

Medical Provider Network Regulations	WRITTEN COMMENTS 2nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Section 9767.13	In keeping with the proposed change, the title should also be changed to “re-evaluation.”	Steve Cattolica Advocal E-mail dated May 26, 2005	We agree.	The section’s title will be corrected.
Section 9767.1(a)(20)	Suggests an alternative definition for regional listing which includes providers within a < > miles radius from where the employee resides or works.	Jennifer Nicholson Farmers Insurance Group E-mail dated June 1, 2005	We agree.	The definition for regional listing will state: A) a listing of all MPN providers within a 15-mile radius of an employee’s worksite and/or residence; or B) a listing of all MPN providers in the county where the employee resides and/or works if 1) the employer or insurer cannot produce a provider listing based on a mile radius 2) or by choice of the employer or insurer, or upon request of the employee. C) If the listing described in either (A) or (B) does not provide a minimum of three physicians of each specialty, then the listing shall be expanded by adjacent counties or by 5-mile increments until the minimum number of physicians per specialty are met.
Section 9767.12	It is a hardship to provide a complete listing of the providers. A regional listing should be	Jennifer Nicholson Farmers Insurance Group	We disagree. If a covered employee would like a full list of providers, it	None.

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	sufficient.	E-mail dated June 2, 2005	should be made available.	
Section 9767.3	<p>Requests a clearer definition of what constitutes a contractual agreement between an MPN and its providers.</p> <p>Does an “all payor clause” constitute a contract?</p> <p>Does a non-response to an opt out clause constitute a contract?</p> <p>Does common ownership interests create a contractual agreement?</p> <p>Does a physician who contracts with a master PPO have a contract with the subset PPO?</p> <p>Physicians are complaining that their requests for copies of the contract the MPN used to obtain approval by the DWC are going unanswered. What will DWC do if the MPN refused to pay 100% of fee schedule after refusing to provide the contract in violation of Labor Code section 4609? Will the DWC suspend the MPN’s approval?</p> <p>To whom should the physician complain? What is the complaint process? Who is responsible for making sure the Payor pays at the fee schedule?</p> <p>Which party, the payor or the MPN, is responsible for providing the contract upon request?</p>	<p>Neal Gilbert AccessMedical Provider Network</p> <p>E-mail dated June 2, 2005</p>	<p>We disagree. This comment goes beyond the scope of these regulations. The Labor Code section 4609 issues will be addressed in a specific set of regulations.</p>	None
Section 9767.3	Commenter thinks the regulations need to	Neal Gilbert	We disagree. The term is clear.	None.

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	define the “workers’ compensation system” as that term is used in section 9767.3.	AccessMedical Provider Network E-mail dated June 2, 2005		
Section 9767.3(d)(C)	Urges language recommended by CWCI: “By submission of the application, the MPN applicant is confirming that a contractual agreement in which the providers have agreed to provide treatment for injured workers in the workers’ compensation system exists between the MPN, the MPN applicant, and/or the provider networks within the MPN and the physicians, providers, or medical groups within the MPN, and that the contractual agreement is in compliance with Labor Code section 4609.”	David Mitchell Republic Indemnity Company of America June 9, 2005	We agree.	The proposed language will be adopted.
General	Adoption of the proposed MPN regulations will necessitate the filing of MPN Plan Modifications – for example, due to the changes in requirements for access, dispute resolution, and change in employee notification letters.	David Mitchell Republic Indemnity Company of America June 9, 2005	We agree.	A new section (9767.15) pertaining to previously approved MPNs will be adopted.
Section 9767.3	Requests the section require a “direct written contractual agreement.” (Includes Oct 12, 2004 letter to DWC.)	Michael J. Sexton, MD President California medical Association June 9, 2005	We disagree. The current language requires the contracts to conform to the Labor Code requirements and confirms that the physicians in the MPN will treat injured workers in the workers’ compensation system.	The section is amended to state: “By submission of the application, the MPN applicant is confirming that a contractual agreement exists with the physicians, providers or medical group practice in the MPN to provide treatment for injured workers in the workers’ compensation system and that the contractual agreement is in compliance with Labor

