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§10136. Filing the Request.

~~(a) The Administrative Director shall establish a uniform expedited hearing calendar in all offices of the Division of Workers' Compensation.~~

~~(b) An applicant is entitled to an expedited priority hearing and decision upon the filing of an Application for Adjudication of Claim and Request for Expedited Hearing, DWC Form 4, showing a bona fide dispute as to:~~

~~(1) entitlement to medical treatment;~~

~~(2) entitlement to temporary disability payments or amount;~~

(3) appeal from a decision and order of the rehabilitation unit, enforcement thereof, or termination; or

(4) liability for benefits among employers;

(e) The request for expedited hearing must be on the form set forth in Section 10137, DWC Form 4, and must be filed with an Application for Adjudication of Claim.

(d) Within two (2) days of receipt of the Request for Expedited Hearing, the Request shall be reviewed for compliance with Subdivision (b).

Authority cited: Sections 133 and 5307.3, Labor Code.

Reference: Section 5502(b), Labor Code.

§10137. Form.

§10250. Payment of Medical Provider and Medical-Legal Lien Claimant Initial Lien Filing Fees.

(a) At the time of filing of the initial lien in each case, every medical provider or medical-legal lien claimant, except the Veterans Administration, the Medi-Cal program, or a public hospital, shall be responsible for payment of the initial lien filing fee required of providers by Labor Code Section 4903.05. For purposes of this section, the term "initial lien" means any lien filed in a case on or after January 1, 2004 by a lien claimant who has not previously filed a lien in the same or in any related case. When the medical provider or medical-legal lien claimant files a single initial lien in more than one related case involving the same employee or dependent, only a single filing fee shall be required. For purposes of this section, a case shall be deemed related if the case alleges injury to the same or substantially same body parts.

(b) When filing the initial lien in writing, the medical provider or medical-legal lien claimant shall submit a check or money order in the amount of one hundred dollars (\$100), made payable to "DWC Revolving Fund." The check or money order for the filing fee shall be attached to the front of the lien form and shall contain the words "lien filing fee" and the Workers' Compensation Appeals Board case number, if available, in the memo section of the check or money order.

(c) If no application exists for the employee at the time of the initial lien filing, the lien claimant must file any necessary application(s) together with the lien. When the medical provider or medical-legal lien claimant files the application, the filing fee required by Labor Code Section 4903.05 shall be submitted together with the application. In such cases, the WCAB case number shall be filled in by the WCAB on the check or money order at such time as the case number is assigned. If the lien claimant wishes to receive a conformed copy of the application, the lien claimant shall submit a postage paid, pre-addressed return envelope together with the application(s).

(d) When the medical provider or medical-legal lien claimant files liens in written form in more than one case at the same time, the filing fees for each lien may be paid with a single check or money order by attaching a list of the available WCAB case numbers for the cases in which the filing fees are paid to the check covering those cases. If the list includes cases in which the lien claimant is filing an application together with the lien, the lien claimant shall

provide the name of the employee, the employee's social security number, and the date(s) of injury on the list instead of a WCAB case number. A single list may include existing cases and cases where the lien claimant is filing the application.

~~(e) No initial lien, filed in writing, shall be accepted for filing on or after January 1, 2004 unless accompanied by full payment for the filing fee required by Labor Code Section 4903.05. Any initial lien delivered for filing on or after January 1, 2004 without payment of the initial lien filing fee shall be discarded without notice to the party submitting it, unless a postage paid, pre-addressed return envelope is submitted with the lien. Until receipt of proper payment, the lien shall not be deemed to have been received or filed for any purpose.~~

~~(f) A medical provider or medical legal lien claimant shall be billed on a monthly basis for all liens filed electronically through the EDEX system, or as otherwise designated by DWC, in the preceding month. Within 30 calendar days of receipt of the billing, the medical provider or medical legal lien claimant shall submit a check or money order for the total filing fee billed. The check or money order, made payable to "DWC Revolving Fund," shall be submitted to:~~

~~LIEN FILING FEE PAYMENT UNIT
DIVISION OF WORKERS' COMPENSATION
P.O. BOX 420603
SAN FRANCISCO, CA 94142-0603~~

~~(g) The WCAB will not order or enforce payment of any medical treatment or medical legal lien filed on or after January 1, 2004 without prior payment of the filing fee required by Labor Code Section 4903.05.~~

~~(h) When the attorney for the employee or dependent or any assignee of the lien claimant files the initial medical or medical legal lien, that filing shall be deemed to have been made by an agent for the medical provider or medical legal lien claimant and payment of the filing fee required by Labor Code Section 4903.05 shall be required of the filing party as if the lien had been filed directly by the medical provider or medical legal lien claimant.~~

~~Authority cited: Section 4903.05, Labor Code.~~

~~Reference: Sections 4903.05 and 5307, Labor Code.~~

Rules of the Court Administrator

Article 1. Definitions and General Provisions

§10210. Definitions.

(a) "Administrative director" means the administrative director of the Division of Workers' Compensation or his or her designee.

(b) "Appeals board" means the commissioners and deputy commissioners of the Workers' Compensation Appeals Board acting en banc, in panels, or individually.

(c) "Applicant" means any person asserting a right to relief under the provisions of Labor Code section 5300.

(d) “Application for adjudication” or “application” means the initial pleading that asserts a right to relief under the provisions of Labor Code section 5300.

(e) “Case file” means any paper or electronic file, whether a temporary or permanent adjudication file at the trial level.

(f) “Court administrator” means the administrator of the workers’ compensation adjudicatory process at the trial level, or his or her designee.

(g) “Declaration of readiness to proceed” or “declaration of readiness” means a request for a proceeding before the district office.

(h) “Declaration of readiness to proceed to expedited hearing” means a request for a proceeding before the district office pursuant to Labor Code section 5502(b).

(i) “Defendant” means any person against whom a right to relief is claimed.

(j) “District office” means a trial level workers’ compensation court.

(k) “Document” is a pleading, petition, medical report, record, declaration, exhibit, or another filing submitted by a party or lien claimant, including an electronically scanned version of a document that was filed in paper form. Each medical report or other record having a different author and/or a different date of service is a separate “document.”

(l) “Document cover sheet” means Form 10232.1, which is placed on top of a document or set of documents filed at one time in a specific case.

(m) “Document separator sheet” means Form 10232.2, which is placed on top of each individual document, when one or more documents are being filed at the same time in the same case and placed on top of each individual attachment to each document being filed, when a document has one or more attachments.

(n) “Electronic Adjudication Management System” or “EAMS” means the computerized case management system used by the Division of Workers’ Compensation to store and maintain case files and to perform other case management functions.

(o) “Electronic signature” means a signature electronically affixed by a workers’ compensation administrative law judge or by the appeals board to any decision, findings, award, order or other document.

(p) “Fax” means a document that has been electronically served by a fax machine.

(q) To “file” a document means to deliver a document or cause it to be delivered to the district office with venue or to the appeals board for the purpose of having it included in the case file.

(r) “Hearing” means any trial, mandatory settlement conference, rating mandatory settlement conference, status conference, lien conference, or priority conference.

(s) “Lien claimant” means any person claiming payment under the provisions of Labor Code section 4903 or 4903.1.

(t) “Lien conference” means a proceeding for the purpose of assisting the parties in resolving disputed lien claims pursuant to Labor Code section 4903 or 4903.1 or, if the dispute cannot be resolved, to frame the issues and stipulations in preparation for a lien trial.

(u) “Mandatory settlement conference” means a proceeding to assist the parties in resolving their dispute or, if the dispute cannot be resolved, to frame the issues and stipulations in preparation for a trial.

(v) “Optical character recognition form” or “OCR form” means a paper form designed to be scanned so that its information is automatically extracted and stored in EAMS.

(w) “Party” means: (1) a person claiming to be an injured employee or the dependent of an injured employee; (2) a defendant; or (3) a lien claimant where either (A) the underlying case of the injured employee or the dependent(s) of an injured employee has been resolved or (B) the injured employee or the dependent(s) of an injured employee choose(s) not to proceed with his, her, or their case.

(x) “Petition” means any document filed containing a request for action other than an application for adjudication, an answer or a declaration of readiness to proceed.

(y) “Priority conference” means a proceeding in which the applicant is represented by an attorney and the issues in dispute at the time of the proceeding include employment and/or injury arising out of and in the course of employment.

(z) “Rating mandatory settlement conference” means a mandatory settlement conference conducted to facilitate the determination of the existence and extent of permanent disability through the use of informal ratings issued by the Disability Evaluation Unit, where the only unresolved issues are permanent disability and the need for future medical treatment.

(aa) “Regular hearing” means a trial.

(bb) To “serve” a document means to personally deliver a copy of the document, or to send it in a manner permitted by these rules and the rules of the appeals board, to a party, lien claimant, or attorney who is entitled to a copy of the document.

(cc) “Status conference” means a proceeding set for the purpose of ascertaining if there are genuine disputes requiring resolution, of providing assistance to the parties in resolving disputes, of narrowing the issues, and of facilitating preparation for trial if a trial is necessary.

(dd) “Submission” means the closing of the record to the receipt of further evidence or argument.

(ee) “Trial” means a proceeding set for the purpose of receiving evidence.

(ff) “Venue” means the district office, as established by Labor Code section 5501.5 or 5501.6, at which any proceedings will be conducted and from which any district office orders, decisions, or awards will be issued.

(gg) “Workers’ compensation administrative law judge” as defined in Labor Code section 123.7 includes pro tempore judges appointed pursuant to California Code of Regulations, title 8, section 10350.

Authority cited: Sections 133 and 5307(c), Labor Code.

Reference: Sections 110, 4903, 4903.1, 5300, 5500.3, 5501.5, 5501.6 and 5502, Labor Code.

§10211. Compliance with Rules of the Court Administrator.

The failure to comply with the rules of the court administrator shall be deemed a bad faith action or tactic that is frivolous or solely intended to cause unnecessary delay unless that failure results from mistake, inadvertence, surprise, or excusable neglect.

Authority cited: Sections 133, 5307(c) and 5500.3, Labor Code.

Reference: Section 5813, Labor Code.

§10212. District Office Records Not Subject to Subpoena.

(a) The records, files and proceedings of the district office shall not be taken from its offices either on informal request or in response to a subpoena duces tecum or any order issued out of any other court or tribunal. The records, files and proceedings of the district office shall not be produced pursuant a subpoena issued under Labor Code section 130.

(b) Certified copies of portions of the records shall be delivered upon payment of fees as provided in California Code of Regulations, title 8, section 9990.

Authority cited: Sections 133 and 5307(c), Labor Code.

Reference: Sections 130, 138.7 and 5955, Labor Code.

§10213. Ex Parte and Prohibited Communications.

(a) No document, including letters or other writings, shall be filed by a party or lien claimant with the district office unless service of a copy is made on all parties together with the filing of a proof of service. When a workers' compensation administrative law judge receives an ex parte letter or other document from any party or lien claimant in a case pending before the workers' compensation administrative law judge, he or she shall serve copies of the letter or document on all other parties to the case with a cover letter explaining that the letter or document was received ex parte in violation of this rule.

(b) No party or lien claimant shall discuss with a workers' compensation administrative law judge the merits of any pending case without the presence of all necessary parties to the proceeding, except as provided by these rules.

(c) All correspondence concerning the examination and reports of a physician appointed pursuant to Labor Code section 5701 or 5703.5 shall be made through the workers' compensation administrative law judge, and no party, attorney or representative shall communicate with that physician with respect to the merits of the case unless ordered to do so.

Authority cited: Sections 123.6, 133, 5500.3 and 5307 (c), Labor Code.

Reference: Sections 123.6, 5502, 5701, and 5703.5, Labor Code.

§10214. Compromise and Release forms and Stipulation with Request for Award forms.

The following optical character recognition forms shall be used to settle case by either a compromise and release or stipulation with request for award.

- (a) Form stipulation with request for award;
- (b) Form stipulation with request for award, death case;
- (c) Form compromise and release
- (d) Form compromise and release, dependency claim
- (e) Form compromise and release, third party settlement

Authority cited: Sections 133, 5500.3 and 5307 (c), Labor Code.

Reference: Sections 5002, 5003, 5004 and 5005, Labor Code.

Article 2. The Electronic Adjudication Management System

§10215. Case Names and Case Index.

An index of all cases filed with a district office shall be maintained in EAMS under the name of the person claimed to have been injured, whether or not that person is an applicant. Reference to the case shall be by the name of the injured person and the case number.

Authority cited: Sections 127.5, 133, 5307(c) and 5500.3, Labor Code.

Reference: Section 126, Labor Code.

§10216. Case Files.

(a) All cases filed on and after August 25, 2008 shall be maintained by the Division of Workers' Compensation in an electronic format in EAMS. All paper documents properly filed in such cases shall be scanned into the EAMS case file and then destroyed.

(b) Except as provided in section 10273, the Division of Workers' Compensation shall maintain a paper case file until it is converted to an electronic case file. If, however, a paper case file is maintained on or after August 25, 2008, an electronic case file shall also be created and any documents filed thereafter shall be maintained electronically in EAMS, in accordance with subdivision (c).

(c) A paper case file or a portion of a paper case file may be converted to an electronic case file by the Division of Workers' Compensation at any time. If a paper case file is completely scanned into EAMS the Division of Workers' Compensation shall notify the parties to the case of the change in how the file is maintained; and the paper case file may be destroyed.

