

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION

INITIAL STATEMENT OF REASONS

Subject Matter of Regulations: Medical Provider Networks, Employee Information, and Workers' Compensation Claim Form (DWC 1) and Notice of Potential Eligibility

Title 8, California Code of Regulations, Sections 9767.3, 9767.6, 9767.8, 9767.12, 9767.16, 9880, 9881, 9881.1, 10139

Section 9767.3	Application for a Medical Provider Network Plan
Section 9767.6	Treatment and Change of Physician Within MPN
Section 9767.8	Modification of Medical Provider Network Plan; Notice of Medical Provider Network Plan Modification §9767.8
Section 9767.12	Employee Notification
Section 9767.16	Notice of Employee Rights Upon Termination or Cessation of Use of Medical Provider Network
Section 9880	Written Notice to New Employees
Section 9881	Posting of Notice to Employees
Section 9881.1	Notice to Employees Poster
Section 10139	Workers' Compensation Claim Form (DWC 1) and Notice of Potential Eligibility

BACKGROUND TO REGULATORY PROCEEDING:

In response to the State's widely-acknowledged workers' compensation crisis, the Legislature passed Senate Bill 899 (Chapter 34, stats. of 2004, effective April 19, 2004). Senate Bill 899 included several provisions designated to control workers' compensation costs including Labor Code section 4616 *et seq.*, which provides for the implementation of Medical Provider Networks ("MPN"). Labor Code section 4616(a) provides that an insurer or employer may establish or modify a medical provider network for the provision of medical treatment to injured employees. Labor Code section 4616(g) provides that the administrative director shall develop regulations that establish procedures implementing medical provider networks.

The regulations to be amended concern the MPN application process, the treatment and change of physician within a MPN, the employer notification requirements, and the notice requirements when terminating, ceasing to use, or changing to a different MPN.

Labor Code §3550 mandates that certain specific information be included in a workers' compensation poster which is required to be posted in the work place by California employers. Labor Code §3551 provides that the written notice to new employees contain specific workers' compensation information. Labor Code §5401 sets forth the requirements for the claim form used by employees to present a claim for workers' compensation benefits to their employers.

The regulations to be amended concern the information that is required to be included on the workers' compensation poster, the information given to new employees, as well as the workers' compensation claim form (DWC 1) and notice of potential eligibility.

Section Amended: Section 9767.3 Application for a Medical Provider Network Plan

This section specifies the information required to be submitted for a MPN application.

Specific Purpose of Amendments to Section 9767.3:

Section 9767.3 sets forth what information is required from the MPN Applicant on the MPN application.

The purpose of the amendments to subdivisions (d)(6) and (e)(6) is to state the responsibilities of the authorized individual signing on behalf of the MPN Applicant.

The purpose of the amendments to subdivisions (d)(7) and (e)(7) is to be grammatically consistent when referring to a MPN.

The purpose of the amendments to subdivisions (d)(8)(I) and (e)(11) is to modify the existing requirement to allow specific contact and provider access information that is often not available at the time of DWC review to be included in the written notification to employees at the time of distribution.

Necessity:

The amendments to subdivisions (d)(6) and (e)(6) are necessary to clarify the role and legal responsibility of the authorized individual. The grammatical amendments to subdivisions (d)(7) and (e)(7) are necessary for consistency. The amendments to subdivisions (d)(8)(I) and (e)(11) allowing MPN Applicants to include specific MPN contact and provider listing access information after review is to avoid having to disapprove a MPN application because this information is often not yet known by the MPN when the MPN application is filed for review.

Section Amended: Section 9767.6 Treatment and Change of Physician Within MPN

Section 9767.6 sets forth the requirements for treatment with MPN physicians and for changing physicians within the MPN. The section also requires the employer or insurer to authorize the provision of all treatment, consistent with guidelines adopted by the Administrative Director pursuant to Labor Code section 5307.27 or, prior to the adoption of these guidelines, the American College of Occupational and Environmental Medicine's Occupational Medicine Practice Guidelines (ACOEM), incorporating by reference the 2004 ACOEM 2nd Edition.

The section also prohibits the filing of a change of treating physician petition when an employee is treating within the MPN.

