

RFAs, UR and IMR, oh my! Down the Yellow Brick Road of Medical Treatment

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History Lesson

- 2003: UR
- 2004: UR expanded
- 2012: IMR established
- 2013: Further modifications
- 2026: New revisions!



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What is Utilization Review?

LC 4610(a):

utilization review or utilization management functions that prospectively, retrospectively, or concurrently review and approve, modify, or deny, based in whole or in part on medical necessity to cure and relieve, treatment recommendations by physicians, as defined in Section 3209.3, prior to, retrospectively, or concurrent with the provision of medical treatment services pursuant to Section 4600.



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UR Timelines

- Emergency Services within 30 days of DOI:
 - No UR allowed (unless subsection (c)!)
 - Retro UR is ok ONLY to ensure MTUS and drug formulary compliance
- Prospective or Concurrent Review:
 - “timely fashion that is appropriate for the nature of the employee’s condition”
 - “not to exceed five normal business days from the receipt of a request for authorization for medical treatment and supporting information reasonably necessary to make the determination”
 - “in no event more than 14 days from the date of the medical treatment recommendation by the physician”



UR Timelines



Prospective Review

- If treatment covered by the formulary, only 5 days!

Retrospective Review

- Partial or complete denial must be communicated within 30 days of the receipt of the information reasonably necessary to make the determination
- If approving – no need to communicate as long as payment issues timely!



UR Timelines



Imminent and Serious Threat to health:

- Not to exceed 72 hours after receipt of information reasonably necessary to make the determination
- What is Imminent and Serious Threat to life?
 - potential loss of life, limb, or other major bodily function OR
 - the normal timeframe for the decisionmaking process would be detrimental to the employee's life or health or could jeopardize the employee's ability to regain maximum function



Communication of Determinations

- Final determinations to approve, modify or deny RFAs “SHALL” be communicated to the **physician** within 24 hours of decision
 - By phone, fax or secure email
- Modifications or denials “SHALL” be communicated **in writing** to the **employee**
 - within 24 hours for concurrent review
 - Within 2 normal business days for prospective review



UR Denials

- What if the doctor did not provide the information needed for a determination?
 - UR must request additional information and document request
 - Timeline is 14 days instead of 5 days
 - Denial must include:
 - Reason for the decision
 - A specific description of the information that is needed
 - The date and time of attempts made to contact the physician to obtain the necessary information
 - A description of the manner in which the request was communicated



Request for Authorization

- Pre-4/1/26 – MUST be on Form 9785.5
- What is factually needed
 - Request for Authorization must be sent with supporting documentation
 - Medical report needed!
 - The Requested Treatment, What the Treatment is Treating, Medical Necessity



What do you need to do with an RFA?

- Adjuster Interception
 - You can approve without review!
- Submit RFA to UR
 - Normally done directly, but if the adjuster receives it, it must then be sent
 - Clock is ticking!
- What is the “Rule”:
 - LC 4600(g)(2)(A) – Claims Administrator to receive the RFA



Statutory Law

- Does 4600 mean **ONLY** the Claims Administrator?
 - **NO!!**



Czech v Bank of America

81 CCC 856 (2016)

FACTS:

- RFA sent to DA (not defendant)
- missed deadline for UR
- DA claims no duty to give RFA to def



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Czech v Bank of America

- DA argues: RFA can only be “received by the claims administrator or its [UR]” because to hold otherwise
- would “add[] an additional, completely unintended step to the [UR] process”

AND...



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Czech v Bank of America

result in DAs being “chained to their fax machines to ensure that the requests for medical treatment get processed on time”...resulting in an “undue and unreasonable burden to place upon defense attorneys.”



Czech v Bank of America

- WCAB says, "Nice try"
- TRUE: UR is only triggered by receipt of RFA by:
 - claims adjuster, or
 - UR (see LC 4610)
- But...



Czech v Bank of America

Def = continuing duty to conduct good faith investigations



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Case Law

Erhardt v. US Concrete (2022 Cal Work Comp 198)

- Applicant Attorney sent the PTP reporting and the RFA to the defense attorney
- Holding –
 - Ok, DA should have sent the documentation to the Claims Administrator. Further medical reporting indicated that the surgery was still pending, so this provided Notice under CCR 10109 that further investigation was needed.



