Chapter 4.5 Division of Workers' Compensation
Subchapter 1, Administrative Director – Administrative Rules
Article 12. Document Copy and Electronic Transaction Fees

§ 9980 Definitions

As used in this article:

(a) "Authorization" means a written release to obtain records, signed and dated by the injured worker, or the injured worker's representative if the injured worker is a minor, ~~or an~~ incompetent, or ~~is~~ deceased, ~~to obtain records~~ which contains the following information: ~~states~~

(1) The ~~the~~ specific uses and limitations on the types of information to be disclosed;~~,~~

(2) The ~~the~~ name of the person or entity that may disclose the information;~~,~~

(3) The ~~the~~ name of the person or entity authorized to receive the information;~~,~~

(4) The ~~a~~ specific date after which the provider is no longer authorized to disclose the information;~~,~~ and

(5) A notice advising ~~advises~~ the person signing the authorization of the right to receive a copy of the authorization.

(b) "Copy and related services" means all services and expenses that are related to the retrieval and copying of documents that are responsive to a duly issued subpoena or authorization to release documents for a workers' compensation claim.

(c) "Claims administrator" means the person or entity responsible for the payment of compensation for any of the following: a self-administered insurer providing security for the payment of compensation required by Divisions 4 and 4.5 of the Labor Code, a self-administered self-insured employer, the administrator of the Uninsured Employers Benefits Trust Fund (UEBTF), the administrator of the Subsequent Injuries Benefits Trust Fund (SIBTF), a third-party claims administrator for a self-insured employer, insurer, legally uninsured employer, joint powers authority, the Self-Insurers' Security Fund, or the California Insurance Guarantee Association (CIGA) .

(d) "Custodian of records" means the person who has ~~physical~~ custody and control of the books, records, documents or physical evidence and maintains them in the ordinary course of business.

(e) "Set of records" means records or documents that have been recorded in paper, electronic, film, digital, or other format from one custodian of records under one subpoena or authorization.

(f) "Professional photocopier" is defined by section 22450 of the Business and Professions Code.

Authority: Section 5307.9, Labor Code.
Reference: Section 5307.9, Labor Code.

§ 9981 Bills for Copy Services

(a) This article applies to services provided on and after July 1, 2015 ~~the effective date of this article~~ regardless of date of injury.

(b) Bills for copy and related services must specify the services provided and include:

(1) The individual's or entity's ~~the~~ provider tax identification number, ~~and~~ professional photocopier registration number, county of registration, and date of billing;~~,~~

(2) The ~~case information including employee~~ injured worker's name, claim number, Workers' Compensation Appeals Board case number (if applicable);~~,~~ and

(3) The source of the information, the ~~including~~ type of records produced, the date of service, a description of the billed services, and the number of pages produced.

(c) Bills for canceled services must include, in addition to the information required in subdivision (a)(1) and (2) of this section, a copy of the request of records that contains the date of the request and the identity of the requestor, and the cancellation order, that contains the date of the cancellation and the identity of the indivudial or entity that cancelled the request.

(d) Bills for certificates of no records must include, in addition to the information required in subdivision (a)(1) and (2) of this section, a copy of the request of records that contains the date of the request and the identity of the requestor, and a copy of the certificate of no records, that must include the date of the certificate.

(e) Bills submitted under this section must utilize the following codes and applicable fees:

(1) WC 020: Flat Fee. (Indicate amount allowed under section 9983(a).)

(2) WC 021: Cancelled Service - $75.00.

(3) WC 022: Certificate of No Records - $75.00.

(4) WC 023: Per Page Fee of .10 per page.

(5) WC 024: Records of the Employment Development Department (EDD) - $20.00.

(6) WC 025: Records of the Workers' Compensation Insurance Rating Bureau (WCIRB) - $45.00.

(7) WC 026: Sales Tax. (Indicate amount.)

(8) WC 027: Duplication of X-Ray or Scan - $10.26.

(9) WC 028: Electronic storage media containing X-rays and Scans - $3.00.

(10) WC 029: Contracted Fees. (Indicate amount.)

(11) WC 030: Requested Services. (Indicate amount.)

(12) WC 031: Additional Sets. (Indicate amount.)

~~(1) Bills for records may include billing codes. WC 020 is for Flat Fee of $180, WC 021 is for Cancelled Service of $75, WC 022 is for Certificate of No Record of $75, WC 023 is for Per Page Fee of .10 per page, WC 024 is for records from the Employment Development Department (EDD) of $20, WC 025 is for records from the Workers' Compensation Insurance Rating Bureau of $30, WC 026 is for an Additional Electronic Set of $5, WC 027 is for an Additional Electronic Set of $30, WC 028 is for Duplication of X-Ray or scan of $10.26, WC 029 is for CD of X-rays and scans of $3.~~

(~~2~~f) All bills submitted under this section ~~Each bill for services~~ must include a statement under penalty of perjury that ~~there was no~~ the services described in the bill are neither related to nor the result of a violation of Labor Code section 139.32 ~~with respect to the services described~~.

Authority: Section 5307.9, Labor Code.
Reference: Section 5307.9, Labor Code, Section 22462, Business and Professions Code.

