

## **EMPLOYMENT DEVELOPMENT DEPARTMENT**

Amendment of Title 22, California Code of Regulations,  
Section 2706-4

### **ELECTRONIC FILING OF DOCUMENTS BY PHYSICIANS, PRACTITIONERS, and REGISTRARS OF COUNTY HOSPITALS**

#### **Final Statement of Reasons**

##### **BACKGROUND:**

The Department is modernizing its benefit delivery systems and making them more efficient for claimants, physicians, and the Department. Electronic certifications can be processed faster and more efficiently than paper certifications. Additionally, electronic certifications will support the Department's fraud prevention efforts, as electronic certifications are less susceptible to fraud. Specifically, the Department has observed an increase in the number of paper certifications filed using the stolen identities of health care providers. To counteract this trend, and to help protect legitimate providers and claimants as well as the Disability Insurance Fund, the Department enacted additional fraud preventative safeguards to both electronic and paper medical certifications.

Under those fraud prevention procedures, paper filed certifications undergo a different ID verification process, which is done manually. This manual process is more time-consuming and more labor-intensive than the electronic process, which requires significant resources that could be directed to other more efficient fraud prevention activities. In order to protect the State Disability Insurance fund, the Department is proposing this regulatory change to reduce the number of manually processed paper certifications by mandating that medical providers file electronic certifications unless they qualify for an exemption.

There are additional benefits in reducing the number of paper certifications that the Department must process. Specifically, paper certifications require additional mailing time, data entry, and manual validation. First, they require more time to get from the provider to the corresponding claim in the Department's system. Along with the additional time needed for mailing, paper certifications need to be scanned into the State Disability Insurance (SDI) Online system and matched up to the proper claim. Then, unlike electronically filed certifications, which provide for real-time data validation that alerts the filer to errors or missing information that can be immediately rectified, the Department often needs to contact providers to correct or gather missing information on paper certifications, which requires substantially more staff time and manual effort.

The process of verifying paper physician certifications often also requires direct contact with providers to verify individual claims, which can delay the claim. Inability to reach a provider in a timely manner may result not only in benefits being delayed but also in possible disqualification of valid claims. This can cause some claims to unnecessarily go through an appeals process that can further delay benefits. If more medical professionals file certifications online, then fewer paper certifications would need to go through the manual identity verification process and fewer claims would have to be redetermined. This, in turn, would reduce the backlog and allow the Department to direct its limited resources to verifying paper certifications filed by medical professionals who are exempted from the electronic process and to more effectively identify fraudulent claims.

The proposed regulation requiring medical providers to electronically file is needed to increase the speed and efficiency of the SDI and Paid Family Leave (PFL) claim process, safeguard medical professionals' personal information from being used, and limit fraudulent claim-filing attempts. The anticipated benefit is that claimants will receive their benefits faster and more reliably because the Department will be able to direct more staffing resources to claim processing activities and will more adequately combat fraud.

### **UPDATE TO INITIAL STATEMENT OF REASONS**

The Department incorporates the Addendum to the Initial Statement of Reasons (Addendum), noticed on January 11, 2024, to this Final Statement of Reasons.

After reviewing comments received during the first 15-day public comment period, the Department modified its proposed regulations to add subsection (c), which provides definitions for the terms: lack of automation, severe economic hardship, and other good cause. This subsection is necessary to provide clarity on the meaning of terms used in subsection (b) that may not have meanings generally familiar to those directly affected by the regulation. Subsection (d) was also added to specify the information physicians or practitioners seeking an exemption from filing documents electronically are required to provide on a designated exemption form provided through the Department. Lastly, subsection (e) was added to describe the procedures for physicians or practitioners to file an exemption from filing documents electronically. Subsections (d) and (e) are necessary to notify physicians or practitioners seeking an exemption from filing documents electronically what information is required, how to file an exemption, and the Department's review process for exemptions.

## **UPDATES TO FINAL TEXT OF AMENDMENTS**

On its own initiative, the Department made changes to the regulation text proposed during the second 15-day comment period. The Department deleted the second “physician” from Section 2706-4, subsection (d)(3), as it was an apparent typo. The Department also reorganized the structure of the second sentence and deleted the word “merely” in Section 2706-4, subsection (b). The proposed change does not have regulatory effect pursuant to Title 1, Section 100(a)(4) of the CCR. The changes being proposed do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any CCR provision.

## **SUMMARY OF COMMENTS AND AGENCY RESPONSES:**

The Department received nine timely comment letters during the 45-day comment period, four comment letters during the first 15-day comment period, and three comment letters during the second 15-day comment period. A public hearing was requested; however, the request was not timely, and one was not held. The summary of the comments and the Department’s responses are attached as the following appendices:

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

Appendix B. List of Commenters from 45-Day Period

Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

Appendix D. List of Commenters from 1st 15-Day Period

Appendix E. Summary and Response to Comments Submitted during 2nd 15-Day Period

Appendix F. List of Commenters from 2nd 15-day Period

For ease of reference, the Department assigned a number to each comment letter received. Because most comment letters contained multiple substantive comments that needed to be addressed, for each substantive comment, the Department assigned sub-numbers to the comment submission number. Accordingly, in the Agency’s summary and response to comments, the comment number “9-3” refers to the third substantive comment included in the 9th written comment letter received.