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				Code section 4609, if applicable.”
Section 9767.3	Requests language to be added that ensures physicians are given a choice to participate in the workers’ compensation program.	Michael J. Sexton, MD President California medical Association June 9, 2005	We disagree. This comment goes beyond the scope of these regulations. The Labor Code section 4609 issues will be addressed in a specific set of regulations.	The section is amended to state: “By submission of the application, the MPN applicant is confirming that a contractual agreement exists with the physicians, providers or medical group practice in the MPN to provide treatment for injured workers in the workers’ compensation system and that the contractual agreement is in compliance with Labor Code section 4609, if applicable.”
Section 9767.1(a)(20)	The definition should either be the counties or a listing that complies with the accessibility standards as defined in section 9767.5 (15/30 miles). Regional area is too broad and will lead to confusion and ambiguity.	Tim Hoops President Blue Cross Life and Health June 10, 2005	We agree to amend the subdivision. However, the purpose of this section is to provide at least three choices to the employee, including employees in rural areas.	The subdivision is amended to allow for a 15 mile radius regional listing.
Section 9767.3(c)(8)(C) and 9767.3(e)(16)	<p>Recommends including additional language to assure the applicability of utilizing a PPO for MPN applicants.</p> <p>Recommends including the term “contracting agent,” which is the term used in Labor Code section 4609 and defining the term.</p>	Tim Hoops President Blue Cross Life and Health June 10, 2005	<p>We agree to amend this subdivision.</p> <p>We disagree with the recommendation to define “contracting agent.” However, this issue will be addressed in the Labor Code section 4609 regulations.</p>	The section is amended to state: “By submission of the application, the MPN applicant is confirming that a contractual agreement exists with the physicians, providers or medical group practice in the MPN to provide treatment for injured workers in the workers’

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				compensation system and that the contractual agreement is in compliance with Labor Code section 4609, if applicable.”
Section 9767.5(e)(2)	This section gives the employer more control outside the service area by limiting the choice to three physicians than in the MPN service areas. This also gives advantage to applicants with very restrictive service areas and creates an incentive to create a smaller geographic MPN area.	Tim Hoops President Blue Cross Life and Health June 10, 2005	We disagree. This subdivision only applies in three specific instances. Subdivision (h) applies to the broader situations where there are no specialists within the MPN and should encourage MPNs to include a wide range of specialists.	None.
Section 9767.12(a)(3)	Regional listing should be sufficient. (A complete provider listing is not relevant and costly.)	Tim Hoops President Blue Cross Life and Health June 10, 2005	We disagree. If a covered employee requests the entire provider listing, it should be made available. A provider listing on the web is not costly.	None.
Section 9767.3(d)(8)(C)	Requests language recommended by CWCI.	Jose Ruiz SCIF June 10, 2005	We agree.	The section will be changed to the recommended language.
Section 9767.5(e)(1)	The phrase “temporarily resides’ should be defined. Recommends the following language: “When the injured covered employee returns to the MPN geographic service area, the employer shall have the option to have the employee continue treatment with a physician within or outside the MPN without having to trigger the transfer of care requirements.”	Jose Ruiz SCIF June 10, 2005	We disagree. The definition will depend on the factual circumstances.	None.
Section 9767.7 (b) and (d)	Recommends the following language: “It is the employer’s or insurer’s responsibility to (1) provide a list of MPN providers and a URL address with on-line access to a written regional area listing of MPN providers and/or	Jose Ruiz SCIF June 10, 2005	We disagree. Not all employees have on-line access to computers.	None.