§ 9982 Allowable Services

(a) The fees allowed under section 9983 shall be applied to copy and related services:

(1) ~~This fee schedule covers copy and related services for~~ To obtain records relevant to an injured worker's claim, unless such services are covered ~~except services~~ under a contract between the ~~employer~~ claims administrator and the copy service provider.

(2) To obtain records in the claims administrator's possession that the claims administrator failed to timely serve following a request by the injured worker or their representative within the time frames set forth in Labor Code section 5307.9.

(3) To obtain a copy of any subsequently-received medical report or medical-legal report, or other medical information relevant to the claim, within the time frames set forth in section 10608.

(4) To obtain records that the claims administrator is seeking by subpoena, provided the claims administrator fails to provide written notice to the injured worker pursuant to Labor Code section 4055.2.

~~(b) If the claims administrator fails to serve records in the employer's or insurer's possession requested by an injured worker or his or her representative within the time frames set forth in Labor Code section 5307.9, or fails to serve a copy of any subsequently-received medical report or medical-legal report within the timeframes set forth in section 10608, this fee schedule applies to obtaining those records.~~

~~(c) If the claims administrator fails to provide written notice, pursuant to Labor Code section 4055.2, to the injured worker of records which they are seeking by subpoena, this fee schedule applies to obtaining those records.~~

(b) ~~(d)~~ There will be no payment for copy and related services that are:

(1) Provided within 30 days of a written request by an injured worker or ~~his or her~~ the injured worker's authorized representative to an employer, claims administrator, or workers' compensation insurer for copies of records in the employer's, claims administrator's, or workers' compensation insurer's possession that are relevant to the employee's claim~~,~~ .or

(2) Provided by any person or entity which is not a registered professional photocopier.

(3) Provided by a medical provider, or by an agent of the provider, when the requesting party has employed a professional photocopier to obtain or inspect the records.

(c) ~~(e)~~ The claims administrator is not liable for payment of:

(1) Records previously obtained by subpoena or authorization by the same party and served from the same source, unless the subpoena or authorization is accompanied by a declaration from the party requesting the records setting forth good cause to seek duplicate records.

~~(A) If there is good cause, the claims administrator is liable for payment. Good cause includes new counsel seeking duplicate records for review, and loss or destruction of records due to natural disaster.~~

(2) Summaries, tabulations, or for indexing of documents.

(3) Subpoenaed records obtainable from the Workers' Compensation Insurance Rating Bureau~~, and~~ or the Employment Development Department that can be obtained without a subpoena at lower cost.

Authority: Section 5307.9, Labor Code.
Reference: Section 2019.030, Code of Civil Procedure; section 5307.9, Labor Code.

§ 9983 Fees for Copy and Related Services

The reasonable maximum fees, not including sales tax, payable for copy and related services are as follows:

(a) For dates of service prior to (EFFECTIVE DATE OF REGULATION), ~~A~~a $180 flat fee, for a set of records, from a single custodian of records, which includes, but is not limited to, mileage, postage, pickup and delivery, phone calls, repeat visits to the record source and records locators, page numbering, witness fees for delivery of records, check fees, ~~fees for release of information services~~ costs charged by a third party for the retrieval and return of records held offsite by the third party, service of the subpoena, shipping and handling, and subpoena preparation.

(1) For dates of service after (EFFECTIVE DATE OF REGULATION), the flat fee will be increased to $210.

(2) For dates of service starting the next calendar year following (EFFECTIVE DATE OF REGULATION), the flat fee will be increased annually by an amount equal to the percentage increase in the state average weekly wage as compared to the prior year. For the purpose of this section, "state average weekly wage" has the same meaning as that set forth in Labor Code section 4453(a)(10).

(b) $75 in the event of cancellation after a subpoena or request for records by authorization has been issued but before records are produced, or for a certificate of no records.

(c) $20 for records obtained from the Employment Development Department.

(d) ~~$30~~$45 for records obtained from the Workers' Compensation Insurance Rating Bureau.

(e) ~~Release of information services of witness costs for the retrieval and return of physical records held offsite by a third party are included in the flat fee.~~ Disputes over the production of records may be resolved by filing a petition with the Workers' Compensation Appeals Board, or by filing a petition with ~~the~~ a superior court pursuant to Labor Code section 132. ~~Release of information services of witness costs for retrieval and return of physical records held offsite by a third party are governed by Evidence Code Section 1563.~~

(f) In addition to the flat fee allowed in subdivision (a), the following separate fees apply:

(1) For paper copies, ~~Ten~~ ten cents ($.10) per page for copies above 500 pages.

(2) $5.00 for each additional set of records in electronic form ordered within 30 days of the subpoena, or $30 if ordered after 30 days and the copy is retained by the registered photocopier. If the injured worker requests an additional set of records the subpoena, the claims administrator is liable for one additional set of records in electronic form for no more than $5.00 for the additional set of records if ordered within 30 days and for no more than $30 if ordered after 30 days and the copy is retained by the registered photocopier. All other additional sets of records are payable by the party ordering the additional set.

(3) X-rays and scans are to be paid at $10.26 per sheet, and $3 ~~per CD~~ for electronic storage media of X-rays and scans.

(4) Applicable sales tax.

Authority: Section 5307.9, Labor Code.
Reference: Sections 4453, 5307.9, Labor Code; section 1563, Evidence Code