

Chapter 8. Office of the Director
Subchapter 2. Administration of Self-Insurance Plans
Article 1. Definitions

§15201. Definitions.

The following definitions apply in Articles 1 through 13 of these regulations:

(a) Adjusting Location. The office address designated in accordance with Section 15402 of these regulations where:

- (1) The named administrator of the self insurer fulfills his/her function; and
- (2) The original records called for in Article 9 of these regulations are maintained.

In the event that claims are administered at the home of a telecommuting adjuster, the location shall be considered as a separate adjusting location for reporting and audit purposes unless the telecommuting adjuster reports to a California location of the administrator no less than weekly.

(b) Administrative Director. The Administrative Director of the Division of Workers' Compensation within the Department of Industrial Relations.

(c) Administrative Agency. The person or firm that performs the day-to-day claims administration functions of a workers' compensation self insurance program. The administrative agency may be:

- (1) An independent contractor possessing a certificate to administer and designated by a self-insurer to be the administrative agency for all or a portion of its claims; or
- (2) A partnership or corporation possessing a master certificate to self insure, which administers its own claims and the claims of other affiliate or subsidiary self insurers issued affiliate or subsidiary certificates to self insure under the same master certificate number;
- (3) A joint powers authority possessing a master certificate to self insure, which self administers in whole or part the claims of its affiliate public self insurers issued affiliate certificates to self insure under the same master certificate number of the joint powers authority; or
- (4) The claims department of an insurance carrier admitted to transact workers' compensation insurance in California, which is exempt from the requirement to possess a certificate to administer under Labor Code Section 3702.1(a).

(d) Administrator. A competent person pursuant to Section 15452 of these regulations, at an adjusting location, who is responsible for day-to-day management of an employer's self-insurance workers' compensation program. The responsibility includes but is not limited to, the making and reviewing of decisions relating to the furnishing of all workers' compensation benefits in accordance with law and the maintenance of the self

insurer's claim records.

(e) Affiliate Certificate.

(1) A type of certificate to self insure issued to a private self insurer that has common ownership to another private self insurer holding a master certificate to self insure, but the affiliated certificate holder is not a subsidiary to the master certificate holder; or

(2) A type of certificate to self insure issued to a public self insurer that is a member of a joint powers authority for pooling of workers' compensation liabilities with the master certificate number issued to the joint powers authority.

(3) A type of certificate to self insure issued to a private self insurer that is a member of a group self-insurance plan for pooling of workers' compensation liabilities with the master certificate number issued to the group self insurer.

(f) Alternative Composite Deposit. A security deposit system pursuant to Labor Code Section 3701.8 whereby all eligible private self insurers collectively secure, in whole or in part, aggregate self insured worker's compensation liabilities through the Self Insurer's Security Fund.

(g) Audit. Any examination of self insured workers' compensation claim files performed by or at the request of the Office of Self Insurance Plans pursuant to Labor Code Section 3702.6.

(h) Board of Trustees. In group self insurance, it is the representative body selected by the group member to be responsible for managing the assets and directing the affairs of the group self insurer corporation and assuring the group self insurer, through the group members, is financially sound and able to meet the workers' compensation liabilities under the statutes and regulations applicable in California.

(i) Cancellation of Surety Bond. An act whereby the surety gives written notice to the Manager, as beneficiary of the workers' compensation self insurance surety bond, that the surety is terminating its contractual obligations under the named bond pursuant to Sections 996.320 and 996.330 of the Code of Civil Procedure and the liability of the surety bond after the effective date of the cancellation is set forth in Section 996.360 of the Code of Civil Procedure.

(j) Certificate to Self Insure. A Certificate of Consent to Self-Insure issued to an employer pursuant to Section 3700(b) of the Labor Code.

(k) Certificate to Administer. A Certificate of Consent to Administer self insured workers' compensation claims issued to an administrative agency, except exempt insurance carriers, pursuant to Labor Code Section 3702.1.

(l) Claim File. A separate case file containing all pertinent documents and matters relating to a specific or companion work-injury claim. The claim file contents are specified in Section 15400 of these regulations.

(m) Claim Log. A manual or ~~machine-produced ledger~~ electronic listing of workers'

compensation claims maintained by the self insurer or administrative agency for the self insurer. The claim log for private self insurers shall list listing each work injury claim by the calendar year in which the claim was reported to the employer or the claims administrator, whichever first occurred, ~~for private sector self insurers and by the fiscal year the claim log for public self insurers shall list each work injury claim by the fiscal year in which the claim was reported.~~ ~~in which the work injury was reported to the self insurer or administrative agency, whichever date occurred first.~~ The claim log contents are specified in Section 15400.1 of these regulations.

(n) Compensation. Compensation as defined in Labor Code Section 3207.

(o) Contribution. The amount of payments required of each group member in order to fund the compensation and deposit obligations of the group self insurer.

(p) Director. The Director of the Department of Industrial Relations.

(q) Exoneration of Surety Bond. The discharge of a surety from all past, present and future liability under its workers' compensation self insurance surety bond by the execution of a "Release of Surety", Form A4-24 (Rev. 11/92) by the Manager.

(r) First Aid. First Aid as defined in Labor Code Section 5401(a).

(s) Group Self Insurer. A private, non-profit, mutual benefit corporation pursuant to Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporation Code established for the sole purpose of operating a group workers' compensation self-insurance fund. Said self-insurance fund to pool California workers' compensation liabilities for two or more private employers in the same industry under the California workers' compensation statutes and regulations.