## **ALTERNATIVES THAT WOULD LESSEN THE ADVERSE ECONOMIC IMPACT ON SMALL BUSINESS**

In accordance with Section 11346.9(a)(5) of the Government Code (GC), the Department considered alternatives to the proposed regulation, including maintaining the status quo, continuing to accept paper certifications, and delay the electronic certification requirement. However, the status quo is a less efficient and effective means to secure the claims process from fraud. Making no change would also prevent the

Department from fully utilizing its automation capabilities and would result in longer claim processing times and the need for more staff resources. The Department needs to quickly implement the proposed regulation in order to increase the speed and efficiency of the SDI and PFL claims process, safeguard doctors' personal information, and limited fraudulent claim filing attempts. The anticipated advantage is that claimants will receive their benefits faster and more reliably because the Department will be able to direct more staffing resources to claim processing activities and will more adequately combat fraud.

### **ALTERNATIVES DETERMINATION**

In accordance with Section 11346.9(a)(4) of the GC, the Department determined that no alternative it considered or that was otherwise identified and brought to its attention would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

### **LOCAL MANDATE DETERMINATION:**

The Department determined these proposed amendments will not impose any new mandates on school districts or other local governmental agencies or any new mandates which must be reimbursed by the State pursuant to Part 7 (commencing with section 17500), Division 4 of the Government Code.

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

RESPONSE #	COMMENT SUMMARY	RESPONSE	COMMENT #
1	The proposed regulation does not specify what the process or criteria for receiving a waiver is. Comment recommends a straightforward, non-burdensome process with deference given to healthcare providers about their need for a waiver.	Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. They will be processed in 3-5 business days.	1-1 6-3
2	The electronic physician/practitioner certificate should be simplified before requiring healthcare providers to use only electronic certification, especially considering that the EDD's online system is not compatible with electronic health records systems.	No change was made in response to this comment. While the EDD is currently in the process of making system enhancements via our EDDNext project which will simplify forms and make the online certification process more user-friendly, the Department needs to quickly implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum. Additionally, our employer and physician/practitioner toll-free number 1(855)342-3645 and AskEDD will still be available to physicians/practitioners needing technical support with our website.	1-2
3	Paper certification should be kept as an option for healthcare providers.	No change was made in response to this comment because the Department needs to implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum.	1-3 3-7 4-12 8-4 9-1

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

4	Implementation should be delayed and there should be a transition period once there is an improved system for electronic filing.	No change was made in response to this comment. While the EDD is currently in the process of making system enhancements via our EDDNext project which will simplify forms and make the online certification process more user-friendly, the Department needs to quickly implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum. Additionally, our employer and physician/practitioner toll-free number 1(855)342-3645 and AskEDD will still be available to physicians/practitioners needing technical support with our website.	1-4
5	The Proposed Rule does not take into account existing technological barriers faced by healthcare providers in accessing the online portal.	Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc.	1-5

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

6	<p>The EDD should automatically allow healthcare providers to complete a paper certification for claimants who apply using a paper form.</p>	<p>No changes were made in response to this comment. The requirement for physician/practitioners to certify electronically is not dependent on the claimant filing electronically. Physician/practitioners can submit their portion of the application electronically even if a claimant submits a paper application to the EDD. Thus, filing of electronic certification is independent of submission of paper applications by the claimants and paper applications do not in any way prevent medical providers from certifying electronically. As explained in the Initial Statement of Reasons and its addendum, electronic certifications are processed more quickly and efficiently than paper certifications.</p>	<p>1-6 3-3 4-3 6-4</p>
7	<p>Any adopted process needs to be user friendly for physicians and provide mechanisms to facilitate submissions in one attempt.</p>	<p>No change was made in response to this comment. The State Disability Insurance Online (SDIO) system currently allows for physician/practitioners to file claims electronically so the electronic certification requirement will not require system changes or impact our customers leading up to and through this implementation. The EDD will provide instructions and guidance to physician/practitioners and partner with the Department of Consumer Affairs to ensure the information is distributed to the medical community prior to the implementation date. EDD's employer and physician/practitioner phone line (855) 342-3645 will also be available to help physician/practitioners should they need assistance.</p>	<p>2-1</p>

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

8	<p>Comment requests a physician’s attestation that moving to online submissions would result in administrative challenges for their practice be defined as sufficient cause for the purposes of determining waiver eligibility.</p>	<p>Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc.</p>	2-2
9	<p>Comment requests that physicians who infrequently submit forms be eligible for an automatic waiver. This could be done by granting a waiver to physicians who, in the previous year, had a rate of submission 10% or lower than the average submission rate.</p>	<p>Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc.</p>	2-3



Appendix A. Summary and Response to Comments Submitted during 45-Day Period

10	<p>Comment requests that mailed submissions be allowed for physicians and other certifiers who do not have a waiver in cases where there is a system failure or the physician is unable to access tech support in real time. Attestation of the submitting certifier of these circumstances should be accepted as sufficient justification for a mailed submission.</p>	<p>Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc.</p>	2-4
11	<p>Mandatory electronic certifications will impose significant barriers for rural, out-of-state, and international health care providers.</p>	<p>Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc. The EDD plans to coordinate with the Department of Consumer Affairs to send out notifications to medical providers prior to the regulation taking effect so that those needing to do so will have adequate time to file exemptions.</p>	3-1 4-1 8-1 9-1

