

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

**NOTICE OF PROPOSED RULEMAKING**

**Workers' Compensation – Transition to ICD-10; Update to  
DWC Medical Billing and Payment Guide**

**NOTICE IS HEREBY GIVEN** that the Acting Administrative Director of the Division of Workers' Compensation (hereafter "Administrative Director"), pursuant to the authority vested in her by Labor Code sections 133, 4600.5, 4603.4, 4603.5, 5307.1 and 5307.3, proposes to modify existing regulations and adopt regulations and forms, by amending Articles 4, 5 and 5.3, Subchapter 1 to Chapter 4.5 of Division 1, title 8, California Code of Regulations, in order to transition, effective October 1, 2015, from the International Classification of Diseases, 9<sup>th</sup> Revision (ICD-9) diagnosis and inpatient procedure coding systems, to the International Classification of Diseases, 10<sup>th</sup> Revision (ICD-10) diagnosis and inpatient procedure systems, the use of which is being implemented by the United States Department of Health and Human Services effective October 1, 2015. The proposed amendments adopt new forms for Primary Treating Physician Progress Report (Form PR-2), Primary Treating Physician Permanent and Stationary Report (PR-3), Primary Treating Physician Permanent and Stationary Report (PR-4), to accommodate the ICD-10 and make related changes to the text. The proposal also includes amendment to the DWC Medical Billing and Payment Guide to adopt the ICD-10-CM 2015 Code Tables and Index (updated November 13, 2014) and the ICD-10-CM Official Guidelines for Coding and Reporting FY 2015 (updated September 29, 2014). Additional updates are proposed to the Medical Billing and Payment Guide to adopt more current versions of instruction manuals for professional and facility paper billing forms, and updated dental codes.

**NOTICE IS ALSO HEREBY GIVEN** that the Director of the Department of Industrial Relations (DIR), pursuant to the authority vested in her by Labor Code sections 6409(a), 6410, 6410.5 and 6413.5, proposes to modify existing regulations, by amending and Article 1, Subchapter 1 to Chapter 7 of California Code of Regulations, title 8, section 14006, where reference is made to the International Classification of Diseases, 9<sup>th</sup> Revision (ICD-9) system of diagnosis, which need to be updated to reflect the new International Classification of Diseases, 10<sup>th</sup> Revision (ICD-10) system of diagnosis, the use of which is being implemented by the United States Department of Health and Human Services effective October 1, 2015.

**PROPOSED REGULATORY ACTION**

The Administrative Director of the Division of Workers' Compensation, proposes to modify existing regulations and adopt new regulations and forms relating to physician medical treatment reporting and billing, by amending Articles 4, 5, 5.3 and 5.5.0, Subchapter 1, Chapter 4.5, Division 1, of title 8, California Code of Regulations, in order to transition, on October 1, 2015, from the ICD-9 diagnosis and procedure coding system to the ICD-10 diagnosis and procedure coding system, as follows.

Amend section 9770	Definitions
Amend section 9785	Reporting Duties of the Primary Treating Physician
Amend section 9785.2	Form PR-2 "Primary Treating Physician's Progress Report" - Services Prior to October 1, 2015

- Adopt section 9785.2.1 Form PR-2 “Primary Treating Physician’s Progress Report” - Services on or After October 1, 2015
- Amend section 9785.3 Form PR-3 “Primary Treating Physician’s Permanent and Stationary Report” - - Services Prior to October 1, 2015
- Adopt section 9785.3.1 Form PR-3 “Primary Treating Physician’s Permanent and Stationary Report” - Services on or After October 1, 2015
- Amend section 9785.4 Form PR-4 “Primary Treating Physician’s Permanent and Stationary Report” - Services Prior to October 1, 2015
- Adopt section 9785.4.1 Form PR-4 “Primary Treating Physician’s Permanent and Stationary Report” - Services On or After October 1, 2015
- Amend section 9792.5.1 Medical Billing and Payment Guide; Electronic Medical Billing and Payment Companion Guide; Various Implementation Guides

[And adopt the document incorporated by reference into section 9792.5.1 subdivision (a): *California Division of Workers’ Compensation Medical Billing and Payment Guide, Version 1.2.2*]

The Director of the Department of Industrial Relations proposes to modify existing regulations, by amending Article 1, Subchapter 1 to Chapter 7 of California Code of Regulations, title 8, section 14006, where reference is made to the ICD-9 system of diagnosis, which need to be updated to reflect the new ICD-10 system of diagnosis being adopted at the federal level effective October 1, 2015:

- Amend section 14003 Physician.
- Amend section 14006 Form 5021, Rev. 5, Doctor’s First Report of Occupational Injury or Illness – Services Prior to October 1, 2015
- Adopt section 14006.1 Form 5021, Rev. 5, Doctor’s First Report of Occupational Injury or Illness – Services On or After October 1, 2015
- Amend section 14007 Reproduction of the Doctor’s Report.