Specific Purpose of Amendments to Section 9767.6:

The purpose of the amendment to subdivision (b) is to:

- delete the provision stating that ACOEM guidelines apply prior to adoption of treatment guidelines by the Administrative Director;
- delete the provision stating that for injuries not covered by ACOEM, treatment shall be in accordance with other evidence based medical treatment guidelines generally recognized by the national medical community and that are scientifically based;
- delete the provision incorporating the ACOEM Practice Guidelines, 2nd Edition (2004) by reference into the regulation;
- insert the reference to title 8, CCR §9792.20 *et seq.*, the regulations that embody the Medical Treatment Utilization Schedule (MTUS).

The purpose of the amendment to subdivision (f) is to clarify that a Petition for Change of Treating Physician cannot be filed by any entity to change the treating physician of an employee treating with an MPN physician.

Necessity:

The amendments to subdivision (b) are necessary as the language to be deleted is obsolete. The provision stating that ACOEM applies prior to adoption of the treatment guidelines is outdated as the administrative director has adopted the treatment guidelines, known as the Medical Treatment Utilization Schedule (MTUS), title 8, CCR §9792.20 *et seq.*, effective June 15, 2007. The provision stating the standards for treatment of injuries not covered by ACOEM is superseded by the provisions of the MTUS which sets forth the standards for determining reasonableness of treatment of such injuries, i.e. title 8, CCR §§9792.21(c), 9792.25(b), (c). It is necessary to delete the incorporation by reference of ACOEM into the MPN regulation because employees receiving medical care through MPNs are subject to the same treatment guidelines (the MTUS) that apply to other employees who receive care through a non-MPN provider. Specific guidelines of the ACOEM are already incorporated by reference into the MTUS, title 8, CCR §9792.22, § 9792.23.1(a), § 9792.23.2(a), § 9792.23.3(a), § 9792.23.4(a), § 9792.23.5(a), § 9792.23.6(a), § 9792.23.7(a), § 9792. 23.8(a), and § 9792.23.9(a).

The amendment to subdivision (f) is necessary to clarify that a Change of Treating Physician petition cannot be filed by any entity if an employee is treating with an MPN physician. The basis for this requirement is that the MPN has the right to select the network of providers from which an employee may receive treatment and can use other methods to ensure that MPN providers are following the section 9785 reporting requirements. However, the Change of Treating Physician petition is still allowed to be used to change the physician of a non-MPN

physician who is not following the section 9785 reporting requirements as the MPN does not have control over non-MPN providers.

Section Amended: Section 9767.8 Modification of Medical Provider Network Plan

Section 9767.8 sets forth the filing requirements for modifying an MPN plan.

Specific Purpose of Amendments to Section 9767.8:

The purpose of the amendment to subdivision (a)(10) is to specify that other material changes to an MPN plan also require a modification filing besides those already listed. The purpose of the examples is to give notice of common material changes to MPN plans that would require a filing.

The purpose of the amendment to subdivision (b) is to clarify that a change in authorized individual is an important material change that warrants filing within five business days, similar to a change in DWC Liaison.

The purpose of the amendment to the form, “Notice of Medical Provider Network Plan Modification §9767.8” under item number 10 on the line beginning with “Name of Authorized Individual,” is to be consistent with requiring the name of the organization as is required for the DWC Liaison, and to confirm the individual works for the MPN Applicant.

The purpose of the amendment to the form, “Notice of Medical Provider Network Plan Modification §9767.8” on the second page, third check box, to include “or Authorized Individual” as a listed material change is to show that it is an important material change that requires a modification filing.

The purpose of the amendment to the form, “Notice of Medical Provider Network Plan Modification §9767.8,” on the second page, the eleventh and last check box, “Other,” is to state examples of common changes that definitely require a modification filing. The other minor changes are for stylistic purposes.

Necessity:

The amendments to subdivision (a)(10) and to the “Other” check box on the form, “Notice of Medical Provider Network Plan Modification §9767.8,” are necessary to change a misperception that only the listed material changes require a modification filing and the amendment clarifies that any material change to an MPN application also requires a modification filing. The examples are necessary to clarify that certain common changes are considered material changes to require a modification filing.