(t) Group Member. A private employer issued an Affiliate Certificate as a member in a group self-insurance program that has, in turn, been issued a Certificate to Self Insure as a group self insurer.

(u) Group Administrator. The individual authorized to serve as the representative of a group self insurer and its group members in carrying out the policies of the Board of Trustees of the Group Self Insurer and managing the activities of the group self insurer corporation.

(v) Indemnity Agreement and Power of Attorney. The written agreement executed by each group member or proposed group member of a group self insurer pursuant to Section 15479 of these regulations.

(w) Indemnity Claim. A work-injury case which has or may result in any of the following benefits:

- (1) Temporary Disability or salary in lieu thereof
- (2) Permanent Disability
- (3) Life Pension

(4) Death Benefits

(5) Vocational Rehabilitation

(x) Industry. Employer classification as determined using the first two digits of the Standard Industrial Classification Code (SIC Code), provided by the Department of Commerce, Bureau of Management and Budget.

(y) Joint Powers Authority. A public entity created by agreement of two or more public agencies pursuant to Division 7, Chapter 5, Article 1, Sections 6500 et seq. of the Government Code. These regulations apply only to Joint Powers Authorities who have among their purposes for existence, the forming of workers' compensation liability pooling arrangements.

(z) Labor Code. The Labor Code of the State of California.

(aa) Manager. The Manager, Office of Self-Insurance Plans, in the Department of Industrial Relations.

(bb) Medical-Only Claim. A work-injury case which does not result in compensable lost time but results in medical treatment beyond first aid.

Note: Payment of medical examinations pursuant to Labor Code Section 4600 will be considered a medical payment.

(cc) Open Claim. A work-injury case in which it appears that one or more future payments of workers' compensation benefits may be due.

(dd) Release of Surety Bond. Action of Manager of Self Insurance Plans by which a surety is exonerated. A released surety bond does not constitute part of the security deposit of a self insured entity.

(ee) Security Fund. The Self Insurer's Security Fund as established by Labor Code section 3742.

(ff) Self-Insurer. An individual public or private sector employer or joint powers authority or private group of employers that has been issued and lawfully holds a valid Certificate to Self-Insure its workers' compensation liabilities pursuant to:

(1) The provisions of Section 29(a), Chapter 586, Laws of 1917 and amendments thereto; and/or

(2) Labor Code, Section 3700(b) and 3700(c).

(gg) Special Audit. Any audit performed other than that in accordance with Labor Code Section 3702.6.

(hh) Subsidiary Certificate. A type of certificate to self insure issued to a subsidiary of a self-insurer, where the self insurer holds the master certificate to self insure.

(ii) Termination of Surety Bond. See definition of "Cancellation of Surety Bond".

(jj) Work-Injury Claim. An injury that is reported or reportable to the Division of Labor Statistics and Research pursuant to Labor Code Sections 6409, 6409.1 and 6413.

NOTE

Authority cited: Sections 54, 55, 3701.8 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3701, 3701.5, 3701.8, 3702, 3702.3, 3702.5, 3702.6, 3702.10, 3703, 3705, 3740-3747 and 3850, Labor Code; Section 6500, Government Code; and Sections 995.430, 996.320 and 996.330, Code of Civil Procedure.

HISTORY

1. Repealer and new section filed 12-3-69; effective thirtieth day thereafter (Register 69, No. 49).
2. Repealer and new section filed 6-1-72; effective thirtieth day thereafter (Register 72, No. 23).
3. Repealer and new section filed 11-19-75; effective thirtieth day thereafter (Register 75, No. 47).
4. Amendment placing the defined terms in alphabetical order, removal of letter designators, amendment of existing terms, addition of terms “Administrative Director,” “Affiliate Certificate,” “Certificate to Administer,” and “Joint Powers Authority” and addition of Note filed 12-22-92; operative 1-21-93 (Register 93, No. 2).
5. New definitions “Cancellation of Surety Bond,” “Exoneration of Surety Bond,” “Release of Surety Bond,” and “Termination of Surety Bond” and amendment of Note filed 8-12-93; operative 9-13-93 (Register 93, No. 33).
6. Amendment filed 6-30-94; operative 6-30-94 (Register 94, No. 26).
7. Amendment of section and Note filed 5-30-2003 as an emergency; operative 5-30-2003 (Register 2003, No. 22). A Certificate of Compliance must be transmitted to OAL by 9-29-2003 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 5-30-2003 order transmitted to OAL 9-29-2003 and filed 11-12-2003 (Register 2003, No. 46)

Chapter 8. Office of the Director

Subchapter 2. Administration of Self-Insurance Plans

Article 6. Estimating Work Injury Claims and Medical Reports

§15300. Estimating and Reporting Work Injury Claims.

(a) A list of open indemnity claims shall be submitted with each self insurer's annual report as required by Section 15251(b)(5)(A)-(B) and (c)(7).