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	specialists to the employee for his/her selection based on the specialty or recognized expertise in treating the particular injury or condition in questions...”			
Section 9767.7(g)	Recommends language changed to: “The employer or insurer shall permit the employee to obtain the recommended treat from any appropriate MPN physician.	Jose Ruiz SCIF June 10, 2005	We disagree that this language is less confusing than the proposed language.	None.
Section 9767.8(a)(1)	Requests further clarification re term “in the composition.” Is it by provider or specialty? Recommends: “A net decrease of 10% or more in the number or providers participating in the network, since the previous MPN Plan Application or Modification.”	Jose Ruiz SCIF June 10, 2005	We agree to delete the term “composition.”	The subdivision will be changed to state: (1) A change of 10% or more in the number or specialty of providers participating in the network since the approval date of the previous MPN Plan application or modification.
Section 9767.8(a)(2)	Recommends: “A <u>net increase</u> of 25% or more in the number of covered employee.”	Jose Ruiz SCIF June 10, 2005	We disagree. A 25% change in the number of employees is a very large proportionate change. The insurer or employer should be monitoring the MPN to confirm that access is maintained and that the appropriate specialists are within the MPN.	None.
Section 9767.8(a)(4)	Requests a definition of the term “material change.”	Jose Ruiz SCIF June 10, 2005	We will change “material” to “substantive.”	We will change “material” to “substantive.”
Section 9767.8(a)(9)	Requests a definition of the term “material change.” It is unclear if the change in contact person or the 800 number will constitute a material change.	Jose Ruiz SCIF June 10, 2005	We will change “material” to “substantive.” The MPN contact person and the toll free contact number provided to employees is extremely important, as it is a common method for employees to make inquires regarding the MPN.	We will change “material” to “substantive.”

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			The submitting of the Notice of Modification does not require a complete resubmission. It only requires that the cover page be filled out and signed and submitted with a copy of the changed documents (in this case, the sample employee notification letter.)	
Section 9767.8(j)	<p>Recommends: “A <u>net decrease</u> of 10% or more in the <u>number of providers</u> participating in the network, <u>since the previous MPN Plan Application or Modification</u>.</p> <p>“A <u>net increase</u> of 25% or more in the number of covered employees.”</p>	Jose Ruiz SCIF June 10, 2005	<p>We agree to delete the term “composition.”</p> <p>We disagree to adding “net increase.” A 25% change in the number of employees is a very large proportionate change. The insurer or employer should be monitoring the MPN to confirm that access is maintained and that the appropriate specialists are within the MPN.</p>	<p>The subdivision will be changed to state: (1) A change of 10% or more in the number or specialty of providers participating in the network since the approval date of the previous MPN Plan application or modification.</p> <p>The subdivision will be amended to state: A change of 25% or more in the number of covered employees since the approval date of the previous MPN Plan application or modification.</p>
Section 9767.12(a)	Recommends deleting the requirement to provide notice of the implementation of the MPN 30 days prior to the implementation.	Jose Ruiz SCIF June 10, 2005	We disagree. The prior notice provides the employees with an opportunity to review the list of MPN physicians prior to the inception of the MPN in order to decide whether or not to predesignate a personal physician.	None.

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Section 9767.12(a)(3)	Recommends: “How to review, receive or access the MPN provider directory. Nothing precludes an employer from providing covered employees with <u>access to a written regional area listing of MPN providers and a URL address for on line access to its complete provider listing.</u> ”	Jose Ruiz SCIF June 10, 2005	We disagree. Some employees do not have access to the web and should be provided with a written copy of the complete provider listing if requested.	None.
Section 9767.12(a)(5)	Requests a definition of “temporarily resides.”	Jose Ruiz SCIF June 10, 2005	We disagree. The definition will depend on the factual circumstances.	None.
Re-adopt the emergency regulations	Recommends re-adopting the emergency regulations to provide additional time for modifications	Brenda Ramirez CWCI June 10, 2005	We agree.	The emergency regulations will be re-adopted.
Section 9767.3(d)(8)(C) and (e)(16)	Provides two recommendations to replace current language. Commenter states that the MPN applicant has no authority over the individual contracts and cannot determine whether the contracts are in compliance with the Labor Code. If the proposed regulations were interpreted to prevent MPNs from contracting directly with established networks, then MPN applicants would have to initiate their own contracts instead of contracting with established networks.	Brenda Ramirez CWCI June 10, 2005	We disagree that the MPN applicant should not be required to confirm that the contract is compliant with Labor Code section 4609. Labor Code section 4609 prevents the improper selling, leasing or transferring of a health care provider’s contract, which is an abuse that could occur within MPN networks. The DWC has authority over the MPN applicant, not the networks. Therefore, the MPN applicant must determine if the contracts are in compliance and the statement must be from the MPN applicant. We agree to amend the section.	The subdivision will be amended to state: By submission of the application, the MPN applicant is confirming that a contractual agreement exists with the physicians, providers or medical group practice in the MPN to provide treatment for injured workers in the workers’ compensation system and that the contractual agreement is in compliance with Labor Code section 4609, if applicable.
Section 9767.5(a)	Recommends changing “specialty” to “type.”	Brenda Ramirez CWCI June 10, 2005	We disagree. Labor Code section 4616.3 requires that the employees have the option of a second or third opinion, and the selection of the	None.

