

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

**FINAL STATEMENT OF REASONS AND
UPDATED INFORMATIVE DIGEST**

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

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

The Administrative Director of the Division of Workers' Compensation, pursuant to the authority vested in her by Labor Code sections 59, 124, 133, 138.3, 138.4, 139.6, 3550, 3551, 4603.5, 4616, and 5307.3, has amended regulations within Article 3.5, Subchapter 1 of Chapter 4.5 of Title 8, California Code of Regulations, commencing with section 9767.3, relating to Medical Provider Networks.

In addition, the Administrative Director has amended regulations within Article 8.5, Subchapter 1 of Chapter 4.5 of Title 8, California Code of Regulations, section 9880, relating to Employee Information for Workers' Compensation, and a regulation within Article 9, Subchapter 1.5 of Chapter 4.5 of Title 8, California Code of Regulations, section 10139. These regulations concern the written notice to new employees, the posting of notice to employees, the notice to employees poster, and the workers' compensation claim form (DWC 1) and notice of potential eligibility, respectively.

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

UPDATED INFORMATIVE DIGEST

There have been no changes in applicable laws or to the effect of the proposed regulations from the laws and effects described in the Notice of Proposed Regulatory Action.

UPDATE OF INITIAL STATEMENT OF REASONS

As authorized by Government Code §11346.9(d), the Administrative Director hereby incorporates the Initial Statement of Reasons prepared in this matter. Unless a specific basis is stated for any modification to the regulations as initially proposed, the necessity for the amendments to existing regulations and adoption of new regulations as set forth in the Initial Statement of Reasons continue to apply to the regulations as adopted.

All modifications from the initially proposed text of the regulations are summarized below.

THE FOLLOWING SUBDIVISIONS WERE AMENDED FOLLOWING THE PUBLIC HEARING AND CIRCULATED FOR THREE 15-DAY COMMENT PERIODS: (March 2 through March 17, 2010; April 21 through May 6, 2010; May 13 through May 28, 2010.)

Amendments to Existing Section 9767.3: Application for a Medical Provider Network Plan

The section, as initially proposed, was modified in response to comments received.

In subdivision (c)(1), in the first sentence, the word “may” is replaced by “shall.” In the second sentence, the phrase “or as a Microsoft Access File” is deleted. These changes are made to require electronic submission of the provider listing in the format that is most used and necessary to streamline and facilitate administrative review.

In subdivision (c)(2), after “CD-ROM(s),” the “T” in “the” is replaced by a “t”, and the phrase, “at a minimum five” is deleted and “only the following three” is added to the first sentence. The second and third columns requiring the license number and the taxpayer identification number are deleted and the remaining three columns are renumbered. The statement, “By submission of its provider listing, the Applicant is affirming that all of the physicians listed have a valid and current license number to practice in the State of California.” The requirements to include the license number and taxpayer identification numbers are deleted as the information is not used. This change is necessary because the information has been deemed unnecessary and results in more administrative burden. The last sentence was added to ensure that the providers are legally able to treat workers’ compensation patients, and it is necessary to have a confirmation by the MPN Applicant as the Applicant is responsible for ensuring that appropriate and necessary medical treatment is provided through the MPN.

In subdivision (c)(3), the first sentence is revised to start with “The,” deleting the “If t” and the phrase, “information is submitted on a disk(s) or CD ROM(s), the”. Additionally, the phrase, “at a minimum five” is replaced by “only the following three” in the first sentence. The second and third columns requiring the license number and the taxpayer identification number are deleted

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and the remaining three columns are renumbered. The statement, “By submission of an ancillary provider listing, the Applicant is affirming that the providers listed have a current valid license number to practice, if they are required to have a license by the State of California” is added. The requirements to include the license number and taxpayer identification numbers are deleted as the information is not used. This change is necessary because the information has been deemed unnecessary and results in more administrative burden. The last sentence is added to ensure that ancillary providers are legally able to provide the medical services they offer, and it is necessary to have a confirmation by the MPN Applicant as the Applicant is responsible for ensuring that appropriate and necessary medical treatment is provided through the MPN.