### **TIME AND PLACE OF PUBLIC HEARING**

A public hearing has been scheduled to permit all interested persons the opportunity to present statements or arguments, either orally or in writing, with respect to the subjects noted above. The hearing will be held at the following time and place:

**Date: July 7, 2015**  
**Time: 10:00 A.M. to 5:00 P.M., or until conclusion of business**  
**Place: Elihu Harris State Office Building – Room 1**  
**1515 Clay Street**  
**Oakland, California 94612**

The State Office Building, including Room 1, is accessible to persons with mobility impairments. Alternate formats, assistive listening systems, sign language interpreters, or other type of reasonable accommodation to facilitate effective communication for persons with disabilities, are available upon request. Please contact the State Wide Disability Coordinator, Kathleen Estrada, at 1-866-681-1459 (toll

free), or through the California Relay Service by dialing 711 or 1-800-735-2929 (TTY/English) or 1-800-855-3000 (TTY/Spanish) as soon as possible to request assistance.

**Please note that public comment will begin promptly at 10:00 a.m. and will conclude when the last speaker has finished his or her presentation or 5:00 p.m., whichever is earlier. If public comment concludes before the noon recess, no afternoon session will be held.**

The Administrative Director and the Director of DIR request, but do not require, that any persons who make oral comments at the hearing also provide a written copy of their comments. Equal weight will be accorded to oral comments and written materials.

### **WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Department of Industrial Relations, Division of Workers' Compensation. The written comment period closes at **5:00 P.M., on July 7, 2015**. The Division of Workers' Compensation will consider only comments received at the Division by that time. Equal weight will be accorded to comments presented at the hearing and to written comments received by 5 P.M. on that date by the Division.

Submit written comments concerning the proposed regulations prior to the close of the public comment period to:

Maureen Gray  
Regulations Coordinator  
Division of Workers' Compensation, Legal Unit  
P.O. Box 420603  
San Francisco, CA 94142

Written comments may be submitted by facsimile transmission (FAX), addressed to the above-named 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](mailto:dwcrules@dir.ca.gov).

Unless submitted prior to or at the public hearing, all written comments must be received by the contact person no later than **5:00 P.M., on July 7, 2015**.

### **AUTHORITY AND REFERENCE**

The Administrative Director is undertaking this regulatory action pursuant to the authority vested in her by Labor Code sections 133, 4600.5, 4603.4, 4603.5, 5307.1, and 5307.3.

Reference is to Labor Code sections 3300, 4061, 4061.5, 4062, 4600, 4600.3, 4600.5, 4603.2, 4604.5, 4610.5, 4658.7, 4660, 4662, 4663, 4664, 5307.1, 5307.11, 5400, 5401, 5401.7, and 5402.

The Director of the Department of Industrial Relations is undertaking this regulatory action pursuant to the authority vested in her by Labor Code sections 6409(a), 6410, 6410.5 and 6413.5.

Reference is to Labor Code sections 5401.7 and 6410.

## FORMAT OF PROPOSED MODIFICATIONS

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

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

## INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries or illness sustained in the course of his or her employment. Labor Code section 4600 requires an employer to provide medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury or illness. Under existing law, payment for medical treatment shall be no more than reasonable maximum amounts set by the Administrative Director in the Official Medical Fee Schedule or the amounts set pursuant to a contract.

Labor Code section 4603.2 sets forth procedures and timelines for payment of a medical treatment bill. Labor Code section 4603.4 mandates the Administrative Director to adopt rules to standardize paper billing forms and to establish electronic billing rules. Regulations of the Administrative Director specify billing formats and detailed requirements for the bills and supporting documentation. Regulations adopted to implement the Labor Code's medical treatment and evaluation requirements (including sections 4600, 4603.2, 4603.4, 4660, 4662, 4663, and 4664) specify forms for physicians to use to report on treatment rendered, and to evaluate disability resulting from industrial injury or illness.

