

Regulatory Update

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- Migration to CA Medical Implementation Guide, Release 2
- CA FROI/SROI Implementation Guide, Version 3.1
- WCIS and Annual Report of Inventory
- WCIS Administrative Penalties

WCIS and Annual Report of Inventory (ARI) – Section 9702(i)(3)

- A claim administrator's obligation to submit an ARI...is satisfied upon determination by the Administrative Director that the claims administrator has demonstrated the capability to submit complete, valid, and accurate data to WCIS and continued compliance with the reporting requirements.

ARI Regulations

Section 10104 Annual Report of Inventory

- (d)(1) A claims administrator's obligation to submit an Annual Report of Inventory under subdivision (a) of this section is waived upon a determination by the Administrative Director that the claims administrator is in compliance with the electronic data reporting requirements of the WCIS.

ARI Regulations

§10104 Annual Report of Inventory

- (d)(2) Each claims administrator whose obligation to submit an Annual Report of Inventory is satisfied under subdivision (c)(1) of this section shall maintain and file with the Administrative Director an Annual Report of Adjusting Locations.

ARI Regulations

§10104 Annual Report of Inventory

- (4) The waiver shall be rescinded if the total number of claims reported by the claims administrator to the Audit Unit in a claim log is not within one percent of the total number of claims electronically reported to WCIS for the same period of time as covered in the submitted claim log.

Can WCIS information trigger an audit?

- WCIS information can be used to select subjects for an audit.
- Section 10106.1 c (4)
- Failure to comply with WCIS reporting requirements may result in target audit.
- Section 10106.1(c)(5)(C)

WCIS Administrative Penalties

Since 2000, WCIS has relied on claims administrators to voluntarily comply with the WCIS data reporting requirements found at California Code of Regulations, title 8, section 9702.

A significant number of claims administrators are still not complying with the requirement to electronically submit claims data to the WCIS. Also, a large percentage of reporting claims administrators are continually sending inaccurate or incomplete data, as well as not sending required data on a timely basis.

WCIS Administrative Penalties

SB 826 requires DWC to:

- Assess administrative penalties for WCIS data reporting violations by claims administrators.
- Promulgate a schedule of penalties capped at \$5,000 against a claims administrator in any given year.
- The schedule shall provide for no more than \$100 per violation for violations where a report is not submitted or not accepted, and no more than \$50 per violation for violations involving errors or late filings.

WCIS Administrative Penalties

- Establish threshold rates of violations that shall be excluded from the calculation of penalty assessments.
 - The threshold rates, to be determined by DWC, cannot be less than 3% of the reports filed by the claims administrator.
 - SB 826 authorizes DWC to establish higher thresholds for data elements that commonly are not reasonably available.
- Publish an annual report on the compliance of claims administrators.



WCIS Administrative Penalties – Proposed Regulations

- The Administrative Director shall assess an administrative penalty for a claims administrator's failure to comply with selected WCIS reporting requirements. The total amount of penalties assessed against a claims administrator in a calendar year for each type of violation listed shall not exceed \$5,000.
- Penalties are not retroactive; a grace period following the effective date of the regulations will be established.
- Penalties may be waived if a failure to comply is due to human error, or system failure caused by DWC or DIR.

WCIS Administrative Penalties – Proposed Regulations

- \$100 Administrative Penalty:
- Failure to submit complete set of FROI data elements under section 9702(b).
- Failure to submit complete set of SROI data elements under section 9702(d).
- Failure to submit an Annual Report under section 9702(g).
- Failure to submit a Final Report under section 9702(h).

WCIS Administrative Penalties – Proposed Regulations

- Failure to submit on a compensable death a FROI or SROI, including employee date of death, death benefits paid, and other non-benefit death-related payments.
- Failure to submit complete set of Medical Bill Payment data elements when required section 9702(e).
- Required reports that remain rejected and unaccepted for greater than 30 days.

WCIS Administrative Penalties – Proposed Regulations

- \$50 Administrative Penalty:
- Failure to timely submit the FROI.
- Failure to timely submit, when required, a Medical Bill Payment Record.
- Failure to timely submit an Annual Report.