~~(b) Each indemnity claim listed on the self insurer's annual report shall be estimated on the basis of computations which will develop the probable total future cost of compensation and medical benefits due or potentially due. Future liabilities on the annual report must represent the probable total future cost of compensation for the injury or disease over the life of the claim based on the information available in the claim file at the cut-off date of the period of time covered by the annual report. The administrator shall set a realistic estimate of future liability for each indemnity claim listed on the self insurer's annual report based on computations which reflect the probable total future cost of compensation and medical benefits due or that can reasonably expected to be due over the life of the claim. Each estimate listed on the self insurer's annual report shall be based on information in possession of the administrator at the ending date of the period of time covered by the annual report. Estimated future liabilities listed on the annual report must represent the probable total future cost of compensation for the injury or disease based on information documented as in possession of the administrator at the ending date of the period of time covered by the annual report.~~

In setting estimates of future liability, the administrator shall adhere to the following principles:

(1) Each estimate of future liability shall separately reflect an indemnity component and a medical component. The indemnity component shall include the estimated future cost of all temporary disability, permanent disability, death benefits including burial costs, and vocational rehabilitation including vendor costs. The medical component shall include the estimated future cost of all medical treatment, including costs of medical cost containment programs if those costs are allocated to the particular claim, and the estimated future cost of medical evaluations. Estimates of future liability shall include any increases in compensation in either component reasonably expected to be payable pursuant to Labor Code Sections 132(a), 4553, and/or 5814.

(2) In estimating future permanent disability costs, where there are conflicting permanent disability ratings, the estimate shall be based on the higher rating unless there is sufficient evidence in the claim file to support a lower estimate.

(3) In estimating future medical costs where the injured worker's injury has not reached maximum medical improvement or permanent and stationary status, the estimate shall be based on projected costs for the total anticipated period of treatment throughout the life of the claim.

(4)) In estimating future medical costs where the injured worker's injury has reached maximum medical improvement or permanent and stationary status, the estimate shall be based on average annual costs over the past three years since the injury reached maximum medical improvement or permanent and stationary status, or a lesser period if three years have not passed since the injury reached maximum medical improvement or permanent and stationary status, projected over the life expectancy of the injured worker. Estimates shall include any additional costs such as medical procedures or surgeries that can reasonably be expected over the life of the claim.

(5) Estimates based on average past costs shall be increased to include any costs that can reasonably be expected to occur that are not included within the averages. Estimates based on average past costs may be reduced to account for any treatment not reasonably expected to occur in the future based on medical documentation in possession of the administrator.

(6) Estimates of future medical costs based on average past costs shall not be reduced based on undocumented anticipated reductions in frequency of treatment or to reflect the substitution of treatments with a lower cost than utilized by the injured worker that may be available but that the injured worker is not utilizing. Estimates based on average past costs may be reduced based on reductions in the approved medical fee schedule and based on utilization review, except that reductions in estimates based on utilization review may not be reduced if the reductions are reasonably disputed. Estimates of future liability may be reduced based on the expectation of a third party recovery only in instances where an Order allowing credit has been issued pursuant to Labor Code Section 3861.

(7) Estimates of lifetime medical care and life pension benefits shall be determined based on the injured worker's life expectancy according to the most recent U.S. Life Expectancy Tables as reported by the U.S. Department of Health and Human Services, Centers for Disease Control and Prevention. Note: the most recent life expectancy tables can be found at <http://www.cdc.gov/nchs/datawh/nchsdefs/lifeexpectancy.htm>.

(8) Estimates of permanent disability shall not be reduced based on apportionment unless the claim file includes documentation supporting apportionment.

(9) Estimates shall not be reduced to reflect present value of future benefits.

(c) All medical-only claims reported on the self insurer's annual report shall be estimated on the basis of computations which will develop the total future cost of medical benefits due or that can reasonably expected to be potentially due based on the information documented as in possession of the administrator at the ending date of the period of time covered by the annual report. ~~in the claim file at the cut off date of the period of time covered by the annual report.~~

(d) Estimates of future liability shall not be decreased based on projected third party recoveries or projected reimbursements from aggregate excess insurance, nor shall reported paid costs be decreased based on third party recoveries or aggregate excess insurance reimbursements. No incurred liability estimate on the annual report may be decreased for third party recoveries, subrogation recoveries, or aggregate excess insurance coverage.

(e) The incurred liability estimate on known claims may be capped at the retention level of any specific excess workers' compensation insurance policy to the extent that each claim has not been denied in writing by the carrier. The self insurer's claims administrator

shall list each claim covered by a specific excess insurance policy on Part VI-B of the Self Insurer's Annual Report. An adjustment to the total deposit required to be posted shall be made for claims covered by specific excess insurance policy on the annual report to the extent that they meet the requirements in Section 15251(b)(5)(B) of these regulations.

(f) Estimates of incurred liability, payments-made-to-date and estimated future liability of all compensation benefits shall be made immediately available at the time of audit if not already documented in the claim file, or when requested by the Manager.

(g) The administrator shall adjust the estimate immediately upon receipt of medical reports, orders of the Appeals Board, or other relevant information that affects the valuation of the claim. Each estimate shall be reviewed no less than annually. Estimates set by a prior administrator shall be reviewed by the current administrator before filing the Self Insurer's Annual Report.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 54, 55, 59, 129, 132(a), 3700, 3702.3, 3702.6, 3702.10, 3703, ~~and~~ 3740-3745, 3861, 4553, and 5814, Labor Code.

HISTORY

1. Amendment filed 12-3-69; effective thirtieth day thereafter (Register 69, No. 49).
2. Amendment of article heading, section heading, section and new Note filed 8-10-93; operative 9-9-93 (Register 93, No. 33).

§15301. Revision of Estimates.