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) contains "administrative simplification" provisions relating to medical billing, including the requirement for HIPAA-covered entities to use specified code sets. Currently the required code sets for HIPAA covered entities are the International Classification of Diseases, 9th Revision (ICD-9-CM) for diagnosis, and the International Classification of Diseases, 9th Revision (ICD-9-PCS) for inpatient procedure codes. Substantially revised codes sets, the International Classification of Diseases – 10<sup>th</sup> Revision, Clinical Modification (ICD-10-CM) and the International Classification of Diseases – 10<sup>th</sup> Revision, Procedure Coding System (ICD-10-PCS) have been developed to improve upon diagnosis and procedure coding.

The United States Department of Health and Human Services (HHS) issued a rule requiring HIPAA-covered entities and medical providers to transition from the ICD-9 to the ICD-10 system effective October 1, 2013. The October 1, 2013 date was extended to October 1, 2014, due to concerns regarding ICD-10 readiness raised by the medical community. On April 1, 2014, the Protecting Access to Medicare Act of 2014 (PAMA) (Public Law No. 113-93) was enacted by the United States Congress. Section 212 of PAMA delayed the ICD-10 for at least one year, providing, *inter alia*, that the ICD-10 may not be adopted by the Secretary of the United States Department of Health and Human Services earlier than October 1, 2015. Thereafter, on September 3, 2014, the HHS enacted a Final Rule implementing Section 212 of PAMA, thereby setting October 1, 2015 as the implementation date for use of ICD-10 by HIPAA covered entities.

Currently, the California workers' compensation system uses the ICD-9 for diagnosis and inpatient procedure coding. Although there is a specific exemption for workers' compensation in HIPAA, the

HHS encourages non-covered entities to adopt ICD-10. The Administrative Director and the Director of DIR determined that it would be efficient to transition the workers' compensation system to the ICD-10 coding system to coincide with the ICD-10 transition date adopted by HHS for HIPAA covered entities. The DWC initially adopted the ICD-10 for workers' compensation billing in the Medical Billing and Payment Guide to be effective for services on or after October 1, 2014. When HHS extended the ICD-10 implementation date to 2015, DWC conducted a rulemaking action to delay the October 1, 2014 date. On September 30, 2014 regulations were adopted revising the billing regulations and the Medical Billing and Payment Guide to transition to ICD-10 for services rendered on or after October 1, 2015.

Accordingly, the Administrative Director and the Director of DIR are issuing this Notice of Proposed Rulemaking so that physician reporting regulations and forms are consistent with the ICD-10 transition already adopted for workers compensation billing. Moreover, it is beneficial for the workers' compensation system to align with this important change in the way the United States medical community will be diagnosing patients and coding inpatient procedures as of October 1, 2015. Also, in this rulemaking the Administrative Director adopts and incorporates by reference a revised Medical Billing and Payment Guide which adopts the ICD-10-CM Official Guidelines for Coding and Reporting FY 2015 and the 2015 Code Tables and Index (updated November 13, 2014), which were not available when the billing guide was revised to adopt the October 1, 2015 date. In addition, the proposed Medical Billing and Payment Guide adopts updated 1500 Claim Form Instruction Manual and Change Log, UB-04 Data Specifications Manual, and American Dental Association *Current Dental Terminology (2015 CDT)*.

These proposed regulations will update the regulation text, and workers' compensation forms and documents incorporated by reference, as follows:

**1. Section 9770**

This section, which provides definitions relating to Certification Standards for Health Care Organizations, is amended to delete subdivision (g), the definition of "International Classification of Diseases – 9<sup>th</sup> Revision (ICD-9) Code", as the ICD-9 system of diagnosis is nowhere else mentioned in Title 8, Chapter 4.5, Subchapter 1, Article 4, covering Certification Standards for Health Care Organizations. The remaining subdivisions are renumbered.