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

<p>12</p>	<p>Mandatory electronic certifications will cause additional delays for claimants who must apply for SDI and PFL with paper applications, including undocumented workers.</p>	<p>The EDD's current system is already set up to accept and process electronic medical certifications for paper applications. The proposed regulation will not create any additional time for processing. The Department is actually able to process electronic certifications more quickly than paper certifications.</p> <p>Additionally, the EDD is currently upgrading its system to provide more efficient and faster claims processing. Medical providers may also file an exemption to the electronic certification requirement. Exemptions will be processed quickly in order not to delay the processing of claims.</p>	<p>3-2 4-7 6-1 7-1 9-2</p>
<p>13</p>	<p>The proposed standard and process for obtaining a waiver of the electronic filing requirement is overly strict and burdensome. The placement of “good cause” after “severe economic hardship” implies a high standard for providers to meet, especially given that they must establish their reasoning “to the satisfaction of the director.”</p>	<p>Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc.</p>	<p>3-4 4-8 6-2 7-2 9-3</p>

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

14	<p>Requiring healthcare providers to seek a waiver from the EDD to submit paper certifications would be burdensome and could result in fewer providers being willing to certify or certify at no additional cost.</p>	<p>Electronic certifications are intended to be easier and quicker to complete than paper certifications for medical providers. If submitting a certification electronically is causing a hardship for the medical provider, they will have the option to file an exemption to certify via paper. The exemption is designed to be short, simple to understand and complete, and filed annually.</p>	<p>3-5 4-4 4-7 4-9</p>
15	<p>The proposed rule is vague as to the process and timeline for requesting a waiver, and is silent as to appeals of waiver denials.</p>	<p>Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc. Exemptions will be processed in 3-5 business days.</p>	<p>3-6 4-11 6-2 6-3 7-2 8-2 9-4</p>

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

16	The comment recommends that the rules include a clearly defined, low-burden process and standard for requesting waivers and appealing denials.	Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc.	3-8 4-13
17	The comment recommends the allowance of waivers to apply to an entire medical practice or institution and not only the individual provider.	Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions may only be filed for individual providers since medical certifications are verified with medical license numbers.	3-9 4-14 6-3 7-3 8-3
18	The comment recommends that waivers to remain valid for a longer period of time than the one year proposed.	Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions are valid for one year but are renewable. The one-year exemption is needed to end exemptions that are no longer needed, to assist faster claim processing times, and for EDD fraud prevention.	3-10 4-15

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

19	Out-of-country health care providers may face barriers registering with the EDD's online account system - which can delay the certification process for the claimant. Challenges imposed on out-of-country providers will harm the immigrant community's ability to receive timely benefits.	Out-of-country health care providers currently cannot register with the EDD's online system. These medical providers may file an exemption from the mandatory electronic certification filing. The proposed regulation will not create any additional time for processing. Instead, mandatory electronic certification filing will free up department resources to process paper claims more quickly.	4-2
20	The proposed rule may cause confusion, anxiety, and delays for patients who must (or who prefer to) apply via paper, given that their provider will have to certify separately online.	The medical provider certification has always been separate from the application portion that the claimant fills out. The proposed rule will not add any additional time to processing. The EDD plans to coordinate with the Department of Consumer Affairs to send out notifications to medical providers prior to the regulation taking effect so providers will have adequate time to file exemptions if needed.	4-5
21	It is common practice for a non-physician staff member of a provider's office to begin filling in the paper certification, and then present it to the doctor to verify and sign the certification. The availability of paper certifications facilitates this process.	The electronic certification process still facilitates this process as medical representatives can have accounts that are linked to a medical provider's account to assist with filing certifications.	4-6

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

22	<p>The proposed rule also provides that waivers will only last one year “or longer at the discretion of the director.” Requiring providers to submit waiver requests every year risks further discouraging providers from certifying their patients’ need for benefits.</p>	<p>Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. The exemption process is intended to be short, simple, and easy to complete. Exemptions are valid for one year but are renewable. The one-year exemption is needed to end exemptions that are no longer needed, to assist faster claim processing times, and for EDD fraud prevention.</p>	4-10
23	<p>Comment states that most of their patients work with a social worker to help them fill in the patient part of the form and how a system would have to be devised such that the social worker would be able to continue to assist in this way.</p>	<p>The proposed regulation would only mandate electronic filing for medical providers. Claimants will still have the option to file any claim related document using paper or electronic filing.</p>	5-1
24	<p>Comment states that currently any provider in the clinic is able to complete a disability form for a patient by reviewing her medical records. There is concern that patients will now have to designate a physician and that will lead to additional delays given that our physicians are academic physicians and often in clinic only once per week.</p>	<p>The proposed regulation does not limit certification to be completed by only designated physicians. The proposed regulation would only mandate electronic certification filing unless an exemption is filed.</p>	5-2