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			physician shall be based on the physician's "specialty" or recognized expertise in treating the particular injury.	
Section 9767.5(h)	Recommends that for specialist referrals outside the MPN, this regulation should parallel the procedure in 9767.5(e).	Brenda Ramirez CWCI June 10, 2005	We disagree.	None.
Section 9767.8(a) and 9767.8(j)	The term "composition" is ambiguous. It is not possible to predict a 10% change of participants or a 25% change in the number of employees 60 days prior to it occurring. Recommends requiring modifications only for a "net" change.	Brenda Ramirez CWCI June 10, 2005	We agree to delete the term "composition." We disagree regarding requiring the notice of modification prior to the change.	The subdivision will be changed to state: (1) A change of 10% or more in the number or specialty of providers participating in the network since the approval date of the previous MPN Plan application or modification.
Section 9767.9(b)	Recommends deleting (b) because the issue of referral for authorized treatment is often disputed and should be dealt with by the WCAB.	Brenda Ramirez CWCI June 10, 2005	We disagree. Prior to transfer, neither the employee nor the treating physician is within the MPN. The treating physician may not know the MPN procedures or have a list of providers that are within the MPN.	None.
Section 9767.9(f)	Recommends clarifying section by stating: "If the employer or insurer decides to transfer the covered employee's medical care to the medical provider network, the employer or insurer shall notify the covered employee of the determination regarding the completion of treatment and the decision to transfer medical care into the medical provider network. The notification shall be sent to the covered employee's residence and a copy of the letter shall be sent to the covered employee's primary treating physician. The notification	Brenda Ramirez CWCI June 10, 2005	We agree.	The section will be changed to the recommended language.

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	shall be written in English and Spanish and use layperson's terms to the maximum extent possible."			
Section 9767.12(a)	Recommends deleting the requirement to provide notice of the implementation of the MPN 30 days prior to the implementation.	Brenda Ramirez CWCI June 10, 2005	We disagree. The prior notice provides the employees with an opportunity to review the list of MPN physicians prior to the inception of the MPN in order to decide whether or not to predesignate a personal physician.	None.
Section 9767.12(a)(3)	Recommends: "How to review, receive or access the MPN provider directory. Nothing precludes an employer from providing covered employees with <u>access to a written regional area listing of MPN providers and a URL address for on line access to its complete provider listing.</u> "	Brenda Ramirez CWCI June 10, 2005	We disagree. Some employees do not have access to the web and should be provided with a written copy of the complete provider listing if requested.	None.
Section 9767.3	Compliance with Labor Code section 4609 is impossibility for a self-insured or an insurer who does not have an arms length relationship with an independent contracting agent. Compliance with Labor Code section 4609 should be required of an entity that establishes its own network if and only if the MPN applicant sells its list (and therefore the MPN applicant becomes a contracting agent.)	Mark Webb American International Companies June 10, 2005	We agree.	We will add the words "if applicable" at the end of the contract section.
Section 9767.3(f)	The contractual agreement should not apply to both the 25% of providers who practice non-occupational medicine and the 75% of providers who do not.	Mark Webb American International Companies June 10, 2005	We disagree. All providers must be willing to treat employees who have a workers' compensation injury.	None.
Section 9767.3	Labor Code section 4609 only applies if the MPN acts as a contracting agent.	Mark Webb American International Companies June 10, 2005	We disagree. Labor Code section 4609 applies where any party to the contract is a contracting agent, not just the MPN applicant.	None.
General	Attaches and concurs with the comments submitted by CWCI dated June 10, 2005.	Ted. M. Angelo ACLHIC June 10, 2005	See responses to CWCI above.	See responses to CWCI above.