**2. Section 9785**

Section 9785 sets forth the reporting duties of the primary treating physician in the California workers' compensation system. Specific proposed amendments to subdivisions (e)(1), (f)(8) and (h) are as follows:

§ 9785(e)(1): This subdivision discusses a primary treating physician's duty to complete a Form DLSR 5021 (Rev. 4), entitled "Doctor's First Report of Occupational Injury or Illness," within five working days of the doctor's initial examination of the injured worker. This subdivision is amended to state that the existing version of the form (Rev. 4, 1992 version) should be used for dates of service prior to October 1, 2015, while the revised form 5021 (Rev. 5, 2015 version) should be used for dates of service on or after October 1, 2015. In addition, references to "Form DLSR 5021" are revised to read, "Form 5021."

§ 9785(f)(8): This subdivision discusses a primary treating physician's duty to complete periodic progress reports regarding the injured worker's treatment. This subdivision is amended to state that the

existing version of Form DWC PR-2, entitled “Primary Treating Physician’s Progress Report,” (06-05 version) should be used for dates of service prior to October 1, 2015, while the revised Form PR-2 (2015 version) should be used for dates of service on or after October 1, 2015.

§ 9785(h): This subdivision discusses a primary treating physician’s duty to complete a Primary Treating Physician’s Permanent and Stationary Report for an injured worker and when to use a Form DWC PR-3 versus a Form DWC PR-4. This subdivision is amended to state that the existing versions of Forms PR-3 and PR-4 (06-05 versions) should be used for dates of service prior to October 1, 2015, while the revised Forms PR-3 and PR-4 (2015 versions) should be used for dates of service on or after October 1, 2015.

**3. Section 9785.2 (Form PR-2) “Primary Treating Physician Progress Report” – Services Prior to October 1, 2015**

The heading for this section is amended to indicate that the existing Form PR-2 is to be used for services prior to October 1, 2015.

**4. Section 9785.2.1 (Form PR-2) “Primary Treating Physician Progress Report” – Services On or After October 1, 2015**

This section is added to adopt the Form PR-2 for services rendered on or after October 1, 2015. The content of the new form is substantially the same as the current form, except the section of the form to list diagnosis codes indicates ICD-10 codes instead of ICD-9, and the number of lines in the diagnosis section that can be used to indicate diagnoses is increased from 3 to 12, and reference to the injured worker’s social security number is omitted. The formatting of the form has been reorganized and the version number is updated.

**5. Section 9785.3 (Form PR-3) “Primary Treating Physician’s Permanent and Stationary Report” – Services Prior to October 1, 2015**

The heading for this section is amended to indicate that the existing Form PR-3 is to be used for services prior to October 1, 2015.

**6. Section 9785.3.1 (Form PR-3) “Primary Treating Physician’s Permanent and Stationary Report” – Services on or after October 1, 2015**

This section is added to adopt the Form PR-3 for services rendered on or after October 1, 2015, for those cases in which a Form PR-3 is applicable. The content of the new form is substantially the same as the current form, except the section of the form to list diagnosis codes indicates ICD-10 codes instead of ICD-9, the number of lines in the diagnosis section that can be used to indicate diagnoses is increased from 4 to 12, and reference to the injured worker’s social security number is omitted. The formatting of the Form PR-3 has been reorganized to more efficiently use space on the form and the version number is updated.

**7. Section 9785.4 (Form PR-4) “Primary Treating Physician’s Permanent and Stationary Report” – Services Prior to October 1, 2015**

The heading for this section is amended to indicate that the existing Form PR-4 is to be used for services prior to October 1, 2015.

**8. Section 9785.4.1 (Form PR-4) “Primary Treating Physician’s Permanent and Stationary Report” – Services on or after October 1, 2015**

This section is added to adopt the Form PR-4 for services rendered on or after October 1, 2015. The content of the new form is substantially the same as the current form, except for the following changes.

The section of the form to list diagnosis codes indicates ICD-10 codes instead of ICD-9, the number of lines in the diagnosis section that can be used to indicate diagnoses is increased from 4 to 12, and reference to the injured worker’s social security number is omitted.

In the Functional Capacity Assessment section, reference is made to completing form DWC-AD 10133.36 in connection with completing this section for injuries occurring on or after January 1, 2013. In the Written Job Description section, language is added providing that the physician may attach form DWC-AD 10133.33 for injuries occurring on or after January 1, 2013. The form is also reorganized to more efficiently use space on the form. Finally, the version of the form is updated.