WCIS Administrative Penalties – Proposed Regulations

- Failure to correct and resubmit within 30 days after receipt of the original acknowledgement message, the following error codes on a FROI or SROI on an acknowledgement with a transaction accepted with ("TE") error code:
- Mandatory Field not Present: Error code 001;
- Code Invalid: Error codes 006, 007, 008, 009, 011, 012, 014, 015, 016, 017, 020, 032 (with reported United States address), 042;

WCIS Administrative Penalties – Proposed Regulations

- Date Invalid: Error code 029;
- Format Error: Error code 028, 031;
- Required Segment not Present: Error code 062;
- Failure to correct and resubmit within 60 days after receipt of the acknowledgement message, the following error codes on a Medical Bill Payment Record with a date of injury on or after March 1, 2000 and a transaction accepted with ("TE") error code: No Match on Database; Error code 039;

WCIS Administrative Penalties – Proposed Regulations

- DWC will provide a periodic basis a data quality report, which will identify data reporting errors that are subject to an assessment of administrative penalties. The data quality report shall identify the electronic report or reports that are subject to an assessment and indicate the specific violations that are associated with the reports.

WCIS Administrative Penalties – Proposed Regulations

- DWC may use the following sources to determine penalties:
- Previous reports submitted by Claims Administrators to WCIS under section 9702;
- ARI;
- Audit Unit Reports and Findings;
- EAMS.

WCIS Administrative Penalties – Proposed Regulations

- Before October 1 of each calendar year, DWC shall review WCIS reports submitted during the previous calendar year, in addition to the information previously noted, and assess penalties for the previous calendar year.
- For the purpose of assessing penalties, multiple errors in a single electronic report shall be counted as a single violation.

WCIS Administrative Penalties – Proposed Regulations

- Assessment of penalties will not be assessed against claim administrators for the first 5% of each of the following types of violations that were submitted to WCIS by claim administrator during the prior calendar year.
- Reports that are not submitted;
- Reports that are not submitted within required timeframes;
- Reports that are submitted but rejected (acknowledgment code "TR") during the previous calendar year;
- Reports accepted with an error (acknowledgment code "TE") during the previous calendar year.

WCIS Administrative Penalties – Proposed Regulations

- If violations are found after a review of WCIS submissions, a claims administrator will receive, on or before October 1, a Notice of Penalty Assessment, which will contain:
 - Information identifying the report(s) being assessed a penalty;
 - The specific violation associated with the report and amount assessed for the violation;
 - The claim administrators threshold rates
 - The amount of penalties assessed against the claims administrator for the current calendar year and amount owed (considering the \$5,000 cap).

WCIS Administrative Penalties – Proposed Regulations

- Payment of the penalty is due within 30 days after the date of service of the Notice of Penalty Assessment
- If a conference about the penalty assessment is requested, it must be scheduled within 21 calendar days after the date of the notice.
- A request for reconsideration of penalties may be filed within 30 calendar days after the date of service of the Notice of Penalty Assessment

WCIS Administrative Penalties – Proposed Regulations

- A request for reconsideration of a administrative penalty issued pursuant to section 9705 shall be filed in writing within thirty (30) calendar days of receipt of the Notice of Penalty Assessment. The request by the claims administrator shall clearly specify the reasons the administrative penalty should be reconsidered and shall include a proof of service and any other information necessary to support the request.

WCIS Administrative Penalties – Proposed Regulations

- Good cause to grant reconsideration include:
 - System failure or human error caused by or affecting WCIS
 - Penalties in given year already greater than \$5,000
 - Inconsistency between required data element and another regulation of AD
 - Violations are not consistent with the 5% threshold
 - Penalties based on data element not available to claim administrator
 - Data error or omission on part of WCIS
 - The violation in question relates to an injury that does not meet the definition of a claim under section 9701
 - Clear showing that the claim administrator experienced an unexpected, unintended system failure that prevented timely and accurate submission of data to WCIS

WCIS Administrative Penalties – Proposed Regulations

- The Administrative Director will deny or grant the reconsideration request within 45 days of the receipt of the request.
- Claim administrator will have 20 days from service of the decision to file an appeal with WCAB.
- DWC will post on its website an annual report disclosing the compliance rates of claim administrators