Authority cited: Sections 127.5, 133, 5307 and 5500.3, Labor Code.

Reference: Section 126, Labor Code.

§10217. Official Address Record and Duty to Furnish Correct Address.

(a) The Division of Workers' Compensation shall maintain an official address record for each case, which shall contain the names and mailing addresses of all parties and lien claimants, and their attorneys or agents of record. In addition, where parties and lien claimants, or their attorneys or agents of record, have provided or have been required to provide telephone numbers, fax numbers or electronic mail addresses, the official address record shall contain these numbers and addresses.

(b) Every attorney, every party, every lien claimant, and every representative of any party or lien claimant having an interest in an active case pending before the district office or appeals board shall advise the district office and all parties of any change of mailing address, as well as any change of telephone numbers, fax numbers or electronic mail addresses, where provided or required, by furnishing the current information within five business days of any change.

(c) Every lien claimant that has filed a lien in a case pending in a district office shall advise all parties within five business days of any change in the identity and/or telephone number of the person with authority to resolve the lien by furnishing the correct name and daytime telephone number of that person to the interested parties; and shall advise the Division of Workers' Compensation of any such change(s) after a declaration of readiness is filed.

(d) Every party, attorney, hearing representative and lien claimant having an interest in an inactive case: (1) shall advise all other known interested parties, lien claimants, attorneys, and hearing representative within five business days of any change of address (which shall include any change of mailing address, as well as any change of telephone numbers, fax numbers or electronic mail addresses, where provided or required) by furnishing the correct and current address and/or number; and (2) shall advise the Division of Workers' Compensation of any such change within five business days if there is an outstanding award of further medical

treatment or if there is continuing jurisdiction pursuant to Labor Code sections 5410, 5803 and 5804.

Authority cited: Sections 127.5, 133, 5500.3 and 5307 (c), Labor Code.

Reference: Section 126, 127, 5316, 5410, 5502, 5504, 5803 and 5804, Labor Code.

§10218. Designated Preferred Method of Service.

(a) A party, a lien claimant, or an attorney or other representative for a party or lien claimant may designate first class mail, electronic mail or fax as their preferred method of service for receiving documents from the district office and the appeals board. A party, a lien claimant, or an attorney or other representative for a party or lien claimant who does not designate a preferred method of service shall be served by first class mail.

(b) A represented party, a lien claimant, or an attorney or other representative for a party or lien claimant may agree that his, her, or its designated preferred method of service may be utilized for receiving documents from any other represented party, lien claimant, or attorney or other representative for a party or lien claimant. Absent such an agreement, service between these parties or entities shall be made by first class mail.

(c) If the service is being made by or on an unrepresented injured worker, dependent or uninsured employer, then the service shall be made by first class mail.

(d) A party, a lien claimant, or an attorney or other representative for a party or lien claimant may change the designated preferred method of service at any time in accordance with section 10217, subd. (b).

Authority cited: Sections 127.5, 133, 5307 and 5500.3, Labor Code.

Reference: Section 126, Labor Code.

§10223. Corrective Measures for Misfiled or Misdirected Documents into the Case Management System.

(a) The Division of Workers' Compensation shall have the ability to perform document substitution on filed documents; to repair scanned documents; and to move documents to other case files.

(b) A document substitution may occur where a technical problem of readability and/or legibility exists with a filed document. The filer may seek a substitution of the document by filing a petition to substitute. The proposed document for substitution must be appended to a petition to substitute. If the petition to substitute is granted, the proposed document for substitution will replace the document that was unreadable or illegible.

(c) A document repair may occur where a document scanned into an electronic case file by the Division of Workers' Compensation fails to reflect the original paper document. The Division of Workers' Compensation may repair the document so that the scanned image accurately reflects the original paper document. The Division of Workers' Compensation may repair a document at any time or a party may request a document be repaired. EAMS will retain as viewable the original document for those who have access to the electronic file.

(d) A document may be moved when a document originally scanned by the Division of Workers' Compensation is filed into the wrong electronic file.

(e) Documents that are in the process of being substituted or repaired shall not be moved.

Authority cited: Sections 127, 133, 5500.3 and 5307 (c), Labor Code.

Reference: Section 126, 5500.3 and 5502, Labor Code.

§10225. Extended System Unavailability.

(a) If, for any reason, there is a technical failure of EAMS for longer than 24 hours, the court administrator, in his or her discretion, may declare that EAMS is unavailable for an extended period of time.

(b) After issuing a declaration of extended system unavailability, the court administrator may issue an order that includes, but is not limited to:

(1) requiring that the district office or the appeals board shall serve all documents by first class mail;

(2) providing that filed documents shall be maintained in temporary paper case files;

(3) providing that the time for performing any action, whether by the parties or by the district office, shall be extended by a specified period or until EAMS is declared to be operational; or

(4) requiring or allowing any other actions or remedies, as deemed appropriate under the circumstances.

(c) The court administrator shall post the declaration of extended system unavailability on the website of the Division of Workers' Compensation, if the website remains operational, and shall post it at every district office and at the office of the appeals board.

(d) Any declaration of extended unavailability shall remain in effect until the court administrator, or his or her designee, issues a subsequent declaration that EAMS is operational.

(e) A declaration of extended unavailability may be issued by the court administrator, or his or her designee, if EAMS is not fully operational as of the effective date of this section.

Authority cited: Sections 127.5, 133, 5307(c) and 5500.3, Labor Code.

Reference: Sections 5502 and 5700, Labor Code.

Article 3. Filing of Documents by Parties or Lien Claimants.

§10228. Place of Filing Documents.

(a) After the filing and processing of an initial application for adjudication of claim or other case opening document, all documents required or permitted to be filed under these rules or under the rules of the appeals board shall be filed only with the district office having venue, except as provided by subsection (b) or by the rules of the appeals board, unless otherwise ordered by a workers' compensation administrative law judge or the appeals board.

(b) Where a petition for reconsideration, a petition for removal, or a petition for disqualification has been properly filed pursuant to rules 10840, 10843, or 10452, all answers or requests for action relating to the reconsideration, removal, or disqualification process, all requests for withdrawal of the petition for reconsideration, removal or disqualification, and all notifications of change of address from the parties or lien claimants shall be filed with the appeals board in San Francisco, except that these documents shall be filed with the district office having venue where: (1) the 15-day periods for preparation of a report under rule 10860, or for amendment or correction under rules 10859 or 10843, has not elapsed or (2) the appeals board has issued its decision on the petition for reconsideration, removal, or disqualification. All other mail unnecessary to the reconsideration, removal, or disqualification process shall be filed with the district office having venue.

(c) Documents received in any other district office or the office of the appeals board in San Francisco, except as provided by subsections (a) and (b) of this rule or by the rules of the appeals board, shall not be accepted for filing or deemed filed and shall not be acknowledged or returned to the filing party and may be discarded. Such documents, however, may be returned where the filing party includes a self addressed envelope with sufficient return postage. In any proceeding before a workers' compensation administrative law judge or the appeals board, the judge or the board may excuse a failure to comply with this rule resulting from mistake inadvertence, surprise, or excusable neglect.

(d) All case opening documents shall be given a case number by the district office where no case number has been previously assigned for the injured worker for the alleged date of injury. If a case number has been previously assigned by the Division of Workers' Compensation, the prefix "ADJ" shall precede the assigned case number when a form or document is filed.

(e) A document that has been sent by electronic mail or by fax directly to the district office or the appeals board shall not be accepted for filing or deemed filed, shall not be acknowledged, and may be discarded unless otherwise ordered by the workers' compensation administrative law judge or the appeals board.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Sections 126 and 5502 Labor Code.

§10229. Manner of Filing Documents.

(a) Except as provided by section 10603, subd. (a), all documents shall be filed in paper form.

(b) All paper documents shall be scanned into the electronic case file and then destroyed, unless otherwise provided by these rules or ordered by a workers' compensation administrative law judge or the appeals board. A scanned document shall have the same legal effect as a document filed in paper form.

(c) Each of the following persons or entities must file all documents relating to trial level proceedings by utilizing optical character recognition forms:

- (1) any attorneys representing any party or any lien claimant;
- (2) any insurance carrier or any representative of any insurance carrier (including any claims adjuster);

(3) any self-insured employer or any representative of a self-insured employer (including any claims adjuster);
(4) any third-party administrator or any representative of a third-party administrator (including any claims adjuster); and
(5) any lien claimant or any representative of any lien claimant, with the exception of: (A) a lien claimant (or a non-attorney representative of a lien claimant) asserting a living expenses lien under Labor Code section 4903(c); (B) a lien claimant (or a non-attorney representative of a lien claimant) asserting a burial expenses lien under Labor Code section 4903(d); or (C) a lien claimant (or a non-attorney representative of a lien claimant) asserting a spousal or child support expenses lien under Labor Code section 4903(e), however, state, county, or local agencies pursuing such liens are not covered by exception (C).

(d) Unrepresented employees, dependents or uninsured employers may utilize a non-optical character recognition form provided by the Division of Workers' Compensation that is in the same format and contains the same information as the corresponding OCR form adopted by the court administrator or the appeals board.

(e) Whenever any party or lien claimant files any document utilizing an optical character recognition form, the party or lien claimant shall use the appropriate OCR form required by these rules.

Authority cited: Sections 133 and 5307, Labor Code.

Reference: Section 126, Labor Code.

§10230. Time of Filing Documents.

(a) A paper document, including one filed by mail (regardless of when posted), is deemed filed on the date it is received, if received prior to 5 p.m. of a court day (i.e., Monday through Friday, except designated State holidays). A paper document received after 5 p.m. of a court day shall be deemed filed as of the next court day.

(b) When a document is filed by mail or by personal service, the appeals board or the district office that received the document for filing shall affix on it an appropriate endorsement as evidence of receipt. The endorsement may be made by handwriting, hand-stamp, electronic date stamp, or by other means.

Authority cited: Sections 133 and 5307, Labor Code.

Reference: Section 126, Labor Code.

§10232. Form and Size Requirements for Filed Documents.

(a) All documents except the medical reports of treating physicians, secondary physicians, qualified or agreed medical evaluators and proposed exhibits, shall be filed in accordance with the following standards:

(1) Only one side of each paper shall be used;

(2) All documents shall be printed with black ink on 8 x11 white paper of at least twelve pound weight. All margins shall be at least 1 inch and shall be without typed or handwritten text in any margin;

(3) The first page shall include a case caption that shall include the name of the injured worker or dependent claiming benefits, the name of the employer and the employer's insurer or indicating the employer is self-insured and a case number if one has been assigned by the district office. If a case number has been assigned the number shall be preceded by the abbreviation "ADJ";

(4) All non-form legal pleadings shall contain a heading above the case caption containing the name of the filing attorney and their state bar membership number and the attorney's law firm name and address.

(5) Except as otherwise provided in this section, documents shall be printed in Times New Roman, Times, Courier, Palatino, Century Schoolbook or similar serif font of at least 12 points in size;

(6) No single document shall exceed 25 pages in length without the prior permission of the appeals board or the presiding workers' compensation administrative law judge of the district office with venue over the case;

(7) The text of a document shall be double spaced or one and one half spaces; however, captions, headings, headers, footnotes, footers and block quotations shall be single spaced;

(b) All documents shall be filed with document cover sheets and document separator sheets as follows:

(1) A completed document cover sheet shall be the first page of each individual document or set of documents filed at one time in the same case. A document separator sheet shall precede each document within a set of documents.

(2) If an individual document that includes an attachment, a completed document separator sheet shall precede the attachment and if an individual document includes multiple attachments, a document separator sheet shall precede each individual attachment.

(3) This subdivision shall not apply to any unrepresented employees, dependents or uninsured employers who do not have ready access to document cover sheets and document separator sheets.

(c) Oversized documents shall be filed only at the time of trial in accordance with the provisions of section 10603.

(d) If an unrepresented worker, an unrepresented uninsured employer, or an unrepresented dependent does not have ready access to a computer or typewriter and compliance with subdivisions (a)(3) and (a)(5) is not feasible, a hand-printed document may be submitted. Any

hand-printed document shall be legible and shall otherwise comply with subdivision (a), including the requirements of subdivision (a)(3) regarding margins and text in the margins.

Authority cited: Sections 133, 5307 and 5500.3, Labor Code.

Reference: Sections 126 and 5500.3, Labor Code.

§10232.1. Document cover sheet form.

Authority cited: Sections 133, 5307 and 5500.3, Labor Code.

Reference: Sections 126 and 5500.3, Labor Code.

§10232.2. Document separator sheet form.

Authority cited: Sections 133, 5307 and 5500.3, Labor Code.

Reference: Sections 126 and 5500.3, Labor Code.

§10233. Filing of Medical Reports, Medical-Legal Reports, and Various Records.

(a) Except as provided by section 10603, medical reports, medical-legal reports, and medical records, and other records and documents shall be filed only in accordance with the following provisions.

(b) This subsection shall apply where a declaration of readiness (other than a declaration of readiness for an expedited hearing) is being filed, including a walk-through declaration of readiness.

