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

AMENDED
NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS
(Workers' Compensation Information System)

NOTICE: THIS AMENDED NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS SUPERCEDES THE NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS ISSUED ON JUNE 25, 1999. THE JUNE 25, 1999 NOTICE OF MODIFICATION INADVERTENTLY INCLUDED AN INCORRECT VERSION OF THE TEXT OF THE MODIFIED REGULATIONS (Identified as Proposed WCIS Regs. 61899 – see bottom of page of modified text). THE CORRECT VERSION IS ATTACHED TO THIS AMENDED NOTICE (Identified as Proposed WCIS Regs. 62999). PLEASE DISREGARD THE JUNE 25, 1999 NOTICE OF MODIFICATION. WRITTEN COMMENTS TO THIS AMENDED NOTICE MUST BE RECEIVED BY THE AGENCY CONTACT PERSON BY NO LATER THAN 5:00 P.M. ON JULY 19, 1999.

TITLE 8, CALIFORNIA CODE OF REGULATIONS, SECTIONS 9700, ET SEQ.

NOTICE IS HEREBY GIVEN pursuant to Government Code Section 11346.8(c) that the Administrative Director of the Division of Workers' Compensation proposes to modify proposed regulations contained in the California Code of Regulations, Title 8, Chapter 4.5, Subchapter 1, Article 1.1, commencing with Section 9700. The proposed modifications are in response to comments received during the public comment period ending on May 24, 1999. The original proposal was made in August 1998. The regulations concern the Workers' Compensation Information System.

PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS

Members of the public are invited to present written comments regarding these proposed modifications to the text to:

Ms. Gevette Carlin, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

All written comments must be received by the above agency contact person no later than 5:00 p.m. on July 19, 1999.

AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text and modified text with modifications clearly indicated are available immediately for public review during normal business hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, at the office of the Division of Workers' Compensation, located at 455 Golden Gate Avenue, 9th Floor, San Francisco, California 94102. Contact the Regulations Coordinator, Ms. Gevette Carlin, at (415) 703-4600 to review the rulemaking file (including new material added to the file) or to obtain a copy of the modified text.

FORMAT OF PROPOSED MODIFICATIONS

A copy of the modified proposed text is attached, utilizing the following format to indicate changes:

August, 1998 Proposal:	Underlined to show originally proposed regulation language.
15-day Proposal: (December 1998)	~~Strikethrough type~~ to show deletions from the proposed regulation language. Double underlined type to show additions to the proposed regulation language.
15-day Proposal: (January 1999)	~~Double strikeout type~~ to show deletions from the proposed regulation language. Wave underline type to show additions to the proposed regulation language.
15-day Proposal: (May 1999)	~~*Italic strikeout type*~~ to show deletions from the proposed regulation language. Dash underline type to show additions to the proposed regulation language.
15-day Proposal: (June 1999)	~~*Italic double strikeout type*~~ to show deletions from the proposed regulation language. Dotted underline type to show additions to the proposed regulation language.

SUMMARY OF CHANGES

For the convenience of the public, we summarize the changes from the January 1999 text being proposed now:

1. Proposed Section 9701:

Subsection (a):

Substituting March 1, 2000 for September 1, 1999 amends the definition of "claim."

Subsections (c) and (g):

Based on the withdrawal of Section 9702 (e), reference to the EDI Implementation Guide for Medical Bill/Payment Report, Release 1 Beta, issued April 28, 1999, and its corresponding incorporation by reference, has been withdrawn from Subsections (c) and (g). The subsection is now reserved for a future "finalized" IAIABC medical bill/payment report implementation guide.

2. Proposed Section 9702:

Subsection (a) (1):

Amended to provide that the Administrative Director may, upon request, grant a variance from the reporting requirements of Subsections (b) and (d). The variance, to be set forth in writing, shall be granted upon the submission of: 1) a documented showing that compliance with the deadlines in Subsections (b) and (d) will cause undue hardship; and 2) a plan documenting the means by which compliance with Subsections (b) and (d) will be attained by January 1, 2001.

Subsection (a) (2):

Amended by removing the express factors (estimated cost of compliance, financial resources, and feasibility of alternative reporting methods) that must be considered before the determination of "undue hardship."

Subsection (a) (4):

Amended to expressly provide that the variance period will end on December 31, 2000. Claims administrators granted a variance shall submit by January 1, 2001, in an electronic format acceptable to the Division, all data that were required to be submitted under Subsections (b) and (d) during the variance period except for data that were not known to the claims administrator or not captured on the claims administrator's electronic data system.