In subdivision (d)(8)(C), the phrase, “license number, taxpayer identification number,” is deleted from the first sentence. The requirements to include the license number and taxpayer identification numbers are deleted as the information is not used. This change is necessary because the information has been deemed unnecessary and results in more administrative burden. Also, the sentence, “Alternatively, if the physicians are also part of a medical group practice, the name and taxpayer identification number of the medical group practice shall be identified in the application.” is deleted to reduce confusion during review and necessary to reduce administrative burden.

In subdivision (d)(8)(D), the phrase “license number (if required by the State of California) taxpayer identification number,” is deleted from the first sentence. The requirements to include the license number and taxpayer identification numbers are deleted as the information is not used. This change is necessary because the information has been deemed unnecessary and results in more administrative burden. The last sentence of the section is deleted and replaced by this sentence, “By submission of the application, the MPN applicant is confirming that a contractual agreement exists with the ancillary service providers to provide services to be used under the MPN;”. This sentence is added to ensure that a valid agreement exists for the medical services to be legally provided through the MPN and the revision was necessary to encompass the various contractual arrangements that can exist for these services to be provided.

In subdivision (d)(8)(L), the phrase, “or an entity contracted with the MPN or MPN applicant” is added to the first sentence after the term, “MPN applicant.” This change is made to clarify what policies are to be submitted and necessary to ensure that all applicable economic profiling policies are included.

In subdivision (e)(14), the phrase, “or an entity contracted with the MPN or MPN applicant” is added to be consistent with subdivision (d)(8)(L). This change is made to consistently clarify what policies are to be submitted and necessary to ensure that all applicable economic profiling policies are included.

Amendments to Existing Section 9767.8: Modification of Medical Provider Network Plan; Notice of Medical Provider Network Plan Modification §9767.8

The section, as initially proposed, was modified in response to comments received.

In subdivision (a)(5), the phrase, “or an entity contracted with the MPN or MPN applicant” is added to the first sentence. These changes are made to reflect the current practice in which not only the MPN applicant has an economic profiling policy that impacts MPN providers. These changes are necessary to ensure that DWC receives copies of the policies that impact the MPN provider listings as disclosure of these policies is required by law.

In subdivision (a)(6), the phrase, “or the MPN Applicant” is added to the end of the sentence as a change in MPN Applicant name is a material change that triggers a modification filing. This change is necessary as the MPN Applicant name needs to be accurate because the MPN Applicant is the entity legally responsible for the MPN.

In subdivision (a)(9), the phrase, “, including a change in MPN contact information or a change in provider listing access or website information,” is added to the sentence. This change clarifies the more common changes in the employee notification materials that would require a modification filing. This change is necessary to ensure that these important changes are filed so DWC and the public will know the correct information to access providers and use the MPN properly.

In subdivision (a)(10), the “Other” category is deleted and replaced by, “Change in use of one of the following deemed entities: Health Care Organization (HCO), Health Care Service Plan, Group Disability Insurer, or Taft-Hartley Health and Welfare Trust Fund.” The “Other” category is eliminated to reduce the ambiguity over which changes require a filing as the only changes requiring a filing are listed. The addition of the change in use of an HCO is included because it has become a common change that requires a filing. This change is necessary as the use of a deemed entity determines whether a provider listing needs to be reviewed and clarifies for DWC whether documents are missing from the filing.

Subdivision (a)(11) is added to state, “Revision of any plan section(s) required by sections 9767.3(d)(8) or 9767.3(e) due to a change of any MPN administrator(s) listed in the MPN Plan.” The purpose of this change is ensure that DWC is aware of internal third party administrator changes that often impact the MPN application plan, employee notification materials, and may trigger a change of MPN notice. These revisions are necessary for DWC to know whether changes to the MPN contact information will change and whether notices are required to be distributed.

Subdivision (a)(12) is added to state, “Replacement of entire MPN plan application.” This modification is added as it is a significant modification that occurs frequently enough to require a filing. This change is necessary to ensure that Applicants know that this type of modification requires a filing.

Subdivision (a)(13) is added to state, “Updating to the permanent regulations pursuant to section 9767.15.” This modification is added as it is a significant modification that still occurs. This change is necessary to ensure that Applicants know that this type of modification requires a filing.