(1) Together with the filing of a declaration of readiness, the filing party or lien claimant shall file the report(s) of any agreed medical evaluator(s) and any qualified medical evaluator(s) that: (A) are then in its possession or control, (B) are relevant to the issue(s) being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(2) Together with the filing of an objection to a declaration of readiness, or within ten days of the filing of the declaration of readiness if no objection is timely filed, each opposing party or lien claimant shall file the report(s) of any agreed medical evaluator(s) and any qualified medical evaluator(s) that: (A) are then in its possession or control, (B) are relevant to the issue(s) being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(3) All other medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits with respect to the issue(s) being raised by the declaration of readiness, and that have not been filed previously, shall be filed at the time

of the mandatory settlement conference, but only if the matter is being set for trial, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(4) Any additional medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits with respect to the issue(s) being raised by the declaration of readiness shall be filed at the time of trial, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(c) This subsection shall apply where a declaration of readiness for an expedited hearing is being filed.

(1) Together with the filing of a declaration of readiness for an expedited hearing, the filing party or lien claimant shall file the report(s) of any agreed medical evaluator(s), any qualified medical evaluator(s), and any treating physician(s) that: (A) are then in its possession or control, (B) are relevant to the issue(s) being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time.

(2) Together with the filing of an objection to a declaration of readiness for an expedited hearing, or within ten days of the filing of the declaration of readiness if no objection is timely filed, each opposing party or lien claimant shall file the report(s) of any agreed medical evaluator(s), any qualified medical evaluator(s), and any treating physician(s) that: (A) are then in its possession or control, (B) are relevant to the issue(s) being raised by the declaration of readiness, and (C) have not been filed previously. No other medical reports, medical-legal reports, medical records, or other documents shall be filed at that time.

(3) All other medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits with respect to the issue(s) being raised by the declaration of readiness, and that have not been filed previously, shall be filed at the time of trial, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(d) This subsection shall apply where a compromise and release or a stipulations with request for award is being filed, with the exception that this subsection shall not apply when the compromise and release or the stipulations with request for award is being filed on a walk-through basis in accordance with section 10280.

(1) Together with the filing of a compromise and release or a stipulations with request for award, the filing party(ies) shall file all agreed medical evaluator report(s), qualified medical evaluator report(s), treating physician report(s), and any other medical records or other records (e.g., wage statements) that: (A) are relevant to a determination of the adequacy of the compromise and release or stipulations with request for award; and (B) have not been filed previously.

(2) If the compromise and release or the stipulations with request for award is not approved, and the matter is set for a hearing on the adequacy of the proposed settlement, any additional reports, records, or other documents not previously filed that are being proposed as exhibits shall be filed at the time of the adequacy hearing, unless otherwise ordered by the appeals board or a workers' compensation administrative law judge.

(3) If the compromise and release or the stipulations with request for award is not approved at or after the adequacy hearing, and the matter is set for a mandatory settlement conference or trial, then any additional medical reports, medical-legal reports, medical records, or other documents that are being proposed as exhibits shall be filed in the same manner as set forth in subsections (b)(3) and (b)(4).

(e) Where otherwise permitted by this section, a party or lien claimant shall file excerpted portions of physician, hospital or dispensary records only by: (1) designating each excerpted portion by the title of the record or document, by the date or dates of treatment or other service(s) covered by the record or document, by the author or authors of the record or document, and by any available page number(s) (e.g., Bates-numbered pages of records or documents photocopied and numbered by a legal copy service); and (2) attaching a separate document stating specifically why each particular excerpt is relevant to the pending issues. Only the relevant excerpts of medical records shall be filed.

(f) Where otherwise permitted by this section, a party shall file excerpted portions of personnel records, wage records and statements, job descriptions, and other business records only by: (1) designating each excerpted portion by the title of the record or document, by the date or dates covered by the record or document, by the author or authors of the record or document, and by any available page number(s) (e.g., Bates-numbered pages of records or documents photocopied by a legal copy service); and (2) attaching a separate document stating specifically why each particular excerpt is relevant to the pending issues. Only the relevant excerpts of personnel records, wage records and statements, job descriptions, and other business records shall be filed.

(g) All documents filed pursuant to the provisions of this section shall be filed using the appropriate document cover sheets, document separator sheets, optical character recognition forms, and other forms, as otherwise provided by these rules.

Authority cited: Sections 133, 5500.3 and 5307 (c), Labor Code.

Reference: Section 126, 4600, 5500.3 and 5502, Labor Code.

§10235. Improper Filing of Documents.

(a) The following documents shall not be filed with the district office or the appeals board, except upon the order of a workers' compensation administrative law judge or the appeals board:

(1) letters to opposing parties or counsel;

(2) subpoenas;

(3) notices of taking deposition;

(4) medical appointment letters;

(5) proofs of service ordered pursuant to California Code of Regulations, title 8, section 10500, subd. (a);

(6) medical reports, except as required by section 10233;

(7) copies of any decision of any federal or state court opinion otherwise available.

(8) copies of any decision of the appeals board or a workers' compensation administrative law judge that is otherwise available.

(9) duplicate medical and medical-legal reports.

(10) no diagnostic imaging as defined in Labor Code section 139.3, subd. (b)(1), shall be transmitted to the district office or the appeals board unless it is ordered.

(b) Documents improperly submitted pursuant to this section shall not be accepted for filing or deemed filed shall not be acknowledged and may be discarded.

Authority cited: Sections 127, 133, 5500.3 and 5307 (c), Labor Code.

Reference: Section 126, 5500.3 and 5502, Labor Code.

NOTE: See current Rule 10395.

§10236. Filing of Copies of Documents.

(a) Except as provided by section 10603, subd. (a), no "original" business, medical, or other documents shall be filed with a district office.

(b) Only a photocopy or other reproduction of an original document shall be filed, and it is presumed the filed document is an accurate representation of the original document.

(c) If a party or lien claimant alleges that a filed document is an inaccurate or unreliable, the party alleging the document is inaccurate or unreliable shall state the basis for the objection. The filing party must establish that the document is an accurate representation of the original document.

(d) A party or lien claimant that elects to retain the original of an exhibit or proposed exhibit need not retain the original after either (1) the exhibit has been authenticated at trial or (2) a settlement that resolves all pending issues has been approved and all appeals have been exhausted or the time for seeking appellate review has expired.

Authority cited: Sections 133, 5500.3 and 5307 (c), Labor Code.

Reference: Section 126, 5500.3, Labor Code.

Article 4. Appearances, the Form of Minutes of Hearings and Minute Orders

§10240. Appearances Required.

(a) Every defendant and lien claimant, with a lien more than \$2,500, shall appear or have a representative appear at a hearing, unless the appearance is excused by the workers' compensation administrative law judge conducting the hearing. Unless the notice otherwise

provides, the applicant shall be present at a mandatory settlement conference as provided in Labor Code section 5502, subd. (e), and the defendant and lien claimants whose liens have not been resolved or withdrawn shall have a person available with settlement authority.

(b) The person designated by the defendant or a lien claimant to be available with settlement authority need not be present if an attorney or representative who is present can obtain immediate authority by telephone.

(c) At the time of trial, all parties and lien claimants shall be present or have a representative appear. The defendants and lien claimants shall have a person available with settlement authority in the same manner as set forth in subdivision (b).

Authority cited: Sections 127.5, 133, 5500.3 and 5307(c), Labor Code.

Reference: Sections 5502 and 5700, Labor Code.

§10241. Failure to Appear.

(a) Where a party or a lien claimant is served with notice of trial and fails to appear either in person or by attorney or representative, the workers' compensation administrative law judge may:

(1) dismiss the application after issuing a notice of intention to dismiss pursuant to California Code of Regulations, title 8, section 10562;

(2) dismiss the lien claim after issuing a notice of intention to dismiss pursuant to California Code of Regulations, title 8, section 10562;

(3) hear the evidence and, after service of the minutes of hearing and summary of evidence that shall include notice of intention to submit the case for decision pursuant to California Code of Regulations, title 8, section 10562.

(b) Where a party or a lien claimant is served with notice of a conference or mandatory settlement conference fails to appear at the conference, the workers' compensation administrative law judge may

(1) dismiss the application after issuing a notice of intention to dismiss pursuant to California Code of Regulations, title 8, section 10562;

(2) dismiss the lien claim after issuing a notice of intention to dismiss with or without prejudice pursuant to California Code of Regulations, title 8, section 10562;

(3) close discovery and forward the case to the presiding workers' compensation administrative law judge to set for trial.

(c) Where a party, after notice, fails to appear at either a trial or a conference and good cause is shown for failure to appear, the workers' compensation administrative law judge may take the case off calendar or may continue the case to a date certain.

Authority cited: Sections 133, 5500.3 and 5307(c), Labor Code.

Reference: Article XIV, Section 4, California Constitution; and Sections 5502(e) and 5700, Labor Code.

§10243. Continuances and Appearances in Settled Cases.

(a) Requests for continuances are inconsistent with the requirement that workers' compensation proceedings be expeditious and are not favored. Continuances will be granted only upon a clear showing of good cause. Where possible, reassignment pursuant to section -----shall be used to avoid continuances.

(b) When the parties represent to the workers' compensation administrative law judge assigned to the case, the presiding workers' compensation administrative law judge or his or her designee that a case has been settled, the case shall be taken off calendar and no appearances shall be required.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Article XIV, Section 4, California Constitution; and Sections 5502 and 5502.5, Labor Code.

§10244.1. Minutes of Hearing form.

Authority cited: Sections 126, 127.5, 133, and 5307 (c), Labor Code.

Reference: Sections 5307 (c), 5307.5(b), 5313, 5500.3 and 5502, Labor Code.

§10246. Electronically Filed Decisions, Findings, Awards, and Orders.

The district office may electronically file any decision, findings, award, order or other document issued by a workers' compensation administrative law judge. Any document that is electronically filed shall have the same legal effect as a document in paper form.

Authority cited: Sections 127.5, 133, 5307 (c), Labor Code.

Reference: Section 5307 (c), 5307.5(b) and 5313, Labor Code.

Article 5. Declarations of Readiness to Proceed and Objections and Hearing Calendars

§10250. Declaration of Readiness to Proceed.

(a) Applications or petitions shall not be placed on calendar for mandatory settlement conferences, status conferences, priority conferences, expedited hearing or any other hearing unless one of the parties has filed and served a declaration of readiness to proceed in the form prescribed by the court administrator. The declaration of readiness shall be served on all other parties and lien claimants.

(b) All declarations of readiness to proceed shall state under penalty of perjury the moving party has made a genuine, good faith effort to resolve the dispute before filing the declarations of readiness to proceed, and shall state with specificity the same on the declarations of readiness to proceed.

(c) Declarations of readiness to proceed shall be reviewed by the presiding workers' compensation administrative law judge or any workers' compensation administrative law judge designated by the presiding workers' compensation administrative law judge, who will determine on the basis of the facts stated in the declaration, the case file and any submitted documents whether the parties are ready to proceed and efforts have been made to resolve the issues. If so, a hearing shall be calendared; if not, the declaration shall be rejected and the parties notified.

(d) A false declaration or certification by any party, lien claimant, attorney or representative may give rise to proceedings under Labor Code section 134 for contempt or Labor Code section 5813 for sanctions.

(e) If a party or lien claimant is represented by an attorney or representative any declaration of readiness filed on behalf of the party shall be executed by the attorney or representative.

Authority cited: Sections 127.5, 133, 5502 (a) and 5307 (c), Labor Code.
Reference: Sections 134, 5500.3, 5502 and 5813, Labor Code.

§10250.1. Declaration of Readiness to Proceed form.

Authority cited: Sections 127.5, 133, 5502 (a) and 5307 (c), Labor Code.
Reference: Sections 5500.3, 5502 and 5813, Labor Code.

§10251. Objection to Declaration of Readiness to Proceed.

(a) Any objection to a declaration of readiness to proceed shall be filed and served within ten (10) calendar days after service of the declaration. The objection shall set forth, under penalty of perjury, specific reason(s) why the case should not be set or why the requested proceedings are inappropriate.

(b) A false declaration or certification filed under this section by any party, lien claimant, attorney or representative may give rise to proceedings under Labor Code section 134 for contempt or Labor Code section 5813 for sanctions.

(c) If a party or lien claimant is represented, the attorney or representative shall execute any objection to the declaration of readiness to proceed on behalf of the party. Declarations of readiness to proceed shall be reviewed by the presiding workers' compensation administrative law judge or any workers' compensation administrative law judge designated by the presiding workers' compensation administrative law judge, who will determine on the basis of the facts stated in the declaration whether the objection should be sustained.

(d) If a party has received a copy of the declaration of readiness to proceed and has not filed an objection under this section, that party shall be deemed to have waived any and all objections to proceeding on the issues specified in the declaration, absent extraordinary circumstances.

Authority cited: Sections 127.5, 133, 5502 (a) and 5307 (c), Labor Code.
Reference: Sections 134, 5502 and 5813, Labor Code.

§10252. Expedited Hearing Calendar.

(a) Where injury to any part or parts of the body is accepted as compensable by the employer, a party is entitled to an expedited priority hearing and decision upon the filing of an application for adjudication of claim and a declaration of readiness to proceed pursuant to section 10250 establishing a bona fide, good faith dispute as to:

(1) the employee's entitlement to medical treatment pursuant to Labor Code section 4600;

(2) the employee's entitlement to, or the amount of, temporary disability indemnity payments;

(3) the employee's entitlement to vocational rehabilitation services, or the termination of an employer's liability to provide these services to an employee; or

(4) the employee's entitlement to compensation from one or more responsible employers when two or more employers dispute liability as among themselves.

