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Chapter 4.5. Division of Workers' Compensation
Subchapter 1.5. Injuries on or After January 1, 1990
Article 3. Auditing

[New Query](#)

§10109. Duty to Conduct Investigation; Duty of Good Faith.

- (a) To comply with the time requirements of the Labor Code and the Administrative Director's regulations, a claims administrator must conduct a reasonable and timely investigation upon receiving notice or knowledge of an injury or claim for a workers' compensation benefit.
- (b) A reasonable investigation must attempt to obtain the information needed to determine and timely provide each benefit, if any, which may be due the employee.
- (1) The administrator may not restrict its investigation to preparing objections or defenses to a claim, but must fully and fairly gather the pertinent information, whether that information requires or excuses benefit payment. The investigation must supply the information needed to provide timely benefits and to document for audit the administrator's basis for its claims decisions. The claimant's burden of proof before the Appeal Board does not excuse the administrator's duty to investigate the claim.
- (2) The claims administrator may not restrict its investigation to the specific benefit claimed if the nature of the claim suggests that other benefits might also be due.
- (c) The duty to investigate requires further investigation if the claims administrator receives later information, not covered in an earlier investigation, which might affect benefits due.
- (d) The claims administrator must document in its claim file the investigatory acts undertaken and the information obtained as a result of the investigation. This documentation shall be retained in the claim file and available for audit review.
- (e) Insurers, self-insured employers and third-party administrators shall deal fairly and in good faith with all claimants, including lien claimants.

Note: Authority cited: Sections 59, 129.5, 133, 5307.3, Labor Code. Reference: Article 14, Section 4, California Constitution; Sections 124, 129, 133, 4061, 4550, 4600, 4636 through 4638, 4650, 4701 through 4703.5, 5402 and 5814, Labor Code; Ramirez v. WCAB, 10 Cal.App.3d 227, 88 CR 865, 35 CCC 383 (1970); and Section 790.03(h)(3), (5), (13), Insurance Code.

HISTORY

1. Relocation of article 4 heading to article 6, renumbering of former section 10109 to section 10113 and new section filed 1-28-94; operative 1-28-94. Submitted to OAL for printing only pursuant to Government Code section 11351 (Register 94, No. 4).
2. Amendment of subsection (d) filed 4-20-2009; operative 5-20-2009 (Register 2009, No. 17).

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