The Manager shall have authority to revise private sector self insurer's estimates when information from any relevant source in the Manager's possession indicates the estimates are inaccurate or inadequate. Deposit recalculations shall be made at the same time or after the self-insurer has been notified of the Manager's revisions and given an opportunity to object to the increases in deposit or revision to liability estimates.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 54, 55, 59, 129, 3700, 3701.5, 3702.3, 3702.6, 3702.10 and 3740-3745, Labor Code.

HISTORY

1. Amendment of section and new Note filed 8-10-93; operative 9-9-93 (Register 93, No. 33).

§15302. Medical Reports.

The Manager, when deemed necessary for proper administration of self-insurance, may require a self-insurer to provide a true copy of any relevant medical report in the possession of the self-insurer, its agent, or representative.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 54, 55, 59, 129, 3700, 3701, 3701.5, 3702, 3702.3, 3702.6, 3702.10 and 3740-3745, Labor Code.

HISTORY

1. Amendment filed 11-19-75; effective thirtieth day thereafter (Register 75, No. 47).
2. Amendment of section and new Note filed 8-10-93; operative 9-9-93 (Register 93, No. 33).

§15303. Medical, Surgical, Hospital Contract.

No contract for medical, surgical, or hospital services shall relieve the self-insurer from reporting the total future determined and estimated cost of said services in accordance with Section 15300 of these regulations. For purposes of this section, a valid and effective policy of workers' compensation insurance providing for full payment of medical, surgical, or hospital services shall not be construed as a contract for medical, surgical, or hospital services.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 54, 55, 59, 129, 3700, 3701, 3701.5, 3702.3, 3702.6, 3703 and 3740-3745, Labor Code.

HISTORY

1. Amendment filed 11-19-75; effective thirtieth day thereafter (Register 75, No. 47).
2. Amendment of section and new Note filed 8-10-93; operative 9-9-93 (Register 93, No. 33)

Chapter 8. Office of the Director

Subchapter 2. Administration of Self-Insurance Plans

Article 9. Recordkeeping and Audits

§15400. Claim File.

(a) Every self-insurer or its administrative agency shall keep a claim file of each indemnity and medical-only work-injury occurring on or after January 1, 1990, in accordance with Title 8, Section 10101 and Section 10101.1.

(b) For work injuries occurring prior to January 1, 1990, every self insurer shall keep a claim file including those claims which were denied. Said claim file shall contain, but not be limited to, a copy of:

- (1) Employers Report of Occupational Injury or Illness, Form No. 5020;
 - (2) Every report made to the Administrative Director of the Division of Industrial Accidents; including but not limited to the letter of denial to the employee;
 - (3) Doctor's First Report of Occupational Injury or Illness, Form No. 5021;
 - (4) Every subsequent relevant medical report;
 - (5) All applicable orders of the Workers' Compensation Appeals Board and reports relating thereto;
 - (6) A record of payment of compensation benefits as compensation is defined in Section 3207 of the Labor Code, together with a record of the periods covered by disability payments, including a copy of DIA Form 500, Notice of Termination of Benefits;
- ~~(c) The administrator shall set a realistic estimate of incurred liability for each claim and shall adjust the estimate upon receipt of medical reports, orders of the Appeals Board, or upon the administrator's own evaluation of the claim based on other relevant information, that indicate the current estimate of future liability needs to be adjusted. The estimate shall be noted in the claim file or identified with the claim file.~~

NOTE: The use of a "Reserve Worksheet" developed by the administrator to document initial estimates of incurred liability and subsequent adjustments to the estimate is recommended.

(c) For injuries reported on or after January 1, 2006, each self administering self insurer and claims administrative agency shall maintain a claim file for each indemnity and medical-only claim, including denied claims, and shall ensure that each file is complete and current for each claim. Contents of claim files may be in hard copy, in electronic form, or some combination of hard copy and electronic form. Files maintained in hard copy shall be in chronological order with the most recently dated documents on top, or subdivided into sections such as medical reports, benefit notices, correspondence, claim notes, and vocational rehabilitation. In addition to the contents specified in Title 8, California Code of Regulations, Section 10101.1, each indemnity file shall contain itemized written documentation showing the basis for the calculation of estimated future liability and for each change in estimated future liability for the claim. Files or portions of files maintained in electronic form shall be easily retrievable.

NOTE: Authority cited: Sections 54, 55, 59 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3700(b), 3701, 3702, 3702.1, 3702.5, 3702.6, 3703, 3704, Labor Code.

HISTORY

1. Amendment filed 12-3-69; effective thirtieth day thereafter (Register 69, No. 49).

2. Amendment filed 11-19-75; effective thirtieth day thereafter (Register 75, No. 47).
3. New subsection (g) filed 11-21-78; effective thirtieth day thereafter (Register 78, No. 47).
4. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).
5. Change without regulatory effect amending subsection (a) filed 11-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 46).

15400.1. Claim Log.

(a) After January 1, 1993, every self-insurer or its administrative agency shall maintain:

(1) a manually prepared log of all work injury claims for each self-insurer at each adjusting location in accordance with Title 8, Section 10103; or

(2) a computerized log of claims for each self-insurer at each adjusting location in accordance with Title 8, Section 10103.

(b) The claim log shall be maintained at each of the self-insurer's or its administrative agency's claims adjusting locations. The claim log at each location shall be kept current and shall include all claims reported to the adjusting location.

(c) A claim log shall be found to be materially deficient if it fails to contain the elements of Title 8, Section 10103; or fails to include all reported claims; or is not provided to the Manager or any subsequent administrator in readable form.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3702.1 and 3702.10, Labor Code.

