

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.3(d)(8)(E)	<p>Commenter strongly recommends against the division deleting the requirement to indicate if a physician is not currently taking new workers' compensation patients in the MPN's internet website posting of its roster of all treating physicians.</p> <p>Commenter has experienced numerous instances of patients who have been unable to make appointments with multiple providers listed in their employer's MPN. Commenter states that the results are delayed care, increased opportunities for patient to develop chronic conditions, prolonged attainment of maximal medical improvement, and ultimately delayed return to usual and customary duties.</p> <p>Commenter understands that the current regulations include a requirement for each MPN to employ "navigators" to assist patients to arrange appointments with MPN providers; however, he has yet to experience anyone that is helpful and he notes that there doesn't seem to be any meaningful penalties for carriers who do not comply with this requirement.</p>	<p>AJ Benham, DNP Warbritton Orthopedics May 2, 2014 Written Comment</p>	<p>Reject: A physician's availability or willingness to take new patients constantly changes. To ensure this data is correct would require "real-time" updates and status checks by the MPN. Since much of this information will depend on a physician's cooperation in quickly responding, it is an overly burdensome, impractical requirement that would lead to frustrations and increased litigation because of the likelihood of inaccurate data postings.</p> <p>Reject: MPNs are subject to potentially significant penalties if the MPN medical access assistant fails to comply (see §9767.19(a)(2)(C), (D) and (E).</p>	<p>None.</p> <p>None.</p>

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9767.3(d)(8)(E)	<p>Commenter objects to the deletion of the requirement to indicate if a physician is not currently taking new workers' compensation patients in the MPN's internet website posting of its roster of all treating physicians.</p> <p>Commenter opines that the DWC continues to put on the back of the injured worker the exhausting task of calling the doctors listed on the MPN to determine if they are currently taking WC patients. As an attorney for injured workers, commenter has found in all MPNs there are doctors listed that are not willing and able to take my clients as patients. To enable prompt medical attention for the injured worker, commenter opines that the burden should be on the insurance company to make sure their MPN only lists medical providers that are willing to take new WC patients, and to delete those who are not.</p>	<p>Kathryn Randmaa, Esq. Law Offices of Randmaa & Buie May 2, 2014 Written Comment</p>	<p>Reject: See previous response.</p> <p>Reject: The burden is on MPNs to ensure the MPN lists are accurate. Finding the balance between the demands for "real-time" updates and the practical realities of an ever-changing provider list is the challenge of these regulations.</p>	<p>None.</p> <p>None</p>
9767.1(a)(12)	<p>Commenter continues to be concerned that the definition of a Health Care Shortage creates a conflict with the exclusive right of the MPN to have a choice of who to include in its MPN, and recommends that the first sentence be modified as follows:</p>	<p>Greg Moore, President Harbor Health Systems One Call Care Management May 5, 2014</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.1(a)(12) since the Second 15-day comment period.</p>	<p>None.</p>

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	<p>“Health care shortage” means a situation in a geographical area in which the number of physicians in a particular specialty who are available and willing to treat injured workers under the California workers’ compensation system is insufficient <u>to allow the Applicant a choice of providers</u> to meet the Medical Provider Network access standards set forth in 9767.5(a) through (c) to ensure medical treatment is available and accessible at reasonable times. A lack of physicians participating in an MPN does not constitute a health care shortage where a sufficient number of physicians in that specialty are available within the access standards and willing to treat injured workers under the California workers’ compensation system.</p> <p>Commenter opines that this is important, because the definition impacts the MPN’s rights to create an alternative access standard under section 9767.5 (b). It is conceivable that in certain areas, there may be only three providers available. If any of these providers do not meet his</p>	Written Comment	<p>Reject: In the hypothetical posed by commenter, if the MPN can show DWC that a prospective provider is sub-standard, then the prospective provider will not be counted against when determining alternative access standards.</p>	None.

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	organization’s credentialing or quality assurance processes, the language as written would put him in a situation where his organization would be forced to allow sub-standard providers into their MPN listing. By making the definition slightly broader, commenter opines that it eliminates the presumption that an MPN is in violation just based on its unwillingness to include certain providers.			
9767.5.1	Commenter notes that this requirement would go into effect consistent with the “effective date of the regulation.” Commenter opines that networks that are used in multiple MPNs will need sufficient time to comply with the final language of this section. Commenter recommends adding three months to the effective date before renewals and new contracts are required to include the acknowledgement.	Greg Moore, President Harbor Health Systems One Call Care Management May 5, 2014 Written Comment	Reject: Commenter’s recommended language will not be adopted. Labor Code §4616(a)(3) states “commencing January 1, 2014” physician acknowledgments must be obtained by MPNs. These regulations merely provide guidance to a requirement that is already in effect and already provides a sufficient period of time for all contracts entered into before these regulations are in effect.	None.
General comment	Commenter states that a large number of physicians that are listed in the MPN currently do not take work comp.	Yvonne Lopez May 5, 2014 Written Comment	Reject: SB863 changes and these proposed regulations attempt to remedy this problem. See penalties and	None.

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	<p>Commenter states that a particular MPN does not have the necessary providers within 30 mile according to the rule. There is no complaint department when the MPN does not comply with the regulations.</p> <p>Commenter states that if an MPN is Kaiser based there is a 6-8 delay in obtaining appointments.</p> <p>Commenter states that physicians are not notified by MPN/Insurance as to why they are terminated.</p>		<p>enforcement sections.</p> <p>Reject: A complaint can be filed pursuant to Labor Code §4616(b)(5) and §9767.16 of these regulations.</p> <p>Reject: See above response.</p> <p>Reject: Goes beyond the scope of these regulations because this is a contractual issue between an MPN and its providers.</p>	<p>None.</p> <p>None.</p> <p>None.</p>
9767.1(a)(12)	<p>Commenter notes that in her May 23, 2013 comments, she stated that the Division’s definition of “health care shortage”, which included any geographical area, was too broad and should be limited to those in truly underserved areas. Commenter opines that the proposed regulations still do not adequately address this concern. Additionally, commenter is concerned that the department has limited the definition of health care shortage to those network access standards set forth in only Section 9767.5(a) through (c). Commenter opines that</p>	<p>Lishaun Francis Associate Director California Medical Association May 15, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.1(a)(12) since the Second 15-day comment period.</p>	<p>None.</p>

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	<p>the original proposed regulations were more appropriate as it included Section 9767.5(f) or (g).</p> <p>Commenter recommends replacing the definition for “health care shortage“ with:</p> <p>“...a situation in a Health Care Professional Shortage Area, as defined by the federal government, in which there are insufficient providers to meet the Medical Provider Network access standards set forth in 9767.5(a) through (c) and provide timely medical assistance within the requisite time frames set forth in this article/section 9767.5(f) or (g).”</p> <p>Commenter opines that this amendment would limit the definition to areas designated as a Health Care Professional Shortage Area as well a “rural” or “frontier” county as defined by federal guidance and would limit the applicability of the definition to truly underserved areas, where it is most appropriate.</p> <p>Commenter also has concerns that the proposed regulations would allow</p>			

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	<p>MPNs to meet access standards by including physicians outside of the MPN. Commenter opines that expanding the definition of access to include physicians outside the MPN, while deleting the time frames initially required for a treatment request to be fulfilled by an MPN will lower the access standards for MPNs and impede timely access to care.</p>			
9767.3(d)(8)(E)	<p>Commenter has concerns about the proposed amendment to Section 9767.3 (E) to eliminate the requirement for MPNs to specify if a physician is currently taking new workers' compensation patients. In addition, the regulations state that if an MPN must get a physician outside of the network, they must indicate it on the MPN roster.</p> <p>Commenter is opposed to this amendment because it removes the requirement that MPNs clearly identify the physicians that are part of the MPN and results in the removal of necessary safeguards that were previously in place to ensure that MPNs have adequate networks to serve workers' compensation patients. Commenter opines that the department</p>	<p>Lishaun Francis Associate Director California Medical Association May 15, 2014 Written Comment</p>	<p>Reject: A physician's availability or willingness to take new patients constantly changes. To ensure this data is correct would require "real-time" updates and status checks by the MPN. Since much of this information will depend on a physician's cooperation in quickly responding, it is an overly burdensome, impractical requirement that would lead to frustrations and increased litigation because of the likelihood of inaccurate data postings. Commenter's statement, "if an MPN must get a physician outside of the network, they must indicate it on the MPN roster" is</p>	None.

