

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

**NOTICE OF MODIFICATION TO TEXT OF
PROPOSED REGULATIONS AND FORMS
Third 15-Day Revision**

**Subject Matter of Regulations:
Workers' Compensation – Utilization Review and Independent Medical Review**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS, ARTICLE 5 AND
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 9792.10.2 Application for Independent Medical Review, DWC Form
IMR

Section 9792.10.6 Independent Medical Review – Standards and Timeframes

**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 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.

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~~~~.

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 Ariel font, wavy underline and bold italic, thus: ***added language***. Deletions are indicated by Ariel font, bold italic double strikeout, thus: ~~~~***deleted language***~~~~.

~~deleted language.~~

Proposed Text Noticed for 3rd 15-Day Comment Period on Modified Text:

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

SUMMARY OF PROPOSED CHANGES

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

The second paragraph in the text box at the top of the page is amended to read: “If you decide not to participate in the IMR process you may lose your right to challenge the denial, delay, or modification of medical treatment referred to on Page One of the Application for Independent Medical Review.”

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

(b)(2): Amend to provide that if a claims administrator fails to submit the documentation required under section 9792.10.5(a)(1), a medical reviewer may issue a determination as to whether the disputed medical treatment is medically necessary based on both a summary of medical records listed in the utilization review determination issued under section 9792.9.1(e)(5), and documents submitted by the employee or requesting physician under section 9792.10.5(b) or (c). No independent medical review determination shall issue based solely on the information provided by a utilization review determination.