

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

NOTICE OF MODIFICATION TO TEXT OF PROPOSED REGULATIONS

**Subject Matter of Regulations: Workers' Compensation –
Transition to ICD-10; Update to
DWC Medical Billing and Payment Guide**

**TITLE 8, CALIFORNIA CODE OF REGULATIONS,
Sections 9770, 9785-9785.4, 9792.5.1, 14003, 14006, 14006.1, 14007**

NOTICE IS HEREBY GIVEN that the Administrative Director of the Division of Workers' Compensation (hereafter "Administrative Director" and "DWC"), 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, 9th Revision (ICD-9) diagnosis and inpatient procedure coding systems, to the International Classification of Diseases, 10th 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, 9th Revision (ICD-9) system of diagnosis, which need to be updated to reflect the new International Classification of Diseases, 10th 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.

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
P.O. Box 420603

San Francisco, CA 94612

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 August 3, 2015. Written comments may be submitted via 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.

Due to the inherent risks of non-delivery by facsimile transmission, the Administrative Director suggests, but does not require, that a copy of any comments transmitted by facsimile transmission also be submitted by regular mail.

Comments sent to other e-mail addresses or facsimile numbers will not be accepted. 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 and modified text with modifications clearly indicated, and the entire rulemaking file, are currently available for inspection at the Department of Industrial Relations, Division of Workers' Compensation, 1515 Clay Street, 17th Floor, Oakland, California 94612, between 9:00 A.M. and 4:30 P.M., Monday through Friday. Please contact the Division's regulations coordinator, Ms. Maureen Gray, at (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, thus: added language. Deletions are indicated by strikeout, thus: ~~deleted language~~.

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

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

SUMMARY OF PROPOSED CHANGES

1. Section 9785

Section 9785, subdivision (e)(1), the word "re-port" has been corrected to "report." In addition, the following language has been added to the end of this subdivision in response to comments from claims administrators: "Although ICD-10 coding is required on or after October 1, 2015, until October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider's citation of the specificity of the ICD-10 diagnosis codes used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form."

In subdivision (f)(8), the following language was added, for the same reason: "Although ICD-10 coding is required on or after October 1, 2015, until October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider's citation of the specificity of the ICD-10 diagnosis codes used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form."

In subdivision (h), the following language was added, for the same reason: "Although ICD-10 coding is required on or after October 1, 2015, until October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider's citation of the specificity of the ICD-10 diagnosis codes used, Providers may use either version of the applicable form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form."

2. Section 9785.2.1

The following changes were made to the PR-2 form: On the first page, fields for date of injury and date of birth were added back to the form. These had been deleted inadvertently. On the last page of the form, a field for the date of the physician's examination was added back in. This had also been deleted inadvertently.

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

Three minor changes were made to the Guide. On page 5 of the Guide, the form "DLSR 5021" is renamed "Form 5021." On page 16 of the Guide, reference is updated to the 1500 Health Insurance Claim Form Reference Instruction Manual for Form Version 02/12, Version 3.0, dated July 2015, rather than Version 2.0, dated July, 2014. The newer version of the Manual was not available at the time of the initial rulemaking action. In addition, on page 28 of the Guide, reference is update to the National Uniform Billing Committee Official UB-04 Data Specifications Manual, 2016, Version 10.0, issued in July 2015, rather than the 2015 Manual, Version 9.0, issued in July 2014. The newer version of the Manual was not available at the time of the initial rulemaking action.

4. Section 14003

In subdivision (c), the following language has been added to the end of this subdivision in response to comments from claims administrators: "Although ICD-10 coding is required on or after October 1, 2015, until October 1, 2016, no medical treatment or medical-legal bill shall be denied based solely on an error in the provider's citation of the specificity of the ICD-10 diagnosis codes used. Providers may use either version of the form until December 31, 2015. As of January 1, 2016, providers must use the 2015 version of the form."

5. Section 14006.1

On page 2 of Form 5021, item 12 was clarified to specific that it is the address where the injury occurred. In item 21, the "yes" was changed to a "no." "Yes" had been used in error. Minor grammatical errors were corrected in items 21 and 22.