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	<p>should be invested in ensuring access standards are not only met, but clearly noted on MPN rosters so there is no confusion as to which MPNs are meeting established standards. Commenter recommends reinstating the deleted provision.</p>		<p>incorrect. The “by referral only” requirement pertains to MPN physicians who are secondary treating physicians. This is a practical solution to existing realities. Many secondary treating physicians are willing to treat injured workers but will not make an appointment from a “cold call” from a prospective patient. Oftentimes, the secondary treating physician will first need to talk to the referring PTP or do a preliminary review of the prospective patient’s medical records.</p>	
9767.5.1(b)	<p>Commenter notes that this subsection eliminates the requirement for a separate acknowledgement to be provided when the acknowledgement is within a larger agreement or contract. Commenter strongly opposes this elimination because we believe it is in direct conflict of SB 863 which states:</p> <p>“This bill...would require that a treating physician be included in the network only if the physician or</p>	<p>Lishaun Francis Associate Director California Medical Association May 15, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.5.1(b) since the Second 15-day comment period.</p>	<p>None.</p>

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	<p>authorized employee of the physician gives a separate written acknowledgment that the physician is a member of the network....”</p> <p>Commenter opines that the requirement for separate written acknowledgment was instituted to affirm the willing participation of physicians within a specified MPN. By eliminating this provision, commenter states that physicians may mistakenly or without prior knowledge, be incorporated into a Medical Provider Network putting the physician at potential financial risk and the patient at risk of delayed treatment. Commenter encourages the department to revise the language and reinstate the original proposed regulations to be consistent with the legislative intent of SB 863.</p>			
9767.1(a)(15)	<p>Commenter notes that “Medical Provider Network Identification Number” added reference to a unique MPN Identification number that will be assigned by the DWC to a Medical Provider Network at the time of approval or “within ninety 90 days of the effective date of these regulations.” Since all existing MPNs</p>	<p>Anne Searcy, MD Sr. Vice President & Chief Medical Officer Zenith Insurance Company May 15, 2014 Written Comment</p>	<p>Reject: Although the regulations state “or within (90) days of the effective date of these regulations”, DWC has a plan in place that will assign the MPN Identification Number immediately to existing MPNs after the regulations are in effect.</p>	<p>None.</p>

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	<p>have been approved, commenter assumes the existing MPN approval number will be replaced by a “unique MPN identification number” within 90 days of the effective date of the regulations for all existing MPNs. Under Section 9767.2(f) the number must be included on the complete employee notification, transfer of care notice, continuity of care notice, MPN IMR Notice and end of MPN coverage notice. Commenter states that this creates timing and administrative issues for MPNs and employers. Once the new regulations take effect, employers will be expecting new materials to bring them into compliance with all requirements. Commenter states that under Section 9767.12(a)(2)(A) the employee notification will have to include not only the MPN Identification number, but also information on how to contact an MPN Medical Access Assistant. Commenter opines that it is not viable for the MPN and employer to issue new notices with the MPN Medical Access Assistant information and other changes and then have to release new materials 90 days later to add the MPN number to the materials.</p>			

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	<p>Commenter states that this is both potentially costly since a mailing can quickly reach into the \$10 – 20,000 range depending on who has to receive the notices and burdensome since employers could be required to reissue notices within a relatively short period of time.</p> <p>In order to address these concerns, commenter recommends that one of the following approaches be used:</p> <ul style="list-style-type: none"> • that the requirement that the MPN Identification Number be included on notices be removed; or • that Section 9767.1(a)(15) be modified to require the DWC to issue the MPN Identification number within 15 days of the date the regulations take effect; or • that the DWC issue the regulations with a later effective date for Section 9767.12 which sets forth the Employee Notice requirements. Section 9767.12 could be set to not take effect for 120 days from the date the 			

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	<p>remainder of the regulations takes effect. This would allow the DWC 90 days to issue the MPN identification number, allow MPNs 30 days to develop and release new notice materials, and eliminate unnecessary expense and burden related to sending notices to injured workers on multiple occasions.</p>			
9767.3(d)(8)(E)	<p>Commenter states that the term “secondary treating physician” does not appear in the pertinent definition section of the regulations. Section 9767.1 refers to and defines a “primary treating physician” and a “treating physician”. The term “secondary physician” is used and defined under regulation Section 9785. Commenter opines that the mixed use of terminology will lead to confusion and unnecessary litigation. The terms “secondary physician” and “treating physician” are both defined as physicians “other than the primary treating physician who examines or provides treatment to the employee, but is not primarily responsible for continuing management of the care of the employee. “ Commenter states that</p>	<p>Anne Searcy, MD Sr. Vice President & Chief Medical Officer Zenith Insurance Company May 15, 2014 Written Comment</p>	<p>Reject: Unnecessary because the term is regularly used in workers’ compensation parlance and is defined in §9785.</p>	<p>None.</p>

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	<p>any type of physician can at one time serve as the primary treating physician and on another date service as a treating physician. Commenter opines that it remains unclear what a “secondary treating physician” is or how an MPN would be able to list providers who can be accessed only by referral. Commenter recommends that if this term is used, a clear definition must be added to distinguish how a “secondary treating physician” is different from a “treating physician”, “secondary physician” and “primary treating physician”.</p> <p>Commenter opines that this section also creates a nearly impossible burden on MPNs to determine who to list as a “secondary treating physician” since as noted above physicians interchangeably act as a primary treating physician and treating physician.</p> <p>Commenter opines that based on the definition of Section 9767.1(a)(22) and Section 9785(a)(1), primary treating physicians’ responsibilities appear to be analogous to an HMO PCP. If it is the intent that all primary</p>		<p>Reject: If a physician acts as both a PTP and a secondary treating physician, then the designation “by referral only” should be noted in the MPN roster of treating physicians if this physician requires a referral when acting as a secondary treating physician.</p>	<p>None.</p>

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	<p>treating physicians are responsible for initiating referrals to other healthcare providers, as they would be in an HMO model, then by default all other healthcare providers would be identified as “referral” only. If the intent of this section is to adopt a model that allows the MPN to require that certain types of specialists be accessed only if the primary treating physician refers the injured worker to the specialist, that needs to be clarified and parameters established.</p> <p>Commenter supports such an approach but notes that the issue would remain that specialists can serve as either a primary treating physician or a treating physician as defined by the regulations. Commenter notes that stating in a roster listing that the physician is available by referral only is not accurate since the injured worker could select the physician as their primary treating physician depending on the nature of the injury.</p> <p>For the reasons stated, commenter opines that at this time the intent of this section remains unclear and creates the potential for unnecessary disputes and litigation. Commenter</p>			

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	recommends that this requirement be removed from the regulations.			
General Comment	Commenter opines that this revision is a great improvement to the previously proposed versions.	Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment	Accept.	None.
9767.19	<p>Commenter opines that the proposed penalty section is a major concern for their organizations as they are overly aggressive and will likely discourage employers from offering MPNs for existing and future networks.</p> <p>Commenter recognizes that - as with every group - there are a small number of bad actors and the penalty scheme must be designed to appropriately deter noncompliance with the regulations. Commenter opines that the proposed penalties are overly broad and punitive and will hinder efficient claims administration amongst administrators attempting to comply with the full scope of the regulations.</p>	Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment	Reject: Labor Code §4616(b)(5) sets the maximum penalty at \$5,000 per violation, not per day. The penalty regulations follow the statutory language of establishing a schedule of administrative penalties not to exceed five thousand dollars (\$5,000) per violation.	None.
9767.5(a)(1)	Commenter opines that the 15 miles/30 minute from the center of a zip code requirement is not reasonable in many rural areas. For example, the center zip code for San Bernardino	Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014	Reject: Goes beyond the scope of this comment period because no changes were made to §9767.5(a)(1) since the Second 15-day comment	None

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	<p>and Riverside is Death Valley where there are few, if any providers. Most employees reside and treat on the western edge of this zip code, not the center. Commenter opines that, consistent with the statute, the regulations should be amended to increase the distance requirement to 30 miles from the employer's location. Commenter states that this amendment will also mitigate instances for immediate care for employees who work in the field, multiple work sites, etc.</p>	<p>Written Comment</p>	<p>period.</p>	
<p>9767.5(h)</p>	<p>Commenter opines that additional requirements placed on claims administrators in their role as MAAs creates additional burdens on the claims handling process. The requirements include logging all calls, setting and confirming medical appointments, responding to voicemails, faxes and messages and having bi-lingual staff availability. Commenter requests that the DWC consider these additional burdens when conducting audits and not unnecessarily penalize de minimis errors or omissions. Commenter requests that the DWC provide information and statutory reference</p>	<p>Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.5(h) since the Second 15-day comment period.</p>	<p>None.</p>

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	regarding the timing and mechanics of MPN audits.			
General Comment	Commenter recommends that the term “specialty” be replaced with the term “type” in order to avoid confusion and maintain consistency with the medical community’s terminology.	Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment	Reject: Disagree with commenter’s that the term “specialty” be replaced by the term “type” to categorize the physicians in an MPN listing. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s specialty or recognized expertise in treating the particular injury or condition in question.”	None.
9767.2(c)	Commenter opines that this language in this subsection is somewhat ambiguous as there is no actual MPN plan application. Commenter recommends that this section be deleted.	Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment	Reject: Goes beyond the scope of this comment period because no changes were made to §9767.2(c) since the Second 15-day comment period.	None.
9767.3(c)(3)	Commenter states that the term “certified” should be replaced with “qualified” as required by statute.	Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment	Reject: Goes beyond the scope of this comment period because no changes were made to §9767.3(c)(3) since the Second 15-day comment period.	None.
9767.3(d)(8)(E)	Commenter strongly supports the deletion of the requirement to both update physician rosters and document	Jeremy Merz Policy Advocate California Chamber	Agree.	None.