HISTORY

1. New sections 15400.1, 15400.2, and 15400.3 filed 12-3-69; effective thirtieth day thereafter (Register 69, No. 49).
2. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).
3. Change without regulatory effect amending subsections (a)(1)-(2) and (c) filed 10-18-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 42).

§15400.2. Maintenance of Records.

(a) All claim files shall be kept and maintained for a period of five years from the date of injury or from the date on which the last provision of compensation benefits occurred as defined in Labor Code Section 3207, whichever is later. Claim files with open awards for future medical benefits due to the claimant shall not be destroyed, but two years after the date of the last provision of workers' compensation benefits ~~occurred~~ as defined in Labor Code Section 3207, they may be converted to an inactive or closed status by the administrator, but only if there is no reasonable expectation that future benefits will be claimed or provided.

(b) Inactive and closed claim files may be microfilmed for storage, however, the original paper files shall be maintained for at least two years after the claim has been closed or become inactive. Such microfilmed files must be readily reproducible into legible paper form if requested by the Manager for audit.

(c) All claim files and the claim logs shall be kept and maintained in California unless the Manager has given written approval to a self insurer or former self insurer to administer its workers' compensation self-insurance plan from a location outside of California.

(d) All claim files and claim logs, together with records of all compensation benefit payments, shall be readily available for inspection by the Manager or his representative.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3702.1 and 3702.10, Labor Code.

HISTORY

1. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15402. Notice of Change of Administrator and Location of Records.

(a) Each self-insurer or administrative agency shall annually report on the Self Insurer's Annual Report form to the Manager the name, title, and office address of the person or persons appointed to administer the employer's self-insurance plan and of the location or locations of records required to be kept and maintained pursuant to Section 15400 of these regulations.

(b) The new administrator shall report any changes of the administrative agency administering the employer's self-insurance plan or any change of location or locations of records in writing to the Manager no later than the date of such change.

NOTE: Reporting required by subsection (b) may be done by submitting a "Report of Changes" on the appropriate Division of Workers' Compensation AE Form 101 or AE Form 102 (see Plate L-1 and L-2 of the Appendix.)

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3702.1 and 3702.10, Labor Code.

HISTORY

1. Amendment filed 6-1-72; effective thirtieth day thereafter (Register 72, No. 23).
2. Amendment filed 11-19-75; effective thirtieth day thereafter (Register 75, No. 47).
3. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15402.1. Self Insurer's Interim Report.

(a) A self-insurer and its administrative agency shall jointly submit to the Manager a self-insurer's annual report, covering any interim period between regularly scheduled reporting periods whenever any of the following changes occur in the administration of the employer's self insurance plan:

- (1) A change from an agency-administered plan to another agency-administered plan, (i.e. from one third party administrator to another third party administrator);
- (2) A change from an agency-administered plan to a self-administered plan;
- (3) A change from a self-administered plan to an agency-administered plan; or
- (4) A change from self-insurance to a totally carrier insured program.

(b) The interim Self Insurers Annual Report shall be made by the former administrator on the applicable form as required by Section 15251 of these regulations, showing the self-insurer's claims experience as of the date of the change of administrative agencies.

(c) The interim self insurer's annual report shall be due within thirty (30) days of the change of administrators. The self insurer shall provide a copy to the new administrator and three (3) copies to the Manager. The Manager may supply the new administrator with a copy of the interim report.

(d) The new administrator shall submit the year end self insurer's annual report for the self insurer which includes the total loss experience of all open and closed claims from all administrative agencies handling the self insurer's claims during the reporting period.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3702.1, 3702.2 and 3702.10, Labor Code.

HISTORY

1. New section filed 6-1-72; effective thirtieth day thereafter (Register 72, No. 23).
2. Amendment filed 11-19-75; effective thirtieth day thereafter (Register 75, No. 47).
3. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).
4. Change without regulatory effect amending subsection (b) filed 12-24-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 52).

§15402.2. Report of Transfer of Records.

(a) After July 1, 1992, at the time of a change of administration of a self insurance plan, as set forth in Section 15402.1(a) of these regulations, the former administrative agency or previously self administering self insurer shall submit to the Manager and to the new administrative agency a written report containing the following:

- (1) A list of all open and closed claims for the self insurer in the possession of the former administrative agency as of the date of the transfer; and

(2) A written description of the physical location of all claim files, the required claim logs, and any computer data files of the self insurer's plan. Physical location shall include claim files sent to storage and where stored; files sent to the self insurer; and files sent to the new administrator.

(b) Except where specified in a contractual agreement between the self insurer and the former administrative agency, all claim files, claim logs and computerized data files shall be the property of the self insurer and shall be returned to the self insurer or delivered to the new administrator or administrative agency designated by the self insurer.

(c) Failure of an administrative agency or self insurer to provide a Report of Transfer of Records as set forth in this section may be good cause for revocation of a certificate to administer.

NOTE: Authority cited: Sections 54, 55, 59 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3700(b), 3701, 3702, 3702.1, 3702.2, 3702.5, 3702.6, 3702.7, 3702.10, 3703, 3704 and 3705, Labor Code.

HISTORY

1. New section filed 11-19-75; effective thirtieth day thereafter (Register 75, No. 47).
2. Repealer and new section filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15402.3. Notice of Change of Membership in a Joint Powers Authority or in a Private Group Self Insurer.

(a) The joint powers authority shall notify the Manager when a public entity with an affiliate certificate to self insure changes its membership from the existing joint powers authority to

- (1) another joint powers authority;
- (2) a carrier insured plan or;
- (3) an independent self insured plan.