The amendments to subdivision (b) and to the form “Notice of Medical Provider Network Plan Modification §9767.8” to include a change in authorized individual as a material change requiring a modification filing are necessary because the authorized individual is the only listed employee contact of the MPN Applicant who is responsible for the MPN. It is important that the

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Division have a valid contact currently available who can represent the MPN Applicant to address MPN concerns that an MPN Liaison cannot or does not have the authority to address.

The amendment to the form, “Notice of Medical Provider Network Plan Modification §9767.8”’s authorized individual line, is necessary for stylistic consistency and to obtain additional information to determine if the authorized individual is actually an employee of the MPN Applicant. The Division has increasingly found that the person signing as the “authorized individual” is not in fact an employee of the MPN applicant, in violation of the regulation.

Section Amended: Section 9767.12 Employee Notification

Section 9767.12 sets forth the requirements to implement a MPN, including the requirements for an initial MPN implementation notice and the requirements for a more comprehensive written MPN employee notification that informs employees of MPN policies and how to use the MPN.

Specific Purpose of Amendments to Section 9767.12;

The purpose of the amendments to subdivision (a) is to clarify that every covered employee shall receive the MPN notification and to shorten the MPN implementation period to 14 days. In addition, the language requirement was amended to ensure that notices are in both English and Spanish or whichever is more appropriate for the employee.

The purpose of subdivisions (a)(1)-(5) is to create a short initial MPN implementation notice that requires less paper to be used and is more easily distributed.

The purpose of the amendments to subdivision (b) is to provide a sample MPN implementation notice.

The purpose of the amendments to subdivision (c) is to require that the initial MPN implementation notice be provided to existing employees 14 days prior to implementation and at time of hire for new employees and to allow the notice to be sent by mail, email or included on a paycheck or paystub.

The purpose of subdivision (d) is reduce the distribution of the complete written MPN employee notification, which states the MPN policies and procedures, to the time of injury and when an employee is transferred into the MPN. The language requirement for the notices was also revised to be consistent with the initial implementation notice requirements. Finally, the amendment requires that the complete MPN employee notification be posted next to the workers’ compensation poster required by section 9881.

The purpose of subdivision (e) is to allow the use of more cost-effective methods of notice distribution for the complete MPN employee notification.

The purpose of subdivision (f) is to state what specific information is required in the MPN complete employee notification. These requirements were previously codified under 9767.12(a)(1)-(13) and have been moved to this subdivision. Additional changes were made to

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the language of subdivision (f)(1) so the responsibilities of the MPN contact are clear. The purpose of the amendments to subdivision (f)(3) is to ensure that, at minimum, a regional provider listing is accessible to employees, that employees have the information they need to access provider directories, and that all provider listings be regularly updated to address current concerns over inadequate access to updated provider listings. Subdivision(f)(4) was shortened and the access standard information was moved to (f)(5) and clarified to include the regular access standards and any alternative standard for rural areas so employees are aware of the standards for the provider listings. Minor amendments were also made to (f)(13) and(f)(14) to make the wording consistent regarding the transfer of care and continuity of care policies.

The purpose of subdivision (g) is to give employees important information regarding their rights to an Independent Medical Review when applicable.

Necessity:

In subdivision (a), the change from “each” to “every” helps clarify that every covered employee shall receive notice of MPN implementation. The shortening of the notice period before MPN implementation is necessary to reduce the gaps in MPN coverage that often occur when changing MPNs or when implementing a new MPN due to the notice period. The changes in the language requirement for the notices is to ensure that Spanish speakers are given notices in a language they can read and gives employers the option of saving paper by only giving the notice in the more appropriate language for its employees.

Amendments to subdivisions (a)(1)-(5) are necessary to create a short MPN implementation notice with basic information that will use less paper and can be distributed more cost effectively.

The creation of a sample MPN implementation notice in subdivision (b) is necessary to address requests by MPN Applicants for sample notice language to assist with compliance.

Subdivision (c) is necessary to clarify when the implementation notice shall be distributed and that various cost-effective electronic means can be used to distribute the notices.

