

BENEFIT NOTICE AND MEDICAL PROVIDER NETWORK	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General Comment	Commenter appreciates the changes made and concurs with them.	Christine D. Coakley Legislative & Regulatory Analyst The Boeing Company October 4, 2007 Written Comment	The Administrative Director appreciates the comment. It does not, however, constitute an objection or recommendation requiring explanation or accommodation pursuant to Government Code § 11346.9(a)(3).	None.
General Comment	Commenter thanks the Division for considering their comments presented during the past year and has no comment regarding the proposed changes.	Jose Ruiz Claims Operations and Systems Manager State Compensation Insurance Fund October 18, 2007 Written Comment	The Administrative Director appreciates the comment. It does not, however, constitute an objection or recommendation requiring explanation or accommodation pursuant to Government Code § 11346.9(a)(3).	None.
Section 9767.1(a)(12)	<p>The commenter suggests that for clarity, the Division revise its definition of "Medical Provider Network (MPN)" as it appears in 9767.1(a)(12).</p> <p>The commenter believes that most interested parties have a difficult time distinguishing the certified entity from the "group of providers approved" when the commenter sees them as clearly different.</p> <p>The "group of providers approved" is merely one aspect of an MPN in much the same way as the network within an HCO is one aspect of what comprises an HCO. Using this analogy, a certified HCO survives its underlying network. The network can be completely interchanged and the certified entity remains the same from an overall sense. However, the regulations and in everyday use, MPNs and their underlying networks are routinely mis-construed to be one and the same.</p>	Stephen J. Cattolica California Society of Industrial Medicine & Surgery E-mail dated October 22, 2007 (Although untimely for the public comment period, the Administrative Director deems the comments sufficiently important to accept them and respond to them as part of this rulemaking)	<p>The Administrative Director does not accept this comment. This comment is beyond the scope of this rulemaking as it concerns a substantive area of the MPN regulations which is not being revised in this rulemaking.</p> <p>However, the Administrative Director will consider this proposal when the MPN regulations are next considered for substantive revision.</p>	None.

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	<p>Instead, a certified MPN is not only the network of providers, but also the policies and procedures by which it runs.</p> <p>Therefore, the commenter proposes to clarify the difference between an MPN and its underlying network by deleting the words, "Medical Provider" from the definition found in (12). Thus (12) - reordered and renumbered to maintain alphabetic order - would read:</p> <p style="padding-left: 40px;">(12) "Network" means any entity or group of providers approved as <u>the contracted provider network</u> for a Medical Provider Network (MPN) by the Administrative Director....."</p> <p>The commenter's reasoning is simply that the network (list of providers) can be exchanged from time to time as the MPN Applicant may choose different business partners - bill reviewers, claims administrators or other vendors through which the MPN Applicant actually has access to these providers. Thus, an existing MPN (defined in LC Section 4616) could switch an underlying group of providers without changing its overall MPN Plan, that is, the policies, procedures and geographic coverage already certified.</p> <p>The basis for raising this change, even though definition (12) is not strictly among the 15 day notification changes, is that the commenter sees so many stakeholders struggle with terminology, misrepresenting an MPN when referring to only the list of doctors and similar</p>			

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	<p>miscommunication. If the Division and those most closely related to the industry struggle, one can imagine the confusion among covered employees and more so when an "MPN" - whether you mean only the network or the entire Plan - is terminated by the employer or insurance carrier. The commenter sees this confusion at the heart of miscommunication and mistrust and thus entwined within the current 15 day changes.</p> <p>The commenter believes it would be clearer to refer to what is now proposed as definition (13) "Medical Provider Network Plan" as the better definition for an MPN. From this frame of reference, the sequence would be: the MPN Applicant files its Plan which is comprised of all the requirements found in CCR Section 9767 including inclusion of the Network (provider) list.</p>			
Section 9767.16(a)(1)(d)	<p>This subdivision addresses the situation where there was an MPN in effect, but "due to termination, cessation of use or before a change to a different MPN is effective,..." there isn't an MPN properly in control. In this situation, this section allows the injured worker to choose his/her own physician after 30 days from date of notification of the injury just as they would have, pre SB 899.</p> <p>However, since the Division's current interpretation of the transfer of care provisions of LC 4616 and upheld by the courts, allows the MPN Applicant to transfer an injured worker's care from an out-of-network to an in-network provider at will, what is the point of allowing the injured worker to be treated by a</p>	Stephen J. Cattolica California Society of Industrial Medicine & Surgery E-mail dated October 22, 2007 (Although untimely for the public comment period, the Administrative Director deems the comments sufficiently important to accept them and respond to them as part of this rulemaking)	The Administrative Director does not accept this comment. Pursuant to the requirements of Labor Code §4600, 30-day employer medical control applies when MPN coverage is not in effect, and employees formerly covered by an MPN should be given notice of their rights when Labor Code §4600 employee medical control begins. It is the MPN Applicants and insured employers, not DWC's, responsibility to avoid gaps in MPN coverage and the resulting issues raised by the commenter.	None.

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	<p>physician of his/her choice for what might turn out to be a very small amount of time?</p> <p>Unless the choice of physicians contemplated by 9767.16(a)(1)(D) is allowed to remain permanent (subject to existing rules in effect where there is not MPN or HCO), exercising this choice will likely expose the injured worker to multiple changes of treating physician in a very few number of weeks. No value will be added to the process, delay in recovery is almost assured, and what is likely a contentious relationship between employer and injured worker will be aggravated.</p>			
Section 9767.16(a)(1)(E)	<p>9767.16(a)(1)(E) proposes to terminate any IMR in process at the time of termination or cessation. The commenter believes that this provision, if implemented, will delay recovery and further entangle the injured worker in a hopelessly long process that portends to get worse, not better.</p> <p>There have been few IMR requests. This bespeaks of the length of this process and the presence of alternative methods of solving such issues.</p> <p>The commenter sees absolutely no positive outcome or value added and sees only harm done, if an injured worker, sufficiently aggrieved to invoke their right to an IMR, who endures the process through its first or second level, or is preparing for the third when MPN termination takes place - then receives notification of termination of the process based on the technicality that the network list has changed.</p>	<p>Stephen J. Cattolica California Society of Industrial Medicine & Surgery E-mail dated October 22, 2007 (Although untimely for the public comment period, the Administrative Director deems the comments sufficiently important to accept them and respond to them as part of this rulemaking)</p>	<p>The Administrative Director does not accept this comment. If the MPN is being terminated or no longer used, then the IMR process no longer applies as the MPN rules will no longer be in effect. After MPN coverage ends, the employee can just switch to a non-MPN physician under Labor Code §4600. If the employee is being covered by a different MPN, the employee does not have to pursue the dispute and can just treat with a physician selected from the new MPN list. If the treating physician is in both the old and new MPNs, then the employee can choose another physician or restart the IMR process under the new MPN.</p>	None.

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	<p>The commenter believes that this provision should be struck or modified to allow IMRs in process to complete. If allowed to continue as the commenter proposes, the likely outcome of the IMR will not be changed from a medical point of view, but one can count on it being irreparably harmed if terminated as proposed by the regulations.</p>			