**9. Section 9792.5.1 Medical Billing and Payment Guide; Electronic Medical Billing and Payment Companion Guide; Various Implementation Guides.**

Section 9792.5.1 incorporates by reference the *Division of Workers’ Compensation Medical Billing and Payment Guide* and specifies the effective date of each version of the Guide. The section is amended to add subdivision (a)(4), adopting a new Version 1.2.2, for bills submitted on or after October 1, 2015.

*Division of Workers’ Compensation Medical Billing and Payment Guide, Version 1.2.2* (which is incorporated by reference) is amended based on Labor Code sections 4603.2 and 4603.4 as follows.

- The cover page is amended to change the version number from 1.2.1 to 1.2.2
- The introduction page is revised to add a new row to the version table, to list Version 1.2.2 and the October 1, 2015 effective date.
- Section 3.2.1 subdivision (a)(2) is revised to adopt the 2015 Code Tables and Index updated November 13, 2014 in place of the version updated May 22, 2014. Subdivision (a)(6) is amended to adopt the ICD-10-CM Official Guidelines for Coding and Reporting FY 2015 (updated September 29, 2014).
- Section One – Business Rules, Appendix A, 1.0 CMS 1500: the table adopts and incorporates by reference the 1500 Health Insurance Claim Form Reference Instruction Manual for Form Version 02/12, Version 2.0 7/14 and 1500 Instructions Change Log – as of 10/14 for services rendered on or after October 1, 2015. The 1500 Claim Form and Field Table adopted are the same form and table used prior to October 1, 2015.
- Section One – Business Rules, Appendix A, 2.0 UB-04: the table adopts and incorporates by reference the National Uniform Billing Committee Official UB-04 Data Specifications Manual 2015, Version 9.0, July 2014 for services rendered on or after October 1, 2015. The UB-04 Claim Form and Field Table adopted are the same form and table used prior to October 1, 2015.
- Section One – Business Rules, Appendix A, 4.0 ADA Dental Claim Form: the table adopts and incorporates by reference the CDT 2015 Dental Procedure Codes for services rendered on or after October 1, 2015. The ADA Dental Claim Form and Field Table adopted are the same form and table used prior to October 1, 2015.

**10. Section 14003 Physician.**

Subdivision (c) of this section is revised to state that Rev. 4 of Form 5021 should be used for dates of service prior to October 1, 2015, while Rev. 5 of Form 5021 should be used for dates of service on or after October 1, 2015. Reference to Rev. 3 of Form 5021 is deleted.

**11. Section 14006 (Form 5021) “Doctor’s First Report of Occupational Illness or Injury” – Services Prior to October 1, 2015**

The heading for this section is amended to indicate that the existing Form 5021 is to be used for services prior to October 1, 2015.

**12. Section 14006.1 (Form 5021) “Doctor’s First Report of Occupational Illness or Injury” – Services On or After October 1, 2015**

This form is amended to reference ICD-10, instead of ICD-9, and additional space is provided for additional detailed diagnostic information that may be provided under the ICD-10 system. The address in the header of the form is changed from “Division of Labor Standards Research” to “Department of Industrial Relations.” A column entitled “please do not use this column” on the right side of the top of the form is deleted. In item 25, “Estimated stay” is changed to “Estimated length of stay.” The physician signature block is updated to be consistent with the physician signature blocks on the PR-2 – PR-4 forms. Finally, the version of the form is updated.

**13. Section 14007 Reproduction of the Doctor’s Report.**

Subdivision (a) of this section is revised to state that Rev. 4 of Form 5021 should be used for dates of service prior to October 1, 2015, while Rev. 5 of Form 5021 should be used for dates of service on or after October 1, 2015. Subdivisions (b), (c) and (d) are revised to remove reference to “Rev. 4.” The form is not referred to as “Form 5021.” Lastly, in subdivision (d), instead of being refer to another regulation for the address to direct requests for permission to make changes to Form 5021 during the reproduction process, an address to direct such requests is listed.

**OBJECTIVE AND ANTICIPATED BENEFITS OF THE PROPOSED REGULATIONS**

The broad objective of these amendments and adoptions is to ensure consistency with national standards for reporting medical diagnoses and inpatient procedures under the ICD-10-CM and ICD-10-PCS coding systems for services on or after October 1, 2015. In addition, the objective is to ensure that physician report forms in workers’ compensation are consistent with medical billing regulations adopted by the Administrative Director in 2014, which mandate transition to ICD-10-CM for diagnosis codes and ICD-10-PCS for inpatient procedures effective October 1, 2015.