Subdivision (d) is necessary to further reduce the amount of paperwork given to covered employees by reducing the distribution of the complete MPN employee notification to be provided only at time of injury and transfer into the MPN, when the policies will actually be used. The required posting next to the DWC workers’ compensation poster allows employees to still be informed of the MPN policies and procedures before injury or transfer while also saving paper.

Subdivision (e) is necessary to clarify when the complete employee notification shall be distributed and that various cost-effective electronic means can be used to distribute the notification.

Amendments to subdivision (f) are necessary because the MPN Contact responsibilities needed to be defined to clarify ambiguity. In order to address provider access difficulties, a minimum

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regional area listing is being required as well as updated and electronically accessible provider listings. Including the access standard information in the employee notification is necessary to give employees information about the access standard for MPN providers and any alternative access standards that may apply to them. The changes in the wording for the distribution of the transfer and continuity of care policies were necessary for consistency.

Subdivision (g) was necessary to ensure that employees are given information about their rights to an Independent Medical Review at the time they would most likely use it.

Section Amended: Section 9767.16 - Notice of Employee Rights Upon Termination or Cessation of Use of Medical Provider Network.

Section 9767.16 sets forth notice requirements for covered employees whose insured employer or MPN Applicant is going to terminate or otherwise cease the use of an MPN or when an insured employer or MPN Applicant changes to implement a different MPN.

Specific Purpose of Amendments to Section 9767.16:

The purpose of the amendments to subdivision (a) is to clarify who is responsible for providing the termination/cessation notice and to amend the language requirement for the notices to be consistent with the language requirement for the other MPN notices.

The purpose of the amendments to subdivision (a)(1) is to shorten the notice requirements to include only the most critical information and to delete information that is not.

The purpose of the amendments to subdivision (a)(2) is to provide a sample MPN termination or cessation of use notice.

The purpose of amendments to subdivision (a)(3) is to state when the termination or cessation of use notices shall be distributed and to allow multiple means for distribution of the notices, including by paycheck or paystub or electronically.

The purpose of subdivision (a)(4) is to provide clarification over what happens to pending Independent Medical Reviews when an MPN is terminated or ceased to be used.

The purpose of the amendment to subdivision (b) is to clarify who will be responsible for distributing the change of MPN notice and to change the notice period from 30 days to 14 days.

The purpose of the amendments to subdivisions (b)(1)-(5) is to shorten the change of MPN notice requirements to the most critical information and to be the same requirements as for the MPN implementation notice.

The purpose of the amendments to subdivision (c) is to provide a sample change of MPN notice. The purpose of eliminating the filing of the change of MPN notices with DWC is to reduce administrative burden and streamline the notice process.

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The purpose of subdivision (d) is to allow a combined notice of a termination/cessation of a MPN and a change of MPN so employees can be informed of both changes at one time.

The purpose of subdivision (e) is provide the change of MPN notice in English and Spanish or whichever is more appropriate for the employee, which is consistent with the other MPN notices. The purpose of subdivision (f) is to state when the change of MPN notices need to be distributed and to allow multiple means for distribution of the notices, including by paycheck or paystub or electronically.

The purpose of subdivision (g) is to require current MPN coverage information to be included on the workers' compensation poster required by section 9881 so employees can be clear about which MPN is covering current injuries.

The purpose of subdivision (h) is to alert MPN Applicants of the applicability of the other filing requirements that may be triggered by a change of MPN and to change the 30-day notice requirement for MPN implementation to a 14-day requirement.

Necessity:

The amendments to subdivision (a) are necessary to clarify ambiguity over who is responsible for distributing the notices. The amendments to the language requirements ensure that Spanish speakers are given notices in a language they can read and gives employers the option of saving paper by only giving the notice in the more appropriate language for its employees.

The amendments to subdivision (a)(1) are necessary to create a short MPN termination or cessation of use notice with basic key information that will use less paper and can be distributed more cost effectively.

The amendments to subdivision (a)(2) to provide sample notice language is necessary to address requests by MPN Applicants for sample notice language to assist with compliance.

The amendment to subdivision (a)(3) is necessary to clarify when the termination and cessation of use notices shall be distributed and the various cost-effective methods of distribution that can be used for distributing the notices. Use of these methods is consistent with the distribution of the MPN implementation and change of MPN notices.

