Andrea Guzman, Claims Regulatory Director November 4, 2022

State Compensation Insurance Fund

State Fund respectfully submits the following comments for your consideration.

**I. §10205.4. Adjudication Files.**

**Discussion:**

(b) All case opening documents shall be given a case number ~~by the district office~~ where no case number has been previously assigned for the injured worker for the alleged date of injury. The parties shall be notified of the case number by **the Division of Workers’ Compensation** ~~their preferred method of service~~.

Subdivision (b) advises that the DWC will notify parties when a case number is assigned. However, there is no additional information on the DWC’s process for when or by what method(s) of service will a party be notified. With the proposed deletion from these regulations of a party’s designated preferred method of service, it is unclear what the DWC’s notification process will be for case number assignment.

**Recommendation:**

For the reasons indicated above, State Fund requests clarity on the DWC’s notification process.

**II**. **§10205.5. Official Participant Record and Duty to Furnish Correct Address.**

**Discussion:**

(b) In order to ensure case parties and documents are accurately associated to the correct electronic adjudication file, uniform names for claims administrators' offices, insurance carriers’ offices, lien claimants, and representatives' offices shall be used when filing documents in EAMS. The names will be assigned by the Division of Workers' Compensation

With the notable number of insurance carriers that also serve as the claims administrators, it is uncertain if a party that meets both roles will be assigned a separate insurance carrier Uniformed Assigned Name (UAN) in addition to the claims administrators UAN they already have. It is also not clear if having a separate UAN for these dual role parties will more accurately associate them with adjudication files.

Additionally, with the large volume of existing parties that may be newly assigned UANs based on this proposed change, it is not specified if all parties to the claim will be notified when a UAN has been assigned to an existing participant to a claim and if the parties will be given a grace period to begin using the UAN without submissions being rejected.

**Recommendations:**

For the reasons indicated above, State Fund requests clarity about whether it is the DWC intent to assign multiple UANs. Also, State Fund recommends a grace period be provided for parties to comply with using UANs for lien claimants and insurance carriers on EAMS submissions, as there is an additional burden for parties to make the required technical changes to their internal systems.

**Discussion:**

(1) The Division of Workers' Compensation will collect and maintain a list on its website (https://www.dir~~dwc~~.ca.gov/dwc/EAMS/EAMS.html) of uniform names, email addresses, and mailing addresses ~~and preferred method of service~~ for the following entities: claims administrators' offices, insurance carriers’ offices, lien claimants, and representatives' offices.

Under paragraph (1) of subdivision (b), the DWC’s proposed amendments to update its URL address and to now include the email addresses of parties are vague on criteria for what is required from the parties. The proposed amendments are silent on the following:

* If the old URL address will redirect to the new URL address
* How existing parties with UANs will submit their email addresses to comply with this new requirement
* If there is a limit on the number of email addresses provided, and
* What the remedy for inappropriate use of an email address is

**Recommendation:**

For the reasons indicated above, State Fund requests clarification.

**Discussion:**

(2) Additions for new claims administrators' offices, insurance carriers’ offices, lien claimants, and representatives' offices shall be registered by the entity requesting the addition with the Central Registration Unit and shall include the entity’s ~~changes of~~ name, ~~location or~~ address, telephone number, ~~fax number,~~ and e-mail address ~~or preferred method of service shall be registered by the entity requesting the change with the Central Registration Unit~~.

Here, absent the preferred method of service, is it unclear which method of service from a party the DWC will use to serve parties. Clarity is needed.

**Recommendation:**

State Fund requests clarity on which method(s) of service the DWC will use to serve participants in a case.

**Discussion:**

(C) The new uniform name, address, telephone number, or email address ~~and preferred method of service~~ will be posted by the Central Registration Unit within ten business days of receipt of the request.

Here, it is not specified if the new UAN information will be posted on the URL site noted under paragraph (1) of subdivision (b).

**Recommendation:**

State Fund requests clarity of the posting location for new UAN information.