(b) An expedited hearing may be set upon request where injury to any part or parts of the body is accepted as compensable by the employer and the issues include medical treatment or temporary disability for a disputed body part or parts.

(c) A workers' compensation administrative law judge assigned to a case involving a disputed body part or parts may redesignate the expedited hearing as a mandatory settlement conference, receive a pretrial conference statement pursuant to Labor Code section 5502, subd. (e) (3), close discovery, and schedule the case for trial on the issues presented, if the workers' compensation administrative law judge determines, in consultation with the presiding workers' compensation administrative law judge, that the case is not appropriate for expedited determination.

(d) Grounds for the redesignation of an expedited hearing includes, but is not limited to, cases where the direct and cross-examination of the applicant will be prolonged, or where there are multiple witnesses who will offer extensive testimony.

(e) The parties are expected to submit for decision all matters properly in issue at a single trial and to produce all necessary evidence, including witnesses, documents, medical reports, payroll statements and all other matters considered essential in the proof of a party's claim or defense.

Authority cited: Sections 127.5, 133 and 5502(b), Labor Code.

Reference: Section 5502(b), Labor Code.

§10252.1. Expedited Hearing form.

Authority cited: Sections 127.5, 133 and 5502(b), Labor Code.

Reference: Section 5502(b), Labor Code.

§10253. Settlement Conference Calendar.

(a) In accordance with Labor Code section 5502, subd. (e) (2), the workers' compensation administrative law judge shall have authority to inquire into the adequacy and completeness, including provision for lien claims, of compromise and release agreements or stipulations with request for award or orders, and to issue orders approving compromise and release agreements or awards or orders based upon approved stipulations, to make orders and rulings regarding admission of evidence and discovery matters, including admission of offers of proof and stipulations of testimony where appropriate and necessary for resolution of the dispute(s) by the workers' compensation administrative law judge, and may submit and decide the dispute(s) on the record pursuant to the agreement of the parties. The workers' compensation administrative law judge shall not hear sworn testimony at any conference.

(b) The workers' compensation administrative law judge may continue a conference to a time certain to facilitate a specific resolution of the dispute subject to Labor Code section 5502, subd. (e)(1).

(c) Subject to the provisions of Labor Code section 5502.5, upon a showing of good cause, the workers' compensation administrative law judge may continue a mandatory settlement conference to a date certain, may continue it to a status conference on a date certain, or may take the case off calendar. In such a case, the workers' compensation administrative law judge shall note the reasons for the continuance or order taking off calendar in the minutes. The minutes shall be served on all parties and lien claimants, and their representatives.

(d) Absent resolution of the dispute, the parties shall file at the mandatory settlement conference a joint pre-trial statement setting forth the issues and stipulations for trial, witnesses, and exhibits.

(e) A summary of conference proceedings including the joint pre-trial conference statement and the disposition shall be filed by the workers' compensation administrative law judge in the case file and shall be served on the affected parties and lien claimants.

Authority cited: Sections 127.5, 133, 5307(c) and 5502, Labor Code.

Reference: Sections 5502 and 5502.5, Labor Code

§10253.1. Pre-trial Conference Statement form.

Authority cited: Sections 133, 5307, 5502, and 5500.3 Labor Code.

Reference: Section 5502, Labor Code.

§10254. Priority Conference Calendar.

(a) A priority conference shall be set upon the filing of a declaration of readiness requesting a priority conference that shows that the applicant is represented by an attorney and that the issues in dispute include employment and /or injury arising out of and in the course of employment.

(b) Upon a showing of good cause, a workers' compensation administrative law judge may continue the matter to a status conference. At each priority or status conference, the parties shall be prepared to set the matter for trial or to provide a plan to complete discovery.

(c) To the extent possible, all priority and status conferences in a case shall be conducted by the same workers' compensation administrative law judge. When discovery is complete, or when the workers' compensation administrative law judge determines that the parties have had sufficient time to complete reasonable discovery, the case shall be set for trial as expeditiously as possible.

Authority cited: Sections 127.5, 133, 5307 and 5502(c), Labor Code.

Reference: Section 5502(c), Labor Code.

§10256. Setting the Case.

(a) A presiding workers' compensation administrative law judge or a workers' compensation administrative law judge, using sound discretion, may on his or her own motion set any case for hearing.

(b) The parties are expected to submit for decision all matters properly in issue at a single trial and to produce all necessary evidence, including witnesses, documents, medical reports, payroll statements and all other matters considered essential in the proof of a party's claim or defense. However, a workers' compensation administrative law judge may order that the issues in a case be bifurcated and tried separately upon a showing of good cause.

Authority cited: Sections 127.5, 133, 5502 (a) and 5307 (c), Labor Code.

Reference: Sections 5307(c) and 5502 (a), Labor Code.

Article 7. Access to Records and Retention of Records

§10270. Access to and Viewing Electronic Case Files.

(a) A party, a lien claimant, or an attorney or other representative for a party or lien claimant may access and view specific case files in which the party, lien claimant, attorney, or representative is a case participant through EAMS.

(b) A member of the general public who is not a case participant may search for a limited set of basic information regarding cases within EAMS by linking to EAMS through the website of the Department of Industrial Relations (www.dir.ca.gov). A member of the general public: (1) will not be able to access and view any specific EAMS case file(s) in which he or she is not a case participant; and (2) will not otherwise be able to access or view certain information through EAMS, including but not limited to the residence addresses, social security numbers, and dates of birth of injured employees or their medical records.

(c) Except as provided by this section or as otherwise prohibited by law, any person may inspect the contents of any electronic case file at any district office, whether or not the district office has venue over the case.

Authority cited: Sections 127.5, 133, 138.7, 5307(c) and 5500.3, Labor Code.

Reference: Sections 5502 and 5700, Labor Code.

§10271. Inspection of Paper Case Files.

(a) The following provisions apply to the inspection of paper case files:

(1) Except as provided in section 10272 or as otherwise prohibited by law, any person may inspect the contents of any paper case file at the district office or office of the appeals board where the file is located during regular office hours.

(2) The paper case file and the records and documents contained therein may not be removed from the district office or the office of the appeals board for copying or for any other purpose.

(3) Copying operators must operate their equipment in the room assigned to them and any person copying a paper case file must put papers back in the file in their original order and any person viewing or copying a file must return the file in the same order and condition in which it was received.

(4) A paper case file shall not be sent from one office to another for inspection except for good cause by order of a workers' compensation administrative law judge or the appeals board and upon the payment of a fee required by California Code of Regulations, title 8, section 9990. At the request of a party to the case, or his or her attorney, a paper case file that has been transferred to a record storage center for storage will be made available for inspection through the office from which the file was transferred. Paper case files that have been transferred to a record storage center will be made available for inspection by any other person upon payment of the fee required by California Code of Regulations, title 8, section 9990.

(b) The following documents shall not be made available for inspection by any person:

(1) Decisions, reports, opinions, orders, recommendations and other documents that are in the process of preparation, or, although fully prepared, have not yet been signed and filed.

(2) Ratings that have not yet been served.

(3) The working papers, personal notes, deliberation records, and other private notations made by a workers' compensation administrative law judge, commissioner, deputy commissioner or appeals board attorney or legal assistant in the course of hearing or deliberation relating to the case.

(4) Any legal memorandum or analysis prepared by a workers' compensation administrative law judge, commissioner, deputy commissioner, appeals board attorney or legal assistant to assist a workers' compensation administrative law judge, deputy commissioner or commissioner in his or her deliberations concerning a case.

Authority cited: Sections 133, 5307 (c) and 5500.3, Labor Code, Section 6250 et. seq., Government Code.

NOTE: See current Rule 10753.

§10272. Sealing Documents.

(a) The presiding workers' compensation administrative law judge or the appeals board may order sealed medical reports, medical records or other documents filed in a case containing references to or discussions of mental or emotional health of any person, sexual habits or practice, use of or addiction to alcohol or other drugs, or other matters of similar character. In a case involving an unrepresented injured employee, the presiding workers' compensation administrative law judge or appeals board may on his, her, or its own motion seal a document or documents with the approval of the injured employee and after compliance with subdivision (d).

(b)(1) A party requesting that a document or documents be sealed shall file a petition for an order sealing the requested records. The petition must be accompanied by a memorandum of points and authorities and a declaration containing facts sufficient to justify the sealing.

(2) The party requesting that a record or records be filed under seal must lodge it with the district office under (d) when the petition is filed or with the appeals board if the matter is pending on petition for reconsideration, removal or disqualification, unless good cause exists for not lodging it. Pending the determination of the petition, the lodged records will be conditionally under seal.

(3) If necessary to prevent disclosure, the petition, any opposition, and any supporting documents must be filed in a public redacted version and lodged in a complete version conditionally under seal.

(4) If the presiding workers' compensation administrative law judge or appeals board denies the petition to seal, the clerk must return the lodged record to the submitting party and must not place it in the case file.

(5) A document filed with the district office or appeals board shall not disclose material contained in a previously filed document that is sealed, conditionally under seal, or subject to a pending petition to seal.

(c)(1) The party requesting that a record be filed under seal shall put it in a manila envelope or other appropriate container, seal the envelope or container, and lodge it with the district office or with the appeals board if the matter is pending on petition for reconsideration, removal or disqualification.

(2) The envelope or container lodged with the court must be labeled "CONDITIONALLY UNDER SEAL."

(3) The party submitting the lodged record shall affix to the envelope or container a cover sheet that:

(A) Contains a case number and

(B) States that the enclosed record is subject to a petition to file the record under seal.

(4) Upon receipt of a record lodged under this rule, the district office or the appeals board shall endorse the affixed cover sheet with the date of its receipt and must retain but not file the record unless ordered to do so.

(d) The presiding workers' compensation administrative law judge or the appeals board may order that a document be filed under seal or sealed only if he, she, or it expressly finds facts that establish:

- 1) There exists an overriding public interest that overcomes the right of public access to the record;
- 2) The overriding public interests supports sealing the record;
- 3) A substantial probability exists that the overriding public interest will be prejudiced if the record is not sealed;
- 4) The proposed sealing is narrowly tailored; and
- 5) No less restrictive means exists to achieve the overriding public interest.

(e) (1) If an order is made that a document or documents be sealed, the order shall be filed in the record of the proceedings. The order shall set forth the facts that support the findings and direct the sealing of only those documents and pages, or if practicable, portions of those documents and pages, that contain the material that needs to be placed under seal.

(2) If the order directs that an entire document shall be sealed, and if the sealed document is contained in a paper case file, the sealed document shall be placed in a sealed envelope, which shall be removed from the file before the file is made available for public inspection. If the sealed document is in an electronic case file, the sealed document shall be marked as sealed. No entirely sealed document in a paper file or an electronic file shall be available for public inspection.

(3) If the order directs that a portion or portions of a document be sealed, and if the partially sealed document is contained in a paper case file, the partially sealed document shall be placed in a sealed envelope, however, a version of the document with the sealed portion(s) redacted shall be made available for public inspection. If the sealed document is in an electronic case file, a version of the document with the sealed portion(s) redacted also shall be electronically maintained and shall be made available for public inspection.

(f) Sealed documents shall be made available for inspection by any party to the case or by his representative, subject to any reasonable conditions and limitations as the presiding workers' compensation administrative law judge or the appeals board may impose.

(g) Sealed documents shall not otherwise be made available for public inspection except by order of a workers' compensation administrative law judge or the appeals board which shall be made only on a showing that good cause exists to permit the inspection.

Authority cited: Sections 127, 133 and 5307, Labor Code.

Reference: Section 5307(c), Labor Code.

NOTE: See current Rule 10754.

§10273. Retention, Return and Destruction of Records and Exhibits.

(a) The Division of Workers' Compensation shall retain 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 case file, in either 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 non-duplicate medical-legal reports;
- (5) all non-duplicate permanent and stationary medical reports of treating physicians;
- (6) all rating instructions;
- (7) all formal ratings, summary rating determinations, and consultative ratings; and
- (8) any other documents as determined by the appeals board, the administrative director, the court administrator.

(b) After five years from the date of filing of the, the Division of Workers' Compensation may eliminate from the case file and destroy, without reproduction, 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.

(c) At any time, the Division of Workers' Compensation may eliminate from the case file and destroy, without reproduction, 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 10395.

(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, without reproduction, the electronic and/or paper file in each case.

(e) Unless otherwise ordered by a workers' compensation administrative law judge or the appeals board, sixty (60) days after decision is final in any proceeding, or after a case has been ordered off calendar, all exhibits listed in section 10603 and all laboratory, clinical and hospital records and charts shall be returned to the party that offered the exhibit(s) in evidence.

(f) Any party given leave, pursuant to California Code of Regulations, title 8, section 10603, subd. (a), to file any original document(s) or other piece(s) of evidence shall, at the time of filing, either (a) arrange for the return of the document(s) or evidence, at the filing party's sole

expense, at the conclusion of all proceedings and appeals thereof; or (b) be deemed by not making such arrangements, to have consented to destruction, without notice, of the document(s) or other evidence at the conclusion of all proceedings and appeals thereof.