Subdivision (a)(4) is necessary to clarify when an Independent Medical Review (IMR) may continue or is terminated. It is necessary to specify that any pending IMR will terminate when the employee's coverage under the MPN ends because the issue of reviewing a third opinion from an MPN physician's medical determination will be moot as the employee is no longer treating under that MPN.

The amendments to subdivision (b)(1)-(5) are necessary to shorten the change of MPN notice and to ensure that the same basic information is provided at the time of change of MPN as at

time of MPN implementation due to the overlap of the situations, i.e., a change of MPN is effectively the implementation of another MPN.

The amendments to subdivision (c) to provide sample notice language is necessary to address requests by MPN Applicants for sample notice language to assist with compliance. The filing of the change of MPN notices was eliminated from subdivision (c) because administrative review was not particularly useful, as the notices are often the same and took more time for review than anticipated. Additionally, the number of notices is overwhelmingly higher than expected and staff time spent reviewing the change notices is needed instead to review MPN applications and modifications.

Subdivision (d) is necessary to allow a combined notice of termination or cessation of use and change of MPN, as it is common for a termination/cessation of use of an MPN or a change of MPN to happen together. It is also less confusing to employees to receive one notice and would reduce paper to distribute one notice instead of two.

Subdivision (e) is necessary to clarify the language requirement for the notices and to ensure that Spanish speakers are given notices in a language they can read. The employers are also given the option of saving paper by only giving the notice in the more appropriate language for its employees.

Subdivision (f) is necessary to clarify when the change of MPN notices shall be distributed and the various cost-effective methods of distribution that can be used for distributing the notices. Use of these methods is consistent with the distribution of the MPN implementation and termination and cessation of use notices.

Subdivision (g) is necessary to update the workers' compensation poster that is posted for employees of the change in MPN coverage so the employees know to which MPN policies apply to them at that time. More and more employers are changing MPNs, which can result in employees being covered under more than one MPN, depending on the dates of their injuries and the dates of MPN coverage. Accordingly, posting current MPN coverage information will help reduce confusion for employees regarding which MPN applies to current injuries.

Subdivision (h) is a restatement of former subsection (c)(1) which is necessary to clarify the potential applicability of the other MPN regulatory filing requirements that may be triggered by a change of MPN. The amendment to the former subsection (c)(1) is necessary to ensure the MPN implementation period is correctly stated and reflects the change from a 30-day implementation notice period to a 14-day notice period.

Section Amended: Section 9880 Written Notice to New Employees

Section 9880 describes the information required for the notices given to new employees about their entitlement to workers' compensation benefits.

Specific Purpose of Amendments to Section 9880:

The purpose of the amendment to subdivision (c)(7) is to ensure that the written notice to new employees includes information on the right to predesignate a personal physician or medical group.

The purpose of the amendment to subdivision (c)(9) is to eliminate vocational rehabilitation from the list of workers' compensation benefits.

The purpose of the amendment to subdivision (c)(14) is to inform employees about the existence and use of MPNs.

Necessity:

These amendments are necessary to update the information to be given to employees to reflect current law. In 2006, AB 2068, (stats. 2006, ch. 819) revised Labor Code section 4600 to allow predesignation of a medical group. In 2004, SB 899 (Stats. 2004, ch. 34) amended Labor Code section 139.5 to eliminate vocational rehabilitation benefits for injuries occurring on or after January 1, 2004. In addition, SB 899 repealed Labor Code section 139.5 effective January 1, 2009. SB 899 also created Labor Code section 4616 to establish Medical Provider Networks. As more and more employers are using MPNs, it is necessary to include information about MPNs so employees know they may be required to use a MPN.

Section Amended: Section 9881 - Posting of Notice to Employees

Section 9881 specifies the workers' compensation information required to be posted for employees.

Specific Purpose of Amendments to Section 9881:

The purpose of the amendment to subdivision (c)(3) is to delete the unnecessary telephone number for a physician.

The purpose of the amendment to subdivision (c)(7) is to require the workers' compensation poster to include information on the right to predesignate a personal physician or medical group.