In subdivision (c), the phrase, “authorized to sign” is deleted, and “with the authority to act” is added before the phrase “on behalf of the MPN applicant” and “with respect to the MPN” is added at the end of the sentence. The purpose of these changes is to clarify that the individual signing on behalf of the MPN should have the legal authority to make official decisions for the MPN Applicant about MPN issues. These changes are necessary because MPN problems have arisen where the authorized individual does not have the necessary authority and an individual who can legally speak for the MPN Applicant is needed.

In the “Notice of Medical Provider Network Plan Modification §9767.8” form, the word, “using” is added to no. 8 to clarify and more accurately state the circumstances under which the related box must be checked. This change is necessary to ensure that Applicants are providing us with this information correctly.

In the “Notice of Medical Provider Network Plan Modification §9767.8” form, on the second page the second check box is revised to add “or MPN Applicant” to require a modification when the name of the MPN Applicant has changed. These changes ensure that DWC knows if the Applicant name has changed, which is necessary because the MPN Applicant is the entity legally responsible for the MPN. The second sentence is revised to delete the reference to “MPN” and to add a requirement to include the plan sections affected by the change, which is necessary to ensure DWC receives all the revised documents for review.

In the “Notice of Medical Provider Network Plan Modification §9767.8” form, fourth check box, the requirement to include the license number is deleted as that information is no longer required. This change is necessary because the license number information has been deemed unnecessary and results in more administrative burden.

In the “Notice of Medical Provider Network Plan Modification §9767.8” form, eighth check box, the phrase, “policy used by MPN Applicant or any entity contracted with MPN” is added to clarify what policies are to be submitted and necessary to ensure that all applicable economic profiling policies are included. These changes are necessary to ensure that DWC receives copies of the profiling policies that impact the MPN provider listings as disclosure of these types of policies is required by law.

In the “Notice of Medical Provider Network Plan Modification §9767.8” form, tenth check box, the phrase, “, including a change in MPN contact information, or a change in provider listing access or website information” is added to clarify the types of changes that are significant enough to trigger a modification filing. This clarification is necessary to ensure that a filing occurs when required, as these changes are significant and directly affect access to the MPN.

In the “Notice of Medical Provider Network Plan Modification §9767.8” form, the eleventh check box of “Other (For example, changes in use of a deemed entity, change in MPN contact information, change in provider listing access or website information, etc.) Please describe and attach documentation” is deleted. This change is intended to address the concerns that the “Other” category is too vague and that a defined list of modifications that require a filing be provided. This change is necessary to provide clarity as to when a modification filing is required. The former text of this item is replaced by, “Change in use of one of the following

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Deemed Entities: Health Care Organization (HCO), Health Care Service Plan, Group Disability Insurer, or Taft-Hartley Health and Welfare Trust Fund. Please state change: From _____ To _____”. This change is added because it is a more common change that triggers a material modification filing. This addition is necessary to ensure that Applicants file when this modification occurs.

In the “Notice of Medical Provider Network Plan Modification §9767.8” form, a twelfth check box is added, stating, “Revision of any plan section(s) required by sections 9767.3(d)(8) or 9767.3(e) resulting from a change of any MPN administrator(s) listed in the MPN Plan. Please include complete sections revised”. This change is added because it is a more common change that triggers a material modification filing. This addition is necessary to ensure that Applicants file when this modification occurs.

In the “Notice of Medical Provider Network Plan Modification §9767.8” form, a thirteenth check box is added, stating, “Replacement of entire plan application. Please state why and include entire revised plan.” This change is added because it is a more common change that triggers a material modification filing. This addition is necessary to ensure that Applicants file when this modification occurs.

In the “Notice of Medical Provider Network Plan Modification §9767.8” form, a fourteenth check box is added, stating, “Update of MPN plan to the permanent regulations pursuant to section 9767.15. Please include entire updated plan.” This change is added because it is a more common change that triggers a material modification filing. This addition is necessary to ensure that Applicants file when this modification occurs.

Amendments to Existing Section 9767.12: Employee Notification

The section, as initially proposed, was modified in response to comments received.

In subdivision (a), the proposed notice period 14 days is eliminated to make the implementation notice less burdensome on employers implementing new MPNs. These amendments are necessary to clarify and reduce the burden of distribution of notices as well as to reduce notice costs.