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	<p>whether the physician is taking on new workers' compensation patients. Commenter opines that these requirements would have created unnecessary litigation and administrative costs while having no impact on an injured worker's access to care.</p> <p>Commenter is concerned about referrals to secondary treating physician services as their schedules are in constant flux. Commenter states that the referral process is fluid and the newly required MAA is ideal to assist with scheduling appointments.</p> <p>Commenter recommends that the PR2 requirement be deleted.</p>	<p>of Commerce May 19, 2014 Written Comment</p>	<p>Reject: The requirement to indicate if a secondary treating physician can only be seen "by referral only" will remain because it is important information that is not overly burdensome to maintain by the MPN.</p>	<p>None.</p>
9767.3(d)(8)(H)	<p>Commenter notes that this section lists six files of information that all geocoding results must include. Commenter opines that requiring employers to provide narratives/reports associated with files two, three and four is inconsistent with statute. Commenter recommends that the file requirements be removed from this section.</p>	<p>Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment</p>	<p>Reject: Labor Code §4616(b)(3) requires MPNs submit geocoding "to establish that the number and geographic location of physicians in the network meets the required access standards." Deleting files two, three and four abrogates the statutory mandate.</p>	<p>None.</p>
9767.4	<p>Commenter recommends that this section be deleted.</p>	<p>Jeremy Merz Policy Advocate</p>	<p>Reject: §9767.4 is the sample Cover Page for Medical</p>	<p>None.</p>

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		California Chamber of Commerce May 19, 2014 Written Comment	Provider Network Application or Plan for Reapproval and will not be deleted because it can be electronically copied and transmitted.	
9767.5(h)(2)	Commenter opines that forcing a claims administrator to log all MAA contacts is overly burdensome and not practical in the claims environment. Commenter states that there are times when a claims examiner will act as a MAA and would require a separate diary category which not all claim systems may be able to accommodate. Calls that are directed to the MAA can be tracked more efficiently. Commenter recommends deletion of the claims administrator's logging requirements.	Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment	Reject: Goes beyond the scope of this comment period because no changes were made to §9767.5(h)(2) since the Second 15-day comment period.	None.
9767.5.1	Commenter strongly supports the revised language.	Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment	Agree.	None.
9767.6(e) and 9767.8(a)	Commenter strongly supports the revised language.	Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment	Agree.	None.

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9767.8	Commenter notes that this section requires submission of two copies of the MPN Plan Modification to the DWC. Commenter states that this two copy requirement should be consistent for all copies of policies and attachments listed in this section.	Jeremy Merz Policy Advocate California Chamber of Commerce May 19, 2014 Written Comment	Reject: It is consistent. The instructions state “two copies of the completed, signed Notice of MPN Plan Modification and any necessary documentation”.	None.
9767.3(c)(2)	<p>Commenter recommends the following revised language:</p> <p>(c)(2) The network provider information shall be submitted in a compact disc(s), or a flash drive(s), and the provider file shall have only the following eight <u>seven</u> columns. These columns shall be in the following order: (1) physician name (2) specialty type (3) physical address (4) city (5) state (6) zip code <u>and</u> (7) any MPN medical group affiliations and (8) an assigned provider code for each physician listed. If a physician falls under more than one provider code, the physician shall be listed separately for each applicable provider code. The following are the provider codes to be used: primary treating physician (PTP), orthopedic medicine (ORTHO), chiropractic medicine (DC), occupational medicine (OCCM), acupuncture medicine</p>	<p>Peggy Thill Claims Operations Manager</p> <p>Rick J. Martinez Medical Networks Manager State Compensation Insurance Fund May 19, 2014 Written Comment</p>	<p>Reject: Commenter’s recommended deletions will not be adopted and the requirement to have eight columns will remain. DWC disagrees with commenter’s definition of “type” of physician. Labor Code §4616.3(d)(1) states, “Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s specialty or recognized expertise in treating the particular injury or condition in question.” DWC’s interpretation of the word “type” is synonymous with “specialty”. Therefore, the “types” of physicians listed</p>	<p>None.</p> <p>None.</p>

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	<p>(LAC), psychology (PSYCH), pain specialty medicine (PM), psychiatry (PSY), neurosurgery (NSG), family medicine (GP), neurology (NEURO), internal medicine (IM), physical medicine and rehabilitation (PMR), or podiatry (DPM). If the specialty does not fall under any one of the previously listed categories, then the specialty shall be clearly identified in the specialty column and the code used shall be (MISC). By submission of its provider listing, the applicant is affirming that all of the physicians listed have been informed that the Medical Treatment Utilization Schedule (“MTUS”) is presumptively correct on the issue of the extent and scope of medical treatment and diagnostic services and have a valid and current license number to practice in the State of California.</p> <p>Commenter notes that Labor Code §4616 requires that the MPN have an adequate number and type of physicians and other providers. Physician is defined by statute as: M.D. or D.O. degree holders, psychologists, acupuncturists, optometrists, dentists, podiatrists, and</p>		<p>in 3209.3 are listed by their specialties.</p> <p>Reject: A minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physicians in the MPN.</p>	

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	<p>chiropractic practitioners. Other providers are defined by statute as physical therapists, chiropractic practitioners, and acupuncturists.</p> <p>Labor Code §4616(a)(1) provides in relevant part:</p> <p>The provider network shall include an adequate number and type of physicians, as described in Section 3209.3, or other providers, as described in Section 3209.5, to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged, and the geographic area where the employees are employed.</p> <p>Labor Code §3209.3(a) provides:</p> <p>"Physician" includes physicians and surgeons holding an M.D. or D.O. degree, psychologists, acupuncturists, optometrists, dentists, podiatrists, and chiropractic practitioners licensed by California state law and within the scope of their practice as defined by California state law.</p>			