The Administrative Director and the Director of DIR anticipate that there will be many benefits to adopting the ICD-10 for medical reporting in conformity with the previously adopted workers’ compensation billing regulations and the HIPAA transition date. The medical treatment billing must be supported by documentation of the treatment rendered. Since the billing rules already require ICD-10 beginning in October 2015, the physician report forms need to conform in order to support the bill. In addition, the ICD-10 is a much more robust coding system that will provide more detail regarding the

injured worker's diagnosis or diagnoses, thereby improving communication between physician and claims administrator. This will be beneficial for reducing disputes and improving claims handling, for example, by improving the ability of the claims administrator to authorize appropriate treatment related to the diagnosed occupational injury. A further important benefit is ensuring consistency within the medical community for both record-keeping and billing purposes, since medical providers who are HIPAA covered will need to transition to ICD-10 for Medicare and private patients as of October 1, 2015. Adoption of the October 1, 2015 transition date avoids the possibility of conflicting obligations for HIPAA-covered entities that also participate in workers' compensation.

### **DETERMINATION REGARDING INCONSISTENCY AND/OR INCOMPATIBILITY WITH EXISTING STATE REGULATIONS**

The Administrative Director and the Director of DIR evaluated whether the proposed regulations were inconsistent or incompatible with existing state regulations and have found that these are the only regulations concerning the International Classification of Diseases (ICD) or the transition from ICD-9 to ICD-10. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state regulations. This rulemaking will improve consistency with existing regulations since the Administrative Director has already adopted ICD-10 for medical treatment billing by a rulemaking action conducted in 2014.

### **DUPLICATION OF LABOR CODE PROVISIONS**

The Administrative Director and the Director of DIR have determined that the proposed regulatory amendments are not duplicative of any Labor Code provision.

### **DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION**

The Administrative Director and the Director of DIR have made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Cost impacts on a representative private person or business: The DWC anticipates minor but unknown cost impacts that a representative private person or business would need to incur in reasonable compliance with the proposed action. There will be minor costs for medical providers to adapt to the new physician reporting forms. The mandate to transition to ICD-10 is already established in regulation for workers' compensation billing. In addition, most medical providers are HIPAA-covered and will need to implement ICD-10 into their record-keeping and billing practices; these costs are necessitated by the federal government's mandate that ICD-10 be implemented on October 1, 2015. Workers' compensation claims administrators are not HIPAA-covered

entities, but are already required to accept ICD-10 codes on physician bills as of October 1, 2015 due to previously adopted workers' compensation regulations.

- Statewide adverse economic impact directly affecting business and individuals: The regulatory action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Significant Effect on Housing Costs: None.

#### Results of the Economic Impact Analysis/Assessment

The Administrative Director and the Director of DIR conclude that it is (1) unlikely that the proposal will create any jobs within the State of California, (2) unlikely that the proposal will eliminate any jobs within the State of California, (3) unlikely that the proposal will create any new businesses within the State of California, (4) unlikely that the proposal will eliminate any existing businesses within the State of California, and (5) unlikely that the proposal would cause the expansion of the businesses currently doing business within the State of California. The proposed regulations will not have a significant adverse economic impact on representative private persons or directly affected businesses.

**Benefits of the Proposed Action:** The Administrative Director and the Director of DIR anticipate that there will be many benefits to adopting the ICD-10 for medical reporting in conformity with the previously adopted workers' compensation billing regulations and the HIPAA transition date. The medical treatment billing must be supported by documentation of the treatment rendered. Since the billing rules already require ICD-10 beginning in October 2015, the physician report forms need to conform in order to support the bill. In addition, the ICD-10 is a much more robust coding system that will provide more detail regarding the injured worker's diagnosis or diagnoses, thereby improving communication between physician and claims administrator. This will be beneficial for reducing disputes and improving claims handling, for example, by improving the ability of the claims administrator to authorize appropriate treatment related to the diagnosed occupational injury. A further important benefit is ensuring consistency within the medical community for both record-keeping and billing purposes, since medical providers who are HIPAA covered will need to transition to ICD-10 for Medicare and private patients as of October 1, 2015. Adoption of the October 1, 2015 transition date avoids the possibility of conflicting obligations for HIPAA-covered entities that also participate in workers' compensation.

