

NON-IBR vs. REGULAR MEDLEGAL DISPUTE

We tend to conflate “medlegal” with “non-IBR.” They are two completely separate concepts. It diverges at the point of Defendant’s partial payment vs. nonpayment. So the first opportunity for objection is as to **whether or not the Non-IBR petition is proper** on grounds that, either, it is: 1) not based on medlegal services; or: 2) based on a mere fee dispute, subject to SBR/IBR.

1. When Defendant receives the medlegal bill, Defendant will either:
 - a. Issue payment in full (issue resolved); or
 - b. Issue partial payment; or
 - c. Issue no payment.
2. If **partial payment** is issued (with an EOR), the process becomes **subject to SBR/IBR** (dispute merely as to fee under an applicable fee schedule). (Rule 10451.1(c))
 - a. Applies to interpreting and copy service.
 - b. Note that the copy fee schedule took effect on 4/01/2015.
3. If **no payment** is issued, the process becomes **non-IBR** (because the dispute is something other than fee).

MEDLEGAL PROVIDER’S INITIAL BURDENS

A medlegal provider has the initial burden of proof that:

1. it complied with Lab. Code §§ 4620 and 4621. (See *Colamonico* (en banc) at 3-4, attached.)
2. the purported medlegal expense was reasonably, actually, and necessarily incurred.
i.e., If there was no disputed issue/contested claim at the time, it could not be considered “medlegal.” (Rule 10451.1(b))

MEDLEGAL PROCESS SUMMARY (Lab. Code § 4622, Rule 9792.5.5)

1. Defendant has **60 days** to pay or object to a medlegal invoice (with complete EOR per Lab. Code § 4603.3).
 - a. Only if partial payment is made will the provider’s SBR-1 requirement be triggered.
 - b. If no payment is made, the process becomes non-IBR. (Lab. Code § 4622 (a), (b))
2. Provider has **90 days** to do one of the following, or the bill is deemed satisfied (Lab. Code § 4622 (b)):
 - a. submit SBR-1 after receipt of EOR with partial payment (Rule 9792.5.5 (c)(1)(B)); or
 - b. object to the non-payment (no standardized form). (Lab. Code § 4622 (c))
3. Upon receipt of provider’s timely objection to the nonpayment, **Defendant shall** file a Petition for Determination of Non-IBR Medical-Legal Dispute concurrent with a DOR **within 60 days**. (Lab. Code § 4622(c), Rule 10451.1 (c)(2)(A))
Sanctions are allowed against Defendant for failure to file this petition. (Rule 10451.1 (g))
4. Upon receipt of Provider’s timely SBR-1, Defendant has **14 days** to provide a second EOR; **21 days** to make additional payment. (Lab. Code § 4622(b)(3), Rule 9792.5.5 (g) and (h))



5. If Provider contests the second EOR, Provider must request IBR **within 30 calendar days** as provided in Lab. Code § 4603.6.

NO WAIVER OF DEFENSES

1. Defendant's failure to raise a certain defense here is not a bar to raising it later in litigation. (*Colamonico* at 5:3)
2. Defendant's failure to timely act does not bar a defense to the amount of the bill. Reasonableness of charges is still provider's burden. (*Colamonico* at 7:3-17)

THE IMPORTANT RULES TO REMEMBER WHEN CALCULATING DEADLINES

1. 5 days added for mailing (8 CCR § 10507(a))
 - a. This means if your deadline is 14 days, your time starts when received (5 days after the SBR-1 was mailed, or Defendant's acknowledged "received" date, whichever is earlier).
2. When a deadline falls on a weekend or holiday for which the WCAB is closed, **the deadline is extended to the next business day.** (8 CCR § 10508)
 - a. This means you should always look at a calendar and go back in time to determine if the deadline fell on a weekend or holiday.
 - b. Where an authority states "calendar days," that is an exception to this rule.