

Chapter 4.5 Division of Workers' Compensation
Subchapter 1, Administrative Director – Administrative Rules
Article 142. Document Copy and Electronic Transaction Fees

§ 9980 Definitions

As used in this article:

(a) “Authorization” means a release 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 states the specific uses and limitations on the types of information to be disclosed, the name of the person or entity that may disclose the information, the name of the person or entity authorized to receive the information, a specific date after which the provider is no longer authorized to disclose the information, and 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 the effective date of this article regardless of date of injury.

(b) Bills for copy services must specify services provided and include the provider tax identification number and professional photocopier registration number, county of registration, date of billing, case information including employee name, claim number, case number (if applicable), source information including type of records, date of service, description of services, and the number of pages produced.

(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) Each bill for services must include a statement that there was no 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) This fee schedule covers copy and related services for records relevant to an injured worker's claim, except services under a contract between the employer and the copy service provider.

(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.

(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 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,

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

(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 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) 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, service of the subpoena, shipping and handling, and subpoena preparation.

(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 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 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, the following separate fees apply:

(1) 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 in electronic form ordered within 30 days of 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 of X-rays and scans.

Authority: Section 5307.9, Labor Code.

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

§9990. Division Fees for Transcripts; Copies of Documents; Certifications; Case File Inspection; Electronic Transactions

The Division will charge and collect fees for copies of records or documents. For the purposes of this section, "records" includes any writing containing information relating to the conduct of the public's business which is prepared, owned, or used by the Division, regardless of the physical form or characteristics. "Writing" means handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication thereof, and all papers, maps, magnetic tapes, photographic films and prints, electronic facsimiles, any form of stored computer data, magnetic cards or disks, drums, and other documents.

Fees will be charged and collected by the Division as follows:

(a) For copies of papers, records or documents, not certified or otherwise authenticated, one dollar (\$1.00) for the first copy and twenty cents (\$0.20) for each additional copy of the same page, except to the injured worker to whom the fee will be ten cents (\$.10) per page.

(1) State sales tax and postage will be added to this fee.

(b) For certification of copies of official records or documents and orders of evidence taken or proceedings had, ten dollars (\$10.00) for each certification.

(1) Where the Division is requested to both copy and certify a document, the fee is the sum of the fees prescribed in (a) and (b) above.

(c) For paper transcripts of any ~~testimony proceeding of record~~, \$100 to order transcripts of 33 pages or less, for transcripts over 33 pages,

(1) An additional charge of three dollars (\$3.00) for each page over 33, and of the first copy of transcripts; thereafter, one dollar and fifty cents (\$1.50) for each page of additional copies of the transcript, for each page of additional copies of the transcript, \$1.50 per page, both to be paid prior to the release of the transcripts.

(+2) Sales tax and postage will be added to this fee.

(23) Transcripts delivered on a medium other than paper shall be compensated at the same rate set for paper transcripts, except an additional fee shall be charged to cover the cost of the medium and any copies thereof.

(d) For inspection of a case file not stored in the place where the inspection is requested, ten dollars (\$10.00) plus any postage or other delivery costs, except when requested by an injured employee or his or her attorney or his or her representative of record.

(e) For electronic records maintained by the Division:

(1) Listing of WCAB new case filings:is

~~(A) \$305.00 per transmission for WCAB new case opening records transmitted to the requester on tape.~~

~~(B) \$85.00 per complete download for WCAB new case opening records transmitted to the requester by direct electronic download.~~

Paper copies of the WCAB new case opening records provided in addition to the electronic data will be subject to a separate charge of \$0.10 per page, plus postage.

(2) Electronic response to an electronic inquiry concerning a case's status, a lien's status, or other case specific information available in electronic form, through EDEX (the Division's Electronic Data Exchange program), twenty cents (\$0.20) per transaction.

(3) The Division will provide electronic copies of WCAB new case opening records or EDEX access only pursuant to a written agreement with the administrative director.

