

Benefit Notice Regulations

(Title 8, California Code of Regulations, §§9810 through 9813.2)

*Presented by the
DWC Audit Unit*

February 2008

DWC Benefit Notice Regulations

Compliance Issues ~ the old, the new and the revised

The following slides highlight revisions to existing benefit notice regulations. This is not a comprehensive outline of all requirements for the content and provision of the individual notices.

The approved regulations, as filed with the Secretary of State, can be found on the DWC Web site at http://www.dir.ca.gov/dwc/DWCPropRegs/BenefitNoticeRegulations/BenefitNotice_regulations.htm.

DWC Benefit Notice Regulations

Compliance Issues ~ the old, the new and the revised

Filed with the Secretary of State on
December 11, 2007

Effective and subject to enforcement for all
notices to be sent on or after April 9, 2008

DWC Benefit Notice Regulations

Compliance Issues ~ the old, the new and the revised

8CCR§9810 General Provisions

- Guideline for issuance of notices
- *Revised (h)* – Notice maintained in electronic or paper form; in lieu of individual copies, attachments may be identified by name and revision date
- *New (i)* – All notices shall be available in English and Spanish, as appropriate

DWC Benefit Notice Regulations

Compliance Issues ~ the old, the new and the revised

8CCR§9811 Definitions

- *old* (c) – “Date of knowledge of injury and disability”
- *Revised* (f) – “Employee’s (or claimant’s) remedies”
 - Required on all notices
 - Mandatory language for general and ADR claims
- *New* (i) – “Permanent and stationary status”

DWC Benefit Notice Regulations

Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice

- *Old* Notices required for benefit start, stop, delay, change and/or deny
- *New* Notices may require attachment of one or more of the most recent version of the DWC informative pamphlets
 - Temporary Disability Fact Sheet
 - Permanent Disability Fact Sheet
 - QME/AME Fact Sheet

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *New* Special format for notices requiring advice for QME/AME evaluation
 - Top of first page
 - 12 point font
 - Mandatory language: “You may lose important rights if you do not take certain actions within 10 days. Read this letter and any enclosed fact sheets very carefully.”

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (a)(1) First TD Payment
 - Temporary Disability Fact Sheet required
- *Revised* (a)(2) Delay of TD Payment ~
 - If delay is related to a medical issue, QME/AME Fact Sheet required
 - Panel request form may be required
 - Subsequent delay notice due on determination date noted on previous delay
 - May require mandatory 10 day warning

DWC Benefit Notice Regulations

Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (a)(3) Denial of TD Payment ~
 - Temporary Disability Fact Sheet required
 - If denial is related to a medical issue, QME/AME Fact Sheet required
 - Panel request form may be required
 - May require mandatory 10 day warning

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (d) Notice that Benefits Are Ending (TD, SC, PD, VRTD/VRMA)
 - Termination of TD, SC or PD requires the relevant DWC Fact Sheet
 - QME/AME Fact Sheet required
 - Panel request form may be required
 - May require mandatory 10 day warning

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (f) PD Notices for 1991, 1992 & 1993 DOI
 - (1) Notice of Monitoring Until P&S Date
 - Monitoring for determination of P&S status, factors of PD, and need for continuing medical care
 - Subsequent notice due on determination date noted on previous monitoring notice

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (f) PD Notices for 1991, 1992 & 1993 DOI
 - (2) Condition P&S, Notice of QME Procedures
 - QME/AME Fact Sheet required
 - Panel request form may be required
 - May require mandatory 10 day warning

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (f) PD Notices for 1991, 1992 & 1993 DOI
 - (3) Notice of PD Payment
 - Panel request form may be required
 - May require mandatory 10 day warning
 - (4) Notice That No PD Exists
 - May require QME/AME Fact Sheet
 - Panel request form may be required
 - May require mandatory 10 day warning

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (g) PD Notices for DOI on / after January 1, 1994
 - (1) Notice of Monitoring Until P&S Date
 - Monitoring for determination of P&S status, factors of PD, and need for continuing medical care
 - Subsequent notice due on determination date noted on previous monitoring notice

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (g) PD Notices for DOI on / after January 1, 1994
 - (2) Condition P&S, Notice of QME/AME Procedures
 - Copy of medical report required
 - QME/AME Fact Sheet and/or Temporary Disability Fact Sheet may be required
 - Panel request form may be required
 - May require mandatory 10 day warning

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (g) PD Notices for DOI on / after January 1, 1994
 - (3) Notice That No PD Exists
 - Copy of medical report required
 - QME/AME and Permanent Disability Fact Sheets required
 - Panel request form may be required
 - May require mandatory 10 day warning

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (g) PD Notices for DOI on / after January 1, 1994
 - (4) Notice of PD Payment
 - Permanent Disability Fact Sheet required
 - For dates of injury on or after January 1, 2005, advise of any adjustment of PD rate in pursuant Labor Code §4658(d)

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (h) Notices to Dependents in Death Cases
 - (3) Delay in Determining Benefits
 - Subsequent notice due on determination date noted on previous delay notice

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (i) Notice Denying Liability for All Compensation Benefits
 - QME/AME Fact Sheet required
 - For claims reported on or after April 19, 2004, advise of eligibility for payment of up to \$10,000 for medical services between the date the claim form was filed and the date of denial of liability
 - Copy of notice required for known and potential lien claimants

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Compliance Issues ~ the old, the new and the revised

8CCR§9812 Benefit Payment and Notice (continued)

- *Revised* (j) Notice of Delay in Determining All Liability
 - If delay is related to a medical issue, QME/AME Fact Sheet required
 - For claims reported on or after April 19, 2004 (regardless of date of injury) advise of eligibility for payment of up to \$10,000 for medical services between the date the claim form was filed and the date of denial of liability
 - Subsequent notice due on determination date noted on previous delay notice

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Compliance Issues ~ the old, the new and the revised

8CCR§9813.1 For DOI on / after January 1, 2004

- *New* (a) – Notice of Potential Right to SJDB
 - Due within 10 days of termination of TD, if not previously provided
 - Mandatory notice as set forth in 8CCR§10133.52
 - To be sent by certified mail

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Compliance Issues ~ the old, the new and the revised

8CCR§9813.1 For DOI on / after January 1, 2004 (continued)

- *New (b)* – Notice of Offer of Modified or Alternative Work
 - Due within 30 days of termination of TD
 - Mandatory notice as set forth in 8CCR§10133.53
 - Must meet employee's work restrictions
 - Must last at least 12 months

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Compliance Issues ~ the old, the new and the revised

8CCR§9813.2 For DOI on / after January 1, 2005

- *New* Notice of Offer of Regular Work, Notice of Offer of Modified or Alternative Work due within 60 calendar days of P&S with permanent disability
 - (a) If no notice of offer within 60 calendar days of P&S, remaining PD payments increased by 15% in accordance with Labor Code §4658 (d)(2)
 - (b) If timely notice of offer, remaining PD payments decreased by 15% in accordance with Labor Code §4658 (d)(3)
 - Mandatory notices as set forth in 8CCR §10003 (regular work) and §10133.53 (mod/alt work)