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WORKERS' COMPENSATION TIME LIMITS

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WORKERS' COMPENSATION TIME LIMITS

MEDICAL-LEGAL PROCESS

- Represented Employee (Sullivan on Comp 14.29, 14.40)
  - QME may be requested no earlier than the first working day 10 days after mailing a request for medical evaluation pursuant to LC 4060 or mailing an objection pursuant to LC 4061/LC 4062.
  - Parties seeking to strike a QME must do so within 10 days of assignment by the Medical Unit.
  - Parties may agree to an AME any time.
  - Employee has 10 days from the date a QME is selected to schedule an appointment. Employer may schedule an appointment after the 10-day period.
  - QME must schedule an examination within 90 days of the initial request for an appointment. The party with the legal right to schedule an appointment may choose to accept one no more than 120 days from the initial request.
  - QME or AME who cancels a scheduled appointment must reschedule it within 60 calendar days of the date of cancellation, unless the parties agree in writing to accept an appointment beyond that limit.

- Unrepresented Employee (Sullivan on Comp 14.28)
  - Employee has the first opportunity to request a PQME.
  - Employer may not submit the form unless the employee has not submitted it within 10 days after employer has furnished the QME form to employee and requested they submit it.
  - If the panel is not assigned within 20 working days, the employee may select a QME of his/her choice within a reasonable geographic area.
  - Employee must select a QME and schedule the appointment within 10 days of the issuance of a panel. Employer may select a QME and schedule an appointment after the 10-day period.
  - Either party may request a report for factual correction within 30 days of its receipt.
  - QME must issue a report for factual correction within 10 days after service of a request made by an employee, or 15 days of a request by the employer or both parties.

- Communications with AME/QME (Sullivan on Comp 14.41)
  - If a party provides information to an QME, it must be served on the opposing party 20 days before it is provided to the evaluator.
  - If the opposing party objects to consideration of medical or non-medical records within 10 days, they must not be provided to the evaluator unless ordered by a WCJ.
  - If an AME has been selected for an evaluation, as part of their agreement, the parties must agree on what information is to be provided.

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- Time Limits for Reporting (Sullivan on Comp 14.42)
  - Initial medical evaluation must be prepared no more than 30 days after the evaluator has seen the employee or otherwise commenced the medical evaluation procedure. Evaluator may request an extension for an additional 30 days.
  - Party requesting a new panel or doctor on the grounds of lateness must do so before the date the evaluator served the report.
  - A supplemental report must be completed no more than 60 days from the date of a request.
  - Evaluator must be available for deposition within 120 days of the notice of deposition unless the appeals board orders otherwise or the parties agree otherwise.

MEDICAL TREATMENT

- Treatment Authorization (Sullivan on Comp 7.24)
  - Within 1 working day after the employee files a claim form, the employer must authorize all treatment consistent with the MTUS until liability for the claim is accepted or rejected, up to $10,000. (Sullivan on Comp 7.24)
  - If no MPN, employer has 30 days of medical control. (Sullivan on Comp 7.50)
  - MPN complete notification must be given at the time of injury. (Sullivan on Comp 7.54)
  - Failure to provide MPN notice shall not be a basis for the employee to treat outside the MPN unless it is shown that the failure resulted in a denial of medical care. (Sullivan on Comp. 7.56)
  - If there is a dispute over the diagnosis or treatment prescribed by an MPN physician: (Sullivan on Comp 7.55)
    - Employee must select a second opinion physician and make an appointment within 60 days. the objection is waived if the appointment is not made within 60 days of receiving a list of providers.
    - Second opinion doctor must serve the report within 20 days of the appointment or receipt of diagnostic tests.
    - Third opinion may be requested. After that opinion, if the diagnosis or treatment is still disputed, an independent medical reviewer may be selected.
    - AD must select an MPN IMR within 10 days of receipt of a request.
    - Employee must schedule an exam within 60 days of receiving the name of the MPN IMR.
    - MPN IMR must schedule an appointment within 30 days unless parties agree to a later date.
    - MPN IMR must issue a report within 20 days, or 3 days if there's a serious health threat.

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UTILIZATION REVIEW AND INDEPENDENT MEDICAL REVIEW

- Utilization Review within 30 days of Injury (Sullivan on Comp 7.36)
  - For injuries on or after Jan. 1, 2018, emergency treatment services and medical treatment rendered for accepted body parts or conditions within 30 days following the initial date of injury generally must be authorized without prospective review.
  - Exceptions for pharmaceuticals, nonemergency surgery, psychological treatment services, home health-care services, imaging and radiology services (excluding x-rays), durable medical equipment over $250, and electrodiagnostic medicine.