(g) Upon expiration of five (5) years after the filing of the initial application or other case opening document, there being no proceedings pending, the Division of Workers' Compensation or the appeals board may, with or without notice, make such order disposing of exhibits described in subdivision (a), as deemed proper. Where proper written requests covering disposition of the exhibits are on file, they will be returned or disposed of in accordance therewith.

(h) 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 cited: Sections 133, 5500.3 and 5307, Labor Code.

Reference: Section 136, 135 and 5708, Labor Code; Section 14755, Government Code.

NOTE: See current Rule 10755.

NOTE: See current Rule 10758.

§10275 Recording of Trial Level Proceedings.

(a) For the purposes of this rule, "recording" means any photographing, recording, or broadcasting of trial level proceedings using video, film, audio, any digital media or other equipment.

(b) Except as provided in this rule, trial level proceedings shall not be photographed, recorded, or broadcast. This rule does not prohibit the Division of Workers' Compensation from photographing or videotaping sessions for judicial education or publications and is not intended to apply to closed-circuit television broadcasts solely within the Division of Workers' Compensation or between Division of Workers' Compensation facilities if the broadcasts are controlled by the Division of Workers' Compensation and Division of Workers' Compensation personnel.

(c) Recording shall be permitted only on written order of the workers' compensation administrative law judge assigned to the case as provided in this subdivision. The workers' compensation administrative law judge in his or her discretion may permit, refuse, limit, or terminate recording.

(1) Any person who wishes to record a trial level proceeding shall make a written request to the presiding workers' compensation administrative law judge for permission to record the proceeding at least five business days before the proceeding commences unless good cause to shorten time is shown. The workers' compensation administrative law judge assigned to the proceeding shall rule upon the request. The district office shall promptly notify the parties that a request has been filed.

(2) The workers' compensation administrative law judge may hold a hearing on the request or rule on the request without a hearing.

(3) In ruling on the request, the workers' compensation administrative law judge shall consider the following factors:

- (A) Importance of maintaining public trust and confidence in the workers' compensation system;
- (B) Importance of promoting public access to the workers' compensation system;
- (C) Parties' support of or opposition to the request;
- (D) Nature of the case;
- (E) Privacy rights of all participants in the proceeding, including witnesses;
- (F) Effect on any minor who is a party, prospective witness, or other participant in the proceeding;
- (G) Effect on any ongoing law enforcement activity in the case;
- (H) Effect on any subsequent proceedings in the case;
- (I) Effect of coverage on the willingness of witnesses to cooperate, including the risk that coverage will engender threats to the health or safety of any witness;
- (J) Effect on excluded witnesses who would have access to the televised testimony of prior witnesses;
- (K) Security and dignity of the trial level proceeding;
- (L) Undue administrative or financial burden to the Division of Workers' Compensation or participants;
- (M) Interference with neighboring hearing rooms;
- (N) Maintaining orderly conduct of the proceeding;
- (O) Any other factor the workers' compensation administrative law judge deems relevant.

(4) The workers' compensation administrative law judge's ruling on the request to permit recording is not required to make findings or a statement of decision. The workers' compensation administrative law judge may condition the order permitting recording of the proceedings on the requestor's agreement to pay any increased costs incurred by the Division of Workers' Compensation resulting from recording the proceeding (for example, for additional security). The requestor shall be responsible for ensuring that any person who records the trial level proceedings on their behalf know and follow the provisions of the order and this rule.

(5) The order permitting recordation may be modified or terminated on the workers' compensation administrative law judge's own motion or upon application to the workers' compensation administrative law judge without the necessity of a prior hearing or written findings. Notice of the application and any modification or termination ordered pursuant to the application shall be given to the parties and each person permitted by the previous order to record the proceeding.

(6) The workers' compensation administrative law judge shall not permit recording of the following:

- (A) Proceedings held in chambers which are not transcribed by a hearing reporter;
- (B) Proceedings closed to the public; and

(C) Conferences between an attorney and a client, witness, or aide, between attorneys, or between counsel and the workers' compensation administrative law judge at the bench, unless transcribed by a hearing reporter.

(7) The workers' compensation administrative law judge may require a demonstration that people and equipment comply with this rule. The workers' compensation administrative law judge may specify the placement of equipment to minimize disruption of the proceedings.

(8) The following rules shall apply to all recording:

(A) One video recording device and one still photographer shall be permitted.

(B) The equipment used shall not produce distracting sound or light. Signal lights or devices to show when equipment is operating shall not be visible.

(C) Microphones and wiring shall be unobtrusively located in places approved by the workers' compensation administrative law judge and shall be operated by one person.

(D) Operators shall not move equipment or enter or leave the courtroom while the proceeding is in session, or otherwise cause a distraction.

(E) Equipment or clothing shall not bear the insignia or marking of a media agency.

(9) If two or more people request recordation of a proceeding, they shall file a statement of agreed arrangements. If they are unable to agree, the workers' compensation administrative law judge may deny a request to record the proceeding.

(d) Any violation of this rule or an order made under this rule is an unlawful interference with the proceedings may be the basis for an order terminating recording, a citation for contempt, or an order imposing monetary or other sanctions as provided by law.

(e) Notwithstanding (a) through (d), a workers' compensation administrative law judge may permit inconspicuous personal recording devices to be used by parties in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device shall obtain advance permission from the workers' compensation administrative law judge before recording the proceeding. The recording shall not be used for any purpose other than as personal notes, and shall not constitute evidence as to any matter recorded. The right on any individual to use a personal recording device shall be suspended if, in the workers' compensation administrative law judge's sole discretion, it appears that (1) the continued recording of the proceedings will inhibit any party or witness from participation in the proceeding; or (2) the recording is done in a manner that threatens to disrupt the proceeding.

Authority cited: Sections 127, 5500.3 and 5307 (c), Labor Code.

Reference: Section 5307(c), Labor Code.

NOTE: See current Rule 10762.

Article 8. Procedures for Requesting Immediate Action by a Judge

§10280. Walk-Through Documents.

(a) A “walk-through” document is a document that is presented to a workers’ compensation administrative law judge for immediate action. Notwithstanding the provisions of section 10414 (relating to the filing of declarations of readiness) and section 10544 (relating to notices of hearing), the following provisions shall govern walk-through documents.

(b) The following documents may be submitted on a walk-through basis:

(1) Compromise and releases;

(2) Stipulations with request for award;

(3) Petitions for attorney’s fees for representation of the applicant in vocational rehabilitation;

(4) Petitions for attorney’s fees for representation of the applicant at a deposition; and

(5) Petitions to compel attendance at a medical examination or deposition.

(c) A party or lien claimant intending to file a walk-through document shall comply with the following requirements.

(1) The party or lien claimant intending to file a walk-through document shall give notice to the attorney(s) or representative(s) of all other potentially affected parties and lien claimants (or directly to the potentially affected parties and lien claimants, if not represented) no later than three court days before the proposed date and time of the walk-through. The notice to each attorney, representative, party or lien claimant shall be given by either fax or e-mail. If notice by fax or e-mail fails, or if the fax number or e-mail address of a particular attorney, representative, party or lien claimant is unknown, notice shall be given in the manner best calculated to expeditiously and timely advise the attorney, representative, party or lien claimant of the intent to file a walk-through document, including notice by phone or by overnight mail or delivery service. First-class mail shall not be utilized for notice that a walk-through document will be filed.

(2) The notice shall state with specificity (A) the nature of the walk-through document to be filed and (B) the date, time, and place for the presentation of the walk-through document.

(3) If the walk-through document was not previously served on the attorney(s) or representative(s) of the other potentially affected parties and lien claimants (or directly to the potentially affected parties and lien claimants, if not represented), a copy of the walk-through document shall be served at the time notice of the walk-through is given.

(4) In giving notice, the party or lien claimant intending to file a walk-through document shall make reasonable attempts to determine whether the attorney(s) or

representative(s) of other potentially affected parties and lien claimants (or the potentially affected parties and lien claimants, if not represented) intend to appear to oppose the walk-through.

(d) The following procedures shall be followed for filing walk-through documents:

(1) A walk-through settlement document (i.e., a compromise and release or a stipulations with request for award), and all supporting medical reports and other supporting documents not previously filed, shall be filed directly with the workers' compensation administrative law judge at the date and time of the walk-through. The party presenting the walk-through settlement shall use the appropriate optical character recognition form, cover sheet(s), and document separator(s). Permanent and stationary medical or medical-legal reports shall be indicated as such. In addition, each walk-through settlement document (i.e., a compromise and release or a stipulations with request for award) shall be accompanied by a proof of service showing that the settlement document was served on all other parties to the settlement, on any defendant(s) not executing the settlement who may be liable for the payment of additional compensation, and on all lien claimants whose liens have not been resolved.

(A) A case opening settlement document being submitted for a walk-through shall be submitted no later than 12:00 p.m. of the court day before any action on the walk-through, and shall be designated as a walk-through document. All documents in support of the settlement document shall be submitted at the walk-through with the assigned judge.

(2) A walk-through petition (i.e., a petition for vocational rehabilitation attorney's fees, a petition for deposition attorney's fees, or a petition to compel attendance at a medical examination or deposition) shall be filed with the district office having venue no later than Noon of the court day before the date of the walk-through. All other documents relating to the walk-through petition, including any supporting documentation, shall be filed directly with the workers' compensation administrative law judge at the date and time of the walk-through, unless the documents were previously filed. The party presenting the walk-through petition shall use the appropriate optical character recognition form, cover sheet(s), and document separator(s). In addition, at the date and time of the walk-through, the party filing the walk-through petition shall submit a proof of service directly to the workers' compensation administrative law judge, as follows:

(A) For a petition for attorney's fees for representation of the applicant in vocational rehabilitation, the filing party shall file a proof of service showing that the petition was served on the injured worker and the defendant alleged to be liable for paying the fees.

(B) For a petition for attorney's fees for representation of the applicant at a deposition, the filing party shall file a proof service showing that the petition was served upon the defendant alleged to be liable for paying the fees.

(C) For a petition to compel attendance at a medical examination or deposition, the filing party shall file a proof of service showing that the petition was served

upon the injured worker, the injured worker's attorney, and any other defendant who may be liable for payment of additional compensation.

(e) On the first court day following the filing of the walk-through document and all previously unfiled relevant supporting documentation, the party filing the walk-through document shall appear before the district office staff person designated by the presiding workers' compensation administrative law judge to assign the walk-through document to a workers' compensation administrative law judge. The filing party shall then appear before the assigned judge. If the assigned judge is unavailable for any reason, the filing party shall then proceed to the presiding workers' compensation administrative law judge for possible reassignment to another judge.

(f) If the party filing a walk-through document does not appear the next court day in accordance with subdivision (e), above, the walk-through document shall be assigned to a workers' compensation administrative law judge for action on a non-walk-through basis.

(g) A workers' compensation administrative law judge who is presented with a walk-through settlement document shall approve it, disapprove it, suspend action on it, or accept it for later review and action. If a workers' compensation administrative law judge is presented with so many walk-through settlement documents that review of them will interfere with the cases scheduled before him or her for hearing, the judge may refer the walk-through settlement to the presiding judge for possible reassignment to another judge.

(h) A walk-through document may be acted on only by a workers' compensation administrative law judge at the district office that has venue. If an injured worker has existing cases at two or more district offices that have venue, a walk-through document may be acted on by a judge at any office having venue over an existing case that is a subject of the walk-through document. An existing case is a case that has been filed and assigned a case number prior to the filing of the walk-through document.

(i) A walk-through document may be acted on by any workers' compensation administrative law judge except as follows:

(1) If a judge has taken testimony, any walk-through document in that case must be acted on by the judge who took testimony if that judge works at the district office to which the case is assigned, unless the presiding judge allows it to be acted on by another judge.

(2) If a judge has reviewed a document and declined to approve it, a walk-through document in that case must be acted on by the same judge, if that judge works at the district office to which the case is assigned, unless the presiding judge allows it to be acted on by another judge.

(j) Each district office will have a designee of the presiding workers' compensation administrative law judge available to assign walk-through cases from 8:00 a.m. to 11:00 a.m. and 1:00 p.m. to 4:00 p.m. on court days.

Authority cited: Sections 127.5, 133 and 5307 (c), Labor Code.

Reference: Sections 4053, 4054, 5001, 5002, 5702 and 5710, Labor Code.

§10281. Emergency Petitions for Stay.

(a) A party may present to the presiding workers' compensation administrative law judge of the district office having venue a petition to stay an action by another party pending a hearing.

(b) A party who walks through a petition to stay an action shall provide notice to the opposing party or parties no later than 10:00 a.m. of the immediately preceding court day. This notice shall: (1) state with specificity the nature of the relief to be requested by the petition to stay; and (2) state the date, time, and place that the petition to stay will be presented. The notice shall be given by either fax or e-mail. If notice by fax or e-mail fails, or if an opposing party's fax number or e-mail address are unknown, notice shall be given in the manner best calculated to expeditiously and timely advise the opposing party of the information set forth in subdivisions (b)(1) and (b)(2), including notice by phone or by overnight mail or delivery service. First-class mail shall not be utilized for notice of a petition to stay an action.

