements by responsive claims administrators under section 9702 (b), that several data elements required under the existing regulation did not provide the Division with information needed to analyze whether the current benefit delivery system operates in an effective and efficient manner. Therefore, these data elements are no longer required and are deleted from this section.

Conversely, the Research Unit has also determined that data elements available in the IAIABC EDI system that are not required under the existing regulation can provide relevant information on the current benefit delivery system. Therefore, these data elements are added to the section to ensure better linkage between individual claims and data elements submitted to WCIS.

The reporting requirements of several data elements have been modified to reflect the changes made in the IAIABC EDI Implementation Guide (Release 1).

The amendment to subdivision (e) to require medical bill payment data elements is necessary for research. The medical costs associated with the workers' compensation system have been identified as contributing to the serious economic crisis facing California's employers. The medical data to be collected under the WCIS will enable DIR to analyze the cost of workers' compensation medical care, the treatments provided; the types and number of physicians providing care, and billing and payment practices. This data will also allow researchers to study relationships among medical treatment and payment patterns, as well as the interrelationships between medical data and other factors, such as claimant demographic and employer industrial characteristics.

The proposed regulation further clarifies other "technical" WCIS reporting obligations. The effective date for reporting under subsection (g) is modified to claims with dates of injury on or after July 1, 2000 to correspond with the Subsequent Report requirements of

subsection (d). Footnote 2 in subsection (d) is clarified to indicate acceptable permanent disability codes.

Subdivision (h)(3) is necessary to inform claims administrators that they are not required to submit an Annual Report of Inventory if the claims administrator is providing the information to WCIS.

Consideration of Alternatives:

No alternatives to defining these terms in this manner were considered by the agency. Labor Code section 138.6 requires that the Division use data elements compatible with the IAIABC EDI system, thus mandating the use of the defined data elements and IAIABC EDI Implementation Guides. No alternative considered by the agency would be more effective in carrying out the purpose of the regulation or would be as effective and less burdensome to affected private persons.

**SECTION 9703      ACCESS TO INDIVIDUALLY IDENTIFIABLE  
INFORMATION**

Specific Purpose of Section 9703:

Labor Code section 138.7 sets forth restrictions on access to individually identifiable information held in the WCIS, and directs the Administrative Director to adopt certain regulations to carry out the purposes set forth in the statute. The regulations adopted by the Administrative Director must set forth the specific uses for which individually identifiable information may be obtained.

The existing WCIS regulations do not expressly allow the Division to access WCIS individually identifiable information for the purpose of conducting research to assist the Division and the Administrative Director in carrying out their duties and managing the workers' compensation system in an effective and efficient manner. Further, the existing regulations must be conformed to implement the legislature's amendment of Labor Code section 138.7 (Chapter 792, Stats. 2001), which allows access to WCIS individually identifiable information by researchers employed or under contract to the Commission of Health and Safety and Workers' Compensation.

The purpose of this amendment is to expressly allow the Division access to individually identifiable information from the WCIS for the purpose of conducting research and to conform the regulations to the legislature's amendment of Labor Code section 138.7.

Necessity:

Labor Code section 138.7(b)(3) provides that the Division may use individually identifiable information to carry out its duties. The statute correspondingly directs the Administrative Director to adopt regulations governing access to such information; the regulations must set forth the specific uses for which information may be obtained. The WCIS can provide the Division with an accurate, independent source of information

regarding the status of claims, including, for example, the amount and rate of indemnity benefits paid. This information, when collected and analyzed, can assist the Division in carrying out its duties, including proscribing rules regarding the issuance of benefit notices (Labor Code section 138.4) and establishing a schedule of claims adjusting violations and corresponding administrative penalties (Labor Code section 129.5). In the absence of a regulation, the Division would be statutorily precluded from using individually identifiable information from the WCIS to conduct research and identify current claims adjusting practices.

The regulation further conforms this section to the legislature's amendment of Labor Code section 138.7 (Chapter 792, Stats. 2001), which allows access to WCIS individually identifiable information by researchers employed or under contract to the Commission of Health and Safety and Workers' Compensation. This amendment to Labor Code section 138.7, found in subdivision (b)(3)(B), provides:

Individually identifiable information maintained in the workers' compensation information system and the Division of Workers' Compensation may be used by researchers employed by or under contract to the Commission on Health and Safety and Workers' Compensation as necessary to carry out the commission's research. The administrative director shall adopt regulations governing the access to the information described in this subdivision by commission researchers. These regulations shall set forth the specific uses for which this information may be obtained and include provisions guaranteeing the confidentiality of individually identifiable information. Individually identifiable information obtained under this subdivision shall not be disclosed to commission members. No individually identifiable information obtained by researchers under contract to the commission pursuant to this subparagraph may be disclosed to any other person or entity, public or private, for a use other than that research project for which the information was obtained. Within a reasonable period of time after the research for which the information was obtained has been completed, the data collected shall be modified in a manner so that the subjects cannot be identified, directly or through identifiers linked to the subjects.

#### Consideration of Alternatives:

No more effective alternative to this section, nor equally effective and less burdensome alternative, has been identified by the Administrative Director at this time.