Appendix A. Summary and Response to Comments Submitted during 45-Day Period

25	The comment suggests that system have a prefilled form or drop-down list since medical providers often provide the same information and it would be much easier to complete the certification form.	The proposed regulation does not cover what information is required on the certification form, just that it must be filed electronically unless an exemption is filed. However, the EDD is currently in the process of making system enhancements via our EDDNext project which will simplify forms and make the online certification process more user-friendly and will take the recommendations into consideration.	5-3
26	Mandatory electronic certifications must not include Social Security Numbers as a required field.	No changes were made as a result of this comment. Social Security numbers (SSN) are still required by regulations and providing the SSN makes it easier to process wages for claimants, resulting in quicker and efficient claims processing.	6-5 7-4
27	The regulation should include a clearly define how the waiver process will work, how to request a waiver, and include an emergency process for waiver requests to ensure that valid claims are not denied only because the medical provider is unable to submit medical documentation electronically.	Since receiving this comment, the EDD has modified the proposed regulation to permit a physician or practitioner to simply file an exemption rather than have to apply for and be granted approval of a waiver in order to file paper certifications. Exemptions can be filed when a physician or practitioner can self-attest to a lack of automation, a severe economic hardship, or other good cause that would support their need to file paper certifications. They will be processed in 3-5 business days.	8-5
28	There is concern about language in the Informative Digest and Initial Statement of Reasons that medical providers first be "vetted" before having access to the electronic filing system. All medical providers should be allowed to submit medical documentation electronically for their patients. The language that a provider must be "vetted" in order to have access to the electronic filing system should be deleted.	The EDD will need to verify that an individual is a "physician" or "practitioner" as defined in the California Unemployment Insurance Code Section 2708 before they will be able certify claims using the electronic filing system.	8-6

Appendix B. List of Commenters from 45-Day Period

NAME	ORGANIZATION	COMMENT	RESPONSE
Julianna Franco, Staff Attorney	Center for Worklife Law	1-1	1
Liz Morris, Deputy Director	University fo California College of the Law, San Francisco	1-2	2
		1-3	3
		1-4	4
		1-5	5
		1-6	6
		S. Alecia Sanchez, Chief Strategy Officer	California Medical Association
2-2	8		
2-3	9		
2-4	10		
	The California Work & Family Coalition	3-1	11
		3-2	12
		3-3	6
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Appendix B. List of Commenters from 45-Day Period

Sharon Terman, Director, Work & Family Program; Sophie Tohl, Law Clerk, Work & Family Program	Legal Aid at Work	4-1	11 and 15
		4-2	19
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		4-6	21
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		4-8	13
		4-9	14
		4-10	22
		4-11	15
		4-12	3
		4-13	16
		4-14	17
		4-15	18
Rebecca A. Jackson, MD Chief of Obstetrics and Gynecology at SFGH	San Francisco General Hospital Women's Health Center	5-1	23
		5-2	24
		5-3	25
Leslie Conner, MPH CEO	Santa Cruz Community Health	6-1	12
		6-2	13 and 15
		6-3	15
		6-4	6
		6-5	26
Donna Young, CEO	Salud Para La Gente	7-1	12
		7-2	13
		7-3	17
		7-4	26
Stephen E. Goldberg, Regional Counsel	Legal Services of Northern California	8-1	11
		8-2	15
		8-3	17
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		8-6	28

Appendix B. List of Commenters from 45-Day Period

Chiara Corbetta-Rastelli, MD	Individual CA Healthcare Providers (Sign On)	9-1	3
Zuckerberg San Francisco General Hospital		9-2	12
(San Francisco, CA) (affiliation noted for identification purposes only)		9-3	13
Eleanor Drey, MD		9-4	15
Obstetrics and Gynecology, SF General (San Francisco, CA) (affiliation noted for identification purposes only)			
Dr. Christian Freeman (MD)			
San Francisco General Hospital, UCSF ObGyn (San Francisco, CA) (affiliation noted for identification purposes only)			
Norma Ledezma			
Case Manager with Marin Community Clinics (San Rafael, CA) (affiliation noted for identification purposes only)			
Henry Martin,			
Upstream Care Director for Salud Para La Gente (Watsonville, CA), Director of Watsonville Law Center (Watsonville, CA) (affiliation noted for identification purposes only)			
Misti Meador			
Assistant Director of Post Acute Care, UCSF (San Francisco, CA) (affiliation noted for identification purposes only)			
Dr. Karen Meckstroth			
UCSF & ZSFG (San Francisco, CA) (affiliation noted for identification purposes only)			
Kara Myers, CNM			
Clinical Professor at UCSF (San Francisco, CA) (affiliation noted for identification purposes only)			

Appendix B. List of Commenters from 45-Day Period

Andrea Pfeffer

CNM ZSFGH (San Francisco, CA) (affiliation noted for identification purposes only)

Dr. Jennifer Qin

UCSF/SFGH (San Francisco, CA) (affiliation noted for identification purposes only)

Carmen M. Rivera

Certified Nurse Midwife with San Francisco General Hospital Department of OBGYN (San Francisco, CA) (affiliation noted for identification purposes only)

Dr. Dominika Seidman

UCSF (San Francisco, CA) (affiliation noted for identification purposes only)

Kristen Sligar

Nurse Practitioner, San Francisco Department of Public Health, Zuckerberg San Francisco General (San Francisco, CA) (affiliation noted for identification purposes only)

Ms. Maricar Tabios

UCSF Medical Center (San Francisco, CA)

Signy Toquinto, CNM

Certified Nurse Midwife, OB Program

Manager at Marin Community Clinic (Marin, California) (affiliation noted for identification purposes only)