(c) A petition to stay an action shall be accompanied by a declaration regarding notice stating under penalty of perjury: (1) the notice given, including the date, time, manner, and name of the party informed; (2) the relief sought; (3) any response; (4) whether opposition is expected; and (5) that, within the applicable time under subsection (b), the petitioner informed the opposing party where and when the petition to stay an action would be made. In addition, if the petitioner was unable to give timely notice to the opposing party, the declaration under penalty of perjury also shall state that the petitioner in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party.

(d) Upon the receipt of a proper petition to stay an action, the presiding workers' compensation or his or her designee shall, in his or her discretion, either: (1) deny the petition; (2) grant a temporary stay and set the petition for a formal hearing; or (3) set the petition for a formal hearing, without either denying the petition or granting a temporary stay.

Authority cited: Sections 127.5, 133 and 5307 (c), Labor Code.

Reference: Sections 4053, 4054, 4902.2, 5001, 5002, 5702 and 5710, Labor Code.

NOTE: See current Rule 10890.

Article 9. Review of Administrative Orders issued by the Administrative Director

§10290. Petition Appealing Order Granting or Denying Petition for Order Requiring Employee to Select Employer-Designated Physician.

(a) A petition appealing a decision granting or denying a change of primary treating petition, pursuant to California Code of Regulations, title 8, section 9786, subd. (e) (2) or (e) (3), shall be filed within twenty (20) days from the date of the issuance of the order, in accordance with the provisions of section 9787. Unless the order was personally served on the petitioner, the time for filing shall be extended in accordance with California Code of Regulations, title 8, sections 10507 and 10508. Upon receipt of a timely petition appealing a decision granting or denying a change of primary treating petition, pursuant to California Code of Regulations, title

8, section 9786, subd. (e) (2) or (e) (3), the matter shall be referred to a workers' compensation administrative law judge for hearing and determination of the issues raised. The petition shall be accompanied by a copy of the administrative director's order, a declaration of readiness, an application for adjudication if one has not been previously filed, and any other documents deemed relevant that have not been previously filed. A party aggrieved by the determination of the workers' compensation administrative law judge may seek relief therefrom within the same time and in the same manner specified for petitions for reconsideration.

(b) Any party aggrieved by an order issued by a workers' compensation administrative law judge pursuant to a referral under California Code of Regulations, title 8, section 9786, subd. (e)(4), of the rules of the administrative director may petition the appeals board for relief therefrom within twenty (20) days from the date of the issuance of the order in the same manner specified for petitions for reconsideration, except that the time for filing shall be extended in accordance with California Code of Regulations, title 8, sections 10507 and 10508.

Authority cited: Sections 127.5, 133 and 5307(c), Labor Code.

Reference: Sections 4603 and 4604, Labor Code.

NOTE: See current Rule 10950.

§10291. Petition Appealing Notice of Compensation Due.

(a) A notice of compensation due, issued pursuant to Labor Code Section 129, may be appealed by the filing of a petition appealing notice of compensation due within fifteen (15) days of receipt of the notice of compensation due.

(b) The petition appealing notice of compensation due shall be served on the injured worker or dependent and on the audit unit, concurrently with its filing.

(c) Exhaustion of the remedies provided in section 10110 of title 8 of the California Code of Regulations is required before the filing of a petition appealing notice of compensation due. Failure to timely file an objection to notice of intention to issue notice of compensation due may result in dismissal of the petition appealing the notice of compensation due.

(d) The petition appealing notice of compensation due shall specify the factual and legal basis for the petition and shall include the audit unit's file number. The petition appealing notice of compensation due shall be accompanied by a copy of the notice of compensation due, a declaration of readiness, an application for adjudication if one has not been previously filed, and any other documents deemed relevant.

(e) If an application for adjudication has not been previously filed, venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409. If an application for adjudication has been previously filed, the petition appealing notice of compensation due shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition.

(f) An appeal of notice of compensation due shall be set for a hearing before a workers' compensation administrative law judge within forty-five (45) days of filing unless the employee's claim is already before a workers' compensation administrative law judge on other

substantive issues in which case the appeal may be considered with these other issues. The audit unit, insurer, self-insured employer or third party administrator and the injured worker shall receive notice of the hearing and copies of subsequent notices of orders issued in the case. Following the hearing, the workers' compensation administrative law judge shall issue findings of fact and an order affirming, modifying or rescinding the notice of compensation due, which complies with Labor Code section 5313.

(g) The copy of the appeal of notice of compensation due sent to the injured worker shall inform the injured worker of the right to consult an attorney. If the injured worker is represented by an attorney, the workers' compensation administrative law judge may determine the amount of attorney fees reasonably incurred in resisting the appeal of notice of compensation due and may assess reasonable attorney fees as a cost upon the employer filing the appeal of notice of compensation due in accordance with Labor Code section 129(c).

Authority cited: Sections 127.5, 133 and 5307 (c), Labor Code.

Reference: Sections 129, 5300 and 5301, Labor Code.

NOTE: See current Rule 10952.

§10293. Petition Appealing Order of the Rehabilitation Unit.

(a) Appeals from decisions of the rehabilitation unit of the Division of Workers' Compensation shall be commenced as follows:

(1) if an application for adjudication is already on file, by filing and serving a declaration of readiness and a petition setting forth the reason for the appeal;

(2) if no application for adjudication is on file, by filing and serving an application for adjudication, a declaration of readiness, and a petition setting forth the reason for the appeal.

(b) The party appealing the rehabilitation unit decision and the party opposing the appeal shall file and serve any documents that the parties deems relevant that have not already been filed in the rehabilitation unit case file.

(c) If an application for adjudication has not been previously filed, venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409. If an application for adjudication has been previously filed, the petition appealing a decision of the rehabilitation unit shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition.

(d) A petition appealing a decision of the rehabilitation unit shall be filed within twenty (20) days from the date of the issuance of the rehabilitation unit decision, except that the time for filing shall be extended in accordance with California Code of Regulations, title 8, sections 10507 and 10508.

Authority cited: Sections 127, 133 and 5307(c), Labor Code.

Reference: Sections 139.5, 4603, 4604, 4645 and 5500, Labor Code.

NOTE: See current Rule 10955.

§10294. Petition Appealing Determination of a Return to Work Reimbursement.

(a) An eligible employer may appeal the administrative director's notice under section 10119, subd. (i) (1) and (2), by filing a "Petition Appealing Administrative Director's Reimbursement Allowance," setting forth the basis of the appeal. The petition shall be filed within twenty (20) days from the date of the issuance of the administrative director's notice, except that the time for filing shall be extended in accordance with California Code of Regulations, title 8, sections 10507 and 10508.

(b) If an application for adjudication has been previously filed, the petition appealing the administrative director's notice shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition. If an application for adjudication has not been previously filed, an application shall be filed together with the petition, and venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409.

(c) A "Petition Appealing Administrative Director's Reimbursement Allowance" shall be accompanied by a declaration of readiness.

(d) A copy of the petition, the declaration of readiness to proceed, and any application for adjudication shall be concurrently served on the administrative director.

Authority cited: Sections 133, 139.48 and 5307.3, Labor Code.

Reference: Sections 62.5, 139.48 and 5814.6, Labor Code.

§10294.5. Petition Appealing Determination Regarding Supplemental Job Displacement Benefits.

(a) Either party may appeal the determination and order of the administrative director issued under California Code of Regulations, title 8, section 10133.54 by filing a petition together with a declaration of readiness to proceed pursuant to section 10250 within twenty calendar days of the issuance of the decision or within twenty days after a request is deemed denied pursuant to California Code of Regulations, title 8, section 10133.54, subd. (f), except that the time for filing shall be extended in accordance with California Code of Regulations, title 8, sections 10507 and 10508. The petition shall set forth the specific factual and legal basis for the appeal.

(b) If an application for adjudication has been previously filed, the petition appealing the administrative director's notice shall be filed at the district office having venue and the case number assigned to the application for adjudication shall be assigned to the petition. If an application for adjudication has not been previously filed, an application shall be filed together with the petition, and venue shall be designated and determined in accordance with Labor Code section 5501.5 and California Code of Regulations, title 8, section 10409.

(c) A copy of the petition, the declaration of readiness to proceed, and any application for adjudication shall be concurrently served on the administrative director.

Article 10. Arbitration

§10295. Mandatory Arbitration.

(a) This rule applies to injuries occurring on or after January 1, 1990.

(b) Any application for adjudication that lists one or more disputes involving an issue set forth in Labor Code section 5275, subd. (a), shall be accompanied by an arbitration submittal form. The arbitration submittal form shall indicate that either:

(1) an arbitrator has been selected pursuant to Labor Code section 5271, subd. (a), or

(2) an unsuccessful attempt has been made to select an arbitrator and the presiding workers' compensation administrative law judge is requested pursuant to Labor Code section 5271, subd. (b), to assign a panel of five arbitrators.

(c) If the parties have agreed to an arbitrator pursuant to Labor Code section 5271, subd. (c), the presiding workers' compensation administrative law judge shall, within six (6) days of receipt of the arbitration submittal form, order the issue or issues in dispute submitted for arbitration pursuant to Labor Code sections 5272, 5273, 5276 and 5277.

(d) If the arbitration submittal form requests a panel pursuant to Labor Code section 5271, subd. (b), the presiding workers' compensation administrative law judge shall, within six (6) days of receipt of the arbitration submittal form, serve on each of the parties an identical list of five arbitrators selected at random pursuant to Labor Code 5271, subd. (b). For each party in excess of one party in the capacity of employer and one party in the capacity of injured employee or lien claimant, the presiding workers' compensation administrative law judge shall randomly select two additional arbitrators to add to the panel in accordance with the selection process set forth in Labor Code section 5271, subd. (c). Each of the parties shall strike two arbitrators from the list and return it to the presiding workers' compensation administrative law judge within six (6) days after service. Failure to timely return the list shall constitute a waiver of a party's right to participate in the selection process. If one arbitrator remains, the presiding workers' compensation administrative law judge shall, within six (6) days of return of the lists from the parties, order the issue or issues submitted for arbitration before the selected arbitrator pursuant to Labor Code sections 5272, 5273, 5276 and 5277. If more than one arbitrator remains on the panel, the presiding workers' compensation administrative law judge shall randomly select an arbitrator from the remaining panelists.

(e) If the parties to the dispute have stricken all the arbitrators from the panel, the presiding workers' compensation administrative law judge shall, within six (6) days of receipt of the last of the returned lists, serve on each of the parties to the dispute a new list of five arbitrators and any additional arbitrators required by Labor Code section 5271, subd. (c), selected at random but excluding the names of the arbitrators on the prior list. Each of the parties to the dispute shall again strike two arbitrators from the list and return it to the presiding workers' compensation administrative law judge within six (6) days after service. This procedure shall continue until one or more arbitrators remain on the lists returned to the presiding workers' compensation administrative law judge.

(f) The parties shall provide all necessary materials to the arbitrator. Any paper file shall remain in the custody of the district office.

(g) A copy of any final decision, order or award from the arbitrator, together with a copy of the record developed as set forth in Labor Code sections 5276 and 5277, shall be filed with the presiding workers' compensation administrative law judge of the district office having venue. The district office shall scan the copies of the arbitrator's the decision, order or award and record into the EAMS case file and, after scanning, shall destroy the copies.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Sections 5270 through 5277, Labor Code.

NOTE: See current Rule 10995.

§10296. Voluntary Arbitration.

(a) At any time, the parties may agree to submit any issue for arbitration pursuant to Labor Code section 5275, subdivision (b), by submitting an arbitration submittal form that indicates that the parties have selected an arbitrator pursuant to Labor Code section 5271, subdivision (a), and by filing an application for adjudication if one has not been previously filed.

(b) Within six (6) days of receipt of the arbitration submittal form, the presiding workers' compensation administrative law judge shall order the issues in dispute submitted for arbitration pursuant to Labor Code sections 5272, 5273, 5276 and 5277.

(c) If the parties are unable to agree to an arbitrator under Labor Code section 5271, subdivision (a), the parties may agree to follow the procedures for selecting an arbitrator under Labor Code section 5271, subdivision (b) and (c), as set forth in rule 10995.

(d) The parties shall provide all necessary materials to the arbitrator.

(e) A copy of any final decision, order or award from the arbitrator, together with a copy of the record developed as set forth in Labor Code sections 5276 and 5277, shall be filed with the presiding workers' compensation administrative law judge of the district office having venue. The district office shall scan the copies of the arbitrator's decision, order or award and the record into the EAMS case file and, after scanning, shall destroy the copies.

Authority cited: Sections 133 and 5307(c), Labor Code.

Reference: Sections 5270 through 5277, Labor Code.

NOTE: See current Rule 10996.

§10297. Arbitration Submittal form.

Authority cited: Sections 133, 5307 and 5500.3, Labor Code.

Reference: Section 5275, Labor Code.

