**STATE OF CALIFORNIA**

**DEPARTMENT OF INDUSTRIAL RELATIONS**

**Division of Workers’ Compensation**

# **NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS AND FORMS**

**Subject Matter of Regulations:**

**Workers’ Compensation –Utilization Review and Related Subjects**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS**

**SECTIONS 9767.6, 9781, 9785, 9785.6, 9786, 9792.6, 9792.6.1, 9792.7, 9792.7.1, 9792.8, 9792.9, 9792.9.1, 9792.9.2, 9792.9.3, 9792.9.4, 9792.9.5, 9792.9.6, 9792.9.7, 9792.9.8, 9792.9.10.1, 9792.10.2, 9792.10.3, 9792.10.4, 9792.10.5, 9792.10.6, 9792.10.8, 9792.11, 9792.12, 9792.13, & 9792.15, 9792.27.1, & 9792.27.17**

**NOTICE IS HEREBY GIVEN** that, pursuant to the requirements of Government Code section 11346.8 (c), and section 44 of title I of the California Code of Regulations, the Administrative Director of the Division of Workers' Compensation, Department of Industrial Relations (hereinafter “Administrative Director”), pursuant to the authority vested in him by Labor Code sections 59, 133, 4603.5, 4610, 5307.3, and 5307.27, proposes to amend the text of the following proposed regulations and forms, which were the subject of a regulatory hearing held on July 25, 2024:

Amend section 9785. Reporting Duties of the Primary Treating Physician

Amend section 9792.6.1.  Utilization Review Standards—Definitions.

Amend section 9792.7. Utilization Review Standards—Applicability.

Amend section 9792.9.4 Utilization Review – Decisions to Approve a Request for Authorization

Amend section 9792.9.5 Utilization Review – Decisions to Modify or Deny a Request for Authorization

Amend section 9792.9.7. Utilization Review - Medical Treatment – First 30 Days of the Date of Injury.

Amend section 9792.10.2. Application for Independent Medical Review, DWC Form IMR.

Amend section 9792.10.8. Independent Medical Review – Payment for Review.

Amend section 9792.12. Administrative Penalty Schedule for Utilization Review and Independent Medical Review Violations.

# **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 to the rulemaking file. **Only comments concerning these proposed modifications to the text of the regulations and forms will be considered and responded to in the Final Statement of Reasons.** The text of the regulations and proposed modifications can be viewed via the web at: <https://www.dir.ca.gov/dwc/rulemaking/dwc_rulemaking_proposed.html>

All written comments concerning the proposed modifications to the regulations must be received by the Regulations Coordinator no later than **11:59 P.M. on Friday, October 17th,** 2025.

Written comments may be submitted as follows:

**By Mail** addressed as follows:

 Maureen Gray, Regulations Coordinator

 Department of Industrial Relations

 Division of Workers’ Compensation

 Post Office Box 420603

 San Francisco, CA 94142

**By Hand Delivery** addressed as follows:

 Maureen Gray, Regulations Coordinator

 Department of Industrial Relations

 Division of Workers’ Compensation

 1515 Clay Street 18th Floor

 Oakland, CA 94612

**By FAX** addressed to Maureen Gray, Regulations Coordinator, Department of Industrial Relations, Division of Workers’ Compensation at the following number:

 (510) 286-0687

**By e-mail** to the following e-mail address:

 dwcrules@dir.ca.gov

Comments sent to other e-mail addresses or facsimile numbers will not be accepted. All comments, including 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, 18th Floor, Oakland, California. Please contact the Division’s regulations coordinator, Ms. Maureen Gray, at (510) 286-0676 or (510) 286-7100 to arrange to inspect the rulemaking file.

# **FORMAT OF PROPOSED MODIFICATIONS**

**Proposed Text Noticed for 45-Day Comment Period:**

The proposed text was indicated by underlining: added language. Deletions are indicated by strikeout: ~~deleted language~~.

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

The proposed text was indicated by double underlining: added language. Deletions are indicated by double strikeout: deleted language.

**Proposed Text Noticed for 2nd 15-Day Comment Period on Modified Text:**

The proposed text was indicated by bolded single underline: **added language**. Deletions are indicated by bolded single strikeout: **~~deleted language~~**.

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

The proposed text is indicated by bold italic Arial font and single underline, thus: ***added language***. Deletions are indicated by bold italic Arial font and single strikethrough, thus: ***~~deleted language~~***.

# **SUMMARY OF PROPOSED CHANGES**

## **Section 9785. Reporting Duties of the Primary Treating Physician.**

(d) - Amend to delete “secure email” and replace with “encrypted electronic mail.” Also delete the next “secure” (preceding “electronic transmission”).

## **Section 9792.6.1.  Utilization Review Standards—Definitions.**

(u)(2) – Amend to indicate that a request for authorization (RFA) “shall” (instead of “may”) be deemed completed following receipt of information, test results, or a specialized consultation requested under section 9792.9.6.

(u)(3) – Amend to delete “secure” regarding electronic mail submission of an RFA. The text now reflects that an RFA may be sent electronically through the use of an “encrypted email system.”

(bb) – Amend to delete “secure” regarding transmission of an employee’s electronic health records. The text now reflects that transmission of such records, if agreed to, may be sent through the use of an “encrypted” email system or EDI system.