Gabrielle Westergren

CNM SFDPH (San Francisco, CA) (affiliation noted for identification purposes only)

Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

RESPONSE #	COMMENT SUMMARY	RESPONSE	COMMENT #
1	<p>The proposed rule as modified presents significant barriers for claimants who receive certifications from rural, out-of-state, and international health care providers, and will cause further hardship and delays for claimants who must file via paper application.</p>	<p>The proposed rule was modified so that healthcare providers who have difficulty filing electronically (including those in rural, out-of-state, or out-of-country locations) could quickly and easily be exempt from the requirement. These healthcare providers need only self-attest and certify to a lack of automation, a severe economic hardship, or other good cause in order to file an exemption.</p> <p>Also, paper certifications and claims currently take more time and resources to process. By reducing the number of paper certifications that must be processed, the EDD is able to have more staff available to assist with paper claims. This will reduce the current amount of time needed to process paper applications. Additionally, the Department is in the process of upgrading its systems and processes to more quickly and efficiently handle all claims.</p>	1-1

Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

<p>2</p>	<p>The comment recommends that out-of-state and international providers be presumed to have good cause to file paper certifications and be allowed to do so without filing a separate exemption. Requiring electronic certifications will aggravate difficulties already faced by claimants seeking certifications from rural, out-of-state, and international providers.</p>	<p>No change resulted from this comment. There are many out-of-state providers who are already using EDD's electronic certifications processes, so presumption of automatic good cause will not be applied to all out-of-state providers since this would defeat the very purpose of the regulation. The objectives of the regulation interalia are:</p> <ul style="list-style-type: none"> <li>• To roll out a quicker and more efficient process for administering State Disability Insurance (SDI) claims.</li> <li>• To provide better trust and protection of physician/practitioner's credentials from the imposters.</li> <li>• To limit fraudulent claim filing attempts</li> <li>• To substantially reduce the medical certification turn-around time through secure online transmission.</li> </ul> <p>The electronic certification process is convenient and has been used by a large number of physician/practitioners successfully for many years. Additionally, EDD's software in current format does not allow for an automatic exemption for all out-of-state physician/practitioners. As it relates to this regulation, out-of-state and out-of-country (international) providers include holders of medical licenses issued by other licensing authorities outside of California.</p>	<p>1-2 3-7</p>
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Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

3	<p>The comment recommends that any electronic certification requirement be delayed for a minimum of one year, or until updates to the healthcare provider certification process or platform that are anticipated as a part of EDDNext are implemented, whichever comes later.</p>	<p>No change was made in response to this comment. The Department needs to quickly implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum. Additionally, our employer and physician/practitioner toll-free number 1(855)342-3645 and AskEDD will still be available to physicians/practitioners needing technical support with our website.</p>	<p>1-3 2-1 3-1</p>
4	<p>For claimants who must apply for SDI and PFL via paper application such as migrants and undocumented workers, mandatory electronic certification will exacerbate delays and harm marginalized workers. The comment recommends that the EDD delay implementation of the rule until no sooner than the EDD updates their electronic system to allow the groups listed above to apply online.</p>	<p>No change was made in response to this comment. The Department needs to quickly implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum and the proposed regulation would not be adding any additional processing time to the EDD's current process. The proposed rule would actually help paper applicants get their benefits sooner than they are able to now. Paper certifications and claims currently take more time and resources to process. By reducing the number of paper certifications, the EDD is able to have more staff available to assist those who must file paper claims. This will reduce the current amount of time needed to process these paper applications and help get benefits to these claimants faster.</p>	<p>1-4 2-3 2-4</p>

Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

5	<p>The process for exemption remains unclear and the standard is overly burdensome.</p>	<p>The proposed regulation was modified to provide criteria and procedures for filing an exemption. The Department will make the relevant exemption filing information available on the website with easy to navigate instructions to complete the exemption form. A sample completed exemption form will also be made available for the reference of physician/practitioners. The Department will provide other aids such as Frequently Asked Questions (FAQs) and videos as educational and instructional materials.</p> <p>The Department will conduct educational outreach activities related to this initiative. The physicians/practitioners can reach out to staff through a toll-free number 1(855)342- 3645 should they need any assistance in accessing or completing the form, or have any other questions. The exemption form will be easy to understand and short in length, making it quick to file. The Department does not anticipate any difficulties or hurdles either for the physician/practitioners or indirectly for the claimants. Thus, EDD does not anticipate any disproportionate impact on low-income claimants, particularly when the form has to be filed by the physicians/practitioners only once per year.</p>	1-5
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Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