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	<p>Labor Code §3209.5 provides in relevant part:</p> <p>Medical, surgical, and hospital treatment. . . includes but is not limited to services and supplies by physical therapists, chiropractic practitioners, and acupuncturists, as licensed by California state law and within the scope of their practice as defined by law.</p> <p>Commenter states that the Labor Code does not require an MPN meet specialist standards. It merely requires sufficient M.D.s, D.O.s, Chiropractors and others to treat injured workers. Commenter opines that the legislature clearly intended for MPN’s to determine the types of physicians needed for their specific injured employee population and gave them exclusive right to determine the makeup of their network.</p> <p>Commenter states that requiring column (8) for assigned provider code for each physician listed, section 9767.3(c)(2) exceeds the authority granted by Labor Code §4616(a)(1). Commenter states that amending column (2) to “type” of physician is</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.3(c)(3)	<p>consistent with the Labor Code.</p> <p>Commenter recommends the following revised language:</p> <p>If interpreter services are included as an MPN ancillary service, the interpreters listed must be certified <u>qualified</u> pursuant to section 9795.1.6 (a)(2)(A) and (B).”</p> <p>Commenter notes that Labor Code §§ 4600(f) and 4600(g) reference the use of qualified interpreter standards for medical treatment appointments, and since MPNs are used for the purpose of providing medical treatment, and opines that limiting interpreters within the MPN to “certified” is not consistent with these labor codes. Commenter states that section 9795.1.6(a) <i>qualifies</i> interpreters as either “certified” under paragraph (1), “certified for medical treatment appointments or medical legal exams” under paragraph (2), or “provisionally certified” under paragraph (3). In order to align with the Labor Code and section 9795.1.6, commenter recommends this change.</p>	<p>Peggy Thill Claims Operations Manager</p> <p>Rick J. Martinez Medical Networks Manager State Compensation Insurance Fund May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.3(c)(3) since the Second 15-day comment period.</p>	<p>None.</p>
9767.3(d)(8)(E)	<p>Commenter recommends deleting the last sentence of this subsection.</p>	<p>Peggy Thill Claims Operations</p>	<p>Reject: If a physician acts as both a PTP and a secondary</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter states that “secondary treating physicians” at times will also serve as primary treating physicians without a need for referral, and identifying them as only seeing patients by referral may limit their practice and actual availability. Commenter recommends removing the text limiting secondary treating physicians practice and availability.</p>	<p>Manager Rick J. Martinez Medical Networks Manager State Compensation Insurance Fund May 19, 2014 Written Comment</p>	<p>treating physician, then the designation “by referral only” should be noted in the MPN roster of treating physicians if this physician requires a referral when acting as a secondary treating physician.</p>	
9767.5(a)(1)	<p>Commenter recommends that the 15-mile/30-minute radius proposed access standards for primary treating physicians and emergency health care service providers or hospitals be extended to 30 miles and/or 60 minutes, in consideration of the needs of rural areas with regard to availability and accessibility of treaters.</p>	<p>Peggy Thill Claims Operations Manager Rick J. Martinez Medical Networks Manager State Compensation Insurance Fund May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.5(a)(1) since the Second 15-day comment period.</p>	None.
9767.5.1(e)(1)	<p>Commenter recommends adding text allowing a timeframe of 90 days for the MPN Applicant to obtain the acknowledgement from the physician or medical group.</p>	<p>Peggy Thill Claims Operations Manager Rick J. Martinez Medical Networks Manager State Compensation Insurance Fund</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.5.1(e)(1) since the Second 15-day comment period.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
		May 19, 2014 Written Comment		
9767.5.1(e)(2)	Commenter opines that the proposed language of this subsection contradicts the proposed text of section 9767.5.1(b)(2), which states that the listing included or referred to in the acknowledgement shall be updated within 90 days from physician additions or removals. Commenter recommends amending this subsection to align with the proposed text of section 9767.5.1(b)(2).	Peggy Thill Claims Operations Manager Rick J. Martinez Medical Networks Manager State Compensation Insurance Fund May 19, 2014 Written Comment	Reject: Goes beyond the scope of this comment period because no changes were made to §9767.5.1(e)(2) since the Second 15-day comment period.	None.
9767.19(a)	<p>Commenter recommends the following revised language:</p> <p>Penalties may be assessed against an MPN applicant for the following violations <u>occurring on or after [OAL to insert date six months after the effective date of regulations]</u>:</p> <p>Commenter recommends allowing a six-month period after the effective date of the regulations before penalties may be assessed. Commenter opines that MPN applicants should be afforded adequate time to implement necessary changes to achieve regulatory compliance and to modify their current processes and procedures.</p>	Peggy Thill Claims Operations Manager Rick J. Martinez Medical Networks Manager State Compensation Insurance Fund May 19, 2014 Written Comment	Reject: Goes beyond the scope of this comment period because no changes were made to §9767.19(a) since the Second 15-day comment period.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.19(b)(3)	<p>Commenter notes that this subdivision proposes assessing a penalty of \$1000 per occurrence for failure to provide an injured covered employee who is still treating under an MPN with a notice of the date they will no longer be able to use the MPN. Commenter opines that this is overly punitive and disproportionate. Commenter recommends that the penalty per occurrence be changed from \$1000 to \$250.</p>	<p>Peggy Thill Claims Operations Manager</p> <p>Rick J. Martinez Medical Networks Manager State Compensation Insurance Fund May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.19(b)(3) since the Second 15-day comment period.</p>	None.
9767.19(b)(5)	<p>Commenter recommends the following revised language:</p> <p>Failure to provide the Transfer of Care notice <u>notification letter</u> to an injured covered employee pursuant to section 9767.9, \$250 per occurrence up to \$10,000.</p> <p>Commenter notes that this subdivision proposes that a penalty be assessed for failure to provide the Transfer of Care notice to an injured covered employee. Commenter recommends that it be clarified that penalties will be imposed only when the employer or insurer has failed to provide the proper notices outlined in section 9767.9.</p>	<p>Peggy Thill Claims Operations Manager</p> <p>Rick J. Martinez Medical Networks Manager State Compensation Insurance Fund May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.19(b)(5) since the Second 15-day comment period.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter also recommends adding clarifying language to the term “notice”. Commenter states that it is unclear whether it signifies the Transfer of Care policy or letter.</p>			
9767.19(b)(6)	<p>Commenter recommends the following revised language:</p> <p>Failure to provide the Continuity of Care notice notification letter to an injured covered employee pursuant to section 9767.10, \$250 per occurrence up to \$10,000.</p> <p>Commenter notes that this subdivision proposes that a penalty be assessed for failure to provide the Continuity of Care notice to an injured covered employee. Commenter opines that it should be clarified that penalties will be imposed only when the employer or insurer has failed to provide the proper notices outlined in section 9767.10.</p> <p>Commenter also recommends adding clarifying language to the term “notice”. Commenter states that it is unclear whether it signifies the Continuity of Care policy or letter.</p>	<p>Peggy Thill Claims Operations Manager</p> <p>Rick J. Martinez Medical Networks Manager State Compensation Insurance Fund May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.19(b)(6) since the Second 15-day comment period.</p>	None.
9767.3(d)(8)(E)	<p>Commenter opposes the deletion of</p>	<p>Diane Worley</p>	<p>Reject: A physician’s</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>language in this section that would have required the MPN to affirm that the roster of all treating physicians in the MPN shall indicate if a physician is not taking new workers' compensation patients.</p> <p>Commenter states that by providing injured workers with a network of available treating physicians willing to treat work injuries in an efficient method to access necessary medical treatment , employers and insurers can provide that treatment in a more efficient and cost effective manner.</p> <p>Commenter opines that the burden to keep the medical provider roster current and affirm that all treating physicians included on the roster are taking new patients should be required of the MPN and that to eliminate this from the regulations renders the statutory changes of SB 863 meaningless. Commenter states that keeping the roster current will help facilitate getting an appointment only with those physicians who are available and willing to accept new workers' compensation patients.</p>	<p>California Applicants' Attorneys Association May 19, 2014 Written Comment</p>	<p>availability or willingness to take new patients constantly changes. To ensure this data is correct would require “real-time” updates and status checks by the MPN. Since much of this information will depend on a physician’s cooperation in quickly responding, it is an overly burdensome, impractical requirement that would lead to frustrations and increased litigation because of the likelihood of inaccurate data postings.</p> <p>Reject: The “by referral only” requirement pertains to MPN physicians who are secondary treating physicians. This is a practical solution to existing realities. Many secondary treating physicians are willing to treat injured workers but will not make an appointment from a “cold call” from a prospective patient. Oftentimes, the secondary treating physician will first need to talk to the referring</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter recognizes (as set forth in her comments in the second fifteen day comment period) that the deleted language in this section could have been amended to make sure that only those physicians who are accepting new patients should be included in the number of doctors counted for each medical specialty in the MPN she opines that a better approach may be to amend the language in this section, to state:</p> <p>"Affirm that the roster of all treating physicians in the MPN shall only include indicate if a physicians who are is not currently taking new workers' compensation patients, and if the physician's status changes, the roster be updated quarterly to indicate a physician is not currently taking new worker's compensation patients."</p> <p>Commenter opines that the addition of language "are counted when determining access standards" when</p>		<p>PTP or do a preliminary review of the prospective patient's medical records. The addition of the language "are counted when determining access standards" will remain because §9767.5 makes it clear that there must be three available physicians to meet access standards or the MPN must permit out-of-network treatment.</p>	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>referring to secondary treating physicians who can treat by referral only is extremely troublesome. Commenter states that there is no definition in the regulations as to what an "approved" referral is for a secondary treating physician. Commenter opines that this added language would allow a secondary treating physician to be "counted when determining access standards" even when medical care is denied when approval of the referral is not made.</p> <p>Commenter opines that unless reasonable access and choice to treating physicians is provided through the MPNS, the statute is rendered meaningless. Commenter continues to believe this regulation violates and exceeds statutory authority as it creates a new sub-category of MPN physician for "secondary" treating physicians, who can only be seen with an approved referral. Commenter states that this new definition violates the statutory mandate of Labor Code sections 4600 and 4616.3 allowing the employee to select any treating physician within the MPN after the initial visit. Labor</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Code section 4616.3(c) recognizes that an "employee may seek the opinion of another physician in the medical provider network" and the only limitations to this are in Labor Code section 4616.3(d)(1) with regard to "selection by the injured employee of a treating physician and any subsequent physician shall be based on the physician's specialty, or recognized expertise in treating the particular injury or condition" and (d) (2) for "treatment by a specialist who is not a member of the medical provider network"</p> <p>Commenter opposes this amended language. Commenter opines that it is a move in the wrong direction to further limit an injured worker's access to medical treatment within the MPN when the goal of the statutory changes in SB 863 was to improve access to medical care with MPN doctors. Commenter recommends that the following language be deleted in its' entirety, as it violates statutory authority:</p> <p>"and affirm that secondary treating physicians who can only be seen with an approved referral are</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	clearly designated "by referral only".			
9767.5(h)(2)	<p>Commenter acknowledges that no modification to §9767.5, subdivision (h)(2) has been made for this comment period; however, she suggests that the access standards for MPNS are so crucial to the operation of an effective medical treatment network for workers' compensation patients that our prior recommendations for revisions be reconsidered , and therefore, are repeated in their entirety.</p> <p>Commenter notes that SB 863 added Labor Code section 4616 (a) (5) , requiring that every MPN, commencing January 2014, provide one or more persons within the United States to help injured employees find an available physician of their choice, and to schedule appointments. A toll free number is to be provided with someone available at least from 7 am to 8 pm PST, Monday through Saturday, to respond to injured employees, and contact physician's offices, and schedule appointments.</p>	<p>Diane Worley California Applicants' Attorneys Association May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.5(h)(2) after the Second 15-day comment period.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter states that the purpose of the creation of the medical access assistant was to address the many delays and difficulties historically faced by injured workers in getting an appointment with an MPN doctor. Commenter opines that the legislative intent was to have a neutral dedicated individual responsible for helping injured workers get medical treatment and an initial appointment so these delays could be eliminated.</p> <p>Commenter states that by amending subdivision (h) (2) and adding language that "<i>Although their duties are different, if the same person performs both, the MPN medical access assistant's contacts must be separately and accurately logged.</i>" ,this regulation would allow the claims adjuster and the medical access assistant to be the same person, exactly as it was before the passage of SB 863. Commenter opines that this would completely abrogate the legislative intent of SB 863, and the delays and difficulties to be addressed by this statutory change would continue unabated.</p> <p>Commenter states that if a worker</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>cannot locate a willing provider in the MPN, both the worker and the employer are harmed. Delay in providing treatment can increase both the severity of the medical problem and the ultimate cost of the claim, and additionally delays return to work. The Legislature's solution was to introduce medical access assistants, a person independent of the claims adjuster. The statute gives these access assistants the responsibility to locate an available and willing physician of the worker's choice and to assist in scheduling an appointment with that physician.</p> <p>Commenter recommends that the sentence "<i>Although their duties are different, if the same person performs both, the MPN medical access assistant's contacts must be separately and accurately logged.</i>" be eliminated. Commenter recommends that language be added to make it clear that a medical access assistant and claims adjuster cannot be the same person, as follows:</p> <p>MPN medical access assistants have different duties than claims adjusters</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>and shall not be the same person.</u> MPN medical access assistants work in coordination with the MPN Contact and the claims adjuster(s) to ensure timely and appropriate medical treatment is provided to the injured worker. Although their duties are different, if the same person performs both, the MPN medical access assistant's contacts must be separately and accurately logged.</p> <p>Commenter states that in here comments submitted for the previous version of these regulations she recommended that after assisting the worker to make an appointment with an MPN physician, the access assistant should immediately contact the claim adjuster in order to facilitate delivery of written authorization for treatment to the selected MPN provider's office. Commenter notes that in the real world, getting an appointment with a physician for a work-related injury is not as simple as calling and scheduling the appointment. Physicians who treat injured workers will not provide treatment unless the employer, or the employer's insurer, has provided</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p><u>written authorization.</u></p> <p>Commenter opines that the benefit gained from the introduction of the medical access assistants will be severely limited if they merely assist in making an appointment and do not facilitate the delivery of written authorization for treatment. If medical access assistants are to successfully assist employees, commenter opines that the regulation must specifically state that one of the required duties of these assistants is to help facilitate delivery from the claim adjuster of written authorization for a scheduled office visit.</p>			