Also, in subdivision (a), the proposed phrase “or at the time of hire for new employees” was revised into the following: “An implementation notice shall also be provided to new employee at the time of hire.” The sentence “An implementation notice is not required if the employer or insured employer is changing from one MPN to another MPN within 60 days.” is also added. These sentences are added to clarify when the implementation notice should be distributed and to limit the distribution of the implementation notice. These amendments are necessary to clarify and reduce the burden of distribution of notices as well as to reduce notice costs.

The references to “initial” MPN implementation notice are deleted to reduce confusion over the implementation notice and to distinguish it from other required notices. This is necessary to ensure that Applicants can clearly identify this notice and when it should be distributed.

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The requirement in subdivision (a) to provide the notice in both English and Spanish is revised to require distribution of English and Spanish notices only to Spanish speaking employees to further limit distribution of notices to only those who needed the Spanish versions. These amendments are necessary to clarify and reduce the burden of distribution of notices as well as to reduce notice costs.

In subdivision (a)(1), the required notice language is revised to change “has properly predesignated” into “properly predesignates” and to add “prior to injury” at the end of the sentence to more accurately inform the worker that predesignation may occur after MPN implementation but before injury. These changes are necessary to ensure the notice accurately reflects an employee’s legal rights to predesignation.

In subdivision (a)(3), in the first sentence, the phrase, “covered under the prior MPN or may be” is deleted to eliminate the reference to a prior MPN to reduce confusion if there was no prior MPN.

In subdivision (a)(4), the proposed language is deleted and replaced by, “That more information about the MPN can be found on the workers’ compensation poster or by asking your employer.” The purpose of this change is to not require specific MPN contact information be included to allow this notice to be widely distributed and replicated more easily without the need to tailor or revise it for each MPN implemented. The change also distinguishes the implementation notice from the change of MPN notice. These changes are necessary to reduce administrative burden and notice costs.

Subdivision (b) is revised to delete “initial” before “written MPN” in the first sentence to reduce confusion as well as to change “have predesignated” to “pre designate” to more accurately reflect the law. The second sentence is revised to state, “If you have an existing injury, you may be required to change to a provider in the new MPN” to be more concise. The fourth sentence, “For periods when you are not covered under a MPN, you may choose a physician 30 days after you’ve notified your employer of your injury.” is deleted as this issue is addressed in a subsequent notice. The last sentence of the subdivision is revised to state, “You may obtain more information about the MPN from the workers’ compensation poster or from your employer.” The purpose of these changes is to further streamline the notice and to not require specific MPN contact information be included to allow this notice to be widely distributed and replicated more easily without the need to tailor or revise it for each MPN implemented. The changes also distinguish the implementation notice from the change of MPN notice. These changes are necessary to reduce administrative burden and notice costs.

Subdivision (c) is revised to delete the first sentence, “The initial written MPN implementation notice shall be provided to existing employees who will be covered by the MPN at least 14 days prior to the date coverage will begin under the MPN or at the time of hire for new employees.” The second sentence is revised to delete “initial” before “MPN” and to change “notification” to “notice” and to delete the time period of “at least 14 days” before the word “prior.” These changes are made for consistency of name in reference to the implementation notice and to remove confusion with the use of the word “initial” and to eliminate the notice period. These

changes are necessary to be consistent with the other regulations and to allow flexibility that could reduce notice costs.

The section is also revised to replace the reference to “supervisor” with “employer” in the last sentence and to clarify that the employer is responsible for ensuring that workers are provided the required information prior to the MPN implementation. The purpose of these changes is to more accurately clarify the responsibilities of the employer and to allow flexibility in what entity distributes the notices to workers. These changes are necessary to reflect current practices in which a TPA or an insurer may distribute the notices.

Subdivision (d) is revised to delete “initial” before “MPN implementation “ in the first sentence to reduce confusion and to delete “and when an employee is transferred into the MPN” and replaced by “or when an employee with an existing injury begins treatment under the MPN.” The purpose of this change is to clearly specify when an employee should get the implementation notice if they were injured before the MPN was implemented. This change is necessary to eliminate confusion and ambiguity over the prior regulatory language.

