

State of California
DEPARTMENT OF INDUSTRIAL RELATIONS
Division of Workers' Compensation

**NOTICE OF MODIFICATION TO TEXT OF
PROPOSED REGULATIONS**

Subject Matter of Regulations: Utilization Review Enforcement

TITLE 8, CALIFORNIA CODE OF REGULATIONS
SECTIONS 9797.11 – 9792.15

NOTICE IS HEREBY GIVEN that the Acting Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 133 and 4610, proposes to modify the text of the following proposed amendments to Title 8, California Code of Regulations:

Section 9792.11	Investigation Procedures: Labor Code § 4610 Utilization Review Violations
Section 9792.12	Penalty Schedule for Labor Code § 4610 Utilization Review Violations
Section 9792.15	Administrative Penalties Pursuant to Labor Code § 4610 – Order to Show Cause, Notice of Hearing, Determination and Order and Review Procedure

PRESENTATION OF WRITTEN COMMENTS AND DEADLINE FOR SUBMISSION OF WRITTEN COMMENTS

Members of the public are invited to present written comments regarding these proposed modifications. **Only comments directly concerning the proposed modifications to the text of the regulations will be considered and responded to in the Final Statement of Reasons.**

Written comments should be addressed to:

Maureen Gray, Regulations Coordinator
Department of Industrial Relations
Division of Workers' Compensation
Post Office Box 420603
San Francisco, CA 94142

The Division's contact person must receive all written comments concerning the proposed modifications to the regulations no later than **5:00 p.m. on April 5, 2007**. Written comments may be submitted by facsimile transmission (FAX), addressed to the contact person at (510) 286-0687. Written comments may also be sent electronically (via e-mail), using the following e-mail address: dwcrules@hq.dir.ca.gov.

AVAILABILITY OF TEXT OF REGULATIONS AND RULEMAKING FILE

Copies of the original text and 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, 17th Floor, Oakland, California.

Please contact the Division's regulations coordinator, Ms. Maureen Gray, at (510) 286-7100 to arrange to inspect the rulemaking file.

The specific modifications proposed include changes to the text of the proposed amendments Title 8, California Code of Regulations:

Section 9792.11	Investigation Procedures: Labor Code § 4610 Utilization Review Violations
Section 9792.12	Penalty Schedule for Labor Code § 4610 Utilization Review Violations
Section 9792.15	Administrative Penalties Pursuant to Labor Code § 4610 – Order to Show Cause, Notice of Hearing, Determination and Order and Review Procedure

DOCUMENTS SUPPORTING THE RULEMAKING FILE

- No new documents

FORMAT OF PROPOSED MODIFICATIONS

Proposed Text Noticed for 45-Day Comment Period:

The new text is indicated by underlining, thus: underlined language.

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

Deletions from the regulatory text, as proposed in April 2006, are indicated by Arial font underline/single strike-through, thus: ~~deleted language~~.

Additions to the regulatory text, as proposed in April 2006, are indicated by Arial font bold italics underline, thus: **added language**.

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

Deletions from the regulatory text, as proposed in November 2006, are indicated by Arial font underline/double strike-through, thus: ~~~~deleted language~~~~.

Additions to the regulatory text, as proposed in November 2006, are indicated by Arial font double underline, thus: added language.

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

Deletions from the regulatory text, as proposed in February 2007, are indicated by Arial font bold underline/double strike-through, thus: ~~**deleted language**~~.

Additions to the regulatory text, as proposed in February 2007, are indicated by Arial font bold double underline, thus: **added language**.

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

Deletions from the regulatory text, as proposed in February 2007, are indicated by Times New Roman font bold underline/double strike-through, thus: ~~**deleted language**~~.

Additions to the regulatory text, as proposed in February 2007, are indicated by Times New Roman font broken underline, thus: added language.

SUMMARY OF PROPOSED CHANGES

Modifications to Section 9792.11 Investigation Procedures: Labor Code § 4610 Utilization Review Violations

Subdivisions (c)(1)(A), (c)(1)(B)(3), (c)(2)(A), and (c)(2)(B)(3) are revised to delete the references to the random sample as a “stratified” random sample of requests. The language: “When possible, at least 50% of the randomly selected requests for authorization shall be denied requests for authorization” has been deleted. The language is deleted because a stratified sample would not be statistically valid.

In subdivision (i) the last two words of the deleted section were inadvertently not deleted. That has now been corrected. The remaining words “upon request” has now been stricken.

Modifications to Section 9792.12 Penalty Schedule for Labor Code § 4610 Utilization Review Violations

In re-numbered subdivision (a)(8), the previous number “(5)” had not been stricken. This has been corrected.

Modifications to Section 9792.15 Administrative Penalties Pursuant to Labor Code § 4610 – Order to Show Cause, Notice of Hearing, Determination and Order and Review Procedure

The following non-substantive corrections have been made:

In subdivision (d), a colon is added following “Re.” In subdivision (f), the “c” in “cause” has been capitalized. In subdivision (u), the “(t)” has been stricken. In subdivision (v), the “(u)” has been stricken. In subdivision (w), the “(v)” has been stricken. In subdivision (x), the “(w)” has been stricken. In subdivision (y), the “(x)” has been stricken.