(b) The group administrator of each private group self insurer shall notify the Manager when any group member holding an Affiliate Certificate changes its membership from the existing group self insurer to:

- (1) another private group self insurer;
- (2) a carrier insured plan; or
- (3) an independent self insured plan.

(c) The Manager shall be notified no later than the date of such change.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 3700, 3702.5 and 3702.10, Labor Code.

HISTORY

1. New section filed 2-19-92; operative 3-20-92 (Register 92, No. 13).
2. Amendment of section heading, new subsections (b)-(b)(3) and subsection redesignation filed 6-30-94; operative 6-30-94 (Register 94, No. 26).

15402.4. Transfer of Claim Files and Computerized Claim File Data Information.

(a) Upon change of an administrative agency, all open claims shall be transferred immediately to the new administrative agency, unless otherwise provided by agreement between the self insurer, former administrator and new administrator.

(b) All closed claim files in the possession of the former administrator shall be transferred to the new administrator within 30 days, unless otherwise provided by agreement between the self insurer, former administrator and new administrator.

(c) All computerized claim file data showing all historical claim information, including payments and reserve data as of the date of the transfer of the open claim files shall be provided by the former administrator on the date that all open claim files are transferred, unless otherwise provided for by written agreement between the self insurer, former administrator and the new administrator. In the event that an agreement precludes the transfer of electronic claim contents of claims being transferred to the new administrator, the former administrator will provide hard copies of any required contents to the new administrator at its own expense. The closing date of the transactions on the computerized data shall coincide with the date of the physical transfer of the claim files to the new administrator. In the event that computerized data pertaining to the specific administration is changed by the former administrator after the physical claims have been transferred and the data provided to the new administrator, the former administrator shall provide reported computerized information to the new administrator within 14 days of any such changes.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3702.1 and 3702.10, Labor Code.

HISTORY

1. New section filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15403. Audits.

(a) Pursuant to Labor Code Sections 129 and 3702.6, the Manager may order an audit of any self insurer or individual claim file at such reasonable times as is deemed necessary. Such audits shall include, but not be limited to, an audit of the files and records required

by Section 15400 of these regulations. Such files and records shall be made readily available by the self insured employer or its administrative agency.

(b) In the event of an audit, the Manager may require that claims administered at the home of a telecommuting adjuster be presented for audit at a California office location of the administrator, or at a California location of the self insured employer.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3702 and 3702.6, Labor Code.

HISTORY

1. Amendment filed 6-1-72; effective thirtieth day thereafter (Register 72, No. 23).
2. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15403.1. Notice of Special Audit.

When in the discretion of the Manager, a special audit as defined in Section 15201 of these regulations is necessary, the Manager shall notify the self-insurer of the requirement in writing fourteen (14) calendar days prior to the special audit and give the reasons therefor.

NOTE: Authority cited: Sections 54, 55, 59 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3700(b), 3701, 3702, 3702.5, 3702.6, 3702.10, 3703, 3704 and 3705, Labor Code.

HISTORY

1. New section filed 6-1-72; effective thirtieth day thereafter (Register 72, No. 23).
2. Repealer and new section filed 11-19-75; effective thirtieth day thereafter (Register 75, No. 47).
3. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15404.1. Expense of Revoked Certificate Audit.

A self-insurer whose certificate to self insure has been revoked shall pay expenses incurred by the Director or his representative in conducting an audit pursuant to Section 15425 of these regulations. The Manager shall bill the self insurer for expenses incurred.

NOTE: Authority cited: Sections 54, 55 and 3702.10 Labor Code. Reference: Sections 59, 129, 3702.6 and 3702.10, Labor Code.

HISTORY

1. New section filed 6-1-72; effective thirtieth day thereafter (Register 72, No. 23).

2. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15404.2. Expense of Special Audit.

A self-insurer shall pay the expenses incurred whenever a special audit as defined in Section 15201, of these regulations, is ordered by the Manager pursuant to Sections 15403, 15404 and 15404.1 of these regulations. The Manager shall bill the self insurer for expenses incurred.

NOTE: Authority cited: Sections 54, 55 and 59, Labor Code. Reference: Sections 59, 129, 3700, 3700(b), 3701, 3702, 3702.5, 3702.6, 3703, 3704 and 3705, 3702.6 and 3702.10, Labor Code.

HISTORY

1. New section filed 11-19-75; effective thirtieth day thereafter (Register 75, No. 47).
2. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).
3. Change without regulatory effect amending section filed 10-18-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 42).

§15405. Confidentiality.

(a) Financial information submitted to the Director or Manager to establish the solvency and worth of any self insurer, applicant to be self insured, third party administrator, or of a guarantor of a self insurer or applicant to be self insured shall be considered confidential in accordance with Government Code Sections 6254 and 6255.

(b) Information obtained from any audit regarding the nature, extent or financial liability of any specific self insurer's workers' compensation claims, together with any and all like information regarding a specific self insurer's claims or financial condition, shall be confidential and shall be used solely for the purpose of applying the provisions of these regulations.

(c) The list of open claims and list of claims reported to excess insurance carriers in the Self Insurers Annual Report and any claims logs submitted to the Manager shall be confidential.