- Time Limits for Utilization Review (Sullivan on Comp 7.35)
  - Claims adjuster must send a treatment request on an RFA form to UR as soon as possible unless the defendant defers UR because it is disputing liability for the injury or on grounds other than medical necessity (see below); UR has only 5 working days to complete a review or issue a UR deferral notice.
  - Prospective and concurrent UR decisions must be made within 5 working days of receipt of
  - RFA form by the TPA/insurer if all required information is received.
    - This may be extended to 14 days if additional information is needed by the UR reviewer.
    - The decision must be communicated to the requesting physician within 24 hours by phone, fax or email.
    - A written communication must be made within two business days and provided to the requesting physician, the injury worker, and the injured worker's attorney, if any.
  - Prospective review for treatment covered by the drug formulary must be made no more than 5 working days from receipt of the request.
  - Retrospective UR must be completed within 30 days of receipt of the medical information reasonably necessary to make the determination. (After the employer's liability is final, the 30-day limit applies if UR is deferred because of a threshold issue; for accepted claims, retrospective UR may be conducted with no waiting for a final order.)
  - UR must be completed in timely fashion if there is an imminent or serious health threat, but no more than 72 hours after receipt of the information reasonably necessary to make the determination.
  - UR decisions last for 12 months (with no changes in circumstances). (Sullivan on Comp 7.36)

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- If UR Is Deferred (Sullivan on Comp 7.33)
  - Notice of deferral must be sent within 5 working days of receipt of an RFA form.
  - Retrospective UR is required when the employer's liability becomes final. The final determination may be either by decision of the WCAB or by agreement between the parties.
    - In that case, UR is required within 30 days.
  - Prospective UR is required after "the determination of the employer's liability" and the defendant receives another RFA form.
    - In that case, UR is required within five days of receipt of an RFA form.

- Independent Medical Review (Sullivan on Comp 7.39, 7.40, 7.41)
  - An employee must request an IMR no later than:
    - 10 days after service of the utilization review decision to the employee for formulary disputes
    - 30 days after service of the utilization review decision to the employee for all other medical treatment disputes
  - Employer must provide records within 10 days of receipt of a request (plus 5 days for mailing, or 2 days for electronic submission) of IMR assignment.
  - IMRO has 30 days to complete review (must acknowledge request within 24 hours).
  - IMRO has 5 working days to complete its review for disputes over medication pursuant to the drug formulary.
  - In emergencies, records must be delivered within 24 hours.
  - In emergencies, IMR must be completed in 3 days.
  - Once an IMR decision is issued, approved services must be authorized within 5 working days.
  - If already provided, approved services must be paid for within 20 days (subject to IBR).
  - Aggrieved party has 30 days to appeal. If successful, new IMR.

INDEPENDENT BILL REVIEW

- Submission of Bills (Sullivan on Comp 7.67)
  - For services provided on or after Jan. 1, 2017, the request for payment must be submitted to the employer within 12 months of the date of service.
  - A request for payment not submitted within the 12-month period is barred.

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- Payment of Bills Sullivan on Comp 7.67, 14.65)
  - Treatment bills: (Sullivan on Comp 7.67)
    - Payment to be made within 45 calendar days of receipt of bill OR
    - 15 working days if electronic OR
    - MUST object within 30 calendar days with EOR.
  - Med-Legal bills: Object within 60 days with EOR. (Sullivan on Comp 14.65)

- Second Review (Sullivan on Comp 7.68)
  - Request for second bill review must be made within 90 days of EOR or WCAB order resolving threshold issue; if not, bill is deemed satisfied.
  - Employer must respond to second review request within 14 days, and make any additional payment within 21 days.

- Independent Bill Review (Sullivan on Comp 7.70, 7.71, 7.72)
  - Must be requested within 30 days of service of second review.
  - Reviewer is assigned within 30 days of request.
  - IBR must submit decision within 60 days of assignment.
    - Reviewer may request more documentation be provided within 30 days.
  - Aggrieved party has 20 days to appeal.
  - Payments must be made within 45 days after IBR for mailed bills; 15 days for electronic bills; and 20 days of med-legal bills.

VOUCHER

- Injuries on or After Jan. 1, 2013 (Sullivan on Comp 11.4)
  - Must offer regular, modified or alternative work within 60 days of the physician's return-to-work & voucher report (form DWC-AD 10133.36).
  - Voucher must be issued within 20 days after the time period for making an offer of regular, modified or alternative work.
  - Voucher expires 2 years after the date furnished or 5 years from the date of injury.