~~§10390. Place and Time of Filing Documents.~~

~~After the filing and processing of the application for adjudication, all papers and documents required to be filed by the Rules of Practice and Procedure of the Workers' Compensation Appeals Board or which request action by the Workers' Compensation Appeals Board shall be filed with the office of the Workers' Compensation Appeals Board district office where the case has been assigned for hearing except where the case is pending before the Appeals Board in San Francisco for action on a petition for reconsideration or removal.~~

~~After a petition for reconsideration or petition for removal has been properly filed pursuant to Rule 10840 or 10843 and after the 15 days for amendment or correction allowed by Rule 10859 or 10843 and until the Appeals Board issues its decision on a petition for reconsideration or removal, all requests for action relating to the reconsideration process, requests for withdrawal of the petitions for reconsideration or petitions to remove or notifications of change of address from the parties or lien claimants shall be filed with the Appeals Board in San Francisco. All other mail unnecessary to the reconsideration or removal process shall be filed with the district office where the case was heard and from which the decision issued.~~

~~Documents received in any other district office or the office of the Appeals Board in San Francisco, except as provided in this rule, shall not be accepted for filing or deemed filed and shall not be acknowledged or returned to the filing party and may be discarded. Such document, however, may be returned where the filing party includes a self addressed envelope with sufficient return postage. The Workers' Compensation Appeals Board, in any proceeding, may excuse a failure to comply with this rule resulting from mistake inadvertence, surprise, or excusable neglect.~~

~~Except where the document is filed at the mandatory settlement conference or hearing, the person who received the document for filing shall affix on it an appropriate endorsement as evidence of the fact and date of receipt, which endorsement may be made by handwriting, by hand stamp, by electrical mail received time and date stamp, or by any other appropriate means. Documents filed by mail are deemed filed on the date they are received by the Workers' Compensation Appeals Board, not on the date of posting.~~

~~Authority cited: Sections 133 and 5307 (c), Labor Code.~~

~~Reference: Section 126, Labor Code.~~

~~§10391. Filing of Copies of Documents.~~

~~A document that has been sent directly to the Workers' Compensation Appeals Board by fax or e-mail will not be accepted for filing.~~

~~The Workers' Compensation Appeals Board and the will accept for filing a fax copy, photocopy, or other reproduction of a properly executed Application for Adjudication, Answer to an Application for Adjudication, Petition, Declaration of Readiness, Compromise and Release, or Stipulations with Request for Award.~~

~~Any reproduction of a document filed under this section is presumed to be an accurate representation of the original document. If a party alleges that a reproduction filed under this section is inaccurate or unreliable, the party filing the reproduction has the burden of proving~~

by a preponderance of the evidence, that the reproduction is an accurate representation of the original document.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Section 126, Labor Code.

§10392. Form and Size Requirements for Filed Documents.

All pleadings, letters, petitions, briefs and notices filed with the Workers' Compensation Appeals Board by any party or lien claimant shall be on 8 1/2 x 11 inch paper with two holes punched at the top and centered to fit the Workers' Compensation Appeals Board file. All documents shall include in the heading the name of the injured employee and the Workers' Compensation Appeals Board case number. All pleadings, petitions and briefs shall be double spaced, except that quotations may be single spaced.

Where, on the same day, a party files two or more medical reports in the same case, the party shall attach them to a transmittal letter that shall list each report by name of physician and date of report. The transmittal letter shall include the name of the injured employee and the Workers' Compensation Appeals Board case number.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Section 126, Labor Code.

§10395. Improper Filing of Documents.

The following documents shall not be filed with or sent to the Workers' Compensation Appeals Board:

- (a) Letters to opposing parties or counsel;
- (b) Subpoenas;
- (c) Notices of taking deposition;
- (d) Medical appointment letters;
- (e) Proofs of service ordered pursuant to Rule 10500;
- (f) Medical reports, except as required by Rules 10608 and 10615;
- (g) Any other document which is not required to be filed by the Rules of Practice and Procedure of the Workers' Compensation Appeals Board or which does not request action by the Workers' Compensation Appeals Board.

This rule shall not prevent admission into evidence of any document relevant to an issue pending before the Workers' Compensation Appeals Board.

~~Documents improperly filed pursuant to this rule and received in any district office or the office of the Appeals Board in San Francisco shall neither be accepted for filing nor deemed filed for any purpose and shall not be acknowledged or returned to the filing party, and may be discarded.~~

~~Authority cited: Sections 133 and 5307 (c), Labor Code.
Reference: Section 126, Labor Code.~~

~~§10396. Duty to Furnish Correct Address.~~

~~(a) Every party and lien claimant having an interest in an active case pending before the Workers' Compensation Appeals Board shall advise the Workers' Compensation Appeals Board and all other known interested parties of any change of address by promptly furnishing the correct and current mailing address.~~

~~Every lien claimant having an interest in an active case pending before the Workers' Compensation Appeals Board shall advise all known interested parties of any change in the identity or telephone number of the person with authority to resolve the lien by promptly furnishing the correct name and daytime telephone number of that person to the interested parties, and shall advise the Workers' Compensation Appeals Board of any such change after a Declaration of Readiness is filed.~~

~~(b) Every party and lien claimant having an interest in an inactive case shall advise all other known interested parties and known interested lien claimants of any change of address by promptly furnishing the correct and current mailing address.~~

~~Authority cited: Sections 133 and 5307, Labor Code.
Reference: Section 126, Labor Code.~~

~~§10414. Declaration of Readiness to Proceed.~~

~~This rule applies to injuries occurring before January 1, 1990 and on or after January 1, 1994:~~

~~Applications or petitions shall not be placed on calendar for pre trial conferences, regular hearing, or any other hearing unless one of the parties has filed and served a Declaration of Readiness to Proceed in the form prescribed by the Workers' Compensation Appeals Board wherein the declarant states under penalty of perjury that he or she is presently ready to proceed to regular hearing on the issues stated therein and specifies efforts made to resolve those issues.~~

~~Declarations of Readiness to Proceed shall be reviewed by the presiding workers' compensation judge, or any workers' compensation judge or settlement conference referee designated by the presiding workers' compensation judge, who will determine on the basis of the facts stated in the declaration, the case file and any submitted documents whether the parties are ready to proceed and efforts have been made to resolve the issues. If so, a hearing shall be calendared; if not, the declaration shall be rejected and the parties notified. A simple statement in the declaration setting forth efforts to resolve the dispute or noting the opposing party's failure to respond within fifteen (15) days to an effort to resolve the dispute shall constitute an adequate description for the purposes of this rule.~~

~~A false declaration or certification by an attorney or representative may give rise to proceedings under Labor Code Section 134 for contempt.~~

~~If an applicant is represented by an attorney or representative any Declaration of Readiness filed on behalf of the applicant shall be executed by the attorney or representative.~~

~~This rule shall not prohibit the Workers' Compensation Appeals Board from requiring proceedings on its own motion.~~

~~Authority cited: Sections 133 and 5307, Labor Code.~~

~~Reference: Sections 134 and 5502, Labor Code.~~

~~§10415. Declaration of Readiness to Proceed to Expedited Hearing.~~

~~An expedited hearing shall not be placed on calendar unless a party has filed a Declaration of Readiness to Proceed to Expedited Hearing. However, the Workers' Compensation Appeals Board may schedule an expedited hearing on its own motion.~~

~~Authority cited: Sections 133 and 5307 (c), Labor Code.~~

~~Reference: Section 5502(b), Labor Code.~~

~~§10416. Objection to Declaration of Readiness to Proceed.~~

~~Any objection to a Declaration of Readiness to Proceed shall be filed and served within ten (10) days after service of the Declaration. The objection shall set forth, under penalty of perjury, specific reason(s) why the case should not be set or why the requested proceedings are inappropriate.~~

~~A false declaration or certification filed under this section by an attorney or representative may give rise to proceedings under Labor Code section 134 for contempt or Labor Code section 5813 for sanctions.~~

~~If a party is represented, the attorney or representative shall execute any objection to the Declaration of Readiness to Proceed on behalf of the party.~~

~~If a party has received a copy of the Declaration of Readiness to Proceed and has not filed an objection under this section, that party shall be deemed to have waived any and all objections to proceeding on the issues specified in the declaration, absent extraordinary circumstances.~~

~~Authority cited: Sections 133 and 5307, Labor Code.~~

~~Reference: Sections 134 and 5813, Labor Code.~~

~~§10417. Walk-Through Calendar Setting.~~

~~Each district office shall establish a procedure allowing a party or law firm representing a party or parties to file up to five (5) Declarations of Readiness per day in person and immediately be notified of the date that the cases are scheduled for conference. Each Declaration of Readiness shall be served at least 10 days prior to filing and, when filed, shall be accompanied by any objection to the Declaration of Readiness. Within five (5) days of filing, the person filing the Declaration of Readiness shall notify in writing all other parties and lien claimants of the date, time, and location of the conference and the identity of the assigned judge. At the conference,~~

the judge shall consider the issues in the Declaration of Readiness and the issues raised by any objection to it.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Section 5316 and 5502, Labor Code.

~~§10420. Setting the Case.~~

~~The Workers' Compensation Appeals Board, upon the receipt of a Declaration of Readiness to Proceed, may, in discretion, set the case for a type of proceeding other than that requested by a party or parties. The Workers' Compensation Appeals Board~~

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Section 5310, Labor Code.

~~§10548. Continuances;~~

~~(a) Continuances are not favored. Requests for continuances are inconsistent with the requirement that workers' compensation proceedings be expeditious. Continuances will be granted only upon a clear showing of good cause. Where possible, reassignment pursuant to Rule 10346 shall be used to avoid continuances.~~

~~(b) When the parties represent to the Workers' Compensation Appeals Board that a case has been settled, the case shall be taken off calendar and no appearances shall be required.~~

Authority cited: Sections 133 and 5307 (c), Labor Code. Reference: Article XIV, Section 4, California Constitution; and Section 5502.5, Labor Code.

~~§10555. Priority Conference Calendar.~~

~~A priority conference will be set upon the filing of a Declaration of Readiness requesting a priority conference that shows that the applicant is represented by an attorney and that the issues in dispute include employment and /or injury arising out of and in the course of employment.~~

~~Upon a showing of good cause, the workers' compensation judge may continue the matter to a status conference. At each priority or status conference, the parties shall be prepared to set the matter for trial or to provide a plan to complete discovery.~~

~~To the extent possible, all priority and status conferences in a case shall be conducted by the same workers' compensation judge. When discovery is complete, or when the workers' compensation judge determines that the parties have had sufficient time to complete reasonable discovery, the case shall be set for trial as expeditiously as possible.~~

Authority cited: Sections 133, 5307 Labor Code.

Reference: Section 5502(c), Labor Code.

§10608. Filing and Service of Physicians' Reports.

(a) After the filing of an Application for Adjudication, if a party is requested by another party or lien claimant to serve copies of physicians' reports relating to the claim, the party receiving the request shall serve copies of the reports on the requesting party or lien claimant within six (6) days of the request; the party receiving the request shall serve a copy of any subsequently received physician's report within six (6) days of receipt of the report.

(b) A Declaration of Readiness to Proceed, a Declaration of Readiness to Proceed to Expedited Hearing, or an objection to either shall be accompanied by the physicians' reports that are in the possession or under control of the declarant. At the time of filing, it shall be the duty of the declarant to serve copies of physicians' reports that have not been previously served and that are in the possession or under the control of the declarant on all other parties and all lien claimants requesting service.

(c) Within six (6) days after service of the Declaration of Readiness to Proceed or Declaration of Readiness to Proceed to Expedited Hearing, all other parties and lien claimants shall serve upon the opposing parties copies of all reports of physicians that are in their possession or under their control, and that have not been previously served. All reports that have not been previously filed, and whose filing is not required by subsection (b), shall be filed at the next hearing.

(d) All physicians' reports that have not been previously filed shall be filed upon the filing of a compromise and release or stipulations with request for award.

(e) Any report filed in violation of this section may be discarded by the Workers' Compensation Appeals Board.

(f) X-rays shall not be transmitted to the Workers' Compensation Appeals Board except under a specific order directing their production.

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Sections 5001, 5502, 5703 and 5708, Labor Code.

§10626. Hospital and Physicians' Records.

Subject to Labor Code section 3762, all parties, their attorneys, agents and physicians shall be entitled to examine and make copies of all or any part of physician, hospital, or dispensary records that are relevant to the claims made and the issues pending in a proceeding before the Workers' Compensation Appeals Board.

A party offering such records shall designate the particular portion or portions thereof believed to be relevant, specifically stating where in the records it may be found. The Workers' Compensation Appeals Board prefers that the designation be in writing and before the hearing.

Authority cited: Sections 133 and 5307(c), Labor Code.

Reference: Section 4600, Labor Code.

§10630. Return of Exhibits.