(4) Copies of existing electronic records, other than those electronic records set forth in subsections (e)(1) or (e)(2), that constitute disclosable public records, will be provided as required by law, for the Division's actual costs of retrieving and transmitting the data, including staff research, downloading redaction and transfer to storage media time, programming and processing time, storage media, postage or shipping costs and sales tax. All staff research, downloading redaction and transfer, programming and processing time required to create new data sorts of existing electronically maintained records will be charged at the Division's standard rate of ~~\$40.00~~ \$85.00 per hour, billed in fifteen (15) minute increments.

(f) Copies of Division records containing information that is privileged or otherwise non-disclosable will be redacted before release.

Authority: Sections 127, 133, 138.7 and 5307.3, Labor Code.

Reference: Sections 127, and 138.7, Labor Code.

§99921. Payment of Fees in Advance to the Division.

Payment of fees in Section 9990 must accompany the request, either in cash or by check or money order made payable to the Division of Workers' Compensation, except as otherwise provided in the establishment of payment accounts.

Authority: Sections 127, 133 and 5307.3, Labor Code.

Reference: Section 127, Labor Code.

~~§9994. Payment for Transcripts.~~

~~For transcripts of testimony or other proceeding of record, a deposit fee based on the number of paper pages, as estimated by the division, shall be paid by the requesting party in advance. If the actual fee exceeds the deposit, the purchaser will be notified of the balance to be paid prior to release of the transcripts or any copies. Any excess deposit will be returned to the purchaser.~~

~~Authority: Sections 127, 133 and 5307.3, Labor Code.~~

~~Reference: Section 127, Labor Code.~~

Electronic Adjudication Management System Rules

Subchapter 1.8.5

Article 8

Access to Records and Retention of Records

§10208.7. Retention, Return and Destruction of Records and Exhibits.

(a) The Division of Workers' Compensation shall retain the following records in an adjudication file ~~for at least fifty years after the filing of case opening documents (i.e., the initial application for adjudication of claim or, where an application has not previously been filed, either a stipulations with request for award or a compromise and release) the following records in a adjudication file, in either for the time periods set forth in subdivisions (d) and (e) electronic or paper form:~~

- (1) the application for adjudication of claim and any amended application;
- (2) all settlement documents;
- (3) all orders, decisions, or awards;
- (4) all minutes of hearing;
- (5) all minutes of hearing and summary of evidence;
- (6) all medical-legal reports;
- (7) all permanent and stationary medical reports of treating physicians;
- (8) all rating instructions;
- (9) all formal ratings, summary rating determinations, and consultative ratings; and
- (10) any other documents as determined by the appeals board or the administrative director.

(b) After five years from the date of filing of the initial application, the Division of Workers' Compensation may eliminate from the adjudication file and destroy paper or electronic correspondence

and other miscellaneous material or records, including non-permanent and stationary medical reports of treating physicians, not listed in subdivision (a), above with approval of the Secretary of State.

(c) At any time, with approval of the Secretary of State, the Division of Workers' Compensation may eliminate from the adjudication file and destroy any of the following paper or electronic documents:

(1) extra copies of pleadings, notices, findings, orders, decisions, awards and other documents;
and

(2) any documents filed in violation of section 10205.7, subd. (b).

(d) Following a period of fifty (50) years after the filing of the application or other case opening document, the Division of Workers' Compensation may destroy the documents enumerated in subdivision (a) maintained in electronic form and/or paper file in each case with approval of the Secretary of State.

(e) Following a period of twenty (20) years after the filing of the application or other case opening document, the Division of Workers' Compensation may destroy the documents enumerated in subdivision (a) maintained in paper form with approval of the Secretary of State.

(~~e~~f) Any party filing an original document or other pieces of evidence pursuant to California Code of Regulations, title 8, section 10603, subd. (a), shall, at the time of filing, either (1) arrange for the return of the document or evidence, at the filing party's sole expense, at the conclusion of all proceedings and appeals thereof; or (2) be deemed by not making such arrangements, to have consented to destruction, without notice, of the document or other evidence at the conclusion of all proceedings and appeals thereof.

(~~f~~g) Stenographic reporters' notes or electronic sound recording of testimony shall be retained for a period of six (6) years after the taking of them and thereafter may be destroyed or otherwise disposed of.

Authority: Sections 111, 133 and 5307.3, Labor Code; and Stats. 2011, c. 559, section 17 (A.B. 1426).
Reference: Sections 126 and 135, Labor Code.