**Small Business Determination:** The Administrative Director and the Director of DIR have determined that the proposed regulations may affect small businesses.

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5(a)(13), the Administrative Director and the Director of DIR must determine that no reasonable alternative considered or that has otherwise been identified and brought to the Administrative Director's or the Director of DIR's attention would be more effective in carrying out the purpose for which the actions are proposed, or would be as effective and less burdensome to affected private persons than the proposed actions, or would be more cost effective to affected private persons and equally effective in

implementing the statutory policy or other provision of law.

The Administrative Director and the Director of DIR invite interested persons to present reasonable alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

## **PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS**

The text of draft proposed regulations and forms were made available for pre-regulatory public comment from March 18-28, 2014, through the Division's Internet message board (the "DWC Forum").

### **AVAILABILITY OF INITIAL STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, DOCUMENTS INCORPORATED BY REFERENCE, RULEMAKING FILE AND DOCUMENTS SUPPORTING THE RULEMAKING FILE / INTERNET ACCESS**

An Initial Statement of Reasons and the text of the proposed regulations in plain English have been prepared and are available from the contact person named in this notice. The entire rulemaking file will be made available for inspection and copying at the address indicated below.

As of the date of this Notice, the rulemaking file consists of the Notice, the Initial Statement of Reasons, proposed text of the regulations, documents incorporated by reference, pre-rulemaking comments and the Economic Impact Statement (Form STD 399). Also included are any studies and documents relied upon in drafting the proposed regulations.

In addition, the Notice, Initial Statement of Reasons, and proposed text of the regulations being proposed may be accessed and downloaded from the Division's website at [www.dir.ca.gov](http://www.dir.ca.gov). To access them, click on the "Proposed Regulations – Rulemaking" link and scroll down the list of rulemaking proceedings to find the "ICD-10 Transition" link.

Any interested person may inspect a copy or direct questions about the proposed regulations and any supplemental information contained in the rulemaking file. The rulemaking file will be available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 17<sup>th</sup> Floor, Oakland, California 94612, between 9:00 A.M. and 4:30 P.M., Monday through Friday. Copies of the proposed regulations, Initial Statement of Reasons and any information contained in the rulemaking file may be requested in writing to the contact person.

## **CONTACT PERSONS**

Inquiries concerning this rulemaking action may be directed to:

Maureen Gray  
Regulations Coordinator  
Department of Industrial Relations  
Division of Workers' Compensation  
P.O. Box 420603  
San Francisco, CA 94142

E-mail: [mgray@dir.ca.gov](mailto:mgray@dir.ca.gov)  
Telephone: (510) 286-7100

In the event the contact person above is unavailable, inquiries should be directed to:

Lindsey A. Urbina  
Division of Workers' Compensation  
P.O. Box 420603  
San Francisco, CA 94142

E-mail: [lurbina@dir.ca.gov](mailto:lurbina@dir.ca.gov)  
Telephone: (510) 286-7100

Please direct requests for copies of the proposed text (the “express terms”) of the regulations (including the documents to be incorporated by reference), the Initial Statement of Reasons, the modified text of the regulations, and any information upon which the rulemaking is based to the contact person at the above address. Requests to be added to the mailing list for rulemaking notices may also be directed to the contact person.

#### **AVAILABILITY OF CHANGES FOLLOWING PUBLIC HEARING**

If the Administrative Director and the Director of DIR make changes to the proposed regulations as a result of the public hearing and public comment received, the modified text with changes clearly shown will be made available for public comment for at least 15 days prior to the date on which the regulations are adopted.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, the final Statement of Reasons will be available and copies may be requested from the contact person named in this Notice or may be accessed on the Division’s website at [www.dir.ca.gov](http://www.dir.ca.gov).

#### **AUTOMATIC MAILING**

A copy of this Notice will automatically be sent to those interested persons on the Administrative Director’s mailing list.

If adopted, the regulations as amended and adopted will appear in California Code of Regulations, title 8, sections 9770, 9785, 9785.2, 9785.2.1, 9785.3, 9789.3.1, 9785.4, 9785.4.1, 9792.5.1, 14006, and 14006.1. The text of the final regulations will be available through the website of the Office of Administrative Law at [www.oal.ca.gov](http://www.oal.ca.gov).