9767.5.1(e)(2) and 9767.5.1(e)(4)	<p>Commenter notes that these subsections address the physician acknowledgement requirement and how it applies to medical groups. Section 9767.5.1(e)(2) requires the MPN to obtain an acknowledgement at the time a new physician joins a medical group that has already contracted to participate in the MPN. Section 9767.5.1(e)(4) requires the MPN to obtain a physician acknowledgement no later than January 1, 2015 if, on or after January 1, 2014 but before the effective date of</p>	<p>Karen Greenrose President & CEO May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.5.1(e)(2) and §9767.5.1(e)(4) after the Second 15-day comment period.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>the regulations, a physician joins a medical group that has already contracted to participate in the MPN.</p> <p>Commenter opines that the requirements related to medical group acknowledgements in the second notice of modifications appear to conflict. For example, in Section 9767.5.1(b)(2), a medical group participating in an MPN is required to update the list of participating physicians within ninety (90) days of any additions to or removals from the list. This suggests that the MPN would not be required to obtain a separate physician acknowledgement for any new physicians that join the medical group.</p> <p>In an effort to simplify the MPN's obligation to obtain medical group acknowledgements the commenter recommends that the Department modify Sections 9767.5.1(e)(2) and (e)(4) to be consistent with 9767.5.1(b)(2). Commenter recommends that in the event a new physician joins a medical group, a separate physician acknowledgement would not be required. Rather, the</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	MPN would be entitled to rely upon the physician acknowledgment it originally obtained by the medical group, and physicians new to the group be incorporated into the existing group acknowledgement on file via the periodic update required by the officer or agent of the group in accordance with the update frequency established in Section 9767.5.1(b)(2).			
9767.1(a)(7)	<p>Commenter recommends the following revised language:</p> <p>“Entity that provides physician network services” means a legal entity employing or contracting with physicians and other medical providers or contracting with physician <u>and ancillary provider</u> networks, and may include but is not limited to third party administrators and managed care entities, to deliver medical treatment to injured workers on behalf of one or more insurers, self-insured employers, the Uninsured Employers Benefits Trust Fund, the California Insurance Guarantee Association, or the Self-Insurers Security Fund, and that meets the requirements of this article, Labor Code 4616 <i>et seq.</i>, and corresponding</p>	<p>Brenda Ramirez Claims and Medical Director California Workers’ Compensation Institute May 19, 2014 Written Comment</p>	<p>Reject: Unnecessary because an MPN that contains an ancillary service provider listing is voluntary. Certainly, an entity that provides physician network services may contain an ancillary service provider listing.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>regulations.</p> <p>Commenter opines that the addition of “or contracting with physician network” is helpful, but states that adding “and ancillary provider” is needed for clarity and to avoid disputes over whether entities that contract with ancillary providers are meant to be excluded from the definition.</p>			
9767.1(a)(15)	<p>Commenter recommends the following revised language:</p> <p>“Medical Provider Network Identification Number” means the unique number assigned by DWC to a Medical Provider Network upon approval or within ninety <u>fifteen</u> (90<u>15</u>) days of the effective date of these regulations and used to identify each approved Medical Provider Network.</p> <p>Commenter states that assigning a Medical Provider Network Identification Number to each existing MPN is necessary and helpful. Commenter recommends issuing these numbers as soon as possible, but within fifteen (15) days of the</p>	<p>Brenda Ramirez Claims and Medical Director California Workers’ Compensation Institute May 19, 2014 Written Comment</p>	<p>Reject: Although the regulations state “or within (90) days of the effective date of these regulations”, DWC has a plan in place that will assign the MPN Identification Number to existing MPNs immediately after the regulations are in effect.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	effective date of these regulations. The identification number is required on all MPN notifications and all correspondence with the DWC, including on the Notice of Medical Provider Network Plan Modification Form on which changes must be submitted within timeframes as short as fifteen (15) business days of a change or even before some changes occur.			
9767.3(c)	Commenter recommends removing the phrase “or the optional MPN Plan Application form” from this subsection. Commenter states that because there is no optional MPN Plan Application form, this phrase should be deleted.	Brenda Ramirez Claims and Medical Director California Workers’ Compensation Institute May 19, 2014 Written Comment	Reject: DWC has an optional MPN Plan Application form that will be revised once these regulations are in effect.	None.
9767.3(c)(2)	Commenter recommends the following revised language: The network provider information shall be submitted in a <i>compact</i> disc(s), or a flash drive(s), and the provider file shall have only the following eight <u>seven</u> columns. These columns shall be in the following order: (1) physician name (2) specialty <u>type</u> (3) physical address (4) city (5) state (6) zip code (7) <u>and any</u> MPN	Brenda Ramirez Claims and Medical Director California Workers’ Compensation Institute May 19, 2014 Written Comment	Reject: Commenter’s recommended deletions will not be adopted and the requirement to have eight columns will remain. DWC disagrees with commenter’s definition of “type” of physician. Labor Code §4616.3(d)(1) states,	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>medical group affiliations and (8) an assigned provider code for each physician listed. If a physician falls under more than one provider code, the physician shall be listed separately for each applicable provider code. The following are the provider codes to be used: primary treating physician (PTP), orthopedic medicine (ORTHO), chiropractic medicine (DC), occupational medicine (OCCM), acupuncture medicine (LAC), psychology (PSYCH), pain specialty medicine (PM), psychiatry (PSY), neurosurgery (NSG), family medicine (GP), neurology (NEURO), internal medicine (IM), physical medicine and rehabilitation (PMR), or podiatry (DPM). If the specialty does not fall under any one of the previously listed categories, then the specialty shall be clearly identified in the specialty column and the code used shall be (MISC). By submission of its provider listing, the applicant is affirming that all of the physicians listed have been informed that the Medical Treatment Utilization Schedule (“MTUS”) is presumptively correct on the issue of the extent and scope of medical treatment and</p>		<p>“Selection by the injured employee of a treating physician and any subsequent physicians shall be based on the physician’s specialty or recognized expertise in treating the particular injury or condition in question.” DWC’s interpretation of the word “type” is synonymous with “specialty”. Therefore, the “types” of physicians listed in 3209.3 are listed by their specialties.</p> <p>Reject: A minimum of three physicians in each specialty are needed to fulfill access standards because of Labor Code §4616.3 requirements that specifically describes an injured worker’s right to seek a second and third opinion from physicians in the MPN.</p>	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>diagnostic services and have a valid and current license number to practice in the State of California.</p> <p>Commenter opines that deleting the occupational therapy medicine (OT) “provider code” is helpful. Commenter states that none of the “provider codes” in the second sentence are necessary and recommends that they be removed. Commenter states that they are not “necessary to conform this section to the recent statutory changes to Labor Code section 4616 that amend the requirements for an MPN to be approved,” and do not “streamline the MPN application process to make the application process easier for applicants, and to improve consistency, clarity and efficiency of review” as stated in the initial statement of reasons. Commenter notes that the physician’s specialty is already called for in column (2). Commenter states that no reason for the codes has been provided, and none is evident. No definitions or descriptions are provided for the provider code names except for “occupational medicine,” which is</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	defined in section 9767.1(a)(21) as “the diagnosis or treatment of any injury or disease arising out of and in the course of employment,” which she opines is what every physician in the network provides.			
9767.3(d)(1)	<p>Commenter recommends the following revised language:</p> <p>For an entity providing physician network services, attach documentation of current legal status including, but not limited to, legal licenses or certificates and affirm that the entity employs or contracts with physicians and other medical providers or contracts with physician and ancillary provider networks.</p> <p>Commenter opines that the addition of “and ancillary provider” is necessary to be consistent with the modification to the definition of “entity that provides physician network services” in section 9767.1(a)(7).</p>	<p>Brenda Ramirez Claims and Medical Director California Workers’ Compensation Institute May 19, 2014 Written Comment</p>	<p>Reject: Unnecessary because an MPN that contains an ancillary service provider listing is voluntary. Certainly, an entity that provides physician network services may contain an ancillary service provider listing.</p>	None.
9767.3(d)(8)(E)	<p>Commenter recommends the following revised language:</p> <p>State the web address or URL to the roster of all <u>primary</u> treating physicians in the MPN. Affirm that</p>	<p>Brenda Ramirez Claims and Medical Director California Workers’ Compensation Institute</p>	<p>Reject: Commenter’s recommendation to add “primary” in front of “treating physicians” will not be adopted because Labor Code §4616(a)(4) states all MPNs</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>secondary treating physicians who are counted when determining access standards but can only be seen with an approved referral are clearly designated “by referral only”.</p> <p>Commenter states that according to section 9767.1(a)(33), “treating physician means any physician within the MPN applicant's medical provider network other than the primary treating physician who examines or provides treatment to the employee, but is not primarily responsible for continuing management of the care of the employee.” Unless the Administrative Director intends to include only secondary treating physicians in the roster, commenter recommends modifying the subject of the definition in section 9767.1(a)(33) to “<u>secondary</u> treating physician.” Commenter opines that this change will be consistent with section 9785 and will provide the means to clarify which physician is meant in these regulations. If the Administrative Director decides not to modify that definition, commenter recommends adding “primary” as indicated.</p>	<p>May 19, 2014 Written Comment</p>	<p>“shall post on its Internet Web site a roster of all treating physicians in the medical provider network” and does not limit it to just primary treating physicians. The “by referral only” requirement pertains to MPN physicians who are secondary treating physicians. This is a practical solution to existing realities. Many secondary treating physicians are willing to treat injured workers but will not make an appointment from a “cold call” from a prospective patient. Oftentimes, the secondary treating physician will first need to talk to the referring PTP or do a preliminary review of the prospective patient’s medical records. This requirement will remain and will not be changed to an “optional” requirement.</p>	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter supports the deletion of the requirement to affirm that the roster indicates if a physician is not currently taking new workers' compensation patients and she opines that it is neither appropriate nor necessary to indicate physicians on the roster as "secondary treating physicians" who are seen "by referral only." An MPN physician may be selected to serve as the primary treating physician (PTP), or an injured employee may be referred by a PTP to that same physician for testing or treatment.</p> <p>Commenter recommends that it is best that a "by referral only" designation on the roster remains optional. If not, commenter states that clarification is needed that the designation is only required if the physician never provides services without a referral, otherwise she opines that there will be disputes and litigation over whether the network is out of compliance when a network physician requests a referral and the roster does not indicate "by referral only." Commenter states that starting this year, injured employees will have an easier time getting</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>medical appointments since they can get the help of a medical access assistant in finding and securing appointments with available appropriate physicians.</p>			
9767.12(a)(2)(B)	<p>Commenter recommends the following revised language:</p> <p>A description of MPN services as well as the MPN’s web address for more information about the MPN and the web address that includes a roster of all <u>primary</u> treating physicians in the MPN;</p> <p>Please refer to comments made for 9767.3(d)(8)(E) regarding definition of treating physician. Commenter states that if the Administrative Director decides not to modify the subject of the definition in section 9767.1(a)(33) to “<u>secondary</u> treating physician,” that “primary” should be added as indicated. Commenter suggests changing “roster” to “listing” for consistency.</p>	<p>Brenda Ramirez Claims and Medical Director California Workers’ Compensation Institute May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.12(a)(2)(B) since the Second 15-day comment period.</p>	<p>None.</p>
9767.15(b)(1)	<p>Commenter recommends the following revised language:</p> <p>For MPNs approved prior to January 1, 2014, the four-year date of approval</p>	<p>Brenda Ramirez Claims and Medical Director California Workers’ Compensation</p>	<p>Reject: Goes beyond the scope of this comment period</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>begins from the most recent approved filing prior to January 1, 2014. MPNs most recently approved on or before January 1, 2011 <u>2012</u> will be deemed approved until December 31, 2014 <u>2015</u>. Reapprovals <u>Plans for reapproval</u> for these MPNs shall be filed no later than June 30, 2014 <u>2015</u>.</p> <p>Commenter notes that if the struck out items are typographical errors, they can be easily corrected as indicated. Commenter states that under the timelines in Government Code section 11343.4, it appears that revised MPN regulations will not be effective before October 1, 2014; therefore it will not be possible for such an MPN to prepare and submit a plan for re-approval by June 30th 2014 as required by the revised regulation.</p> <p>Commenter offers the following alternative revised language:</p> <p>For MPNs approved prior to January 1, 2014, the four-year date of approval begins from the most recent approved filing prior to January 1, 2014. MPNs most recently approved on or before January 1, 2011 will be deemed</p>	<p>Institute May 19, 2014 Written Comment</p>	<p>because no changes were made to §9767.15(b)(1) since the Second 15-day comment period.</p>	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>approved until December 31, 2014. Reapprovals for these MPNs shall be filed no later than June 30, 2014. Plans for reapproval for these MPNs shall be filed no later than six months prior to the expiration of an MPN's four-year approval date or no later than six months after the effective date of the regulations, whichever is later.</p> <p>Commenter states that under the timelines in Government Code section 11343.4, it appears that revised MPN regulations will not be effective before October 1, 2014; therefore it will not be possible for such an MPN to prepare and submit a plan for re-approval by June 30th 2014 as required by the revised regulation. Commenter states that the recommended alternative language will correct the impossible timeline by providing a minimum of six month in which to prepare and file a new complete application for re-approval.</p>			
9767.5(h)(2) and 9767.18 (a)(2)(B)(v)	<p>Commenter recommends the following revised language:</p> <p><u>(h)(2) The—MPN medical access assistants do not authorize treatment and have different duties than claims</u></p>	Dale Clough Manager Claim Regulatory Affairs Travelers Insurance May 19, 2014	Reject: Goes beyond the scope of this comment period because no changes were made	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>adjusters. The MPN medical access assistants are not to function as claims adjusters. and However, the assistants shall also work in coordination with the MPN Contact and the claims adjuster(s) to ensure timely and appropriate medical treatment is provided to the injured worker. Although their duties are different, if the same person performs both, the MPN medical access assistant's contacts must be separately and accurately logged.</p> <p>§9767.18 Random Reviews (a)(2)(B)(v) A copy of the telephone call logs tracking the calls and the contents of the calls made to and by the MPN medical access assistants and the MPN Contact during the last thirty (30) calendar days preceding the date of the DWC request within a reasonable time period.</p> <p>Commenter opines that the additional requirements for medical access assistants to maintain logs under these subsections exceed the authority of the Division. Commenter states that historically, the primary function of assisting injured workers with</p>	Written Comment	to §9767.5(h)(2) and §9767.18 (a)(2)(B)(v) since the Second 15-day comment period.	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>scheduling appointments fell on the claims adjuster, who documented the conversation in the file notes. Commenter is unaware of any statute that required – or requires – claim adjusters to specifically log such call, let alone the contents of such calls.</p> <p>Commenter notes that the newly-enacted position of Medical Access Assistant under Labor Code §4616(a)(5) requires that the “Medical access assistants shall have a toll-free telephone number that injured employees may use and shall be available at least from 7 a.m. to 8 p.m. Pacific Standard Time, Monday through Saturday, inclusive, to respond to injured employees, contact physicians’ offices during regular business hours, and schedule appointments.”</p> <p>Commenter states that nowhere does LC §4616(a)(5) require medical access assistants to maintain a log of such calls or the contents of such calls. As currently proposed in §9767.18(a)(2)(B)(v), administrators will have to create separate Medical Access Assistant logs, requiring a</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>retooling of systems at an additional cost to the administrator or employer. As proposed under §9767.5(h)(2), claim adjusters communicating with injured employees about indemnity issues will have to don their “medical access assistant hats” and shift from their claim notes to their medical access assistant logs to record the entries. Commenter opines that many administrators will put the entries in both claim notes and medical access assistant logs, resulting in a duplication of efforts. Commenter opines that for those administrators fortunate enough to possess claim software capable of a platform build to automatically flag such entries for insertion into the medical access assistant logs, they will still have to build it, requiring additional man hours and money.</p> <p>Commenter recommends that the Division reconsider this requirement, since it is unsupported by statute, and remove it from the proposed regulations. Commenter opines that claim adjusters will continue to document their calls as they always have and that there is no need for a</p>			