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Case Law

Sevillan v. Kore (2022 Cal Work Comp 205)

- “Reasonable diligence” is needed by the parties, including the defense attorney, to get the RFA to the claims administrator for review
- Timelines - unclear



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What if your UR Determination is Untimely?

.... or didn't issue?



NOT automatically entitled to treatment



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What if your UR Determination is Untimely?

Employee must demonstrate that the requested treatment is medical reasonable and necessary (*Sandhagen*).

Dubon II

- UR is invalid if untimely – NOT subject to IMR
- Legal issues re: UR timeliness are resolved by the WCAB
- ALL other disputes must be resolve through IMR



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WCAB Jurisdiction over UR

- *Ramirez v. WCAB* (2017) 82 CCC 327: UR failure to apply the MTUS does not give the appeals board jurisdiction
- *Reyes v. Target, Inc.*, 2014 Cal. Wrk. Comp. P.D. LEXIS 582: UR failure to sign a UR decision was not a basis for invalidating the decision
- *Carrico v. Law Offices of Stephen Belgum*, 2014 Cal. Wrk. Comp. P.D. LEXIS 589 No WCAB jurisdiction just b/c UR fails to review or list medical records
- *Reis v. Silvas Oil Co.*, 2014 Cal. Wrk. Comp. P.D. LEXIS 605: No WCAB jurisdiction just b/c UR failed to review an AME report



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Do UR denials expire?

LC 4610(g)(6):

"A utilization review decision to modify, delay, or deny a treatment recommendation **shall remain effective for 12 months** from the date of the decision without further action by the employer **with regard to any further recommendation by the same physician** for the same treatment **unless the further recommendation is supported by a documented change in the facts material** to the basis of the utilization review decision.



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LC 4610(g)(6)

Defendant gets 1 year rest unless "material" change of "facts"

BUT

Different doctor = "facts material"!



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Garza v. Roll Global/Del Rey Juice Plants 2017 Cal. Wrk. Comp. P.D. LEXIS 61

FACTS:

- PTP RFA for surgery to burn
- denied 5/20/16 b/c "cosmetic"
- PTP 2nd RFA:
 - not cosmetic; to alleviate pain
 - and restore functionality
- 6/3/16 UR authorized
- ER denies



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Garza



REASONING:

- loophole to 12 months =
 - “a documented change in the facts material to the basis of the utilization review decision”
- UR's initial decision based upon incorrect assumption re RFA's purpose = "documented change"



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Does UR require continuing care?

Patterson ((2014) 79 Cal. Comp Cases 910))

- Held that if an employer previously authorized a treatment (like home health care or nurse case management), the defense could not stop it or send it to utilization review without first demonstrating a “change in circumstances” to a WCJ’s satisfaction



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Rodriguez - Goodbye Patterson!

- 2nd District Court of Appeal
- Disagree with the “Patterson Doctrine”
- The inability to use UR & IMR process is contrary to the statutory scheme



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Rodriguez

“The statutory language is explicit and unambiguous, and this court must enforce the statute according to its terms, Irrespective of the reasons why a treating physician selects a particular duration of treatment in a request for authorization, the request is subject to utilization review if the employer objects, and to independent medical review after that. Nothing in the statute prohibits an employer from seeking utilization review of subsequent requests for more of the same medical treatment.”



IMR Determinations

- 30 days (supposedly) from request and receipt of records. Labor Code §4610.6(d)
- Reviews must include
 - Individual assessment of case
 - Determination on disputed medical treatment
 - Based on specified treatment guidelines
 - Qualifications of reviewers
 - (License jurisdiction, subspecialty)



IMR Appeals

8 C.C.R. section 10957.1 (WCAB Rules)

- For both eligibility and final determinations
- Must be filed within 30 days of decision (+5 for mailing)
- Served on adverse party (and atty) and DWC Medical Unit
- DWC Medical Unit download record to EAMS
- DOR must be filed

If reversed, case must be remanded to AD for a second IMR determination. Labor Code §4610.6(i)




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IMR Doctor Anonymity

- Who cares? 
- No constitutional right to cross-exam IMR
- UR/IMR explains reasons for denial/mod
- Many chances to submit evidence/challenge decisions



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Cost Savings

IMR established in 2012:

- 2013-2014: med services dropped 7.3%
- 2014-2015: 5.4%
- In 2015, the projected average medical cost of 2015 indemnity claim was 9% below 2011...