~~No exhibits filed or received in evidence will be released into the custody of a party, his attorney or other agent, except upon stipulation of the parties or by order of the Appeals Board or a workers' compensation judge.~~

~~Sixty (60) days after decision is final in any proceeding, or after a case has been ordered off calendar, the Workers' Compensation Appeals Board may, on its own motion, with or without notice, return:~~

~~(a) to the owners or persons producing the same, all exhibits of a physical, mechanical or demonstrative evidentiary character, unless some other disposition is expressly provided for; and~~

~~(b) to the respective owners or custodians, all permanent office records, X-rays, laboratory, clinical and hospital records and charts.~~

~~Upon expiration of five (5) years after filing the application, there being no proceedings pending, the Workers' Compensation Appeals Board may, with or without notice, make such order disposing of exhibits as deemed proper. Where proper written requests covering disposition of the exhibits are on file, they will be returned or disposed of in accordance therewith.~~

~~Authority cited: Sections 133 and 5307, Labor Code.~~

~~Reference: Section 126, Labor Code.~~

~~§10753. Inspection of Files.~~

~~Except as provided in Section 10754 of these Rules or otherwise, any person legally may inspect the contents of any Workers' Compensation Appeals Board file at the district office where the file is located at a time convenient to the Workers' Compensation Appeals Board and during regular office hours. The file and the records and documents contained therein may not be removed from the district office for copying or for any other purpose. Copying operators must operate their equipment in the room assigned to them and any person copying a file must put papers back in the file in their original order and any person viewing or copying a file must return the file in the same order and condition in which it was received.~~

~~A file will not be sent from one office to another for inspection except for good cause by order of a workers' compensation judge and upon the payment of a fee required by the Administrative Director. At the request of a party to the case, or his or her attorney, a file that has been transferred to a record storage center for storage will be made available for inspection through the office from which the file was transferred. Files that have been transferred to a record storage center will be made available for inspection by any other person upon payment of the fee required by the Administrative Director.~~

~~Although the following documents may be retained in a Workers' Compensation Appeals Board file folder for the sake of convenience, they are not a part of the file and may be removed from the file before it is made available for inspection by any person:~~

~~(a) Decisions, reports, opinions, orders, recommendations and other documents that are in the process of preparation, or, although fully prepared, have not yet been signed and filed.~~

~~(b) Agreed Medical Examiner or Qualified Medical Examiner reports and ratings that have been received but have not yet been served.~~

~~(c) The working papers, personal notes, deliberation records, and other private notations made by a workers' compensation judge, commissioner, deputy commissioner or Appeals Board attorney in the course of hearing or deliberation relating to the case.~~

~~(d) Any legal memorandum or analysis prepared by a workers' compensation judge, commissioner, deputy commissioner, Appeals Board attorney or legal assistant to assist a workers' compensation judge, deputy commissioner or commissioner in his deliberations concerning a case.~~

~~Except as provided in Rule 10754, a party, or his or her attorney or representative, may inspect the legal file and any medical reports that have been filed; any other person may inspect only the legal file.~~

~~Authority cited: Sections 133 and 5307 (c), Labor Code.~~

~~Reference: Section 126, Labor Code.~~

§10754. Sealed Documents.

~~Where a medical report, medical record or other document filed in a case contains references to or discusses the mental or emotional health of any person, sexual habits or practice, use of or addiction to alcohol or other drugs, or other matter of similar character such that the workers' compensation judge to whom the case is assigned determines that public inspection of the document should not be permitted, the workers' compensation judge may order the document to be sealed. If an order is made that a document or documents be sealed, the order shall be filed in the record of the proceedings and the sealed document or documents shall be placed in a sealed envelope, which shall be removed from the file before the file is made available for public inspection.~~

~~Sealed documents in a case shall be made available for inspection by any party to the case or by his representative on order of a workers' compensation judge and subject to any reasonable conditions and limitations as the workers' compensation judge may impose. Sealed documents shall not otherwise be made available for public inspection except by order of a workers' compensation judge which shall be made only on a showing that good cause exists to permit the inspection.~~

~~Authority cited: Sections 133 and 5307 (c) (c), Labor Code.~~

~~Reference: Section 5708, Labor Code.~~

§10755. Destruction of Records.

~~Following a period of:~~

~~(a) two years after date of last entry thereon, the Workers' Compensation Appeals Board may destroy any miscellaneous record, not otherwise expressly covered by these Rules, which is kept and maintained in the proceeding of cases, case files and decisions; and~~

~~(b) five years after the date of filing of the Application for Adjudication or upon transfer to archive storage, whichever date first occurs, the Workers' Compensation Appeals Board may eliminate from the case file and destroy:~~

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

~~(2) correspondence and other miscellaneous material not part of the legal record in the case, excepting originals of all medical reports found in the correspondence section of the file.~~

~~The approval of the Department of Finance, as required by the provisions of Government Code Section 14755, will be obtained before action under this section.~~

~~Authority cited: Sections 133, 5307 (c) (c), Labor Code.~~

~~Reference: Section 135, Labor Code.~~

~~§10758. Destruction of Case Files.~~

~~Following a period of five (5) years after the filing of the Application or other opening document, the Workers' Compensation Appeals Board may destroy, without microphotographic or other reproduction, the file in each case.~~

~~A case file may be destroyed by the Workers' Compensation Appeals Board after its contents, as stripped in accordance with Section 10755, have been reproduced in a manner permitted by law. The reproduction may be destroyed after a period of five (5) years from the date of filing of the Application or other opening document.~~

~~The approval of the Department of Finance, as required by the provisions of Labor Code Section 135, will be obtained before action under this rule.~~

~~Authority cited: Sections 133 and 5307 (c) (c), Labor Code.~~

~~Reference: Section 5307 (c) (c), Labor Code.~~

~~§ 10762. Reporters' Notes.~~

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

~~The approval of the Department of Finance, as required by the provisions of Government Code Section 14755, will be obtained before action under this rule.~~

~~Authority cited: Section 133 and 5307 (c) (c), Labor Code.~~

~~Reference: Section 14755, Government Code; and Section 5708, Labor Code.~~

~~§10890. Walk-Through Documents.~~

~~(a) A "walk-through" document is a document that is presented to a workers' compensation judge for immediate action.~~

~~(b) A party may present the following walk-through documents to a workers' compensation judge during conference calendars and mandatory settlement conference calendars:~~

~~(1) Compromise and releases;~~

~~(2) Stipulations with request for award;~~

~~(3) Petitions for attorney's fees for representation of the applicant in vocational rehabilitation;~~

~~(4) Petitions for attorney's fees for representation of the applicant at a deposition; and~~

~~(5) Petitions to compel attendance at a medical examination or deposition.~~

~~(e) At any time, a party may present to the presiding judge a petition to stay an action by an opposing party pending a hearing. The presiding judge may act on the petition or assign it to another judge for action. A party who walks through a petition to stay an action shall provide notice to the opposing party or parties in accordance with subsections (b) and (c) of Rule 379 of the California Rules of Court.~~

~~(d) Each walk through settlement document (a compromise and release or stipulations with request for award) shall be accompanied by a proof of service showing that the document was served on all lien claimants whose liens have not been resolved and any other defendant who may be liable for payment of additional compensation.~~

~~Each petition for attorney's fees for representation of the applicant in vocational rehabilitation shall be accompanied by a proof of service showing that the petition was served on the injured worker and the defendant alleged to be liable for paying the fees.~~

~~Each petition for attorney's fees for representation of the applicant at a deposition shall be accompanied by a proof service showing that the petition was served upon the defendant alleged to be liable for paying the fees.~~

~~Each petition to compel attendance at a medical examination or deposition shall be accompanied by a proof of service showing that the petition was served upon the injured worker, the injured worker's attorney, and any other defendant who may be liable for payment of additional compensation.~~

~~(e) A workers' compensation judge who is presented with a walk through settlement document shall approve it, disapprove it, suspend action on it, or accept it for later review and action. If a workers' compensation judge is presented with so many walk through documents that review of them will interfere with cases scheduled for conference, the judge may refer to the presiding judge as many walk through cases as are necessary to allow timely consideration of the cases scheduled for conference.~~

~~(f) A walk through document may be presented only to a workers' compensation judge at the district office that has venue. If an injured worker has existing cases at two or more district offices that have venue, a walk through settlement may be presented to a judge at any office having venue over an existing case that is settled by the walk through document. An existing case is a case that has been filed and assigned a case number prior to the filing of the walk through document.~~

~~(g) A walk-through document may be presented to any workers' compensation judge during a conference calendar or mandatory settlement conference calendar except as follows:~~

~~(1) If a judge has taken testimony, any walk-through document in that case must be presented to the judge who took testimony if that judge works at the district office to which the case is assigned, unless the presiding judge allows it to be presented to another judge.~~

~~(2) If a judge has reviewed a settlement document and declined to approve it, a walk-through settlement document in that case must be presented to the same judge, if that judge works at the district office to which the case is assigned, unless the presiding judge allows it to be presented to another judge.~~

~~(h) If an injured worker is not represented by an attorney, the worker must be present when a walk-through settlement document is presented to the judge unless the settlement has previously been reviewed with the injured worker by an Information and Assistance officer.~~

~~(i) Each district office will have clerical staff available to obtain files and create new files for walk-through cases from 8:00 a.m. to 11:00 a.m. and 1:00 p.m. to 4:00 p.m. when conferences are scheduled except that, with the approval of the Administrative Director, in order to meet operational needs, a district office may require up to one day's notice of a party's intention to walk-through a document and may require that documents requiring the creation of a new case file be filed up to one day prior to walking them through.~~

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Sections 4053, 4054, 5001, 5002, 5702 and 5710, Labor Code.

~~§10950. Appeal from Order Granting or Denying Petition for Order Requiring Employee to Select Employer-Designated Physician.~~

~~(a) Where either party petitions the Workers' Compensation Appeals Board within twenty (20) days pursuant to Section 9787 as the result of a grant or denial pursuant to Section 9786(e)(2) or Section 9786(e)(3) of the Rules of the Administrative Director, the matter shall be referred to a workers' compensation judge for hearing and determination of the issues raised. A party aggrieved by the determination of the workers' compensation judge may seek relief therefrom within the same time and in the same manner specified for petitions for reconsideration. The petition for reconsideration shall be filed in the district office having venue.~~

~~(b) Any party aggrieved by an order issued pursuant to Section 9786(e)(4) of the rules of the Administrative Director may petition the Appeals Board for relief therefrom within twenty (20) days from the date of the issuance of the order in the same manner specified for petitions for reconsideration, including the filing of the petition for reconsideration and answers thereto at the district office of the Workers' Compensation Appeals Board from which the decision issued.~~

Authority cited: Sections 133 and 5307 (c), Labor Code.

Reference: Sections 4603, 4604 and 5302, Labor Code.

~~§10952. Appeal of notice of compensation due.~~

~~A notice of compensation due, issued pursuant to Labor Code Section 129, may be appealed by the filing of an Appeal of notice of compensation due with the Workers' Compensation Appeals Board and service of the Appeal of notice of compensation due on the injured worker or dependent and the audit unit within fifteen (15) days of receipt of the notice of compensation due. The Appeal of notice of compensation due shall be filed at or referred to the district office where venue has already been determined by previous filing or application or, if venue has not been determined, a district office in accordance with Labor Code Section 5501.5.~~

~~The filing of an objection to a notice of intention to issue notice of compensation due shall be a prerequisite for the filing of an Appeal of notice of compensation due. Failure to timely file an objection to notice of intention to issue notice of compensation due may result in dismissal of the Appeal of notice of compensation due.~~

~~The Appeal of notice of compensation due shall set out the factual and legal basis for contesting the notice of compensation due and shall include the audit unit's file number. The Appeal of notice of compensation due shall be accompanied by a copy of the notice of compensation due, a Declaration of Readiness, an Application for Adjudication if one has not been previously filed, and any other documents deemed relevant. The copy of the appeal of notice of compensation due sent to the injured worker shall inform the injured worker of the right to consult an attorney.~~

~~The case number assigned to the Application for Adjudication shall be assigned to the Appeal of notice of compensation due.~~

~~An Appeal of notice of compensation due shall be set for a hearing before a workers' compensation judge within forty five (45) days of filing with the Workers' Compensation Appeals Board unless the employee's claim is before the Workers' Compensation Appeals Board on other substantive issues in which case the appeal may be considered with these other issues. The audit unit, insurer, self-insured employer or third party administrator and the injured worker shall receive notice of the date and time of hearing as well as copies of any other notices or orders issued by the Workers' Compensation Appeals Board. Following the hearing, the workers' compensation judge shall issue findings of fact and an order affirming, modifying or rescinding the notice of compensation due, which complies with Labor Code section 5313.~~

~~If the injured worker is represented by an attorney, the workers' compensation judge may determine the amount of attorney fees reasonably incurred in resisting the Appeal of notice of compensation due and may assess reasonable attorney fees as a cost upon the employer filing the Appeal of notice of compensation due in accordance with Labor Code section 129(e).~~

~~Authority cited: Sections 133 and 5307 (c), Labor Code.~~

~~Reference: Sections 129, 5300 and 5301, Labor Code.~~

§10955. Rehabilitation Appeals.

~~(a) Appeals from decisions of the Division of Workers' Compensation Rehabilitation Unit or an arbitrator appointed pursuant to Labor Code Sections 4645, subdivisions (b) and (c), shall be commenced as follows:~~

~~(1) if an Application for Adjudication is already on file, by filing a Declaration of Readiness and a petition setting forth the reason for the appeal;~~

~~(2) if no Application for Adjudication is on file, by filing an application, a Declaration of Readiness, and a petition setting forth the reason for the appeal.~~

~~(b) The party appealing from a decision of the Rehabilitation Unit shall file and serve copies of the decision and other documents that the appealing party deems relevant. The opposing party may file and serve copies of whatever additional documents the opposing party deems relevant.~~

~~A copy of all pleadings, notices and orders shall be served on the Division of Workers' Compensation, Rehabilitation Unit.~~

~~Authority cited: Sections 133 and 5307, Labor Code.~~

~~Reference: Sections 139.5, 4645 and 5500, Labor Code.~~