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DWCNewsline

Division of Workers' Compensation
Carrie Nevans, Acting Administrative Director

1515 Clay Street, 17th floor, Oakland, CA 94612 (510) 286--7100

Internet Web Page: <http://www.dir.ca.gov>

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Division of Workers' Compensation issues 15-day notice of revisions to proposed utilization review enforcement regulations

The Division of Workers' Compensation (DWC) has modified its regulations for utilization review enforcement. A 15-day notice of modification was distributed to interested parties and the revised regulations are posted to the DWC Web site. Members of the public may comment on the revisions until 5 p.m. Tuesday, Dec. 12, 2006.

The proposed utilization review enforcement regulations are authorized by Labor Code section 4610, which requires every employer to have and use a utilization review process, and sets out timelines and conditions to be met whenever a request for authorization of medical treatment will be delayed, modified or denied.

The revisions include:

- A definition of "utilization review organization"
- A description of the three types of investigations that may be used: routine investigation, non-routine investigation and non-routine investigation to determine abatement
- A requirement that the claims administrator or utilization review organization notify the employer of DWC's final report of findings of violations, a summary of the DWC findings, the utilization review organization's abatement measures in response, an indication of whether the utilization review organization is appealing and a notification of the DWC Web site address where the final report is posted. The revised regulations also require that for each utilization review file that gave rise to a finding of violation, the utilization review organization send the notice to that employer by certified mail. The DWC will post final reports of investigations and subsequent proof of abatement on the DWC Web site
- A list of the information and records that must be made available during the investigation
- An increase in the penalties for the single instance violations listed in section 9792.12(a)
- A waiver of penalties for the violations listed in 9792.12(b) the first time the violation is found if the employer, claims administrator or utilization review organization demonstrates that the violation has been abated. If, upon a return investigation, one or more violations of the same sections exist, the penalty amount shall be calculated as follows: the maximum of the basic penalty times 10 percent of the total number of utilization review requests answered in the 30 days preceding notice of the follow-up

investigation. For a second follow-up investigation, the formula is the basic penalty times 20 percent of the total number of utilization review requests answered in the 30 days preceding the investigation. For the third follow-up investigation, the formula is the basic penalty times 40 percent of the total number of utilization review requests answered in the 30 days preceding the investigation. The penalties may be mitigated based on the factors listed in section 9792.13.

Further information and the modified proposals can be found at http://www.dir.ca.gov/dwc/DWCPropRegs/UREnforcementRegulations/UR_EnforcementRegulations.htm.

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