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Does IMR Usually Overturn?

No!

- At start of 2025, around 89% of IMR determinations UPHOLD UR denials
 - Up slightly from 2024 – 88%
- What types of services?
 - Acupuncture – denials UPHELD 92% of time
 - Rx Meds – denials UPHELD approx. 90% of time
 - PT – denials UPHELD approx 85% of time



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New Regulations



CCR 9792.9.1

- Changes “DWC Form” and now requires “Request for Authorization”
- Previously: (a) required a request for authorization to be set forth on form 9785.5



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**State of California, Division of Workers' Compensation
 REQUEST FOR AUTHORIZATION
 DWC Form RFA**

Attach the Doctor's First Report of Occupational Injury or Illness, Form DLSR 5021, a Treating Physician's Progress Report, DWC Form PR-2, or equivalent narrative report substantiating the requested treatment.

<input type="checkbox"/> New Request		<input type="checkbox"/> Resubmission – Change in Material Facts	
<input type="checkbox"/> Expedited Review: Check box if employee faces an imminent and serious threat to his or her health			
<input type="checkbox"/> Check box if request is a written confirmation of a prior oral request.			
Employee Information			
Name (Last, First, Middle):			
Date of Injury (MM/DD/YYYY):		Date of Birth (MM/DD/YYYY):	
Claim Number:		Employer:	
Requesting Physician Information			
Name:			
Practice Name:		Contact Name:	
Address:		City:	State:
Zip Code:	Phone:	Fax Number:	
Specialty:		NPI Number:	
E-mail Address:			
Claims Administrator Information			
Company Name:		Contact Name:	
Address:		City:	State:
Zip Code:	Phone:	Fax Number:	

New Regulations

CCR 9792.9.1:



Now:

- A Request for Authorization is all that is necessary – no “form” required



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New Regulations



UR – Request for Additional Information

- But now we have “not complete” vs Request for Additional Information



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New Regulations

“Not complete”

- This is a new term used when the request for treatment needs further information for a decision to be made
- Return to the Requesting Physician within 5 days
- Need to specify the reasons for the return of the request



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New Regulations

9792.9.2 - Deferral & Denial of Treatment

- Change requires a UR determination once a physician indicates “a change in facts material to the basis of the prior denial”
- What Does This Mean?
- What Will “a change in facts” Look Like?



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New Regulations

Deferrals still there

- Where treatment is not authorized for a reason other than medical necessity



New Regulations

Deferral Requirements-

“A clear, concise, and appropriate explanation of the reason for the claims administrator’s dispute of liability for either the injury, claimed body part or parts, or the recommended treatment.”



New Regulations

9767.6 - PTP Rule Changes



- Must have MPN information in the initial 9785 letter
- All medicals must be provided to the PTP within 20 days
- Petition to Change PTP???



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New Regulations

9792.10.5 - IMR & Medical Records



- Must provide last 6 months of Medical Records
- Electronically
- If further records are needed, 5 days to provide
- If MTUS Drug Formulary, 2 days



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New Regulations

9792.6 - Day Counting

- “Normal Business Day”
- Not including holidays, Saturdays, Sundays



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New Regulations

Timelines – CCR 9792.9.3

5 days for a decision

- When is Day One?

Next Business Day



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New Regulations

9792.9.4 - MTUS Drug Rules



- RFA for “Exempt” drugs
 - Written decision must indicate “Exempt per MTUS Drug Formulary” or words to that effect
- Generic vs Brand name
 - If RFA did not indicate no substitution, if UR approves generic version the decision must indicate “generic substitute authorized” or words to that effect



New Regulations

9792.9.5 - Modify or Denial of Request

- Still applies for 12 months from the date of the decision
- “Change of facts” - doctor must specify what has changed



New Regulations



9792.10.1 - Dispute Resolution Timeframes for IMR

- If UR modifies or denies medication from the MTUS Drug list - within 10 days
- If dispute involves medication - 5 days to provide documentation to IMR
- Normal IMR is 30 days from the date of the UR



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