## **Section 9792.7. Utilization Review Standards—Applicability.**

(n) - Added text requiring UR organizations to retain files and other records pertaining to the UR process for at least 3 years following either the most recent UR decision for each injured employee or the date on which any appeal from the assessment of penalties is final, whichever date is later. Claims Administrators are to retain files as set forth in section 10102 of title 8 of the California Code of Regulations.

## **Section 9792.9.4. Utilization Review – Decisions to Approve a Request for Authorization.**

(b) – Amend to delete “secure” and replace with “encrypted” regarding transmission by electronic mail.

## **Section 9792.9.5. Utilization Review – Decisions to Modify or Deny a Request for Authorization.**

(c) - Amend to delete “secure” and replace with “encrypted” regarding transmission by electronic mail.

(e)(13) – Added text should have been but was not underlined in the 45-day publication of this rulemaking. Thus, it is reflected in this publication as follows:

(13) ~~(J)~~ Details about the claims administrator's internal utilization review appeals process for the requesting physician, if any, ***including with respect to disputes over the necessity of or availability of the requested information,*** and a clear statement that the internal appeals process is a voluntary process that neither triggers nor bars use of the dispute resolution procedures of Labor Code section 4610.5 and 4610.6, but may be pursued on an optional basis.

## **Section 9792.9.7. Utilization Review – Medical Treatment – First 30 Days of the Date of Injury.**

(b)(2) – Amend surgery definition within this subsection to mean “1) any procedure set forth in the Surgery section of the American Medical Association’s Current Procedural Terminology (CPT®) which is incorporated by reference at section 9789.31(h), and any updates pursuant to section 9789.36; or 2) any procedure code defined as “surgery” in the Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule found in the Healthcare Common Procedure Coding System (HCPCS), which is incorporated by reference at section 9789.31(i), and any updates pursuant to section 9789.36.”

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

Revision date of the regulatory text was amended to display revision date of 10/2025 instead of “Date adopted by OAL,” which would be inaccurate.

Page 3, Deadline for Filing IMR Application – Amended IMR application deadlines to be 10 days from the mailing date of the UR determination letter for disputed treatments that only involve a drug listed on the MTUS Formulary Drug List, and 30 days for all other disputes. Accordingly, amended explanatory text regarding the addition of days for mailing and also to account for mailings originating from out-of-state.

Page 3, IMR Application Filing Deadline – Amended days to reflect 30 days (instead of 35 days) and 10 days (instead of 15 days) in accordance with changes made in the preceding paragraph.

Page 4 and 5, Instructions for Completing the Application for IMR Form – Amended instruction regarding the time allowed for the submission of a completed IMR application form to conform with changes to deadlines as indicated in the IMR Form.

## **Section 9792.10.8. Independent Medical Review – Payment for Review.**

(a)(1) – Amend costs to reflect current contracted rates of $375.00 where an IMR determination is issued, and $125.00 for each application where review is terminated by the IMR organization prior to the receipt of the documentation and information provided under section 9792.10.5 by a medical reviewer.

## **Section 9792.12. Administrative Penalty Schedule for Utilization Review and Independent Medical Review Violations.**

(a)(9) – Amend (i.e., corrected) reference to regulation that is applicable to this penalty.

**NON-SUBSTANTIVE CORRECTIONS**

**Section 9785. Reporting Duties of the Primary Treating Physician.**

(h) – Amend to specify the set of rules to which this regulation applies in place of “9792.9.1 et seq.” Further amend to correct wording when cross referencing to subdivision (f).

**Section 9792.6.1 Utilization Review Standards - Definitions**

(a) – Amend to replace “et seq” with “through 9792.12.”

(k) – Amend to add “under section 9792.9.6” to clarify the regulation concerning an extension of time.

## **Section 9792.7. Utilization Review Standards—Applicability.**

(c)(3) – Amend to replace “et seq” with “through 9792.12.”

(c)(4) – Amend to replace “et seq” with “through section 9792.12.”

**Section 9792.9.5. Utilization Review – Decision to Modify or Deny a Request for Authorization.**

(e)(14) – Text was inadvertently deleted in the 45-day publication of this rulemaking and has been added back in. The text is currently existing law. Corrected text is as follows:

(14) ~~(K)~~ The written decision modifying~~, delaying~~ or denying treatment authorization provided to the requesting physician shall also contain the name and specialty of the reviewer or, if applicable, expert reviewer, and the telephone number in the United States of the reviewer or expert reviewer. The written decision shall also disclose the hours of availability of either the reviewer, the expert reviewer, or the medical director for the treating physician to discuss the decision which shall be, at a minimum, four (4) hours per week during normal business hours, 9:00 AM to 5:30 PM., Pacific Time or an agreed upon scheduled time to discuss the decision with the requesting physician. In the event the physician reviewer is unavailable, the requesting physician may discuss the written decision with another physician reviewer who is competent to evaluate the specific clinical issues involved in the medical treatment services.

## **Section 9792.9.8. Utilization Review – MTUS Drug Formulary**

(a)(1)(A) – Amend to correct reference from 9792.27.1 to 9792.27.15.

(g)(4)(B) – Amend to correct reference from 9792.9.7(d) to (c).

## **Section 9792.11 Investigation Procedures: Labor Code § 4610 Utilization Review Violations.**

(c) – Deleted. Replaced with “Reserved” to preserve numbering.

(e) – Amend to specify the set of rules to which the text of the regulation applies in place of “sections 9792.6 et seq.”

(k)(5) – Delete “or other accrediting organization.”