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
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	separate medical access assistant log.			
9767.5(b)	<p>Commenter opines that the revised language in the subsection eviscerates the intent of the definition of “health care shortage” found in new Section 9767.1(a)(12). Commenter states that the net effect is to allow an MPN to have no contracts in many areas where physicians are willing and able to provide services, but the MPN simply does not desire to contract with them. Commenter states that it is clear that an employer retains the right to name those physicians who are included in its MPN. Commenter opines that Section 9767(a)(12) makes an attempt to invoke a public policy of “any willing provider” by intending to assure that an MPN cannot simply declare at “health care shortage” when there are physicians willing to serve. Commenter states that 9767.5(b) appears to allow an MPN to propose alternatives whenever it does not have a sufficient number of contracted physicians. Commenter opines that the definition of a health care shortage care is rendered useless in the face of an MPN’s ability to propose alternative access standards simply because it does not want to contract</p>	<p>Steve Cattolica Director of Government Relations Advocal May 19, 2014 Written Comment</p>	<p>Reject: §9767.1(a)(12) defines “health care shortage” and is applied in §9767.5(b) when an alternative access standard may apply to an MPN if, the MPN can show that there is a health care shortage in that geographic area. The definition of “health care shortage” ensures that an MPN must show there are an insufficient number of non-MPN physicians who are “willing” and “available” to treat injured workers in order to qualify for an alternative access standard.</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>with available physicians.</p> <p>Commenter states that section 9767.5(b) cannot be allowed to enable an MPN to side step the well intentioned provision of section 9767.1(a)(12).</p>			
9767.3(d)(8)(H)	<p>Commenter notes that the statement of reasons clarifies that the MPN applicant can, "Provide an electronic copy in Microsoft Excel format of the geocoding results of the MPN provider listing directory to show estimated compliance with the access standards for the injured workers being covered by the MPN set forth in section 9767.5. The access standards set forth in section 9767.5 are determined by the injured employee's residence or workplace address and not the center of a zip code. The geocoding results will be used by DWC in reviewing MPN plans to give an approximation of MPN compliance with the access standards set forth in section 9767.5 ... " (emphasis added)</p> <p>Commenter opines that this language allows the Division to approve an MPN based on estimates and</p>	<p>Steve Cattolica Director of Government Relations Advocal May 19, 2014 Written Comment</p>	<p>Reject: With the passage of SB 863, Labor Code § 4616(b)(3) now requires MPN's submit geocoding of its network "to establish that the number and geographic location of physicians in the network meets the required access standard." Unfortunately, requiring MPNs provide the residential addresses of all of its injured covered employees and the employers' addresses of all of its injured covered employees is overly burdensome and virtually impossible to submit because this data is constantly changing. The proposed regulatory language uses the "center of a zip code" not to allow MPNs to provide access based on the center of the geographic zip code, but rather</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>approximations in violation of the mandate found in Labor Code Section 4616 (a)(1) wherein the number of physicians "shall be sufficient." Commenter opines that there is no equivocation on this point, no option or any allowance in the law for either approximation or estimation.</p> <p>Commenter states that Workers' Compensation Health Care Organizations (HCOs) are not afforded any such leeway in the access standards they must meet. Commenter state that the Division must substantiate the reasons it believes MPNs that exercise "life of claim" medical control, should have more lenient rules to follow when demonstrating adequate access to medical care than HCOs that have no more than 180 days of medical control.</p>		<p>to run geocoding sweeps at the centroid of a land parcel. Running geocoding sweeps from a zip code is relatively stable because the areas covered by a zip code remain unchanged for prolonged periods of time. In addition, a zip code would not be subject to multiple variations that street names are subject to. For example, North Main Street versus Main Street versus Main Avenue. Therefore, DWC can run geocoding sweeps from the center of a zip code to get a map of the geographic areas covered by the MPN physicians. Once an address of an injured covered worker or the injured covered worker's employer's address is obtained, access standards can be verified.</p>	
9767.3(d)(8)(E)	<p>Commenter would like to identify two issues raised by this new section that together encourage gaming the access standard.</p>	<p>Steve Cattolica Director of Government Relations Advocal</p>	<p>Reject: The "by referral only" requirement pertains to MPN physicians who are secondary treating physicians. This is a practical solution to existing</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>1) Commenter opines that by allowing the listing of “by referral physicians” to qualify as meeting the MPN access standard, this section allows an MPN to meet the access standard by listing physicians who may or may not be willing to see injured workers. Since the MPN will likely control the approval process, all the referrals in the subject geographic area can go to a physician who may be willing to see them while listing names of physicians who are not intending to provide treatment. Commenter state that the Division must put in a check and balance system, over and above any other requirement, to assure that all “by referral” physicians are actually willing and able to see injured workers.</p> <p>2) Commenter opines that this new section limits the injured worker’s right to choose any physician within the MPN. Commenter states that Labor Code Section 4616.3(d)(1)</p>	<p>May 19, 2014 Written Comment</p>	<p>realities. Many secondary treating physicians are willing to treat injured workers but will not make an appointment from a “cold call” from a prospective patient. Oftentimes, the secondary treating physician will first need to talk to the referring PTP or do a preliminary review of the prospective patient’s medical records. The addition of the language “are counted when determining access standards” will remain because §9767.5 makes it clear that there must be three available physicians to meet access standards or the MPN must permit out-of-network treatment.</p> <p>Reject: See above response.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>places appropriate boundaries on such a choice by stating that the choice, “shall be based on the physician’s specialty or recognized expertise in treating the particular injury or condition in question.”</p> <p>Commenter opines that no matter how necessary or well intentioned, Section 9767.3(d)(8)(E) introduces an approval process that is undefined as to how it will be conducted and by whom.</p>			
9767.1(12)(a)	<p>Commenter states that this section provides modified language to indicate when a “health care shortage” exists, based upon “...the number of physicians in a particular specialty who are available and willing to treat injured workers under the California workers’ compensation system...”</p> <p>Commenter states that it is her experience that while some physicians are “willing to treat injured workers...”, they may not always be willing to accept the Official Medical Fee Schedule pricing in order to do so.</p> <p>Commenter recommends expanding the definitional language of this</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.12(a)(12) since the Second 15-day comment period.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>section to state that the “shortage” is indicated when there are an insufficient number of physicians in a particular specialty who are “...available and willing to treat injured workers under the California workers’ compensation system including acceptance of the Official Medical Fee Schedule as payment in full for their services...”</p>			
9767.3(c)(2)	<p>Commenter notes that the language in this section has been modified to remove Occupational Therapists from the official provider code list of recognized “specialties. With its removal from the list, commenter is unclear if it is the state’s intention for Occupational Therapists to be included in the “Miscellaneous” category of specialties, or whether Occupational Therapists are to be deemed “Ancillary Providers” in similar fashion to translators, etc.</p> <p>Commenter recommends clarifying the language of Section 9767.3 to indicate how Occupational Therapists are to be categorized. Commenter would like the Division to expand the rules to indicate whether occupational therapy is to be counted as one of the</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services May 19, 2014 Written Comment</p>	<p>Reject: Occupational Therapists are to be listed under the “ancillary services” list.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>“most commonly used physicians to treat occupational injuries” or if they are to be excluded from computation of such.</p>			
9767.3(d)(8)(E)	<p>Commenter notes that this section includes revised language addressing when a physician listed on the MPN Provider Listing is only taking Workers Compensation patients “by referral”. Commenter is in support of the clarifying language for determination of a “by referral” physician; however, she is concerned about the timeframe for implementation of this provision, seeing as Section 9767.15 has yet to be amended, and the language in its current state requires that re-approval applications for existing MPN’s for whom their last approval date is on/before January 1, 2011 must be submitted no later than June 30, 2014. Commenter opines that the Jun 30, 2104 submission date is untenable, and it will be exceedingly difficult for an MPN re-approval applicant to determine a methodology for operationalizing this new requirement, <i>and have it fully implemented in advance of the June 30, 2014 deadline.</i></p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services May 19, 2014 Written Comment</p>	<p>Reject: Commenter’s suggestion to delay enforcement of the penalties or use of other enforcement tools “for pre-Jan 1, 2011 re-approval applications as of 6 months following final implementation of the regulations” will not be adopted. Many of the provisions of SB863 that are already in effect are simple and straight-forward and do not need the guidance of regulations in order for an MPN to comply. However, mitigating factors can be considered when DWC assesses penalties or other enforcement tools and certainly the fact the MPN regulations have not yet been finalized will be taken into consideration.</p> <p>Reject: The language in §9767.15 for reapproval’s will</p>	<p>None.</p> <p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter recommends revising the language this subsection to indicate that implementation of this provision is to be completed for pre-Jan 1, 2011 re-approval applications as of 6 months following final implementation of the regulations. Commenter opines that this will allow the MPN's a reasonable amount of time to modify their systems and processes to accommodate this new requirement for a timely re-approval application.</p>		<p>not be revised. See above response.</p>	
9767.3(c)(2)	<p>Commenter notes that this section has been modified to require that the MPN plan include eight (8) columns for each physician listing, with the 7th column indicating "any MPN medical group affiliations". Commenter states that there are many individual practicing physicians for whom there is no corresponding medical group affiliation, so this field may not always be appropriate for every provider. Commenter recommends that the language be modified to allow for population of this field only in circumstances where the information is appropriate to the provider.</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers' Compensation Services May 19, 2014 Written Comment</p>	<p>Reject: Commenter's recommended language will not be adopted because it is unnecessary. Clearly if the physician is not a member of a medical group, then this column can be left blank.</p>	<p>None.</p>