<p>6</p>	<p>For an exemption from mandatory electronic filing, the proposed rule states that a practitioner must certify to “a lack of automation, a severe economic hardship, or other good cause.” This seems to be a needlessly strict standard which does not provide much guidance as to what circumstances justify exemption.</p>	<p>The proposed regulation was modified to provide criteria and procedures for filing an exemption and to further define the terms “a lack of automation, a severe hardship, or other good cause,” so the terms better inform physicians and practitioners under what circumstances it may be appropriate to file an exemption.</p> <p>The Department will make the relevant exemption filing information available on the website with easy to navigate instructions to complete the exemption form. A sample completed exemption form will also be made available for the reference of physician/practitioners. The Department will provide other aids such as Frequently Asked Questions (FAQs) and videos as educational and instructional materials.</p> <p>The Department will conduct educational outreach activities related to this initiative. The physicians/practitioners can reach out to staff through a toll-free number 1(855)342- 3645 should they need any assistance in accessing or completing the form, or have any other questions. The exemption form will be easy to understand and short in length, making it quick to file. The Department does not anticipate any difficulties or hurdles either for the physician/practitioners or indirectly for the claimants. Thus, EDD does not anticipate any disproportionate impact on low-income claimants, particularly when the form has to be filed by the physicians/practitioners only once per year.</p>	<p>1-6</p>
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Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

7	<p>The comment recommends delaying implementation of this rule for minimum of 1 year to undertake the necessary education and training of providers that would allow their offices to adjust to the change.</p>	<p>The Department needs to quickly implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum. The Department will provide filing instructions and guidance to the physician/practitioner community during implementation for reference but EDD's State Disability Insurance Online (SDIO) system currently allows for physician/practitioners to file claims electronically so the electronic certification requirement will not require system changes or impact customers leading up to and through this implementation. The EDD plans to coordinate with the Department of Consumer Affairs to send out notifications to medical providers prior to the regulation taking effect so that those needing to do so will have adequate time to file exemptions. Additionally, EDD's employer and physician/practitioner toll-free number 1(855)342-3645 and AskEDD will still be available to physicians/practitioners needing support.</p>	1-7
8	<p>The comment recommends that once the rule is implemented, an additional "grace period" should follow during which all paper certifications would be accepted as they were prior to the rule change, but the EDD would send back a notice with information about the requirement and instructions for how to certify electronically or file an exemption.</p>	<p>The Department needs to quickly implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum.</p>	1-8 2-2 3-2
9	<p>The comment recommends that paper certification form be updated to include language regarding exemption with a check box to file an exemption and</p>	<p>The Department respectfully disagrees with the comment. The Department finds the relevant DI and PFL forms to be more efficient and quicker to complete in their current format without an open space or check</p>	1- 9 2-8

Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

	<p>a space to describe good cause reasoning so that providers do not need to submit an entirely separate letter or form to file for exemption.</p>	<p>box therein. Furthermore, since the physicians/practitioners only need to file the exemption form annually should they need an exemption, providing a checkbox with accompanying space for exemption on each claim form would be redundant.</p> <p>The proposed regulation was modified to provide criteria and procedures for filing an exemption. The Department will make the relevant exemption filing information available on the website with easy to navigate instructions to complete the exemption form. A sample completed exemption form will also be made available for the reference of physician/practitioners. The Department will provide other aids such as Frequently Asked Questions (FAQs) and videos as educational and instructional materials.</p> <p>The Department will conduct educational outreach activities related to this initiative. The physicians/practitioners can reach out to staff through a toll-free number 1(855)342- 3645 should they need any assistance in accessing or completing the form, or have any other questions. The exemption form will be easy to understand and short in length, making it quick to file. The Department does not anticipate any difficulties or hurdles either for the physician/practitioners or indirectly for the claimants. Thus, EDD does not anticipate any disproportionate impact on low-income claimants, particularly when the form has to be filed by the physicians/practitioners only once per year.</p>	
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Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

10	The comment recommends that exemptions only be denied in cases of unusual circumstances, but otherwise automatically granted so as not to delay processing of SDI and PFL claims.	Exemptions can be filed as long as the medical provider can certify to a lack of automation, a severe economic hardship, or other good cause in order to file an exemption. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc.	1-10
11	The EDD must delineate a clear standard and process for filing exemptions and provide this information to healthcare providers prior to the implementation of the Proposed Rule.	<p>The proposed regulation was modified to provide criteria and procedures for filing an exemption. The Department will make the relevant exemption filing information available on the website with easy to navigate instructions to complete the exemption form. A sample completed exemption form will also be made available for the reference of physician/practitioners. The Department will provide other aids such as Frequently Asked Questions (FAQs) and videos as educational and instructional materials.</p> <p>The Department will conduct educational outreach activities related to this initiative. The physicians/practitioners can reach out to staff through a toll-free number 1(855)342- 3645 should they need any assistance in accessing or completing the form, or have any other questions. The exemption form will be easy to understand and short in length, making it quick to file. The Department does not anticipate any difficulties or hurdles either for the physician/practitioners or indirectly for the claimants. Thus, EDD does not anticipate any disproportionate impact on low-income claimants, particularly when the form has to be filed by the physicians/practitioners only once per year.</p>	2-5 3-3

Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

<p>12</p>	<p>The EDD should prioritize the creation of informational resources and practical guidance for healthcare providers on the steps necessary to file an exemption, including examples of what may be considered “good cause.”</p>	<p>The proposed regulation was modified to provide criteria and procedures for filing an exemption, as well as a definition of “good cause.” The Department will make the relevant exemption filing information available on the website with easy to navigate instructions to complete the exemption form. A sample completed exemption form will also be made available for the reference of physician/practitioners. The Department will provide other aids such as Frequently Asked Questions (FAQs) and videos as educational and instructional materials.</p> <p>The Department will conduct educational outreach activities related to this initiative. The physicians/practitioners can reach out to staff through a toll-free number 1(855)342- 3645 should they need any assistance in accessing or completing the form, or have any other questions. The exemption form will be easy to understand and short in length, making it quick to file. The Department does not anticipate any difficulties or hurdles either for the physician/practitioners or indirectly for the claimants. Thus, EDD does not anticipate any disproportionate impact on low-income claimants, particularly when the form has to be filed by the physicians/practitioners only once per year.</p>	<p>2-6</p>
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Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