Also in subdivision (d), the requirement to provide the notice in both English and Spanish is revised to require distribution of English and Spanish notices only to Spanish speaking employees to further limit distribution of notices to only those who needed the Spanish versions. These amendments are necessary to clarify and reduce the burden of distribution of notices as well as to reduce notice costs. The last change to subdivision (d) is to revise the location of the posting of the employee notification from being “next” to the required workers’ compensation poster under Section 9881 to being “in close proximity to” the required posting. This change allows employers flexibility of the posting of the MPN employee notification if it cannot be posted next to the section 9881 poster. These changes are necessary to enable employers to meet the intent of the regulation without violating the wording of it.

Subdivision (e) is revised to replace the reference to “supervisor” with “employer” in the last sentence and to clarify that the employer is responsible for ensuring that workers get the required information prior to the MPN implementation. The purpose of these changes is to more accurately clarify the responsibilities of the employer and to allow flexibility in what entity distributes the notices to workers. These change are necessary to reflect current practices in which a TPA or an insurer may distribute the notices.

Subdivision (f)(1) is revised to include the phrase, “with access to the MPN Contact” to clarify that the toll-free number provided enables a worker to actually reach the MPN contact. This change is necessary to address concerns that the MPN contact was not accessible.

Subdivision (f)(3) is revised to include the phrase, “or electronically on a CD or on a website if an electronic listing is requested by the employee” at the end of the second sentence. This change was to provide flexibility of formats and ensure that workers obtained provider listing in an accessible format. This change was necessary to address concerns that workers would be given listings electronically when they had no access to a computer.

Subdivision (f)(3) is also revised to include the following after the word “updated” at the end of the section: “at minimum, on a quarterly basis with the date of the last update provided on the listing given to the employee,” and the word “kept” is added before “accurate.” The following sentences also were added to the end, “Each provider listing shall include a phone number and an email address for reporting of provider listing inaccuracies. If a listed provider becomes deceased or is no longer treating workers’ compensation patients at the listed address the provider shall be taken off the provider list within 60 days of notice to the MPN network administrator.” These changes are intended to clarify when the provider listings should be updated. These changes are necessary to ensure the provider listings are more accurate to address concerns about providers on the list not being available to treat injured workers.

Subdivision (g) is revised to provide the notice in both English and Spanish to Spanish speaking employees to further limit distribution of notices to only those who needed the Spanish versions. These amendments are necessary to clarify and reduce the burden of distribution of notices as well as to reduce notice costs.

Amendments to Existing § 9767.16: Notice of Employee Rights Upon Termination or Cessation of Use of Medical Provider Network.

The section, as initially proposed, was modified in response to comments received.

Subdivision (a) is revised to add “injured” before references to “covered employee” throughout the section and before “employee” in the first sentence. The intent of this change is to limit distribution of the termination/cessation of use and change of MPN notices to injured workers. These changes are necessary to reduce administrative burden and notice costs. The subdivision is also revised to require that the notices be provided in English and also in Spanish to Spanish speaking employees. These changes are made to further limit distribution of notices to only those who needed the Spanish versions. These amendments are necessary to clarify and reduce the burden of distribution of notices as well as to reduce notice costs.

Subdivision (a)(1) is revised to add “injured” before the reference to “covered employee.” The intent of this change is to limit distribution of the termination/cessation of use and change of MPN notices to injured workers. These changes are necessary to reduce administrative burden and notice costs.

Subdivision (a)(1)(A) is revised to replace “named” with “Applicant” before MPN at the end of the sentence to not require the name of the old MPN to be included. This change is necessary to reduce administrative burden for MPN Applicants.

Subdivision (a)(1)(C) is revised to delete the requirement to include the name of the MPN Contact and to add the requirement to include the email address and make the inclusion of the MPN website optional, replacing the reference to “if applicable”. The purpose of these changes is to allow flexibility for changes to who would be the MPN contact without requiring that the notices be revised each time the contact person is changed and to give more ways to access MPN information. The changes also distinguish this notice from the implementation notice by giving

the contact information when the worker will most need it. These changes are necessary to reduce administrative burden and notice costs.