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PAYMENT OF INDEMNITY BENEFITS

- 3-Day Waiting Period for TD (Sullivan on Comp 9.16)
  - TD must be paid no later than 14 days after knowledge of the injury and disability unless a delay letter is issued. (Sullivan on Comp 9.15)
  - For injuries between April 19, 2004 and Dec. 31, 2007, TD is limited to no more than 104 weeks within a 2-year period from the date of commencement of temporary disability payment. (Sullivan on Comp 9.14)
  - For injuries on or after Jan. 1, 2008, TD is limited to 104 weeks within a 5-year period from the date of injury. (Sullivan on Comp 9.14)
  - If specified exceptions are met (hepatitis B, amputations, severe burns, etc. TD is limited to 240 weeks within a 5-year period from the date of injury. (Sullivan on Comp 9.14)
  - PD must be paid within 14 days of the last payment of TD unless the employer has offered work paying 85 percent of the wages and compensation at the time of injury, or if the employee is working in a position that pays 100 percent of the wages and compensation at the time of injury. (Sullivan on Comp 10.62)

INVESTIGATION & LITIGATION

- Claim form and notice of potential eligibility must be provided within 1 working day of notice or knowledge of an injury. (Sullivan on Comp 6.5)
- Employer generally has 90 days to deny a claim before it becomes presumptively compensable. (Sullivan on Comp 5.16)
  - Besides COVID-19 presumptions, for injuries/illnesses defined in LC 3212 - LC 3213.2, the employer has 75 days to deny a claim before it becomes presumptively compensable. (Sullivan on Comp 5.17)
  - For COVID-19 claims under LC 3212.87 (front-line workers), employer has 30 days to deny a claim before it becomes presumptively compensable. (Sullivan on Comp 5.19).
  - For COVID-19 claims under LC 3212.88 (outbreaks), employer has 45 days to deny a claim before it becomes presumptively compensable. (Sullivan on Comp 5.19).
- Answer to an application for adjudication must be filed no later than the shorter of either: 10 days after the filing of a DOR, or 90 days after the service of the application. (Sullivan on Comp 15.4)
- Objection to DOR must be filed within 10 days after service. Failure to object will waive all objections to proceeding on the issues specified in the DOR. (Sullivan on Comp 15.25)
- Objections to venue based on attorney's place of business must be filed within 30 days of the notice of the adjudication case number and venue. (Sullivan on Comp 15.6)
- Medical reports must be served on other parties within 10 days of receipt or on physician lien claimants within 10 days of a request. (Sullivan on Comp 14.7)

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APPEALS

- Petitions for Reconsideration/Review
  - Petition for reconsideration/removal must be filed within 20 days of the date of service of the decision, order or award, plus 5 days if served by mail. (Sullivan on Comp 16.61)
  - Answer to petition for reconsideration may be filed within 10 days of its service. (Sullivan on Comp 16.63)
  - Petition for writ of review with the Court of Appeal must be filed within 45 days of the filing of the decision, order or award following reconsideration. (Sullivan on Comp 16.79)
  - Answer to the petition for writ of review must be filed within 25 days of the date the petition was filed. (Sullivan on Comp 16.82)
  - Petition for writ of certiorari with the Supreme Court must be filed within 10 days of when a decision of the appellate court becomes final. (Sullivan on Comp 16.90)
  - Respondent has 20 days to file and serve an answer to the petition for writ of certiorari. (Sullivan on Comp 16.92)

STATUTES OF LIMITATIONS

- Filing an application for adjudication: within 1 year of the longest of:
  - Date of injury OR
  - Date of last indemnity payment for temporary or permanent disability OR
  - Date of last furnishing of any hospital and medical benefits. (Sullivan on Comp 6.13)
- Filing a petition to reopen: within 5 years of the date of injury. (Sullivan on Comp 6.25)

  132a claim: within 1 year of the date of the discriminatory act or the date of termination of the employee. (Sullivan on Comp 6.46)
- S&W claim: within 12 months of the date of injury. (Sullivan on Comp 6.47)
- Death benefits: within 1 year of the date of death and no more than 240 weeks from the date of injury. (Sullivan on Comp 6.48)
- Filing a lien: within 3 years of the date services were provided or, if the services were provided on or after July 1, 2013, no more than 18 months after the date they were provided. (Sullivan on Comp 6.51)
- Petitions for contribution: within 1 year following an award or order approving a settlement. (Sullivan on Comp 6.52)
- Petitions for LC 5814 penalties: within 2 years of the date the payment of compensation was due. (Sullivan on Comp 6.53)