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Section 9767.5(h)	Recommends adding to section 9767.5(h) this language: "Subsequent referrals of the employees by the non-network specialist must be to providers within the MPN. Referral to other specialists outside the MPN requires MPN approval."	Robert R. Orford Western Occupational & Environmental medical Association June 10, 2005	We disagree. The recommended language is confusing.	None.
Section 9767.1(a)(20)	Although the commenter does not oppose a regional listing, there is no specific requirement that the MPN provide any list of providers. The regulations must provide a specific requirement that within 24 hours of receiving either an oral or written request for a list of providers, and appropriate list, either a complete list or a regional list, must be placed in the mail to the worker or the workers' representative.	J. David Schwartz CAAA June 10, 2005	We disagree that the section needs to be amended. Proposed section 9767.12 requires the initial notice to state: "How to review, receive or access the MPN provider directory. Nothing precludes an employer or insurer from initially providing covered employees with a regional area listing of MPN providers in addition to maintaining and making available its complete provider listing in writing. If the provider directory is also accessible on a website, the URL address shall be listed." It clearly requires that the complete listing must be made available in writing.	None.
Section 9767.5(e)(1)	An MPN must have a policy for arranging or approving treatment for all workers regardless of the reason a worker is outside the normal working area. Recommends the paragraph be re-written to provide a general requirement that the MPN must have a written policy regarding arranging or approving treatment for all covered workers when outside of the normal coverage area of the MPN. Alternatively, a fourth subparagraph could be added to include workers who are outside the MPN's geographic service area for other reasons.	J. David Schwartz CAAA June 10, 2005	We disagree. These three instances are ones in which an employee is outside the MPN area for extended periods of time and therefore may need non-emergency medical care outside the MPN service area.	None.

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Section 9767.5(e)(2)	Supports intent of sections but suggests it be re-written for clarity to: (2) The written policy shall provide that the employees described in subdivision (e)(1) above will be given a choice of at least three physicians who either have been referred by the employee's primary treating physician within the MPN or have been selected by the MPN applicant. In addition to physicians within the MPN, the employee may change physicians among the referred physicians and may obtain a second and third opinion from the referred physicians.	J. David Schwartz CAAA June 10, 2005	We disagree. The current language is clearer than the recommended language.	None.
Section 9767.5(e)(3)	Recommends the language be amended to read: "The access standards set forth in subdivisions (c) and (d) of this section shall apply to any provider referred to the worker for treatment under this subdivision. For the purposes of this paragraph, the employee's residence or workplace shall be the location at which the employee is temporarily living or working while outside of the MPN geographic service area."	J. David Schwartz CAAA June 10, 2005	We disagree. The recommended added sentence does not clarify the subdivision.	None.
Section 9767.5(h) and (i)	CAAA supports these sections but also recommends that employee should be given written notice of these requirements.	J. David Schwartz CAAA June 10, 2005	We disagree that the notice section needs to be amended. Section 9767.12(4) requires the initial notice to state, "How to access initial care and subsequent care, and what the access standards are under section 9767.5."	None.
Section 9767.7 (a)	Recommends adding to last sentence: "During this process, all treatment received by the employee for the work injury must be provided by his or her treating physician or other provider of the employee's choice within the MPN."	J. David Schwartz CAAA June 10, 2005	We disagree. The current language is clear.	None.