Subdivision (a)(2) is revised to add “injured” before the reference to “covered employee.” The intent of this change is to limit distribution of the termination/cessation of use and change of MPN notices to injured workers, as they are the ones using the MPN. These changes are necessary to reduce administrative burden and notice costs. The last sentence of the section is revised to read, “You may obtain more information at <Insert MPN Contact Phone Number, Address, Email Address, and MPN Website (optional).” The purpose of these changes is to allow flexibility for changes to who would be the MPN contact without requiring that the notices be revised each time the contact person changed and to give more ways to access MPN information.

Subdivision (a)(3) is revised to replace the reference to “supervisor” with “employer” in the last sentence and to clarify that the employer is responsible for ensuring that workers get the required information prior to the MPN implementation. The purpose of these changes is to more accurately clarify the responsibilities of the employer and to allow flexibility in what entity distributes the notices to workers. These changes are necessary to reflect current practices in which a TPA or an insurer may distribute the notices.

Subdivision (b) is revised to add “injured” before the reference to “covered employee” and to delete the 14-day notice requirement and change it to requiring notice “prior” to the effective date of coverage to limit the distribution of the notice to workers using the MPN and to eliminate the notice period, respectively. These changes are necessary to reduce administrative burden and notice costs. The reference to “the Applicant’s MPN” is revised to “that Applicant’s MPN” to clarify which MPN is being referenced. This change is necessary to reduce ambiguity and to ensure proper application of the regulation.

Subdivision (b)(1) is revised to change “has properly predesignated” into “properly predesignates” and to add “prior to injury” at the end of the sentence to more accurately inform the worker that predesignation may occur after MPN implementation but before injury. These changes are necessary to ensure the notice accurately reflects an employee’s legal rights to predesignation.

Subdivision (b)(5) is revised to delete the requirement to include the name of the MPN Contact and to add the requirement to include the email address and make the inclusion of the MPN website optional, replacing the reference to “if applicable”. The purpose of these changes is to allow flexibility for changes to who would be the MPN contact without requiring that the notices be revised each time the contact person changed and to give more ways to access MPN information. The changes also distinguish this notice from the implementation notice by giving the contact information when the worker will most need it. These changes are necessary to reduce administrative burden and notice costs.

Subdivision (c) is revised to add “injured” before “covered employee.” The intent of this change is to limit distribution of the change of MPN notices to injured workers, as they are using the MPN. These changes are necessary to reduce administrative burden and notice costs. The

section is also revised to change “have predesignated” into “predesignate” and to add “prior to injury” after “medical group” to more accurately inform the worker that predesignation must occur before injury. This is necessary to ensure the notice accurately reflects an employee’s legal rights to predesignation. The instruction in the second sentence to “<INSERT NAME OF PRIOR MPN IF AVAILABLE>” is deleted for further streamlining of the notice. The last sentence of the section is revised to read, “You may obtain more information at <Insert MPN Contact Phone Number, Address, Email Address, and MPN Website (optional).” The purpose of these changes is to allow flexibility for changes to who would be the MPN contact without requiring that the notices be revised each time the contact person changed and to give more ways to access MPN information. These changes are necessary to reduce administrative burden and notice costs.

Subdivision (e) is revised to require the distribution of English and Spanish notices only to Spanish speaking employees to further limit distribution of notices to only those who needed the Spanish versions. These changes are necessary to clarify and reduce the burden of distribution of notices as well as to reduce notice costs.

Subdivision (f) is revised to delete references to “at least 14 days” to eliminate the notice period and to allow for flexibility of distribution. The reference to “supervisor” is replaced with “employer” in the last sentence and to clarify that the employer is responsible for ensuring that workers get the required information prior to new MPN coverage. The purpose of these changes is to more accurately clarify the responsibilities of the employer and to allow flexibility in what entity distributes the notices to workers. These changes are necessary to reflect current practices in which a TPA or an insurer may distribute the notices of new coverage at the last minute as needed.

Subdivision (g)’s initial proposed text is deleted due to its redundancy with another section with the same requirement. This change is necessary to streamline the regulations and reduce confusion. Also, former subdivision (h) is relettered to subdivision (g), for continuity of lettering, which is necessary to avoid confusion. The relettered subdivision (g) also is revised to include “injured” before “covered employees,” in order to limit distribution of the change of MPN notices to injured workers. Also, the reference to “30-day” before “notice” is deleted to eliminate the notice period. These changes are necessary to reduce administrative burden and notice costs.