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter recommends revising the language in this section to read "...any MPN medical group affiliations (if applicable)..."</p>			
9767.3(d)(8)(F)	<p>Commenter notes that this section has modified language that requires that an MPN "...affirm that each MPN physician or medical group in the network has agreed in writing to treat workers under the MPN..."</p> <p>Commenter states that this language does not address the relatively common scenario wherein <i>one or more</i> of the physicians within a medical group are willing to treat Workers' Compensation patients, but others may not be.</p> <p>Commenter recommends modifying the language in this section to specifically allow an MPN to list an entire medical group in its provider listing if one or more physicians within the group are willing and able to treat Workers' Compensation patients, provided that each individual physician's listing is accurate as to the specific doctors who are willing to take Workers' Compensation patients.</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers' Compensation Services May 19, 2014 Written Comment</p>	<p>Reject: Goes beyond the scope of this comment period because no changes were made to §9767.3(d)(8)(F) since the Second 15-day comment period.</p>	None.
9767.5(a)(2)	<p>Commenter notes that reference is made to requiring an MPN to have</p>	<p>Lisa Anne Forsythe Senior Compliance</p>	<p>Reject: Goes beyond the scope of this comment period</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>“providers of occupational health services and specialists <i>who can treat common injuries...</i>” Commenter states that this section does not define what constitutes a “common injury”, nor does it define the selection criteria for a specialty that would theoretically treat a “common Workers’ Compensation injury”. Commenter also has previously pointed out this issue in her comments dated March 25, 2014.</p> <p>Commenter’s organization is currently defining its specialist criteria by deriving it from its HCO requirement list, based on specialist utilization patterns (<i>i.e.</i>, the total number of bills received, broken down by type of specialist). Commenter opines that it is unclear from the new rules whether deriving the specialists in this manner would continue to be acceptable.</p> <p>Commenter recommends: (1) Amend the rules to provide a definition of “common injuries”, as well as (2a) specifically outline the methodology for determining which specialists “treat common injuries”, or, alternatively, (2b) amend the rules to</p>	<p>Consultant Coventry Workers’ Compensation Services May 19, 2014 Written Comment</p>	<p>because no changes were made to §9767.5(a)(2) since the Second 15-day comment period.</p>	