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Section 9767.7(g)	Supports addition of this subdivision, but suggest the following language: “If the second or third opinion physician agrees with employee, the employer or insurer shall authorize provisions of the recommended treatment within 24 hours of receiving notification from the second or third opinion physician. The covered employee may obtain the recommended treatment by changing physicians to the second opinion physician, or other MPN physician.”	J. David Schwartz CAAA June 10, 2005	We disagree. The timeframes for the authorization of medical treatment is provided or in the utilization review standards regulations.	None.
Section 9767.9	As stated before, CAAA believes that the statute does not provide authority for the adoption of this section.	J. David Schwartz CAAA June 10, 2005	See responses to previous comments on this issue.	None.
Section 9767.10(d)	Recommends that the notification required in paragraph (1) should also be sent to the employee’s attorney, if any.	J. David Schwartz CAAA June 10, 2005	We disagree that it is necessary to state that the notice must be served on the attorney.	None.
Section 9767.12(a)(13)	Labor Code section 4616.2(c) also requires that the insurer or employer provide employees with “information regarding the process for an employee to request a review under the policy” This paragraph should be amended to include this notification.	J. David Schwartz CAAA June 10, 2005	We disagree that the statute needs to be re-written in this section. The review information may be part of the description of the continuity of care policy.	None.
Section 9767.12(c)	The second sentence of this subdivision may cause confusion as it does not indicate that the notice to the insurer is in addition to the required notice to the employee. Suggests that the second sentence be amended by adding the phrase, “in addition” to the beginning of the sentence.	J. David Schwartz CAAA June 10, 2005	We disagree. The sentence refers to a “copy” of the letter.	None.
Section 9767.1(a)(20)	Recommends that the 15 or 30 miles radius apply no matter where the county if 3 or more providers are available in that area.	Kathleen G. Bissell Liberty Mutual June 10, 2005	We agree to amend the section to allow a listing within a 15-mile radius.	The section will be amended to allow a listing of all MPN providers within a 15 mile radius.
Section 9767.7(b) and (d)	Recommends that notification be in written form.	Kathleen G. Bissell Liberty Mutual	We disagree. Requiring that	None.

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		June 10, 2005	notification be in writing will slow down the process and may be cumbersome for some covered employees.	
Section 9767.8 (9)	Unclear regarding what “material” means.	Kathleen G. Bissell Liberty Mutual June 10, 2005	We agree to change the word to “substantive.”	The word ‘material’ will be replaced with “substantive.”
Section 9767.9(b)	Recommends that referrals be made first to physicians within the MPN.	Kathleen G. Bissell Liberty Mutual June 10, 2005	We disagree. Prior to transfer, neither the employee nor the treating physician is within the MPN. The treating physician may not know the MPN procedures or have a list of providers that are within the MPN.	None.
Section 9767.10(c)	Requests clarification regarding when the 90 days of the serious and chronic condition begins.	Kathleen G. Bissell Liberty Mutual June 10, 2005	We disagree. This will depend on the employee’s medical condition and the opinion of the treating physician.	None.
Section 9767.12	Technical changes should be able to be made without triggering the requirement to file a modification. For example, the change of a toll free number should not trigger a modification	Kathleen G. Bissell Liberty Mutual June 10, 2005	We disagree. The toll free number contact number provided to employees is extremely important, as it is a common method for employees to make inquires regarding the MPN. The submitting of the Notice of Modification does not require a complete resubmission. It only requires that the cover page be filled out and signed and submitted with a copy of the changed documents (in this case, the sample employee notification letter.)	None.
General	Agrees with comments submitted by CWCI and Republic Indemnity.	Samuel Sorich Association of California Insurance Companies June 10, 2005	See response to CWCI and Republic Indemnity.	See response to CWCI and Republic Indemnity.