13	The comment requests clarification on whether healthcare providers will be able to self-certify that they meet the standards for an exemption, or whether the EDD will review exemptions; if the latter, information is requested on how the exemptions will be evaluated and the process for appealing a decision regarding an exemption.	The proposed rule was modified so that health care providers who have difficulty filing electronically (including those in rural, out-of-state, or out-of-country locations) could quickly and easily be exempt from the requirement. These health care providers need only self-attest and certify to a lack of automation, a severe economic hardship, or other good cause in order to file an exemption. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc.	2-7 3-5
14	The comment recommends that the regulation change and the other suggestions to mitigate the harm the regulation change may cause should be integrated into EDDNext.	The EDDNext project is not expected to be completed for several more years. The Department needs to quickly implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum.	2-9
15	The new rule still requires providers to state that they have “a lack of automation, severe economic hardship or other good cause”. The placement of “good cause” after “a lack of automation, severe economic hardship” implies a high standard for providers to meet. This demanding standard may discourage providers from filing for an exemption and result in fewer providers being willing to certify at all. It also risks providers charging more for certifications, making it more difficult for marginalized workers to access benefits.	The proposed rule was modified so that health care providers who have difficulty filing electronically (including those in rural, out-of-state, or out-of-country locations) could quickly and easily be exempt from the requirement. These health care providers need only self-attest and certify to a lack of automation, a severe economic hardship, or other good cause in order to file an exemption. Good cause may include, but is not limited to, the physician/practitioners being located in a rural area, limited access to internet, financial hardship, etc.	3-4

Appendix C. Summary and Response to Comments Submitted during 1st 15-Day Period

16	Exemptions should remain valid for a longer period of time beyond one year.	There is no change as a result of this comment. The one-year renewable exemption is needed to end exemptions that are no longer needed, to assist faster claim processing times, and for EDD fraud prevention.	3-6
17	A strong information security system should be in place to protect sensitive information.	The EDD is committed to protecting the privacy rights of individuals. Our SDIO system uses Health Insurance Portability and Accountability Act (HIPAA) compliant communications. Data is secure and encrypted while in transit and while stored to ensure confidentiality. The personal information collection and management policies, practices, and procedures implemented by the EDD are governed by law, including the Information Practices Act of 1977 (Title 1.8 [commencing with Section 1798] of Part 4 of Division 3 of the Civil Code), Sections 11015.5 and 11019.9 of the Government Code, and Sections 1094 and 1095 of the California Unemployment Insurance Code. The Office of Information Security plays a critical role in ensuring the State’s Information Technology infrastructure can deliver vital services in a secure, reliable, and trustworthy manner.	3-8
18	The California Medical Association supports the revisions made in the modified proposed text providing a modified one-year, renewable exemption to online filing.	The Department is pleased to know that our updates have received the approval of one of the largest medical associations. We will continue to invest in new technology and tools to prevent fraud as we aim to provide prompt economic support through positive customer experience.	4-1

Appendix D. List of Commenters from 1st 15-Day Period

NAME	ORGANIZATION	COMMENT	RESPONSE
Sela Steiger, Staff Attorney	Legal Aid at Work	1-1	1
		1-2	2
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		1-5	5
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		1-7	7
		1-8	8
		1-9	9
		1-10	10
Julianna Franco, Staff Attorney	Center for Worklife Law	2-1	3
Liz Morris, Deputy Director	University fo California College of the Law, San Francisco	2-2	8
		2-3	4
		2-4	4
		2-5	11
		2-6	12
		2-7	13
		2-8	9
		2-9	14
			The California Work & Family Coalition
3-2	8		
3-3	11		
3-4	15		
3-5	13		
3-6	16		
3-7	2		
3-8	17		
S. Alecia Sanchez, Chief Strategy Officer	California Medical Association	4-1	18

Appendix E. Summary and Response to Comments Submitted during 2nd 15-Day Period

RESPONSE #	COMMENT SUMMARY	RESPONSE	COMMENT #
1	The comment supports the added language to define terms, make the filing process more streamlined, and the EDD’s responsiveness to previous comments.	The Department appreciates and concurs with the sentiment and support on this effort.	1-1 2-1
2	Without explicit instructions for practitioners to file an exemption placed on the SDI and PFL paper applications (or otherwise incorporated), physicians will not understand how to file an exemption or conclude it is too difficult. A separate and additional form creates hurdles for clinics and healthcare offices that already face economic hardship or limited resources. Providers may pass on these additional burdens to their patients, which have a disproportionate impact on low wage claimants.	<p>No change was made in response to this comment. The Department will make the relevant exemption filing information available on the website with easy to navigate instructions to complete the exemption form. A sample completed exemption form will also be made available for the reference of the physician/practitioners. The Department will provide other aids such as Frequent Asked Questions (FAQs) and videos as educational and instructional materials.</p> <p>The Department will conduct educational outreach activities related to this initiative. The physicians/practitioners can reach out to staff through a toll-free number 1(855)342- 3645 should they need any assistance in accessing or completing the form, or have any other questions. The exemption form will be easy to understand and short in length, making it quick to file. The Department does not anticipate any difficulties or hurdles either for the physician/practitioners or indirectly for the claimants. Thus, EDD does not anticipate any disproportionate impact on low-income claimants, particularly when the form has to be filed by the physicians/practitioners only once per year.</p>	1-2 1-3 2-4 2-5 2-6