Amendments to Existing § Section 9880: Written Notice to New Employees

The section, as initially proposed, was modified in response to comments received.

Subdivision (c)(14) is revised to add the phrase, “that the employer may be using an MPN” after “includes” to enable the notice to be widely distributed without tailoring for each employer. This MPN information is intended to give general information about MPNs and the change is necessary to reduce administrative burden and notice costs.

Amendments to Existing Section 9881: Posting of Notice to Employees

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The section, as initially proposed, was modified in response to comments received.

Subdivision (c)(13) is revised to add, “that the employer may be using a MPN” in the first sentence to alert employees that the MPN information may apply to the them as the employer is required to inform employees about the workers’ compensation system and benefits. Also changed is the requirement to have an email address for the MPN and to include “shall be included” after reference to the MPN’s website address/URL at the end of the second sentence to allow more employee access to MPN information and for clarity. The section is also revised to delete the phrase, “as well as the period” and to replace it with “The effective date” of MPN coverage for clarity and efficiency. The last sentence is revised to add” if the employer is using an MPN” for accuracy and clarity, as the information requested cannot be provided if the employer is not using an MPN. These changes are necessary to reduce confusion and to streamline the notice process.

Amendments to Existing Section 9881.1: Notice to Employees Poster

The section, as initially proposed, was modified in response to comments received.

In the fourth bulleted point, at the end of the sentence, the word, “you” is added after “offer.” This change is for purposes of clarification and is necessary to ensure a worker understands the law.

In the first numbered section titled, “Get Medical Care” the first and second sentence are reversed for better flow. This change is necessary to reflect the priority of addressing emergency care first.

In the second to the last paragraph, the website for the Division is revised to www.dwc.ca.gov to reflect the updated website. This change is necessary to ensure workers are able to obtain the information they need online.

The footer at the end of the document is revised to reflect the month and year of the latest revision to the poster. This change is necessary to ensure that postings of the poster are of the most recent approved version.

NON-SUBSTANTIVE MODIFICATIONS

The following non-substantive modifications were made after the close of the third 15-day comment period:

Section 9767.12(a): The first sentence is divided into two sentences to avoid ambiguity and for clarity. In the third sentence, the word “employer” is replaced by “MPN Applicant” for clarity and consistency.

Section 9767.12(f)(3): The second sentence is divided into two sentences to avoid ambiguity and for clarity.

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Section 9881.1: The footer at the bottom of the poster has been updated to reflect the month and year of the final version submitted to OAL for accuracy.

Section 10139: The website for DWC stated on the second page has been updated to www.dwc.ca.gov for consistency and accuracy. The footer at the bottom of the form has been updated to reflect the month and year of the final version submitted to OAL for accuracy.

LOCAL MANDATES DETERMINATION

- Local Mandate: None. The proposed regulations will not impose any new mandated programs or increased service levels on any local agency or school district.
- Cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code: None. The proposed amendments do not apply to any local agency or school district.
- Other nondiscretionary costs/savings imposed upon local agencies: None. The proposed amendments do not apply to any local agency or school district.

CONSIDERATION OF ALTERNATIVES

The Division considered all comments submitted during the public comment periods, and made modifications based on those comments to the regulations as initially proposed. The Administrative Director has now determined that no alternatives proposed by the regulated public or otherwise considered by the Division of Workers' Compensation would be more effective in carrying out the purpose for which these regulations were proposed, nor would they be as effective as and less burdensome to affected private persons and businesses than the regulations that were adopted.

SUMMARY OF COMMENTS RECEIVED AND RESPONSES THERETO CONCERNING THE REGULATIONS ADOPTED

The comments of each organization or individual are addressed in the charts contained in the rulemaking binder.

The public comment periods were as follows:

- Initial 45-day comment period: August 20 through October 8, 2009.
- First 15-day comment period: March 2 through March 17, 2010.
- Second 15-day comment period: April 21 through May 6, 2010.
- Third 15-day comment period: May 13 through May 28, 2010.

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Final Statement of Reasons and Updated Informative Digest:
Medical Provider Networks, Employee Information,
Workers' Compensation Claim Form (DWC 1) and Notice of Potential Eligibility