Subsection (b):

Amended to provide that data elements required under this subsection must be submitted to the WCIS on or after March 1, 2000. Deletion of Data Element Nos. 154 (Employee ID Assigned by Jurisdiction); 239 (Self-Insurance License/Certificate Number); and 522 (ICD-9 CM Diagnosis Code). Correction to name of Data Element Nos. 13 (Claim Administrator Mailing State Code); 21 (Employer Physical City) 22 (Employer Physical State Code); 24 (Self Insured Indicator); and 41 (Date Claim Administrator Had Knowledge of Injury). Addition of Footnote (1) to Data Element Nos. 4 (Jurisdiction Code) and 21 (Employer Physical City). Inclusion of Footnote (3) to clarify that Data Element No. 16 (Employer FEIN) and 329 (Employer UI Number) are substitutable. Inclusion of Footnote (5) to clarify that the indicated data elements (Nos. 42, 45-51, 61-63, and 155) are required only when the data are provided to the claims administrator. Deletion of former Footnote (7), which was applicable to deleted Data Element No. 154 (Employee Assigned by Jurisdiction). The addition and deletion of data elements necessitated the renumbering and repositioning of all footnotes.

Subsection (c):

Deletion of reference to Subsection (e). Correction to name of Data Element No. 15 (Claim Administrator Claim Number). Footnote (2) is changed to clarify that Data Element Nos. 31 (Date of Injury), 42 (Employee SSN), and 15 (Claim Administrator Claim Number) need not be submitted by a claims administrator (except for transmission under Subsection (f)), if Data Element No. 5 (Jurisdiction Claim Number) accompanies the transmission.

Subsection (d):

Addition of Footnote (1) to Data Element Nos. 63 (Wage Period Code), 72 (Current Return to Work Date); and 84 (Permanent Impairment Percentage). Correction to name of Data Element No. 146 (Death Result of Injury Code). Deletion of Data Element Nos. 195 (Payment Issue Date); 218 (Payment Amount); 222 (Payment Reason Code); and 241 (Settlement Type Code). Place Data Element No. 228 (Returned to Work With Same Employer Indicator) in numerical order. Footnote (2) is amended to state that claims administrators "may" use Code 90 (Multiple Body Parts) to reflect combined ratings for any/all impairments. Footnote (3) is added to clarify the manner in which permanent impairment percentage (DN 84) is determined (i.e., the actual permanent disability rating or, for compromise and release cases, the disability estimate reported to the appropriate rating organization). The former Footnote (3) is now Footnote (4).

Subsection (e):

Labor Code § 138.6 (c) provides that WCIS data "*shall be compatible* with the Electronic Data Interchange System of the International Association of Industrial Accident Boards and Commissions." (Emphasis added.) Ongoing consultation with the IAIABC has revealed that the association does not currently consider the EDI Implementation Guide for Medical Bill/Payment Report, Release 1 Beta, issued April 28, 1999, previously relied on by

the Division, to be a final version. While the delay by IAIABC to formally "finalize" the Medical Bill/Payment Report should not impede the implementation of the WCIS, the Division must comply with its Legislative mandate to have the WCIS conform to the IAIABC standards. The current mandate set forth in proposed Section 9702 (e), requiring the submission of medical bill/payment data for a specific sampling of claims, must therefore be withdrawn and become the subject of future rulemaking. The Subsection is now reserved for future rulemaking when IAIABC issues a "finalized" version of a medical bill/payment report implementation guide.

Subsection (g):

Correct name of Data Element No. 215 (Other Benefit Type Amount).

Subsection (h):

Subdivided into (h) (1) and (h) (2) to clarify that a claims administrator's obligation to submit copies of benefit notices under Labor Code § 138.4 is satisfied upon continued compliance with Subsection (d), and that the obligation to submit copies of employer reports of injury under Labor Code § 6409.1 is satisfied upon continued compliance with Subsection (b). The Administrative Director must determine under both subsections that claims administrators have demonstrated the capability to submit complete, valid, and accurate data. The provision that the obligation to submit copies of doctor's first reports of injury under Labor Code § 6409 is satisfied upon continued compliance with Subsection (b) has been withdrawn, because of the deletion from Subsection (b) of DN 522 (ICD-9 CM Diagnosis Code). Without DN 522, the data required by Subsection (b) is drawn entirely from the employer's report of injury.

Beginning September 1, 1999, the Division will accept the voluntary reporting of WCIS data elements by claims administrators. Claims administrators who submit data elements prior to the mandatory reporting dates for Subsection (b) and (d) (March 1, 2000 and July 1, 2000, respectively) can satisfy their obligations to submit copies of benefit notices and first reports of injury under Subsection (h) as soon as they can demonstrate the ability to comply, on a continual basis, with the requirements of Subsections (b) and (d).

3. <u>Proposed Section 9703:</u>

Subsection (f):

Amended to substitute the work "are" for "is" in the sentence "This includes any data from an individual's file that are converted…."

Comment is invited *only* on the modifications made in this proposal.

Dated: July __, 1999

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RICHARD P. GANNON
Administrative Director