The purpose of the amendment to subdivision (c)(8) is to to eliminate vocational rehabilitation from the list of workers' compensation benefits.

The purpose of the amendment to subdivision (c)(13) is to inform employees about the existence and use of MPNs.

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The purpose of the amendment to the second subdivision (c) is to fix the duplicative use of the lettering of subdivision (c) to correctly state subdivision (d).

Necessity:

The requirement for a telephone number for a physician is deleted to make the section more concise, as the other numbers provided are sufficient to obtain emergency access to a physician. These amendments are necessary to update the information to be given to employees to reflect current law. In 2006, AB 2068, (stats. 2006, ch. 819) revised Labor Code section 4600 to allow predesignation of a medical group. In 2004, SB 899 (Stats. 2004, ch. 34) amended Labor Code section 139.5 to eliminate vocational rehabilitation benefits for injuries occurring on or after January 1, 2004. In addition, SB 899 repealed Labor Code section 139.5 effective January 1, 2009. SB 899 also created Labor Code section 4616 to establish Medical Provider Networks. As more and more employers are using MPNs, it is necessary to include information about MPNs so employees know they may be required to use a MPN. Also, these amendments are necessary to ensure consistency of information provided to new and existing employees about workers' compensation benefits.

Section Amended: Section 9881.1 - Notice to Employees Poster

Section 9881.1 is the DWC workers' compensation poster containing the information required to be posted for employees as set forth in Section 9881.

Specific Purpose of Amendments to Section 9881.1:

The purpose of the amendment to the first bullet point titled, "Medical Care" is to inform employees that limitations may apply to medical services for work injuries, irrespective of date of injury.

The purpose of the amendment to the second bullet point titled, "Temporary Disability (TD) Benefits" clarifies the current limits for temporary disability payments.

The purpose of the amendment to the fourth bullet point titled, "Vocational Rehabilitation" is to reflect that vocational rehabilitation is no longer available as a benefit.

The purpose of the amendment to the fifth bullet point titled "Supplemental Job Displacement Benefit" is to clarify the requirements for the benefit.

The purpose of the amendment to the section titled "Naming your Own Physician Before Injury" is to clarify the current requirements for predesignation.

The purpose of the amendment to the section titled, "If You Get Hurt: 1. Get Medical Care" is to condense and eliminate the unnecessary requirements for individual phone numbers for an ambulance, fire department, police, physician and hospital, as emergency care can be obtained through calling 911.

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The purpose of the amendment to the section titled, “Report Your Injury” is to condense the section by eliminating the requirement to include an employee representative’s name and phone number on the poster. The other revisions to this section were made for stylistic consistency and to be more concise.

The purpose of the amendment to the section titled, “See Your Primary Treating Physician (PTP)” is to clarify the current predesignation requirements and to alert employees that they should receive notice from their employer if they are covered under an HCO or a MPN, as different treatment rules may apply to them. The date reference is deleted to reflect that many employers now have MPNs, which can cover all dates of injury.

The purpose of adding the section titled, “Medical Provider Networks,” is to give employees basic information about MPNs.

The purpose of the amendment to section titled, “Discrimination” is to be consistent with the style of the rest of the poster.

The purpose of the amendments to the section titled, “Questions?” is to condense the section and eliminate extraneous details. Also, the purpose of the addition of the website information was to provide updated and easier access to more information about DWC and DLSE.

The purpose of the amendments to the Spanish version of the posting is to conform the Spanish version to reflect the revisions in the English version and to more accurately reflect the wording of the English posting.

Necessity:

These amendments are necessary to update the information to be given to employees to reflect current law. In 2006, AB 2068, (stats. 2006, ch. 819) revised Labor Code section 4600 to allow predesignation of a medical group. In 2004, SB 899 (Stats. 2004, ch. 34) amended Labor Code section 139.5 to eliminate vocational rehabilitation benefits for injuries occurring on or after January 1, 2004. In addition, SB 899 repealed Labor Code section 139.5 effective January 1, 2009. SB 899 also created Labor Code section 4616 to establish Medical Provider Networks. As more and more employers are using MPNs, it is necessary to include information about MPNs so employees know they may be required to use a MPN. Several sections were condensed to create space for MPN information to be added to the poster and to delete less critical information. Also, these amendments are necessary to ensure consistency and accuracy of information provided to employees about workers’ compensation benefits in English and Spanish. Finally, minor typographical changes were made for stylistic consistency.

