



BULLETIN

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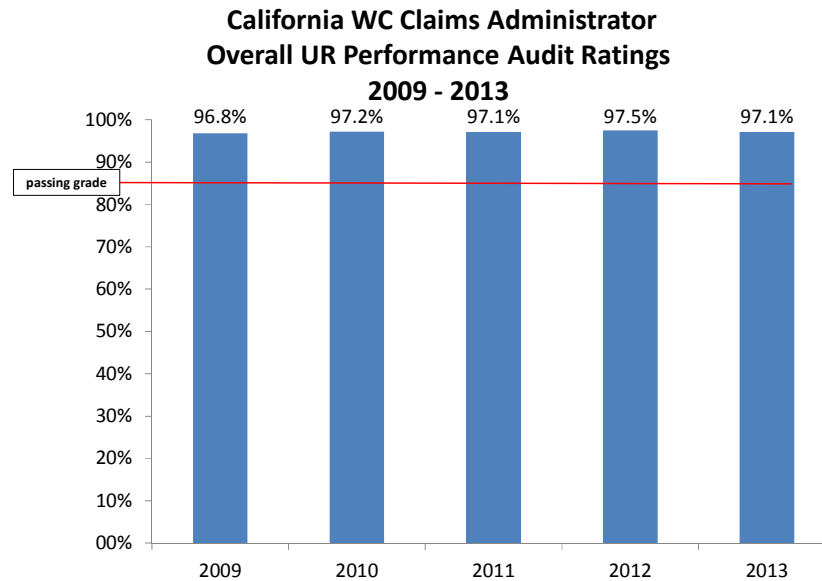
DWC audits of California workers' compensation utilization review (UR) programs, which check the timeliness, content and delivery of responses to requests for authorization of treatment, show the overall performance rating for claims administrators in the past five years has averaged more than 97 percent, well above the 85 percent level that regulators consider a passing grade.

Reforms enacted by state lawmakers in 2003 (SB 228) required all employers in California, either directly or through their insurer or the entity handling their work injury claims, to establish and maintain a UR process for workers' comp medical treatment that is guided by written policies and procedures, consistent with the medical treatment utilization schedule (MTUS) adopted by the DWC, and overseen by a medical director. In September 2005, the state adopted regulations (CCR §§ 9792.6-9792.10) that defined the key terms and applicability of the UR process, the medical criteria for UR, time frames, notice requirements and procedures, and a dispute resolution process. In June 2007, the state approved the final UR enforcement regulations (CCR §§ 9792.11-9792.15), which took effect immediately, as well as the MTUS regulations (CCR §§ 9792.20 - 9792.23) which also took effect that month. The DWC subsequently began routine UR compliance investigations that fall. Five years later, SB 863 mandated a new process for resolving medical disputes, so at the end of 2012, the DWC revised the UR regulations to reflect those changes.

The UR enforcement regulations adopted by the state require the DWC to conduct a routine investigation of all workers' comp claims adjusting locations at least once every five years. These audits are done in conjunction with the Profile Audit Reviews in which the Division checks for compliance with statutory and regulatory requirements for indemnity benefit delivery and notification. During each UR audit, the DWC reviews a random sample of Requests for Authorization (RFAs) for treatment drawn from those submitted in the prior three months that met the state's regulatory definition of an RFA, as well as associated records. The DWC also can conduct targeted UR audits if it receives credible information that UR laws or regulations may have been violated. Upon completion of the audit, the Division issues a report with an overall performance rating and summaries of the type and number of violations found during the investigations. These results, which under CCR §9792.12(b)(6) must be posted on the DWC website, provide a measure of the efficiency of the UR programs. Claims administrators that fail to achieve an 85 percent UR performance rating are subject to penalties and further investigation.

With the evolution of the workers' compensation medical dispute resolution process over the past decade, and the growing pains that have come with it, some in the workers' compensation community assert that claims administrators have performed poorly in meeting their obligations in responding to treatment requests, a problem they say made worse by the SB 863 changes that began in January 2013. To test that notion, the Institute analyzed the published results of the DWC's UR audits of claims administrators from 2009 through 2013 to assess the efficiency of their UR processes in terms of the timeliness, content and delivery of responses to UR requests. Altogether, these audits encompassed investigations of 280 different workers' compensation claims administrator locations throughout California, and a total of 11,192 RFAs.

Using the posted results for all claims administrator audits between 2009 and 2013, the Institute calculated the average overall UR performance rating for each of those years, as well as for the entire five-year span. The results, noted below, show remarkably consistent UR compliance rates from 2009 through 2013, with less than 1 percentage point of variance across each of the five years, and an overall compliance rate averaging 97.2 percent for the entire period.



Source: DWC

As noted earlier, the DWC UR audits measure how well claims administrators’ RFA responses comply with the regulatory requirements in regard to three aspects: timeliness, content and delivery. Multiple violations are possible within each of these categories. For example, a claims administrator’s timeliness penalties might include failure to make a UR decision within five working days of receipt of a complete RFA, failure to make and communicate a decision on an expedited request within 72 hours of receipt of the necessary information, or a failure to communicate an initial approval to the requesting physician within 24 hours of the decision in a prospective or concurrent review. Examples of content penalties include if a non-physician denies or modifies an RFA, a physician reviewer modifies an RFA for treatment outside his or her scope of practice, or an RFA is not approved solely because the injured worker’s condition is not addressed in the Medical Treatment Utilization Schedule. Delivery penalties might include a failure to provide written notice of a modification or denial of an RFA to all parties on a prospective or concurrent review, failure to provide written notice of a decision to all parties on a retrospective review, or failure to provide written notice of a time extension to all appropriate parties within five business days from the receipt of an RFA. In addition to the overall UR performance ratings shown above, the Institute also calculated separate ratings for claims administrators on each of these individual aspects, based on the results of the five most recent audit years available. The DWC expects to release the audit results from its 2014 investigations shortly, but in the meantime, the Institute has published a Spotlight Report based on the most current data. That report, *California Workers’ Compensation Claims Administrator Utilization Review Audit Results: 2009 – 2013*, is available in the Research section of the Institute’s website, www.cwci.org.

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