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>establish that an MPN may use its own criteria for defining specialists, so long as the methodology is clearly outlined and logically defined (such as the HCO-based methodology). Lastly (3), amend the rules to indicate how <i>many</i> specialties are to be defined – the previous requirements capped the number at five (5).</p>			
9767.15(b)(1)	<p>Commenter notes that this section continues to indicate that re-approval plans for all MPN’s whose last approval date was prior to January 1, 2011 must be submitted no later than June 30, 2014. Commenter opines that at this late juncture, such a timeframe is not feasible. Commenter states that this language must be changed to allow a reasonable timeframe for MPN’s to submit their re-approval applications subsequent to final approval of the regulations. Commenter opines that this provision penalizes any MPN that has not submitted an MPN plan modification since 2011, even though regulations did not require them to “renew” or submit a plan modification if they had no changes requiring a re-approval application.</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers’ Compensation Services May 19, 2014 Written Comment</p>	<p>Reject: Commenter’s suggestion to delay the enforcement of the penalties or use of other enforcement tools for” pre-Jan 1, 2011 re-approval applications as of 6 months following final implementation of the regulations” will not be adopted. Many of the provisions of SB863 that are already in effect are simple and straight-forward and do not need the guidance of regulations in order for an MPN to comply. However, mitigating factors can be considered when DWC assesses penalties or other enforcement tools and certainly the fact the MPN regulations have not yet been</p>	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Commenter recommends modifying the language in this section to indicate that re-approval applications for all MPN's whose last approval date was prior to January 1, 2011 must be submitted no later than <i>6 months after the final approval date of the regulations.</i></p> <p>Commenter opines that inclusion of this language provides flexibility to the DIR to allow for an open deadline that is tied to final approval of the regulations, whenever that may occur.</p>		finalized will be taken into consideration.	
9767.15	<p>Commenter states that many HCO's have already filed plan modifications based on changes of greater than 10% to the provider make-up of the network. Commenter notes that under the HCO rules, the HCO is required to file for a re-approval under such circumstances, and approval for any underlying MPN's theoretically is also contingent upon approval of the HCO on which it is based. Commenter's organization has several outstanding HCO applications that have remained in this status since the fall of 2010.</p> <p>Commenter states that under the new MPN rules, a re-approval application</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers' Compensation Services May 19, 2014 Written Comment</p>	Reject: See above response.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>is not automatically required when the provider database has a change in composition of greater than 10% of the provider base, <i>but the HCO rules have not been changed</i>. Commenter opines that this leaves the HCO-based MPN's in a tenuous position, especially in light of the unchanged June 30, 2014 deadline for re-approval applications.</p> <p>Commenter recommends modifying the language in this section to indicate that re-approval applications for all MPN's whose last approval date was prior to January 1, 2011 must be submitted no later than <i>6 months after the final approval date of the regulations</i>. Commenter recommends including additional language that provides that for HCO-based MPN's, the re-approval deadline is tolled pending approval of the underlying HCO application from the state.</p>			
9767.16	<p>Commenter notes that this section redefines the rules for complaints against an MPN to include a formalized process whereby a complainant must first take a grievance to the designated MPN Contact and provide the MPN with a</p>	<p>Lisa Anne Forsythe Senior Compliance Consultant Coventry Workers' Compensation Services May 19, 2014</p>	Agree.	None.

MEDICAL PROVIDER NETWORKS	RULEMAKING COMMENTS 3rd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>reasonable, 30-day opportunity to address the grievance prior to allowing jurisdiction for a formalized complaint with WCAB to attach. Commenter applauds the Division for inclusion of this language and formalized complaint process, and looks forward to making use of the process to address any/all issues that are brought to its attention in a prompt manner.</p> <p>Commenter supports this new language as proposed.</p>	Written Comment		