(d) The Manager shall disclose any financial or claims information to the Self Insurers' Security Fund on any private self insurer whose liabilities have been turned over to the Fund pursuant to Labor Code Section 3742 et seq. The Manager shall also disclose any financial information to the Self Insurers' Security Fund on any private self insurer who has filed bankruptcy, been unable to pay their liabilities, or failed to post an increase in deposit due that would potentially put the Fund in jeopardy for the self insurer's liabilities.

(e) At the written request of the Chief of the Division of Workers' Compensation, Office of Benefits and Enforcement, the Manager shall provide a copy of any audit report to the Division of Workers' Compensation. The self insured employer and/or administrator shall be notified of the release of the audit report to the Division of Workers' Compensation.

(f) Subject to the described conditions, the financial and audit information shall not be disclosed to any other department, entity or person without an order from an appropriate court or administrative subpoena from an agency of the State. The self- insured entity shall be promptly advised of the court order or subpoena by the Manager.

NOTE: Authority cited: Sections 54, 55 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3702.6 and 3702.10, Labor Code.

HISTORY

1. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

Chapter 8. Office of the Director

Subchapter 2. Administration of Self-Insurance Plans

Article 12. Claims Administration

§15450. Certificate to Administer.

(a) A valid Certificate to Administer issued by the Manager shall be in the possession of each claims administrator, whether a person, firm, corporation, joint powers authority or self insured employer, to administer or adjust workers' compensation self insurance claims.

EXCEPTION 1: An insurer admitted to transact workers' compensation insurance in California is exempt from this requirement pursuant to Labor Code Section 3702.1(a);

NOTE: An insurance company subsidiary not admitted to transact workers' compensation insurance in California and engaged in the administration or adjustment of claims for a self insured employer is not exempt.

EXCEPTION 2: A private self insurer that administers its own claims and/or the claims of other private self insurers with common ownership or which are in the same Master Certificate file is exempt from this requirement.

EXCEPTION 3: A joint powers authority that holds a Master Certificate of Consent to Self Insure and administers its own claims; and/or the claims of other public self insurers which have an affiliate Certificate under the same Master Certificate file number held by the joint powers authority; and/or the claims of a former member of the joint powers authority is exempt from this requirement.

EXCEPTION 4: A public self insurer that administers its own agency's claims is exempt from this requirement.

(b) Application for a Certificate to Administer shall be made on forms provided by Self-Insurance Plans (Form A4-50 (Rev. 4/91)). A complete application shall include the application form, and fees in accordance with Section 15454.

NOTE: The current application form is contained in Plate L of the Appendix following the last Article of these Group 2 regulations.

(1) The applicant will be notified in writing within 14 days of receipt if the application is deficient.

(2) A certificate to administer will be issued within 30 days of receipt of a complete application. ~~The minimum period of time to issue a certificate is 7 days, the maximum period is 30 days, and the median period of time to process an application is 14 days.~~

(c) The Certificate to Administer expires June 30 and reapplication must be made prior to June 1 for the subsequent renewal period. The applicant may request the Certificate to Administer to be issued for a period of 1, 2 or 3 years.

(d) ~~Failing~~ Failure to comply with Articles 6 and 9 of these ~~the~~ regulations ~~governing Self-Insurance Plans~~ or engaging in improper practices as described in Labor Code Section 3702(a) may is good cause for revocation or ~~result in~~ non-renewal of the Certificate to Administer.

NOTE: Authority cited: Sections 54, 55, 59, and 3702.10, Labor Code. Reference: Sections 59, 3702 and 3702.1, Labor Code. Government Code Sections 15375, 15376.

HISTORY

1. New article 12 (sections 15450-15463, not consecutive) filed 1-27-86; effective thirtieth day thereafter (Register 86, No. 5).
2. Amendment of article and section headings filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15450.1. Third Party Claims Administration for New Private Self Insurers.

(a) ~~Every~~ Each private self insurer, granted an initial, individual Certificate to Self Insure workers' compensation liabilities ~~and which that~~ has not been self insured ~~in whole or part~~ previously self insured for a total of three full years, shall contract with a third party claims administrator for the first three (3) full calendar years of self insurance. The self insured employer's third party claims administrator shall hold a Certificate to Administer pursuant to Section 15450 of these regulations.

(b) ~~Every~~ Each private group self insurer, granted its initial Certificate to Self Insure workers' compensation liabilities shall contract with a third party administrator for the first five (5) full calendar years of self insurance. The group self insurer's third party claims administrator shall hold a Certificate to Administer pursuant to Section 15450 of these regulations.

~~(e) After the initial period set forth in subsections (a) and (b) of this Section, the individual private self insurer or the group self insurer shall be permitted to use either a third party claims administration or self administration of its claims, as provided in Section 15450.~~

NOTE: Authority cited: Sections 54, 55, 59 and 3702.10, Labor Code. Reference: Sections 3700, 3701, 3701.5, 3702, 3702.1, 3702.2 and 3702.3, Labor Code.

HISTORY

1. New section filed 6-30-94; operative 6-30-94 (Register 94, No. 26). For prior history, see Register 92, No. 13.

§15452. Administrator Competence.

(a) ~~Every~~ Each self insurer or third party administrative agency shall conduct the administration of each self insurance program through the services of a competent person or persons located in California.

EXCEPTION 1: Upon a showing of good cause, the Manager may authorize administration from locations outside California by an administrator with staff who has demonstrated individual competence. The desire to consolidate claims from other states in one location or the desire to reduce expenses related to utilizing a third party administer are not good cause for out-of-state administration. The demonstration of individual competence of an out-of-state administrator is not in itself good cause for out-of-state administration.