**III. ~~§10205.6. Designated Preferred Method of Service.~~ (Repeal)**

**Discussion:**

The proposed repeal of this section eliminates the ability for a party to specify a preferred method of service. This may be interpreted as now the Board and parties will choose how they want to be served in every instance. Clarity is needed.

**Recommendation:**

State Fund recommends the DWC provide clarity on the repeal of this section as to whether or not an agreement is no longer needed for how a party wants to be served.

**IV. §10205.~~10~~9. Manner of Filing Documents.**

**Discussion:**

The DWC’s proposed amendments in this section limits the ability of current JET Filers to OCR file documents. However, per the DWC’s EAMS JET File FAQ, if a JET Filer needs to file a form that cannot be JET Filed, then they would have to OCR file or E-File if they are an E-Filer. As such, there is some uncertainty as to what a JET Filer should do if they need to file a form that cannot be JET filed.

**Recommendations:**

Due to the uncertainty noted above, State Fund requests clarity on the following:

* Will JET File be expanded to include all possible submissions to the WCAB, including documents that currently cannot be JET Filed per the DWC’s EAMS JET File FAQ?

**Discussion:**

(3) Optical character recognition (OCR) forms that are prepared at a hearing or that, for good cause, are filed at trial.

Here, the addition of paragraph (3) to subdivision (a) does not specify if the reference to “hearing” includes remote hearings and trials. Thus, different interpretations may arise. Also, it is unclear on how this will change, if any, the ability to perform walk-throughs.

**Recommendation:**

For the reasons indicated above, State Fund requests clarity.

**Discussion:**

(~~dc~~) OCR forms will be posted in fillable format on the Division of Workers' Compensation website (https://www.dir.ca.gov/dwc/forms. html).

Here, it appears that the current §10205.10(d) indicating the location of fillable OCR forms is proposed to be amended to be part of §10205.9(b) by deletion, (~~dc~~). The “c” is marked as both an addition and deletion. It seems the DWC intended for “c” to be an addition and the proposed formatting change should be clarified.

~~(c) All unrepresented employees, unrepresented dependents, unrepresented uninsured employers, or lien claimants listed in subdivision ©(5)(A), (B) or (C) shall utilize optical character recognition forms, where such forms are required, but if they do not have ready access to a computer or typewriter, printed OCR forms will be available at the district offices and the information added to the form may be hand-printed in black ink.~~

This subdivision is currently labeled as “(e)” under the current §10205.10. It appears the DWC mislabeled this subdivsion as “(c)” in these proposed changes and instead should show as “~~(e) All unrepresented.~~..”.

**Recommendation:**

State Fund requests clarity on DWC’s intended formatting changes to these sections.

**V. §10205.142. Document Separator Sheet Form.**

**Discussion:**

Here, it appears the DWC intended to strike out “4” to replace with “2” in the title of this section as part of its proposed renumbering of sections, but there is no strikethrough formatting for the “4” in the published proposed regulations

**Recommendation:**

State Fund requests clarity on DWC’s intended formatting change to this section title.

**VI. § 10206.2. Electronic Filing Exemption.**

**Discussion:**

All electronic documents must be filed in compliance with the Electronic Adjudication Management System regulations set forth in sections 10205, et seq., except that electronic documents do not need to be filed in compliance with sections ~~10205.10 and~~ 10205.12.

Here, it is unclear what exception the reference to §10205.12 is referring to because that section in the proposed renumbering changes has no requirements. Instead, it is only the incorporation of the Document Separate Sheet Form.

**Recommendation:**

State Fund requests clarity on the DWC’s intended formatting change to this section as to what this exemption refers to.

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Please consider adding Doctor’s reports to the electronic service text. The USPS is not always reliable. The technology today – telehealth – email – fax – file transfer – is superior and assuming a Proof of Service is included, there is no good reason to require medical reports to be filed via US Postal Service.

Please codify the regulations to allow service of medical reports via email, fax and/or file transfer.