Section Amended: Section 10139 - Workers’ Compensation Claim Form (DWC 1) and Notice of Potential Eligibility

Section 10139 sets forth the Workers’ Compensation Claim Form (DWC 1) and Notice of

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Potential Eligibility (NOPE). The NOPE contains information about workers' compensation benefits and the instructions for filling out the claim form when an employee is injured and wishes to file a workers' compensation claim.

Specific Purpose of Amendments to Section 10139:

The purpose of the amendments is to revise the NOPE language to provide updated information on workers' compensation benefits that are currently available.

The purpose of the amendments to the section titled, "Medical Care," is to inform employees that limitations may apply to medical services for work injuries, irrespective of date of injury.

The purpose of the amendments to the section titled, "Primary Treating Physician (PTP)," is to clarify the current predesignation requirements and to alert employees that they should receive notice from their employer if they are covered under an HCO or a MPN, as different treatment rules may apply to them. A statement defining what is a MPN is included and the date reference is deleted to reflect that many employers now have MPNs, which can cover all dates of injury. The amendments to the second paragraph in the section were done to make the section more succinct and consistent in style with the rest of the notice.

The purpose of the amendment to the section titled, "Disclosure of Medical Records," is for clarification of the amount of privacy an employee can expect.

The purpose of the amendments to the section titled, "Payment for Temporary Disability ("Lost Wages")," is to clarify the current limits for temporary disability payments.

The purpose of the deletion of the section titled, "Vocational Rehabilitation," is to reflect that vocational rehabilitation is no longer available as a benefit.

The purpose of the amendment to the section titled, "Supplemental Job Displacement Benefit (SJDB)," is to clarify the requirements for the benefit.

The purpose of the amendment to the section titled, "It is illegal for your employer," is to include access to more information about DWC or workers' compensation.

The purpose of the amendments to the Spanish version of the notice is to conform the Spanish version to reflect the revisions in the English version and to more accurately reflect the wording of the English notice.

Necessity:

These amendments are necessary to update the information to be given to employees to reflect current law. In 2006, AB 2068, (stats. 2006, ch. 819) revised Labor Code section 4600 to allow predesignation of a medical group. In 2004, SB 899 (Stats. 2004, ch. 34) amended Labor Code section 139.5 to eliminate vocational rehabilitation benefits for injuries occurring on or after

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January 1, 2004. In addition, SB 899 repealed Labor Code section 139.5 effective January 1, 2009. SB 899 also created Labor Code section 4616 to establish Medical Provider Networks. As more and more employers are using MPNs, it is necessary to include information about MPNs so employees know they may be required to use a MPN. It is necessary to include DWC's website as a commonly used and available method to obtain more workers' compensation information. Also, these amendments are necessary to ensure consistency and accuracy of information provided to employees about workers' compensation benefits in English and Spanish. Finally, minor typographical changes were made for stylistic consistency.

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS RELIED UPON:

None. The Division did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the regulations.

SPECIFIC TECHNOLOGIES OR EQUIPMENT:

The proposed regulations do not mandate the use of specific technologies or equipment.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATION AND REASONS FOR REJECTING THOSE ALTERNATIVES

The Administrative Director has not identified any effective alternative, or any equally effective and less burdensome alternative to the regulation at this time. The public is invited to submit such alternatives during the public comment process.

FACTS UPON WHICH THE AGENCY RELIES FOR ITS INITIAL DETERMINATION THAT THE REGULATIONS WILL NOT HAVE A SIGNIFICANT ADVERSE IMPACT ON BUSINESS

The Administrative Director has determined that the proposed regulations will not have a significant adverse impact on business because the proposed regulatory changes seek to reduce the costs of providing notices to employees and do not impose a significant additional burden on employer or insurers.

The Administrative Director invites the public during the public comment period for this rulemaking to submit information on any possible adverse impacts on business, and to propose alternatives that would lessen any adverse impact on business.

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