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Section 9767.1(a)	Regional area listing is too broad in a county like Los Angeles.	Samuel Sorich Association of California Insurance Companies June 10, 2005	We agree to amend this subdivision.	The subdivision will allow for a 15 mile radius regional listing.
Section 9767.3(d)(8)(c) and (e)(16)	Agrees with CWCI.	Samuel Sorich Association of California Insurance Companies June 10, 2005	See response to CWCI.	See response to CWCI.
Section 9767.5(e)(2)	Delete “either have been referred by the employee’s primary treating physician within the MPN or”	Samuel Sorich Association of California Insurance Companies June 10, 2005	We disagree. This subdivision allows the MPN applicant to create the written policy.	None.
Section 9767.5(h)	Agrees with CWCI.	Samuel Sorich Association of California Insurance Companies June 10, 2005	See response to CWCI.	None.
Section 9767.6(b)	It is impossible for the employer or insurer to provide for all treatment within one working day after an employee files a claim when the treatment needed may not be known at that time.	Samuel Sorich Association of California Insurance Companies June 10, 2005	We disagree that the section needs to be amended. The language comes from Labor Code section 5402(c).	None.
Section 9767.7(b)	Opposed oral notification which may lead to dispute regarding whether notification was given.	Samuel Sorich Association of California Insurance Companies June 10, 2005	We disagree. Requiring that notification be in writing will slow down the process and may be cumbersome for some covered employees.	None.
Section 9767.8(a)(1)	Agrees with CWCI that “composition” is vague and that the standards ought to be withdrawn.	Samuel Sorich Association of California Insurance Companies June 10, 2005	See response to CWCI	See response to CWCI.
Section 9767.8(a)(3)	What constitutes a “material change” is not explained.	Samuel Sorich Association of California Insurance Companies June 10, 2005	We agree to change “material” to substantive.”	The word “material” will be changed to substantive.”
Section 9767.10(d)	It would be helpful to know if this requirement constitutes a “material change.”	Samuel Sorich Association of California	We agree. Section 9767.15 will be	Section 9767.15 will be amended to address this

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		Insurance Companies June 10, 2005	amended to address this issue.	issue.
Section 9767.12(a)	Agrees with CWCI's comment.	Samuel Sorich Association of California Insurance Companies June 10, 2005	See response to CWCI's comment.	See response to CWCI's comment.
Section 9767.3(d)(8)(C)	The addition of the words "in which the providers have agreed to provide treatment for injured workers in the workers' compensation system" was added to ostensibly ensure that providers in the MPN will accept workers' compensation patients. Providers may change their mind and if they do there is little a MPN can do.	Darrell Brown Sedgwick CMS June 10, 2005	We disagree. If a provider refuses to treat workers' compensation patients, the MPN should remove the provider from the MPN. However, the subdivision is being amended for other reasons.	The subdivision is being amended for other reasons. It will still require a contractual agreement "to provide treatment for injured workers in the workers' compensation system."
Section 9767.5(a)	The requirement to have three specialists may not be reasonable for certain occupations or industries that generate work-related injuries that require highly-specialized treatment.	Darrell Brown Sedgwick CMS June 10, 2005	We disagree. Labor Code section 4616.3 authorizes the employee's right to a second and third opinion of physicians based on their specialty. Therefore, it is necessary to have at least three physicians of each specialty. However, the MPN is only required to have the specialties that are expected to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged.	None.
Section 9767.7(b)	The regional area list for some counties will be extremely large. The list should be more refined. If the regional list only applies to the second and third opinion process, this should be clarified in the body of the regulations.	Darrell Brown Sedgwick CMS June 10, 2005	We agree. Section 9767.12(a)(3) states that the regional list may be initially provided to employees.	The definition of regional list will include a 15-mile radius regional listing. None.

