

DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF WORKERS' COMPENSATION  
LEGAL UNIT  
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June 12, 2013

## **NOTIFICATION OF INTENT TO READOPT EMERGENCY REGULATIONS**

Subject: Utilization Review and Independent Medical Review

The Department of Industrial Relations, Division of Workers' Compensation (DWC) proposes to readopt the emergency regulations that were adopted effective January 1, 2013 (OAL File No. 2012-1219-04E) affecting Utilization Review and implementing Independent Medical Review (IMR). The emergency regulations can be found at Article 5.5.1 of Chapter 4.5, Subchapter 1, of Title 8, California Code of Regulations, sections 9785, 9785.5, 9792.6, 9792.6.1, 9792.9, 9792.9.1, 9792.10, 9792.10.1, 9792.10.2, 9792.10.3, 9792.10.4, 9792.10.5, 9792.10.6, 9792.10.7, 9792.10.8, and 9792.10.9, 9792.10, and 9792.12

Pursuant to California Code of Regulations, title 1, section 52(c), DWC is incorporating by reference the rulemaking file, OAL File No. 2012-1219-04E, submitted December 19, 2012, for the initial adoption of the emergency regulations.

Pursuant to California Code of Regulations, title 1, section 52(b)(1), DWC has made progress and proceeded with diligence to comply with Government Code section 11346.1(e). On February 15, 2013, the Notice of Proposed Action for the above-described regulations was published in the California Regulatory Notice Register. DWC correspondingly posted all required rulemaking materials on its website and mailed the notice to the DWC interested parties list. On April 4, 2013, DWC conducted an open, regulatory hearing on the proposed utilization review and independent medical review regulations. Since that time, DWC staff has been diligently reviewing extensive comments submitted during the 45-day public comment period, has been working with various stakeholders on the implementation of the IMR program, and has considered potential substantive changes that will likely be incorporated during the regular rulemaking process. The IMR program has been in effect since January 1, 2013 for occupational injuries occurring on and after that date; the increased volume of reviews performed over the last several months (approximately 580 IMR application have been received) has given DWC a unique opportunity as to how the regulations implementing the program can be modified and improved. A readoption of the emergency regulations will provide the additional time necessary for DWC to complete the regular rulemaking process and Certificate of Completion.

Pursuant to California Code of Regulations, title 1, section 52(b)(2) there have been no changes in emergency circumstances since the original adoption of the emergency

regulations.

Government Code section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law (OAL), the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulations action with the agency. After submission of the proposed emergency to OAL, OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code section 11349.6. Upon filing, OAL will have ten (10) calendar days within which to review and make a decision on the proposed emergency rule. If approved, OAL will file the regulations with the Secretary of State, and the emergency regulations will become effective for one hundred and eighty (180) days. Within the 180-day effective period, DWC will proceed with a regular rulemaking action, including a public comment period. The emergency regulations will remain in effect during this rulemaking action.

Attached to this notice is the specific regulatory language now in place following DWC's emergency action and an updated version of the Finding of Emergency that was initially submitted to OAL in December 2012.

You may also review the regulatory language and Finding of Emergency on the DWC's website at the following address: <http://www.dir.ca.gov/dwc/dwcRulemaking.html>

If you have any questions regarding this proposed emergency action, please contact Maureen Gray at [mgray@dir.ca.gov](mailto:mgray@dir.ca.gov) or (510) 286-0676.