Exception 2: The Manager shall not authorize claims administration outside of the State of California for any private group self insurer.

(b) Any person may demonstrate individual competence as an administrator for a self-administered self insurer or an agency administered self insurance program by successfully passing the written examination designed to test technical knowledge of workers' compensation law and claims administration. The Manager shall ~~insure~~ ensure that the test shall be administered at least twice a fiscal year (July 1 to June 30) ~~by the Department of Industrial Relations.~~

(c) Application for the administrator's examination shall be made on forms provided by the Manager (~~Form A4-100, Rev. 9/91~~). A complete application shall include the application form and fees in accordance with subsection (d) of this section. The applicant will be notified in writing within 14 days if the application is deficient. Confirmation of the test date will be sent two weeks before the scheduled test date.

NOTE: ~~The current application form is contained in Plate M of the Appendix following the last Article of these Group 2 regulations.~~

(d) The fee to take the Self Insurance Administrator's examination shall be ~~\$100~~\$150. The fee shall not be refundable after confirmation of entrance to the exam has been issued by the Office of Self Insurance Plans.

Exception 1: Upon a written showing of good cause, the Manager may authorize a refund of the application fee.

(e) Upon passing the written examination a Certificate of Achievement will be issued. ~~The certificate will be issued~~ within eight weeks of the test date.

(f) Each adjusting location of a third party administrative agency or a self-administered self insurer shall have at least one person who has passed the self insurance administrator's examination. All workers' compensation self insurance claims at such reporting locations shall be administered and adjusted under the direct supervision of a person who has passed the self insurance administrator's examination. Supervision of claims decisions, setting of estimates of future liability of claims, and proper payment of benefits to injured workers shall be made or reviewed by a person who has passed the self insurance administrator's examination.

(g) Lack of competent administrators at any adjusting location shall be good cause for revocation of the certificate to administer for that location and may be grounds to revoke the certificate to self insure.

NOTE: Authority cited: Sections 54, 55, 59, and 3702.10, Labor Code. Reference: Sections 59, 3702, 3702.1 and 3702.10, Labor Code; and Sections 15375 and 15376, Government Code.

HISTORY

1. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).
2. New (a) Exception 2 and amendment of Note filed 6-30-94; operative 6-30-94 (Register 94, No. 26).

§15454. Certificate to Administer: Fees.

(a) The certificate fee shall be paid no later than June 1 in the year of application and shall be sufficient to cover the 1 to 3 year period of the application submitted, and shall accompany the application form. The fee is not prorated in the initial year of each application cycle and is not refundable for any portion of the current fiscal year.

(b) The minimum fee for each private certificate to administer the first adjusting location is ~~\$650~~ \$1,000 per year. There is an additional charge of ~~\$100~~ \$200 per year for each additional claims adjusting location.

(c) Public applicants are exempt from the payment of a fee for the Certificate to Administer provided all claims administered are for public self insurers. A public administrator for private sector self insurers shall pay the certificate fees due for a private Certificate to Administer.

NOTE: Authority cited: Sections 54, 55, 59, and 3702.10, Labor Code. Reference: Sections 59, 3702.1, 3702.5 and 3702.10, Labor Code.

HISTORY

1. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15458. Claims Administration and Recordkeeping.

Workers' compensation claims and claim files shall be administered and maintained in accordance with the provisions of Articles 6 and 9 of these regulations.

NOTE: Authority cited: Sections 54, 55, 59 and 3702.7, Labor Code. Reference: Sections 129, 3700, 3701, 3702, 3702.1 and 3702.7, Labor Code.

HISTORY

1. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15459. Notification of Willful Failure to Pay Benefits.

The claims administrator shall notify the Manager in writing within three days of a self insured employer's willful failure to provide adequate funding for the timely payment of workers' compensation benefits in accordance with provisions of the Labor Code.

NOTE: Authority cited: Sections 54, 55, 59 and 3702.10, Labor Code. Reference: Sections 59, 129, 3700, 3701, 3702 and 3702.1, Labor Code.

HISTORY

1. Amendment filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

§15463. Revocation of Certificate.

(a) The Manager may issue a Notice of Intent to Revoke to any holder of a Certificate to Administer. The notice shall indicate the setting the cause for the revocation action and informing advise the holder of the Certificate of the right to a hearing.

(b) ~~P~~The procedure for revocation of a Certificate of Consent to Administer shall be in accordance with Article 11, ~~Hearings, in~~ of these regulations. ~~Title 8, Chapter 8, Group 2, Division 1.~~

NOTE: Authority cited: Sections 54, 55, 59 and 3702.10, Labor Code. Reference: Sections 59, 3702.1, 3702.7 and 3702.10, Labor Code.

HISTORY

1. Amendment and new forms filed 2-19-92; operative 3-20-92 (Register 92, No. 13).

2. New Appendix plates D, E, F1-F6, G and I filed 12-22-92; operative 1-21-93 (Register 93, No. 2).
3. Amendment of Plate F-6 filed 8-12-93; operative 9-13-93 (Register 93, No. 33).
4. Change without regulatory effect relocating Appendix Plates A-1, A-2, B, C, and H from section 15204 to section 15463 filed 9-14-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 38).
5. Amendment of forms filed 6-30-94; operative 6-30-94 (Register 94, No. 26).
6. Amendment of Appendix Plate I filed 12-1-94; operative 1-2-95 (Register 94, No. 48).