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Section 9767.8(1)	Recommends that a modification only be filed if there is a decrease in the number of providers.	Darrell Brown Sedgwick CMS June 10, 2005	We disagree. The specialties of the physicians are also important. The section will be amended to include specialty.	The subdivision will be changed to state: (1) A change of 10% or more in the number or specialty of providers participating in the network since the approval date of the previous MPN Plan application or modification.
Section 9767.7(g)	This section should include language that the recommended treatment must be limited to that which is allowed by Labor Code section 4616(e) or treatment guidelines of ACOEM as is states in (f).	Darrell Brown Sedgwick CMS June 10, 2005	We disagree. Since (f) states that any recommended treatment must be in accordance with Labor Codes section 4616(e) it is not necessary to repeat it in (g).	None.
Section 9767.5(h)	Recommends that language that the selection of a specialist outside the MPN be limited to only that provider and not all other treatment or specialist that may be needed after that selection.	Darrell Brown Sedgwick CMS June 10, 2005	We disagree because it is the treating physician who manages referrals.	None.
Section 9761.1(a)(20)	Believes regional listing is what is utilized for second and third opinions. Requests clarification.	Anne Edson Sedgwick CMS Received June 10,2005 Letter misdated June 13, 2005	In addition to providing a regional list of providers for the second and third opinion process, section 9767.12(a)(3) states that the regional list may be initially provided to employees.	None.
Section 9767.7(g)	Concerned that this section mandates approval for any and all recommended treatment recommended by the MPN provider.	Anne Edson Sedgwick CMS Received June 10,2005 Letter misdated June 13, 2005	In the second and third opinion process. It does mandate approval of the recommended treatment.	None.
General	If we authorize treatment with a non-MPN provider because services are not available in	Anne Edson Sedgwick CMS	We disagree that clarification is	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 2nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	the network, we would like clarification that only this particular instance of care is authorized outside the MPN.	Received June 10,2005 Letter misdated June 13, 2005	needed. Section 9767.5 and 9767.6 cover the rules regarding treatment within the MPN.	
General	Concerned with disruptive and costly impact the modifications are likely to have on the MPNs that are already approved. Requests these regulations not be adopted.	David Corum American Insurance Association Received June 10, 2005 Letter misdated September 10, 2005	We agree to add section 9767.15 which will address the requirement of already approved MPNs to comply with the permanent regulations.	We agree to add section 9767.15 which will address the requirement of already approved MPNs to comply with the permanent regulations.
Section 9767.3(d)(8)(C)	Many MPNs contract with existing provide networks. The proposed amendment to this section would require existing MPN arrangements to discontinue. Commenter also requests that modification only apply on an ongoing basis.	David Corum American Insurance Association Received June 10, 2005 Letter misdated September 10, 2005	We disagree that the subdivision requires direct contracts. We agree that the existing MPNs will not need to reapply under the new regulations unless and until the MPN files for a modification	None.
Section 9767.5(a)	Recommends a change from “type” to “specialty.”	David Corum American Insurance Association Received June 10, 2005 Letter misdated September 10, 2005	We disagree. Labor Code section 4616.3 requires that the employees have the option of a second or third opinion, and the selection of the physician shall be based on the physician’s “specialty” or recognized expertise in treating the particular injury.	None.
Section 9767.5(h)	Subdivision (h) is inconsistent with (e) and should be revised to be the same as (e).	David Corum American Insurance Association Received June 10, 2005 Letter misdated September 10, 2005	We disagree. Subdivision (h) applies to employees in the MPN geographic area. If the MPN has not included specialists within its MPN for that area, the employee may treat outside the MON. In contract, (e) applies to employees who are outside the MPN geographic area, and therefore, the MPN does not have a provide list at all. Because the situations are different, the referrals rules are different.	None.
Section 9767.8	“In the composition” of network providers	David Corum	We agree.	The section will be

Medical Provider Network Regulations	WRITTEN COMMENTS 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	needs to be clarified.	American Insurance Association Received June 10, 2005 Letter misdated September 10, 2005		amended to state: “A change of 10% or more in the number or specialty of providers participating in the network since the approval date of the previous MPN Plan application or modification.”
Section 9767.9(f)	This section assumes that carriers will always transfer care to a MPN. It should be amended to state that it only applies if an insurer or employer decides to transfer care.	David Corum American Insurance Association Received June 10, 2005 Letter misdated September 10, 2005	We disagree. Subdivision (a) states “the injured covered employee <i>may</i> be transferred...”	None.
Section 9767.12(a)	Requiring notice to be sent 30 days prior to the implementation of the MPN will cause gaps in coverage.	David Corum American Insurance Association Received June 10, 2005 Letter misdated September 10, 2005	We disagree. The prior notice provides the employees with an opportunity to review the list of MPN physicians prior to the inception of the MPN in order to decide whether or not to predesignate a personal physician. The insurer or employer should plan for the implementation to take place 30 days after the notice is sent.	None.