Appendix E. Summary and Response to Comments Submitted during 2nd 15-Day Period

3	The comment recommends the EDD update its SDI and PFL claim forms to include a checkbox (with accompanying space to provide reasoning) for practitioners to file an exemption on the certification form itself.	No change was made in response to this comment. The Department respectfully disagrees with the comment. The Department finds the relevant DI and PFL forms to be more efficient and quicker to complete in their current format without an open space or check box therein. Furthermore, since the physicians/practitioners only need to file the exemption form annually should they need an exemption, providing a checkbox with accompanying space for exemption on each claim form would be redundant.	1-4 2-4
4	In the alternative to #3, the comment recommends the EDD update its SDI and PFL claim forms with detailed instructions on how practitioners can file an exemption, include an insert, or a link to instructions with information about how to file for an exemption.	The Department will make all the relevant information and reference material/videos related to filing an exemption available on the website and conduct outreach activities. Kindly refer to the details provided in Response # 2.	1-4
5	The comment recommends that once the rule is implemented, an additional “grace period” should follow during which all paper certifications would be accepted as they were prior to the rule change, but the EDD would send back a notice with information about the requirement and instructions for how to certify electronically or file an exemption.	No change was made in response to this comment. The Department must quickly implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum. The Department will engage in outreach activities to the physician/practitioner community to advise them of this change and provide all reference material and aids for the physicians/practitioners on the Department’s website prior to the effective date of the regulation.	1-5 2-3

Appendix E. Summary and Response to Comments Submitted during 2nd 15-Day Period

6	<p>The comment recommends delayed implementation of this rule until the EDD has undertaken sufficient education and training of providers to allow for adjustment to the change.</p>	<p>No change was made in response to this comment. The Department needs to quickly implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum. The Department will provide filing instructions and guidance to the physician/practitioner community during the implementation for reference. The Department's State Disability Insurance Online (SDIO) system currently allows for physician/practitioners to file claims electronically so the electronic certification requirement will not require system changes or impact customers leading up to and through this implementation. The Department plans to coordinate the sending out notices to physician/practitioners with the Department of Consumer Affairs prior to the regulation taking effect. We will provide adequate time for physician/practitioners to file exemptions. Additionally, the Department's employer and physician/practitioner toll-free number 1(855)342- 3645 will still be available for support.</p>	2-2
7	<p>The California Medical Association supports the EDD's revised approach to exemptions, providing physicians and practitioners a fast and efficient method to file and obtain an exemption from the electronic filing requirement.</p>	<p>The Department is pleased to know that our updates have received the approval of one of the largest medical associations. We will continue to invest in new technology and tools to prevent fraud as we aim to provide prompt economic support and a positive customer experience.</p>	3-1

Appendix E. Summary and Response to Comments Submitted during 2nd 15-Day Period

8	<p>Electronic certification can be difficult for solo, small, and rural practices, and those who file EDD forms infrequently. The comment recommends the definition of “other good cause” include another example, that is “...filing fewer than 25 claims per year.”</p>	<p>No change was made in response to this comment. The Department does not consider the quantitative amount of claims a physician/practitioner certifies for as factor in the exemption process. If a physician/practitioner has the reasonable ability to submit their forms electronically, they should do so, so that the claimant can have a more efficient claims process. The exemption is provided to physician/practitioners who are unable to comply with the requirement due to reasons indicated in the proposed regulation.</p>	3-2
9	<p>The comment recommends adding language to subdivision (b) to allow flexibility to meet the electronic filing requirement by filing documents via data submission through an application programming interface (API), if and when available. This would streamline the process for physicians who maintain electronic health records (EHRs) and allow the EDD to iterate and incorporate best practices, without undergoing additional rulemaking in the future.</p>	<p>No change was made in response to this comment. The Department needs to quickly implement the proposed regulation for the reasons outlined in the Initial Statement of Reasons and its addendum. Therefore, the Department in this iteration is focusing on physician/practitioners filing documents electronically for faster processing of claims and an easy to file exemption by the physician/practitioners for a better customer experiences. The Department remains committed to continuously improving the program and processes with an eye on efficient technologies to facilitate electronic communications and records.</p>	3-3

Appendix F. List of Commenters from 2nd 15-Day Period

NAME	ORGANIZATION	COMMENT	RESPONSE
Sela Steiger, Staff Attorney	Legal Aid at Work	1-1	1
		1-2	2
		1-3	2
		1-4	3 and 4
		1-5	5
	The California Work & Family Coalition	2-1	1
		2-2	6
		2-3	5
		2-4	2 and 3
		2-5	2
		2-6	2
S. Alecia Sanchez, Chief Strategy Officer	California Medical Association	3-1	7
		3-2	8
		3-3	9